
ATTORNEY GENERAL

- Generally requires that a party seeking a judicial sale of real estate include a state lienholder as a party defendant unless no state lien has been recorded against the owner of the real estate for which the judicial sale is sought.
- Presumes the appearance of the state lienholder for jurisdictional purposes.
- Requires the court to take judicial notice that the state has a lien against the real estate subject to a judicial sale.
- Allows the state lienholder to file an answer to the complaint or any other pleading if the amount, validity, or priority of the state lien is not identified as disputed and requires the state lienholder to file an answer if the amount, validity, or priority of the state lien is identified as disputed.
- Requires that, as part of any order confirming the sale of the real estate that is subject to any undisputed state lien or distributing the proceeds of any judicial sale of real estate, the undisputed state lien is protected as if the state had appeared in the action and filed an answer asserting the state lien.
- Requires that notice be given to the state lienholder and the Attorney General if any party asserts a dispute as to the amount, validity, or priority of the state lien or of any lien or other interest that has priority over the state lien.
- Requires that the interest of any undisputed state lien transfer to the proceeds of the sale of the real estate.

Protection of state liens in actions for judicial sale of real estate

(R.C. 2329.192)

The bill requires that, in every action seeking the judicial sale of real estate that is subject to a state lien, all of the following apply:

(1) The party seeking a judicial sale must include the state lienholder as a party defendant and must serve that state lienholder with a copy of the preliminary judicial report or commitment for an owner's fee policy of title insurance filed in accordance with the law regarding preliminary judicial reports related to a judicial sale of real estate.



(2) A state lienholder cannot be made a party defendant if no state lien has been recorded against the owner of the real estate for which the judicial sale is sought.

(3) The appearance of the state lienholder is presumed for purposes of jurisdiction, and the court must take judicial notice that the state has a lien against the real estate.

(4) A state lienholder may, but is not required to, file an answer to the complaint or any other pleading in the action if the amount, validity, or priority of the state lien is not identified in the pleadings as disputed and must file an answer to the complaint or any other pleading in the action if the amount, validity, or priority of the state lien is identified in the pleadings as disputed. If a state lien is not identified as disputed, unless the state files an answer or other responsive pleading, the party seeking the judicial sale is not required to serve the state lienholder with any answer or subsequent pleadings in the action for judicial sale.

(5) As part of any order confirming the sale of the real estate that is subject to any undisputed state lien or distributing the proceeds of any judicial sale of real estate, the undisputed state lien must be protected as if the state had appeared in the action and filed an answer asserting the validity of the state lien as recorded in the office of the clerk of the county court or the office of the county recorder.

(6) Any party asserting a dispute as to the amount, validity, or priority of the state lien or of any lien or other interest that has priority over the state lien must serve the state lienholder and the Attorney General with notice of the dispute, and the state lienholder is permitted to file a responsive pleading and participate in the proceedings as if the state lienholder had been served with a summons on the date the state lienholder received notice of the dispute.

Upon the judicial sale of the real estate that is the subject of an action described above, the interest of any undisputed state lien must transfer to the proceeds of the sale of the real estate, and the state lienholder is entitled to payment from the proceeds of the sale of the real estate in accordance with the state lienholder's priority as set forth in the final judicial report or commitment for an owner's fee policy of title insurance filed in accordance with continuing law.

The bill defines "state lien" as a lien upon real estate, including lands and tenements, of persons indebted to the state for debt, taxes, or in any other manner recorded by a state agency in any office of the clerk of a county court or the county recorder. A "state lienholder" is the department, agency, or other division of the state in whose name a state lien has been filed or recorded.

