



David M. Gold

Bill Analysis
Legislative Service Commission

H.B. 678

126th General Assembly
(As Introduced)

Reps. Foley, Skindell, Driehaus, DeGeeter, Brown, DeBose, Ujvagi, Fessler, Strahorn, Seitz, Yates

BILL SUMMARY

- Authorizes the municipal corporation or township in which is located real property that is subject to a writ of execution to inspect any structures on the property.
- Requires the purchaser of real property taken in execution to provide contact and other information.
- Authorizes a court to set aside a sale of real property taken in execution for noncompliance with purchaser information requirements.
- Authorizes a court to stay confirmation of a sale of real property taken in execution to give the owner time to redeem the property or for any other reason that the court considers appropriate.
- Requires an officer who sells real property taken in execution to record the deed or file the certificate pertaining to registered land.

CONTENT AND OPERATION

Inspection of structures on land subject to writ of execution

The bill authorizes the municipal corporation or township in which is located real property that is subject to a writ of execution to inspect any structures on the property (R.C. 2329.17(B)).

Information required of purchaser of real property at execution sale

The bill requires the purchaser of lands and tenements taken in execution to submit to the officer who makes the sale the following information (R.C. 2329.271(A)(1)):

- (1) The purchaser's name;
- (2) The purchaser's address which may not be a post office box but must be the primary residence of the purchaser, purchasing entity, or designated agent;
- (3) The purchaser's telephone number;
- (4) The location and owner of record of other lands and tenements in which the purchaser has an ownership interest, including an ownership interest as an individual, partner, member, principal, associate, shareholder, trustee, or other business relationship in the county;
- (5) The location and owner of record of other lands and tenements taken in execution the purchaser has purchased in the preceding 12 months;
- (6) A statement indicating whether the purchaser will occupy the lands and tenements.

If the purchaser is a corporation, partnership, association, estate, trust, or other business organization, the information supplied must be the contact information for a person with an ownership interest in the real property who resides in the county where the land is located. If no person with an ownership interest resides in the county, the purchasing entity must provide the information for a person who resides in the county that the entity has designated to be responsible for the property. (R.C. 2329.271(A)(2).)

The required information must be part of the sheriff's record of proceedings and part of the record of the court of common pleas. The information is a public record and open to public inspection. (R.C. 2329.271(B).)

The bill specifically requires the officer who takes the property in execution to collect the required information from the purchaser before selling the property (R.C. 2329.26(A)(3)).

Setting aside sale for noncompliance with purchaser information requirements

Under existing law, a court must set aside a sale of real property taken in execution upon motion if the sale does not comply with certain notice requirements. If the court enters an order confirming the sale, the order constitutes

a judicial finding that the notice requirements have been satisfied. The bill adds noncompliance with the purchaser information requirements (see "**Information required of purchaser of real property at execution sale,**" above) as grounds for a motion to set aside a sale, specifies that the motion may be made by any interested party, and provides that an order confirming the sale constitutes a judicial finding that the purchaser submitted the required information. (R.C. 2329.27(B)(1) and (3)(a)(iii).)

Confirmation of sale

Under existing law, when an officer who sells real property pursuant to a writ of execution returns the writ, the court must examine the proceedings to determine if the officer made the sale in conformity with statutory requirements. If the court finds that the officer complied with the law, it must direct the court clerk to make an appropriate entry on the journal and the officer to give the purchaser a deed. The bill specifies that the court must give these directions within 30 days after the return of the writ. The bill also provides that nothing in the section containing these requirements prevents the court of common pleas from staying the confirmation of the sale to permit a property owner time to redeem the property or for any other reason that the court considers appropriate. If the court stays confirmation, the sale must be confirmed within 30 days after the termination of a stay. (R.C. 2329.31.)

Delivery and recording of deed or certificate

Under the bill, a purchaser, by placing a bid on real property at a sale on execution, appoints the officer who makes the sale as the purchaser's agent for the sole purpose of accepting delivery of the deed. The officer must record the deed, or for registered land file the documents required by R.C. 5309.64, with the county recorder within 14 days after making the deed. (See **COMMENT.**) The officer must charge the purchaser a fee to cover the actual costs of recording the deed or filing the documents. (R.C. 2329.36(B) and (C).)

Registered land is land for which a certificate of title has been issued following a procedure set forth in the Revised Code. Registration provides the owner with certain title guarantees. The bill requires that a sheriff who sells registered land pursuant to a court order file with the county recorder a certificate that the terms of sale have been complied with and certified copies of the order of sale, the return of the order, and the confirmation of sale. The purchaser may then have the property transferred to the purchaser, the title registered accordingly, and a new certificate of title issued. (R.C. 5309.64(B).)

Conforming amendments

The bill amends R.C. 2329.18 and 2329.19 to conform to the designation of divisions in R.C. 2329.17.

COMMENT

R.C. 2329.36(C) in the bill requires that the sheriff record the deed *or* file the registered land documents within 14 days after making the deed. The clause implies that the sheriff does not make a deed for registered land, in which case there would be no starting point for the running of the 14-day period. According to the Recorder's office in Hamilton County, which has more registered land than any other county in the state, a sheriff who sells registered land pursuant to an execution files a deed together with other documents pertaining to the registered land. The bill might be clarified by changing "or" in line 190 to "and" so that the sheriff must record the deed and file the documents within 14 days of making the deed.

HISTORY

ACTION	DATE
Introduced	11-07-06

h0678-i-126.doc/kl