



Am. Sub. S.B. 89
123rd General Assembly
(As Passed by the Senate)

Sens. Johnson, Fingerhut, Watts, Brady, Espy, Drake

BILL SUMMARY

- Clarifies that the jurisdiction of the environmental division of a municipal court in foreclosure actions and actions for the recovery of real property are limited to actions that are related to judgments of the environmental division.
- Clarifies that the concurrent jurisdiction of the environmental division of a municipal court in environmentally related criminal actions is with the court of common pleas.
- Specifies that the presiding judge and the administrative judge of a municipal court with two or more judges or of a county court district with two or more judges are to be elected or designated as provided in the Rules of Superintendence for the Courts of Ohio.
- Declares an emergency.

CONTENT AND OPERATION

Jurisdiction of the environmental division of a municipal court in foreclosure actions

Existing law

Under current law, in addition to jurisdiction otherwise granted in Chapter 1901., the environmental division of a municipal court has jurisdiction in the following actions or proceedings and to perform the following functions within its territory (see **COMMENT**):

(1) The environmental division has jurisdiction in all actions for the foreclosure of a mortgage on real property given to secure the payment of money,

or the enforcement of a specific lien for money or other encumbrance or charge on real property, when the real property is situated within the territory. In those cases, the environmental division may proceed to foreclose all liens and all vested and contingent rights and proceed to render judgments, and make findings and orders, between the parties, in the same manner and to the same extent as in similar cases in the court of common pleas. (R.C. 1901.183(B).)

(2) The environmental division has jurisdiction in all actions for the recovery of real property situated within the territory of the division to the same extent as the court of common pleas has jurisdiction (R.C. 1901.183(C)).

Operation of the bill

Under the bill, *when in aid of execution of a judgment of the environmental division of the municipal court*, the environmental division has jurisdiction in all actions for the foreclosure of a mortgage on real property given to secure the payment of money, or the enforcement of a specific lien for money or other encumbrance or charge on real property, when the real property is situated within the territory. In those cases, the environmental division may proceed to foreclose all liens and all vested and contingent rights and proceed to render judgments, and make findings and orders, between the parties, in the same manner and to the same extent as in similar cases in the court of common pleas. Therefore, the bill eliminates the division's jurisdiction in actions of that nature involving a judgment of a court other than a municipal court, a municipal court other than the municipal court of which it is a division, or another division of its municipal court. (R.C. 1901.183(B).)

The bill further provides that, *when in aid of execution of a judgment of the environmental division of the municipal court*, the environmental division has jurisdiction in all actions for the recovery of real property situated within the territory of the division to the same extent as the court of common pleas has jurisdiction. Therefore, the bill eliminates the division's jurisdiction in actions of that nature involving a judgment of a court other than a municipal court, a municipal court other than the municipal court of which it is a division, or another division of its municipal court. (R.C. 1901.183(C).)

Concurrent jurisdiction of environmentally related criminal actions.

Existing law provides that the environmental division of a municipal court has concurrent jurisdiction of all criminal actions or proceedings related to the pollution of the air, ground, or water within the territory of the environmental division of the municipal court, for which a sentence of death cannot be imposed under Chapter 2903. of the Revised Code.

The bill states that the environmental division's concurrent jurisdiction is *with the court of common pleas* in all criminal actions or proceedings related to the pollution of the air, ground, or water within the territory of the environmental division of the municipal court, for which a sentence of death cannot be imposed under Chapter 2903. of the Revised Code. (R.C. 1901.183(H).)

Appointment or election of presiding and administrative judges

Existing law

Existing law provides that in a municipal court having only one judge, that judge is to be designated as both the presiding judge and the administrative judge. If a municipal court has two judges, the judge whose term next expires is to be designated as the presiding judge. If a municipal court has three or more judges, the judges of the court select the presiding judge on the second Monday in January of the even-numbered years. (R.C. 1901.09.)

Existing law also provides that in a county court district having only one judge, that judge is to be the presiding and administrative judge for that district. If a county court district has two judges, the judge having the longest tenure as a judge of that county court district is to be designated as the presiding and administrative judge for that district unless otherwise agreed by the judges. If a county court district has three or more judges, the judges of the court select the presiding and administrative judge on the second Monday in January of the odd-numbered years. (R.C. 1907.131.)

Rules of Superintendence for the Courts of Ohio

Rule 3 of the Rules of Superintendence for the Courts of Ohio states that presiding judges should be selected as follows:

The judges of each multi-judge court, by a majority vote of the judges of the court, shall elect a presiding judge from the judges of the court. If the judges are unable because of equal division of the vote to elect a presiding judge, the judge having the longest total service on the court shall serve as presiding judge for one term. If two or more judges have equal periods of service on the court, the presiding judge shall be determined by lot from the judges with equal periods of service. In the event of a continued failure to elect a presiding judge, the judges of the court shall rotate the position based on the order of seniority as determined

by the total length of service on the court. (Sup. R. 3(A)(1).)

