



**Am. Sub. H.B. 359**

127th General Assembly  
(As Passed by the House)

**Reps. Huffman, J. McGregor, Peterson, Healy, R. McGregor, Jones, Bacon, Adams, Lundy, Stebelton, Evans, Gibbs, Letson, Slesnick, Patton, Batchelder, Bolon, Boyd, Brown, Chandler, Combs, DeBose, DeGeeter, Dolan, Domenick, Dyer, Flowers, Hite, Hughes, Luckie, Newcomb, Oelslager, Setzer, Skindell, D. Stewart, Strahorn, S. Williams, Yuko**

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**BILL SUMMARY**

- Grants permanent authority to the prosecuting attorney and county treasurer of a county with a population greater than 100,000 to use up to \$3 million of surplus delinquent tax collections to assist municipal corporations and townships to abate nuisances related to residential buildings in foreclosure.
- Authorizes the prosecuting attorney to use such funds to prosecute alleged violations of criminal and civil laws governing real estate and related transactions, including fraud, abuse, and predatory lending.
- Eliminates existing temporary authority of a county with a population exceeding 1.2 million to use surplus delinquent tax collections to prevent residential mortgage foreclosures in the county.

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**CONTENT AND OPERATION**

**Use of delinquent tax and assessment collection funds**

(R.C. 321.261)

Continuing law requires 5% of all delinquent real property, personal property, and manufactured and mobile home taxes and assessments to be deposited in a county's delinquent tax and assessment collection (DTAC) fund, to be used solely in connection with the collection of those taxes and assessments. Recently enacted H.B. 119 temporarily permits a board of county commissioners of a county with a population exceeding 1.2 million to authorize up to \$3 million

in the DTAC fund to be spent fund to prevent residential mortgage foreclosures, including providing loans to borrowers in default on their home mortgages and augmenting monies used in the county's "foreclosure prevention program," and to help municipal corporations abate nuisances in deteriorated residential buildings that are in foreclosure. (Section 757.30 of H.B. 119.) DTAC funds cannot be used for these purposes after June 30, 2008.

The bill permanently authorizes the prosecuting attorney and county treasurer of a county with a population exceeding 100,000 (according to the Department of Development's 2006 census estimate) to expend a combined total of not more than \$3 million annually in DTAC funds to assist municipal corporations and townships located in the county in the nuisance abatement of residential buildings in foreclosure, including paying the costs of securing the buildings, lot maintenance, and demolition. (The temporary authority of a county with a population exceeding 1.2 million to use DTAC funds to provide financial assistance to borrowers in default on their home mortgages and to augment monies in the county's foreclosure prevention program lapses on July 1, 2008.)

The bill also authorizes the prosecuting attorney to use the DTAC funds to prosecute alleged violations of criminal and civil laws governing real estate and related transactions, including fraud, abuse, and predatory lending. The bill defines "predatory lending" to include violations of R.C. 1322.07, 1322.071, and 1322.075. In general, these sections collectively prohibit mortgage brokers and loan officers from engaging in fraudulent and dishonest dealings with respect to licensing and registration, mortgage documents, and business development; from retaining original documents, charging fees for services performed by a third party, and receiving kickbacks for referrals to a third party; and from referring persons to businesses in which the mortgage broker or loan officer has an ownership or investment interest without disclosing that fact. Predatory lending is further defined to include failing to provide clear and balanced information regarding mortgage loan terms, the level of risk, and the severity of borrowing on terms that may result in a significant increase in the payment obligation or in negative amortization; making unsubstantiated statements regarding future interest rates, or one-sided statements regarding the cash savings or expanded buying power to be realized from a loan that may result in a significant increase in the payment obligation or in negative amortization; and obscuring a significant risk under the loan that results in unfavorable or unjustifiable loan terms for a borrower.

*Use of real estate sale proceeds to pay taxes*

(R.C. 323.47)

Current law requires proceeds from the sale of real property sold through a partition action, judicial sale, or through a sale by an administrator, executor, guardian, or trustee to be applied to taxes, penalties, and assessments "due and payable" when the deed is transferred.

The bill requires the sale proceeds to be applied to property taxes that are a lien on property when the deed is transferred. Since the lien attaches on January 1 for taxes that do not become payable until one year later, the bill would have the effect of generally requiring an additional year's taxes to be paid out of the sale proceeds. Current law authorizes but does not require the county treasurer to estimate the amount of taxes, assessments, interest, and penalties to which the proceeds from the sale will be applied. The bill requires the county treasurer to make this estimation.

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**HISTORY**

ACTION	DATE
Introduced	10-18-07
Reported, H. Ways & Means	04-10-08
Passed House (92-4)	05-13-08

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