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Bill Analysis
Legislative Service Commission

S.B. 302
123rd General Assembly
(As Introduced)

Sen. Johnson

BILL SUMMARY

- Prescribes tax collection procedures for manufactured and mobile homes that are similar to those governing the collection of real property.
- Otherwise aligns procedures for taxing manufactured and mobile homes with real property taxation procedures.
- Specifies the dates when certain recently-enacted changes in how manufactured homes are taxed begin to apply.
- Makes a variety of technical and corrective amendments in the manufactured home tax law.

CONTENT AND OPERATION

Background--S.B. 142

Senate Bill 142 of the 122nd General Assembly changed the manner in which manufactured and mobile homes are taxed. Prior law required most manufactured and mobile homes to be taxed as personal property on the basis of a percentage of the depreciated cost of the home, under the so-called "manufactured home tax."* Under S.B. 142, manufactured or mobile homes first placed in Ohio after January 1, 2000, are taxed like real property if they are affixed to a permanent foundation on the homeowner's land and satisfy roof pitch and dimensional criteria and certain federal safety and construction standards. Homes located in Ohio before January 1, 2000, continue to be taxed under the

* *But prior law did not preclude a manufactured home from being considered real property. If the home was determined to have assumed the attributes of real property--i.e., it was permanently affixed to the ground or a permanent foundation--then it could have been taxed as real property*

manufactured home tax, unless the owner elects to have the home taxed like real property, and the home is affixed to a permanent foundation on the homeowner's land and satisfies the specified criteria and standards.

S.B. 142 enacted a system of procedures to govern the transition from treating manufactured and mobile homes as personal property to their treatment as real property. For example, since ownership of a manufactured or mobile home is evidenced by a certificate of title, a procedure was enacted to provide for how such certificates are surrendered when a home becomes taxable as real property.

For the purposes of this analysis, "current law" refers to the law as amended or enacted by S.B. 142. References to the bill refer to S.B. 302.

Manufactured home tax collection procedures

(secs. 4503.06 and 4503.061)

The bill prescribes procedures for the collection of manufactured home taxes that are similar to procedures for the collection of real property taxes. These procedures apply to manufactured and mobile homes that are **not** taxable as real property under S.B. 142.

Semiannual settlement

(secs. 321.24(H), 323.156, and 4503.06(I))

The bill prescribes two semiannual settlements for manufactured and mobile home taxes between the county auditor and county treasurer. The first settlement must occur by April 15 and the second by September 15. The date may be extended if the tax due date is extended. As with real property tax settlements, these settlements serve to ensure that the county auditor's manufactured home tax list and the county treasurer's duplicate of that list are consistent in reflecting the amount of taxes charged on the list and the amount collected on the duplicate.

Tax billing, payment

(secs. 4503.06(D)(3), (D)(6), (D)(7), and (F), 4503.061(D)(2), and 4503.063)

The bill makes the procedure for billing manufactured home taxes similar to the procedure for billing real property taxes. The county auditor must deliver a copy of the manufactured home tax list to the county treasurer by January 15, unless the Tax Commissioner determines that an emergency prevents delivery by that date (an emergency includes the death or disability of an official, strikes, and office equipment failures). If an emergency is declared, the date of delivery may

be extended for up to 15 days, and the days on which tax bills are sent and taxes are payable are extended accordingly.

Once the county treasurer receives the list, the treasurer must send out manufactured home tax bills to owners or designated agents (such as banks), as is the case currently with real property tax bills. The form of tax bills is to be prescribed by the Tax Commissioner, and must show the amount of taxes due and indicate that interest and penalty will accrue if the taxes are not paid on time. If the home is taxed as real property, the tax bill also must indicate the effective tax rate and notify owners that their homes may be entitled to the 2-1/2% rollback. The tax bill also must notify owners that a penalty may be imposed if the home is receiving the 2-1/2% rollback but is not entitled to receive it. The tax bills would replace the "advance payment certificates" issued by county auditors which, under current law, function like tax bills.

Manufactured home taxes may be paid in two installments. Under current law, the first installment is due January 31, and the second is due July 31. The bill changes the first installment due date to March 1. The bill also provides for extensions of the due date when the preparation of the tax list is delayed.

Delinquencies

(secs. 4503.06(G), (H), and (N) and 4503.061(E))

Under current law, once manufactured home taxes have become delinquent, the county auditor enters the delinquency on a delinquent manufactured home tax list. A lien attaches to each manufactured or mobile home to secure payment of manufactured home taxes. The lien continues until taxes and penalties have been paid in full.

