

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: Am. H.B. 158

DATE: April 7, 1997

STATUS: As Passed by the House

SPONSOR: Rep. Schuler

LOCAL IMPACT STATEMENT REQUIRED: No — Minimal cost

CONTENTS: Creates lien rights for real estate brokers on commercial properties

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties			
Revenues	- 0 -	Indeterminate net effect	Indeterminate net effect
Expenditures	- 0 -	Indeterminate net effect, but probable decrease	Indeterminate net effect, but probable decrease

- A real estate broker who wishes to attach a lien on commercial real estate must record the lien in the recorder's office of the county in which the real estate is located; the recorder's office will incur costs as well as collecting filing fees.
- If a real estate broker wishes to enforce a lien, he or she must file a complaint in the common pleas court in the county in which the lien property is located; common pleas court will incur court expenses as well as receive revenues from filing fees. Courts of common pleas are funded primarily by counties; counties could, therefore, experience minimal increases in both revenues and expenditures.
- In the absence of the lien process, a real estate broker's only course of action is to file suit. The lien procedure may decrease the number of cases that go to court, reducing the court expenses and filing fee revenues incurred by the county.



Detailed Fiscal Analysis

Under current law, commercial real estate brokers can collect delinquent fees by only one method, through legal action. This bill enables a broker to claim a lien against commercial real estate to ensure payment of the broker's commission. Conditions of the lien include: the broker must have a written contract with the owner of the commercial property, signed by the broker and the owner or the owner's agent; only the broker named in the contract would have a lien; the amount of the lien is limited to the amount due the broker; and the lien would be effective only against the interest in real estate that is the subject of the contract, not other real estate owned by the same person.

The broker would record the lien in the recorder's office of the county in which the real estate is located before the conveyance of the property and provide a copy of the lien to the owner on the day the lien is recorded. For a transaction to close with a claim for lien pending, an escrow account must be established. The money would be held in escrow until a right to the money is determined by a written agreement of the parties by a court or by any process agreed to by the parties. The bill also outlines the steps to enforce a lien, allows alternative dispute resolution and holds brokers liable for damages incurred by filing a spurious or materially inaccurate claim for lien or failing to release or acknowledge release or satisfaction of a lien.

□ *LBO staff: Rick Graycarek, Budget/Policy Analyst*

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