



Sub. H.B. 464

124th General Assembly

(As Reported by H. Civil and Commercial Law)

Reps. Willamowski, Seitz, Grendell

BILL SUMMARY

- Permits a clerk of court to issue a certificate of judgment for costs including any interest due on the judgment for costs, any cost incurred by the clerk in collecting the judgment for costs, and any fee a public agency or private vendor charges the clerk for the collection of the judgment for costs.
- Requires a contract for the collection of amounts due under judgments for costs that is entered into between a clerk of court and one or more public agencies or private vendors to include a requirement that the agency or vendor disburse the full amount collected under the judgment for costs to the clerk and a prohibition against the agency or vendor deducting fees or expenses from that amount.
- Establishes a procedure for a clerk of a court of common pleas to deposit interest due on certificates of judgment issued by the clerk into specified funds to support the effective use of computerization within the clerk's office.
- Allows a collection agency to collect from the holder of a negotiable instrument that has been returned or dishonored any charge imposed by a financial institution because the negotiable instrument has been returned or dishonored.

CONTENT AND OPERATION

Court and legal research services computerization

Current law

Under current law, if a court of common pleas determines that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both, the court must authorize and direct the clerk of courts to charge one additional fee not in excess of \$3 on the filing of civil or criminal actions, civil actions for a judgement by confession, and appeals. The additional fees must be paid to the county treasurer, must be placed in a separate fund by the county treasurer, and must be disbursed upon the order of the court of common pleas in an amount no greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both. (R.C. 2303.201(A).)

Operation of the bill

Under the bill, in order to provide funds to support the effective use of computerization within the office of the clerk of the court of common pleas, upon the request of the clerk, the board of county commissioners, by a resolution adopted on an annual basis prior to January 31 in any year, may authorize the clerk to deposit in a fund for that purpose all or a portion of the interest that is due on certificates of judgment and that the clerk receives during that calendar year. The clerk must pay the interest to the county treasurer, and the treasurer must deposit the money from the interest into any fund previously established for computerization within the clerk's office. If a fund of that type has not been established, the treasurer must deposit the money into a separate fund to be distributed after appropriation by the board of county commissioners in an amount no greater than the actual cost of a computerization project recommended by the clerk and approved by the board of county commissioners. The board, with the consent of the clerk, may determine at any time that the separate fund is no longer necessary and may terminate that fund. Notwithstanding R.C. 5705.14 to 5705.16 (which otherwise govern the transfer of local government funds), if that fund is terminated, the treasurer must transfer any moneys that remain in the fund to the general fund of the county. (R.C. 2335.241.)

Collection of court costs

Current law

Statutory law generally requires Ohio courts to tax and enter of record separately the court costs of the parties to all actions, motions, and proceedings (R.C. 2335.18--not in the bill). Current law provides that, on the rendition of judgment in any cause in any court, the court must carry the court costs of the recovering party into the recovering party's judgment together with that party's recovered debt or damages. The court must also separately state in the record or docket entry pertaining to the cause the court costs of the party against whom that judgment is rendered. A party in whose favor a judgment for court costs is so rendered is prohibited from releasing, satisfying, or discharging any of the awarded court costs unless that party previously paid the costs to the clerk of the court, the costs have been paid to the person entitled to them, or the costs have been legally assigned or transferred to that party by the persons in whose name the costs stand taxed upon the record or docket. (R.C. 2335.19(A).)

An entry of judgment that includes a grant of judgment for costs is an order that authorizes the clerk of the court to issue in a specified manner (see below) a certificate of judgment against a person who is liable for the payment of court costs. The procedure for issuing the certificate of judgment is as follows (R.C. 2335.19(B) and (C); R.C. 2335.32--not in the bill):

(1) The clerk of a court who wishes to issue a certificate of judgment for costs pursuant to a judgment for costs must first provide an itemized bill of fees and costs, *including the total cost of collection of and any interest due on the judgment for costs*, to the person who is liable for costs under the judgment, either upon request of the person as specified in R.C. 2335.32 or without the person's request (see **COMMENT 1**).

(2) If the liable person does not pay the fees and costs within 30 days after the clerk provides the itemized bill, the clerk must send the liable person a notice requesting payment of the fees and costs as stated in the itemized bill.

(3) If the liable person does not respond to that notice with full payment of the fees and costs within 30 days, the clerk must send the liable person a second notice requesting payment of the fees and costs.