The bill clarifies that the list applies to taxes payable for 2000 and thereafter. The bill also specifies that the list must be updated and published annually, and that the county auditor must deliver the list to the county treasurer within 30 days after the September tax settlement. The bill specifies that a delinquent taxpayer must pay the delinquency within 60 days after the county auditor delivers the list to the county treasurer, and that the county may bring a tax foreclosure action against the owner if the delinquency is not paid within that time. The bill clarifies that the lien continues until interest on past due taxes, in addition to the taxes and penalties, have been paid.

If a delinquent taxpayer pays the delinquency in full or the county determines that the delinquency is uncollectible, the county treasurer may issue a certificate of release of lien, as is done with real property taxes. A certificate of partial discharge is issued if a part of a manufactured home is still subject to a lien

and the value of that part is at least twice the amount of the outstanding delinquency and all prior liens. To be effective, the certificates must be recorded in the county where the lien was recorded. County recorders may charge \$2 to record such a certificate.

If an owner transfers a manufactured or mobile home to another person, all outstanding and delinquent taxes must be paid before the county auditor endorses the transfer. The bill clarifies that once those taxes are paid, the county auditor must remove the taxes from the manufactured home tax list and the delinquent tax list, and the county treasurer must release any liens. Once the county auditor endorses the transfer, the clerk of courts must issue the certificate of title to the new owner.

Foreclosures

(secs. 323.31(A) and 4503.06(H)(4))

A civil action may be filed against the owner of a manufactured or mobile home to enforce the collection of delinquent manufactured home taxes. The bill specifies that the civil action may be filed only if the owner does not pay the delinquency within 60 days after the delinquent tax list is delivered to the county treasurer by the county auditor. The bill also specifies that interest may be sought in the civil action.

Tax prepayments

(sec. 321.45(A)(5))

Owners of manufactured homes, like owners of real property, currently may prepay taxes in a series of installments instead of in one or two lump sums each year. If the owner owes delinquent taxes in addition to current taxes, the delinquent taxes and penalties may be included in the prepaid installments. The bill clarifies that any interest owed also may be included in the installments.

Delinquent tax payment agreements

(sec. 323.31)

Owners of manufactured homes who are delinquent in the payment of manufactured home taxes, like owners of real property, are entitled to enter into an agreement with the county treasurer under which the owner pays the delinquency in installments. The bill clarifies that an owner must enter into such an agreement at any time before a civil action to collect the delinquency has begun.

Collection of taxes through third party

(sec. 323.611)

Currently, boards of county commissioners are authorized to enter into agreements with financial institutions whereby the institution collects and processes real property tax payments on behalf of the county treasurer. The bill extends this authority to manufactured home tax payments.

Change in tax treatment

(secs. 4503.06(D)(4) and 4505.11(H)(4))

The bill specifies a final date--December 1--by which the owner of a manufactured or mobile home qualifying to be taxed as real property must elect that tax treatment. No date is specified under current law. Before the election takes effect, all manufactured home taxes previously charged against the home must be paid.

The bill also allows the owner of a manufactured or mobile home that is taxed as real property to have the home taxed under the manufactured home tax. To change the tax treatment, the owner must apply to the clerk of court for reactivation of the certificate of title. But the clerk may not reactivate the certificate of title unless the application includes the endorsement of the county auditor that all property taxes have been paid and that the home will be removed from the real property tax list. The application must also include proof that there are no outstanding mortgages or other liens, or that the creditor consents to reactivation of the certificate of title.

Appraisal of manufactured homes

(sec. 4503.06(L)(3))

Current law requires manufactured and mobile homes that are taxed as real property to be appraised once every six years.

The bill specifies that the appraisal of such manufactured and mobile homes must occur in the same year real property in the same county is appraised, and that the appraised values be updated in the third year after reappraisal, as are real property values. The bill also clarifies that appraisals apply to homes located in Ohio before January 1, 2000, if the home qualifies to be taxed as real property and the owner has elected to have the home taxed as real property.

Complaints against tax appraisals

(sec. 4503.06(L)(5))

Current law grants owners of manufactured or mobile homes the same right to complain against tax appraisals as real property owners possess.

The bill clarifies that certain other interested parties (e.g., spouses, nonattorney representatives, corporate officers) also may complain, as is allowed in the case of real property, and specifies that complaints against an appraisal for the current year must be filed by March 31 of that same year.

Certificate of title fees

(sec. 4505.06(H))

Upon acquiring a manufactured or mobile home, the owner must obtain a certificate of title from the clerk of the court of common pleas, since the home is considered a motor vehicle until it becomes fixed to a permanent foundation and otherwise qualifies to be taxed as real property. Currently, a \$5 fee is charged for the clerk to issue the certificate of title.

The bill specifies that this \$5 fee is in addition to another \$5 fee that is charged for issuing a certificate of title for any kind of motor vehicle.

