



Sub. S.B. 277*

127th General Assembly

(As Reported by S. Judiciary - Civil Justice)

Sens. Stivers, Seitz, D. Miller, Kearney

BILL SUMMARY

- Provides that the environmental division of the municipal court, where established, has jurisdiction over actions regarding blighted parcels, that the environmental division has exclusive original jurisdiction to make findings and orders pertaining to blighted parcels, and that the environmental division may, in certain specified cases, proceed to foreclose all liens and all vested and contingent rights and proceed to render judgments and make findings and orders between the parties.
- Provides that a municipal corporation has a cause of action to foreclose any existing liens upon a blighted parcel in the municipal corporation.
- Allows the municipal corporation to notify the taxing authority of each taxing unit in which the blighted parcel is located that the municipal corporation is proceeding to foreclose the lien and provides the requirements for the notice and the procedure for submitting a response.
- Allows the taxing authority of a taxing unit and a municipal corporation to enter into an agreement whereby the taxing authority consents in advance to release the taxing authority's claim on distributions of delinquent or unpaid taxes and assessments charged against blighted parcels in the taxing unit's territory and waives its right to prior notice and response and provides the requirements for the information that must be contained in the agreement.

* This analysis was prepared before the report of the Senate Judiciary - Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

CONTENT AND OPERATION

Municipal court--environmental division

Background

R.C. 1901.011, in part, creates an environmental division in the Franklin County Municipal Court. This division generally has exclusive jurisdiction within the territory of the court in any civil or criminal action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to premises used or intended for use as a place of human habitation, buildings, structures, or any other real property subject to any such code, ordinance, or regulation. This division also generally has exclusive jurisdiction within the territory of the court in any civil action as described in R.C. 3767.41(B)(1) that relates to a public nuisance. (R.C. 1901.181(A)(1).)

Operation of the bill

The bill provides that, in addition to jurisdiction granted in R.C. Chapter 1901. (Municipal Court Law), the environmental division, where established, of the municipal court has jurisdiction within its territory in all of the following actions or proceedings and to perform all of the following functions (R.C. 1901.185):

(1) To hear actions arising under R.C. 3767.50 (see "Foreclosure of liens upon blighted parcels," below);

(2) In any action authorized by R.C. 3767.50, the environmental division of the municipal court, where established, must exercise exclusive original jurisdiction to make findings and orders pertaining to blighted parcels.

(3) When in aid of execution of a judgment of the environmental division of the municipal court rendered pursuant to R.C. 3767.50, in 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, and, 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.

Foreclosure of liens upon blighted parcels

The bill provides that a municipal corporation, in addition to any other remedy authorized by law, has a cause of action to foreclose any existing liens upon a blighted parcel located in the municipal corporation provided that no other foreclosure action affecting the blighted parcel is being actively prosecuted in any court of record. It is an affirmative defense to an action under this provision that the owner of the blighted parcel has not been in default on any mortgage on the property for 12 months or more or that there is a bankruptcy proceeding pending in which the blighted parcel has been listed as an asset. The environmental division of the municipal court has exclusive original jurisdiction of the action. To maintain the action, it is not necessary for the municipal corporation to have a lien of its own upon the property. Rather, it is sufficient for the municipal court to allege that, because of the continuing existence of conditions causing the property to be a blighted parcel, the owner has defaulted on the terms of any agreement giving rise to a lien for failure to maintain the property, and then to marshal and plead for foreclosure of any or all outstanding liens upon the blighted parcel. The provisions of the bill do not create a cause of action regarding any property not subject to a lien. The municipal corporation may not marshal a lien held by the United States, by this state, or by a political subdivision other than itself, or a lien vested by a tax certificate held under R.C. 5721.30 to 5721.43. The municipal corporation must join as a party to the action a lienholder whose lien is being marshaled and must notify the lienholder party that the municipal corporation is proceeding to foreclose the lien under the provisions of the bill and that the lienholder party may remediate the conditions of the parcel constituting blight. If a lienholder party certifies to the court that the party will remediate the conditions of the parcel constituting blight within 60 days after the party is served with a copy of the complaint of the foreclosure action, the municipal court must move to dismiss the action. (R.C. 3767.50(B).)

Judicial sale

In a judicial sale of a blighted parcel that is ordered as a result of the foreclosure action, the priority of distribution of the proceeds from the sale cannot be altered because the municipal corporation marshaled and foreclosed on one or more liens. Rather, proceeds from the sale must be distributed according to the priorities otherwise established by law. (R.C. 3767.50(B).)