Rule 4 of the Rules of Superintendence for the Courts of Ohio states that administrative judges should be selected as follows:

In each court of appeals, each multi-judge municipal and county court, and each multi-judge division of the court of common pleas, the judges of the court or division, by a majority vote of the judges of the court or division, shall elect an administrative judge from the judges of the court or division. If the judges of a court or division are unable to elect an administrative judge, the judge of the court or division having the longest total service on the court or division shall serve as administrative judge for one term. If two or more judges have equal periods of service on the court or division, the administrative judge shall be determined by lot from the judges with equal periods of service. In the event of a continued failure to elect an administrative judge, the judges of the court or division shall rotate the position based on the order of seniority as determined by the total length of service on the court or division. (Sup. R. 4(A)(1).)

Operation of the bill

The bill maintains existing law stating that in a municipal court having only one judge, that judge is to be designated as both the presiding judge and the administrative judge. The bill modifies existing law to state that if the municipal court has two or more judges, the presiding and administrative judge must be elected or designated as provided in the Rules of Superintendence for the Courts of Ohio. (R.C. 1901.09.)

The bill also maintains existing law stating that in a county court district having only one judge, that judge is to be the presiding and administrative judge for that district. The bill modifies existing law to state that in a county court district that has two or more judges, the presiding and administrative judge must be elected or designated as provided in the Rules of Superintendence for the Courts of Ohio. (R.C. 1907.131.)

COMMENT

Jurisdiction of the environmental division of a municipal court

In addition to the jurisdiction discussed above that is the subject of this bill, the environmental division of a municipal court has jurisdiction within its territory in all of the following actions or proceedings and to perform all of the following functions. The list is not exclusive (other jurisdictional issues and powers exist) but is intended to be illustrative of the scope of the power of an environmental division of a municipal court.

(1) The environmental division has jurisdiction in all actions and proceedings for the sale of real or personal property under lien of a judgment of the division or under a lien for machinery, material, fuel furnished, or labor performed, irrespective of the monetary limitations of a municipal court. In those cases, the environmental division may proceed to foreclose and marshal all liens and all vested or contingent rights, to appoint a receiver, and to render personal judgment irrespective of amount in favor of any party. (R.C. 1901.183(A).)

(2) In all actions for injunction to prevent or terminate violations of the ordinances and regulations of any municipal corporation within its territory enacted or promulgated under the police power of that municipal corporation pursuant to Section 3 of Article XVIII, Ohio Constitution (home rule power), over which the court of common pleas has or may have jurisdiction. In those cases, the environmental division of the municipal court may proceed to render judgments, and make findings and orders, in the same manner and to the same extent as in similar cases in the court of common pleas. (R.C. 1901.183(D).)

(3) In all actions for injunction to prevent or terminate violations of the resolutions and regulations of any political subdivision within its territory enacted or promulgated under the power of that political subdivision pursuant to Article X of the Ohio Constitution, over which the court of common pleas has or may have jurisdiction. In those cases, the environmental division of the municipal court may proceed to render judgments, and make findings and orders, in the same manner and to the same extent as in similar cases in the court of common pleas. (R.C. 1901.183(E).)

(4) In any civil action to enforce any provision of Chapter 3704. (air pollution control), 3714. (construction and demolition debris), 3734. (solid and hazardous wastes), 3737. (fire safety), 3767. (nuisances), or 6111. (water pollution) of the Revised Code over which the court of common pleas has or may have jurisdiction. In those actions, the environmental division of the municipal court may proceed to render judgments, and make findings and orders, in the same manner and to the same extent as in similar actions in the court of common pleas. (R.C. 1901.183(F).)

(5) In all actions and proceedings in the nature of creditors' bills, and in aid of execution to subject the interests of a judgment debtor in real or personal property to the payment of a judgment of the division. In those actions and proceedings, the environmental division may proceed to marshal and foreclose all liens on the property irrespective of the amount of the lien, and all vested or contingent rights in the property. (R.C. 1901.183(G).)

(6) In any review or appeal of any final order of any administrative officer, agency, board, department, tribunal, commission, or other instrumentality that relates to a local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation, in the same manner and to the same extent as in similar appeals in the court of common pleas (R.C. 1901.183(I)).

(7) Subject to the monetary jurisdiction of municipal courts and subject to the subject matter jurisdiction of municipal courts, an environmental division of a municipal court has jurisdiction within its territory to perform all of the following functions: (a) to compel attendance of witnesses in any pending action or proceeding in the same manner as the court of common pleas, (b) to issue executions on its own judgments, (c) in any legal or equitable action or proceeding, to enforce the collection of its own judgments, (d) to issue and enforce any order of attachment, (e) in any action or proceeding in the nature of creditors' bills, and in aid of execution, to subject the interest of a judgment debtor in personal property to the payment of a judgment of the court, and (f) to issue and enforce temporary protection orders and protection orders and to enforce protection orders issued by courts of another state (R.C. 1901.19(A)--not in the bill).

(8) An environmental division of a municipal court has jurisdiction outside its territory in a proceeding in aid of execution to subject to the payment of the judgment the interest in personal property of a judgment debtor under a judgment rendered by the court or division. This jurisdiction includes the county or counties in which the territory of the court or division in question is situated and any county that is contiguous to that in which the court or division is located. The environmental division that has this jurisdiction outside its territory in a proceeding in aid of execution has the same powers, duties, and functions relative to the proceeding that it has relative to proceedings in aid of execution over which it has jurisdiction other than under this division. (R.C. 1901.19(B)--not in the bill.)

HISTORY

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p. 318
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