(4) If 90 days elapse from the date that the clerk provides the itemized bill and if the liable person has not paid the full amount of the fees and costs pursuant to the itemized bill and the notices requesting payment, the clerk may issue a certificate of judgment against the liable person for the unpaid fees and costs.

Operation of the bill

The bill eliminates from the statutory procedure for issuing a certificate of judgment the statement "including the total cost of collection of and any interest due on the judgment for costs" and adds a provision that the certificate of judgment includes any interest due on the judgment for costs, any cost incurred by the clerk in collecting the judgment for costs, and any fee a public agency or private vendor charges the clerk pursuant to a contract entered into for collecting the judgment for costs (discussed below). (R.C. 2335.19(B).)

The bill also provides that, after issuing a certificate of judgment for costs, the clerk may assess the interest accrued from the date the clerk sends the first notice requesting payment of the fees and costs to the date of collection of the judgment at the rate established in R.C. 1343.03 (see **COMMENT 2**).

Collection contracts

R.C. 2335.24 authorizes the clerk of a court to enter into contracts with one or more public agencies or private vendors for the collection of amounts due under judgments for costs. The amounts to be collected may include any interest that is due on a judgment for the costs. Before entering into or renewing a contract of that nature, the clerk of the court must do the following (R.C. 2335.24(B)(1)):

(1) Comply with the provisions set forth in the law regarding competitive bidding on county purchases (R.C. 307.86 to 307.92--not in the bill). For purposes of complying with the competitive bidding procedures in that Law, the clerk of the court is considered the contracting authority.

(2) Obtain the approval of the terms of the contract by the legislative authority associated with the court (see **COMMENT 3**).

Operation of the bill

The bill includes a requirement that a contract entered into or renewed by the clerk of a court pursuant to the provisions above must include all of the following terms (R.C. 2335.24(B)(2)):

(1) A requirement that the contracting public agency or private vendor disburse the full amount collected by the agency or vendor that is due under the judgment for costs, including any interest that is also due on that judgment, to the contracting clerk for disbursement to the appropriate entity as designated by the Revised Code.

(2) A provision that prohibits the contracting public agency or private vendor from deducting any fees or expenses that the agency or vendor incurs in



the collection of the judgment from the amount collected that is due under the judgment including interest.

Collection of charges imposed by a financial institution

Under current law, if a collection agency has been designated to collect on a check, negotiable order of withdrawal, share draft, or other negotiable instrument that has been returned or dishonored for any reason, the collection agency may charge and receive check collection charges of not more than \$30 or 10% of the face amount of the instrument, whichever is greater. The bill expands current law by allowing the collection agency also to charge and receive any charge imposed by a financial institution upon the holder of the check, negotiable order of withdrawal, share draft, or other negotiable instrument that has been returned or dishonored for any reason. (R.C. 1319.16(A).)

COMMENT

1. R.C. 2335.32 provides that, in all cases, when demanded by a person liable for the payment of any fees or costs to an officer, that officer, without charge, must make, sign, and deliver to the person an itemized bill of the fees or costs. No person shall, after such demand, be compelled to pay those fees or costs until an itemized bill is made and delivered, with a receipt for the amount paid.

2. R.C. 1343.03(A) generally provides that when money becomes due and payable upon any bond, bill, note, or other instrument of writing, upon any book, account, upon any settlement between parties, upon all verbal contracts entered into, and upon all judgments, decrees, and orders of any judicial tribunal for the payment of money arising out of tortious conduct or a contract or other transaction, the creditor is entitled to interest at the rate of 10% per annum, except that, if a written contract provides a different rate of interest in relation to the money that becomes due and payable, the creditor is entitled to interest at the rate provided in that contract.

3. "Legislative authority" is defined in R.C. 2335.24(B) as follows: (a) it has the same meaning as in R.C. 1901.03(B) if the clerk of the court involved is the clerk of a municipal court--under that provision, it means the legislative authority of the municipal corporation in which a municipal court, other than a county-operated municipal court, is located, and the respective board of county commissioners of the county in which a county-operated municipal court is located, and (b) if the clerk of the court involved is the clerk of a county court or a court of common pleas, it means a board of county commissioners. (R.C. 2335.24(B)(3).)



HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-08-02	p. 1204
Reported, H. Civil & Commercial Law	02-20-02	p. 1432

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