Notification of foreclosure to the taxing authority

With respect to any blighted parcel that is or may be subject to an action under the provisions of the bill, the municipal corporation may notify the taxing authority of each taxing unit in which the blighted parcel is located that the municipal corporation is proceeding to foreclose the lien under the provisions of

the bill. The notice must state that the taxing authority may preserve its claim on any distributions of delinquent or unpaid taxes and assessments charged against the blighted parcel and arising from the judicial sale proceeds by responding in writing to the municipal corporation within a period of time to be specified in the notice. The written response must be certified by the taxing authority or by the fiscal officer or other person authorized by the taxing authority to respond. If such a response is received by the municipal corporation within the specified time, or if such a notice is not provided, the taxing authority's claim on distributions of delinquent or unpaid taxes and assessments charged against the blighted parcel and payable from the proceeds of the judicial sale must be preserved and must be disposed of in the priority and manner otherwise prescribed by law. If such a notice is provided and the response is not received within the specified time, the taxing authority's claim on the delinquent or unpaid taxes and assessments is extinguished, the lien for such taxes is satisfied and discharged to the extent of that claim, and the blighted parcel may be sold at judicial sale free and clear of such lien to that extent, unless the successful bidder at the judicial sale is a lienholder of the blighted parcel. If the successful bidder is a lienholder of the property, the lien for all delinquent or unpaid taxes and assessments charged against the blighted parcel must continue until discharged as otherwise provided by law. (R.C. 3767.50(C)(1).)

Agreement between taxing authority and municipal corporation

The taxing authority of a taxing unit and a municipal corporation may enter into an agreement whereby the taxing authority consents in advance to release the taxing authority's claim on distributions of delinquent or unpaid taxes and assessments charged against blighted parcels in the taxing unit's territory and waives its right to prior notice and response under the provisions of the bill discussed in the prior paragraph, described above. The agreement must provide for any terms and conditions on the release of such claim as are mutually agreeable to the taxing authority and municipal corporation, including any option vesting in the taxing authority the right to revoke its release with respect to any blighted parcel before the release becomes effective, and the manner in which notice of such revocation shall be effected. (R.C. 3767.50(C)(2).)

Definitions

The bill provides the following definitions for the purposes of its provisions dealing with foreclosure of liens on blighted parcels (R.C. 3767.50(A)):

(1) "Blighted parcel" means either of the following (R.C. 3767.50 by reference to R.C. 1.08):

(a) A parcel that has one or more of the following conditions:

(i) A structure that is dilapidated, unsanitary, unsafe, or vermin infested and that because of its condition has been designated by an agency that is responsible for the enforcement of housing, building, or fire codes as unfit for human habitation or use;

(ii) The property poses a direct threat to public health or safety in its present condition by reason of environmentally hazardous conditions, solid waste pollution, or contamination;

(iii) Tax or special assessment delinquencies exceeding the fair value of the land that remain unpaid thirty-five days after notice to pay has been mailed.

(b) A parcel that has two or more of the following conditions that, collectively considered, adversely affect surrounding or community property values or entail land use relationships that cannot reasonably be corrected through existing zoning codes or other land use regulations:

(i) Dilapidation and deterioration;

(ii) Age and obsolescence;

(iii) Inadequate provision for ventilation, light, air, sanitation, or open spaces;

(iv) Unsafe and unsanitary conditions;

(v) Hazards that endanger lives or properties by fire or other causes;

(vi) Noncompliance with building, housing, or other codes;

(vii) Nonworking or disconnected utilities;

(viii) Is vacant or contains an abandoned structure;

(ix) Excessive dwelling unit density;

(x) Is located in an area of defective or inadequate street layout;

(xi) Overcrowding of buildings on the land;

(xii) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(xiii) Vermin infestation;

(xiv) Extensive damage or destruction caused by a major disaster when the damage has not been remediated within a reasonable time;

(xv) Identified hazards to health and safety that are conducive to ill health, transmission of disease, juvenile delinquency, or crime;

(xvi) Ownership or multiple ownership of a single parcel when the owner, or a majority of the owners of a parcel in the case of multiple ownership, cannot be located.

(2) "Owner" means any of the following:

(a) The owner of record as shown on the current tax list of the county auditor.

(b) A person who has a freehold or lesser estate in the premises.

(c) A mortgagee in possession or vendee in possession who evidences charge, care, or control of the premises, including, but not limited to, a person to whom the sheriff has issued a deed for the premises after a judicial sale regardless of whether the deed has been recorded.

(d) A person who has charge, care, or control of the premises as executor, administrator, assignee, receiver, trustee, or legal guardian.

(e) A person who holds the person's self out to be in charge, care, or control of the premises as evidenced by the negotiation of written or oral lease agreements for the premises, the collection of rents for the premises, the performance of maintenance or repairs on the premises, or the authorization of others to perform maintenance or repairs on the premises.

HISTORY

ACTION	DATE
Introduced	01-22-08
Reported, S. Judiciary - Civil Justice	---

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