Bill Analysis

Bethany Boyd _Legislative Service Commission_

Sub. H.B. 533*

123rd General Assembly

(As Reported by S. Ways and Means)

Reps. **D. Miller, DePiero, Redfern, Grendell, Allen, Patton, Flannery, Mottley, Jerse, Perry, Distel, Jolivette, Sullivan, Verich, Hartnett, Williams, Kilbane, Gerberry, Krupinski, Britton, Barnes, Healy**

BILL SUMMARY

- Permits a person holding a property tax lien certificate to hold the certificate for up to six years before seeking foreclosure of the tax lien, instead of the current three-year limit, if the certificate was purchased through a private sale (tax lien certificates represent delinquent real property tax liens transferred to private parties, giving the certificate holder the right to receive any taxes that eventually are collected through foreclosure).

- The extension of the time limit applies to currently outstanding certificates if the county treasurer consents to the extension and the certificate holder pays an additional premium for the extension.

- Interest on the tax certificates stops accruing after three years unless the certificate holder begins foreclosure proceedings before the passage of three years.

CONTENT AND OPERATION

**Delinquent tax certificates--background and current law**

(secs. 5721.30 to 5721.41)

In counties with a population of at least 200,000, county treasurers have the option to sell their property tax liens through the sale of "tax certificates." The

* _This analysis was prepared before the report of the Senate Ways and Means Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete._

certificates may be sold at auction or, in counties with a population of at least 1.4 million (Cuyahoga County), by a negotiated sale (i.e., a private sale negotiated between the county treasurer and another party). These certificates represent an interest in the proceeds from any foreclosure sale, plus interest and other amounts tendered by the certificate holder. The interest cannot exceed 18% annually. Any number of certificates may be sold in groups or "blocks" rather than individually. Certificates are transferable among persons (except to the property owner). Several certificates may be sold with respect to a single property, each representing a claim on the tax lien for different years.

Between one and three years after a certificate is purchased, the certificate holder may request the county treasurer to initiate foreclosure proceedings (if the certificate was sold at auction) or file notice of a private foreclosure action (through a private attorney representing the certificate holder), as long as the property owner has not yet redeemed the property by paying the delinquent taxes and associated charges. If the certificate holder does not initiate foreclosure proceedings within three years after purchasing the certificate, the certificate holder's lien is canceled, and the right to collect delinquent taxes and receive interest on the certificate expires; the certificate therefore loses all of its value. The foreclosure proceeding ultimately results in the sale of the property to satisfy the certificate and court costs, or the transfer of ownership of the property to the certificate holder.

Currently, the three-year time limit for redeeming tax certificates may be extended only if the certificate holder and the property owner agree to a "redemption payment plan," under which the owner agrees to pay the delinquency (plus fees, costs, and all other amounts due as represented by the certificate) directly to the certificate holder.

<u>Elimination of three-year time limit</u>

(secs. 5721.37, 5721.38(B), and 5721.39(B))

The bill extends the lien represented by tax certificates sold through private sales (i.e., those sold in Cuyahoga County) from three years to six years; in other words, a person holding a certificate purchased through a private sale has up to six years, instead of three, to file a notice of foreclosure before the lien is canceled and the certificate becomes worthless. But the bill does not likewise extend the period during which interest accrues on the certificate if a certificate holder does not file a notice of foreclosure within three years after purchasing the certificate. If a notice of foreclosure is not filed within three years, interest stops accruing on the certificate at the end of the third year. In such a case, the certificate holder is entitled to recover the price paid for all certificates on the property, all fees that have been charged, and the interest that has accrued until the close of the third year, but is not entitled to any additional interest. Under continuing law, this additional interest accrues at 18% annually from the time the notice of foreclosure is filed until the property is sold at a tax foreclosure sale or the property owner pays off the accumulated delinquency, interest, and fees.

The extension of the three-year limit to six years also applies to certificates that have been purchased before the bill's effective date, as long as the county treasurer permits the extension. To have the lien extended for such outstanding certificates, the certificate holder must request that the county treasurer extend the lien by issuing a new certificate. If the county treasurer consents to the extension, the certificate holder must pay a premium for the new certificate in an amount to be negotiated between the treasurer and the certificate holder. Once issued, a new certificate continues all of the rights, interests, privileges, and immunities that were vested by the original certificate (e.g., the right to foreclose the lien, the right to collect interest, and immunity from damages arising from violations of various pollution and public safety laws committed by other persons with respect to the delinquent property). The new certificate may be recorded in the same manner as the original certificate. But the issuance of a new certificate does not affect the right of the property owner to redeem the property by paying the delinquency, fees, and accrued interest, and interest on the new certificate stops accruing after the third year after the original certificate was purchased, unless the certificate holder files a notice of foreclosure before the end of the original three-year period.

If the certificate holder and county treasurer cannot agree on a premium for a new certificate extending the lien, they may engage a third party who is experienced in valuing financial assets to determine a fair premium. The certificate holder may purchase the new certificate for that amount. At least half of the third party's fee must be paid by the certificate holder; the remaining part must be paid from the proceeds of the premium if the certificate holder purchases the new certificate. If the certificate holder does not purchase the new certificate, then the holder must pay the entire fee. The remaining proceeds are paid to the local taxing districts in the same manner as the proceeds from the sale of the original certificate.

The bill does not change the three-year time limit with respect to tax certificates sold through public auction (i.e., those sold in a county with a population of 200,000 or more, other than Cuyahoga County).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-04-00	pp. 1482-1483
Reported, H. Ways & Means	04-11-00	pp. 1793-1794
Passed House (93-0)	04-12-00	pp. 1813-1814
Reported, S. Ways & Means	---	---

H0533-RS.123/nlr