County auditor's transfer fees

(sec. 319.54(F))

The bill specifies that the existing 50¢ fee that county auditors must charge for making land transfers or entries in county property records applies to transfers or entries of used manufactured or mobile homes occurring in 2000 or thereafter.

The bill also specifies that the 50¢ transfer fee and the existing conveyance fee of 10¢ per \$100 in the value of a used manufactured and mobile home must be paid in the county where the homes were located immediately *before* the transfer. The county auditor is prohibited from endorsing a transfer unless the fees are paid.

2-1/2% tax reduction

(sec. 323.153, Section 3)

Under current law, manufactured and mobile homes that are taxed as real property and are occupied by the homeowner qualify for the same 2-1/2% rollback in taxes as other owner-occupied residences. For real property, an application for the rollback is incorporated into deed transfer forms to simplify application and make it less likely that qualified homeowners will inadvertently forgo the rollback.

The bill requires that forms used to transfer ownership of used manufactured and mobile homes also incorporate an application for the rollback, and specifies that owners who elect to have their homes taxed as real property may apply at the time of making that election.

The bill also specifies that the rollback first applies to manufactured and mobile homes taxed as real property in tax year 2000 (affecting taxes billed in 2001).

Homestead exemption

(sec. 319.202(A), Section 3)

Under current law, when ownership of a residence is transferred, the seller must indicate to the buyer whether the home qualifies for the homestead exemption, and the buyer must acknowledge that the seller has done so and that the current taxes to be apportioned between the seller and buyer reflects the tax savings resulting from the exemption.

The bill extends this requirement to manufactured and mobile homes that are taxed as real property.

The bill also specifies that the homestead exemption first applies to manufactured and mobile homes taxed as real property in tax year 2000 (affecting taxes billed in 2001).

When a manufactured home "acquires situs" in Ohio

(sec. 4501.01(NN))

The time at which a manufactured or mobile home becomes located in Ohio ("acquires situs") determines its status for tax purposes. The manufactured home tax applies to homes acquiring situs in Ohio on or after January 1 each year, unless the home is to be taxed as real property.

Currently, a home acquires situs in Ohio when it becomes located in this state "pursuant to the issuance of a certificate of title" and is placed on real property. The bill removes this criterion.

Registration

(sec. 4503.061(C) and (D))

When a manufactured or mobile home acquires situs in a county, the owner must register the home with the county auditor by presenting the certificate of title (or certified copy or memorandum of the certificate) and proof that the owner is current in paying manufactured home taxes. If the owner is current in paying taxes, the county auditor issues a registration certificate and decal to the owner to evidence that the home is properly registered and that taxes have been paid.

The bill authorizes the county auditor to issue the registration certificate and decal even if the owner does not have a certificate of title (or certified copy or memorandum) at the time of applying for registration, but the owner must present the document to the county auditor within 14 days after obtaining it. The bill also specifies that the owner of a home who relocates the home from one county to another must register the home with the county auditor to which the home is being relocated.

Relocation notices

(sec. 4503.061(H))

Currently, the owner of a manufactured or mobile home who relocates the home within Ohio must obtain a relocation notice. The notice serves to ensure that all taxes have been paid in the county from which the home is being moved. The notice includes the owner's name, the address to which the home is to be moved, and the home's registration number. Failure to obtain a relocation notice subjects

an owner to a \$100 penalty; the person who moved the home also is subject to a \$100 penalty. The penalty is credited to the county real estate assessment fund.

The bill requires an owner to obtain a relocation notice if the owner moves the home within Ohio or moves it from Ohio to another place outside Ohio. The bill also specifies the term during which the notice is valid--until the due date for paying taxes for the following year, i.e., the following March 31. In lieu of the registration number being shown on the notice, the home's vehicle identification number may be shown (in the case that the home has not yet been registered in the county to which it will be moved). Finally, the bill requires any \$100 penalty for failure to obtain a notice to be credited to the county from which the home was relocated. Thus, if the penalty is imposed by the county where the home has been moved to, that county must pay the penalty over to the county from where the home was moved.

Application of other laws to manufactured and mobile homes

(secs. 4513.01, 4517.01, 4517.03, and 4517.24)

The bill specifies that the definition of “motor vehicle” includes manufactured and mobile homes for the purposes of the laws governing the removal of abandoned motor vehicles and the licensing and regulation of motor vehicle dealers. The bill also affirms that a licensed dealer (of new or used vehicles) may sell new or used manufactured or mobile homes located in a manufactured home park if the dealer also owns the park. And the bill exempts multiple manufactured home dealers selling manufactured or mobile homes in a single manufactured home park from an existing law requiring multiple motor vehicle dealers at the same location to assume joint, several, and personal liability for liabilities arising from engaging in business.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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