Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL:	**Sub. S.B. 204**	DATE:	**April 1, 1998**
STATUS:	**As Reported by Senate Judiciary Committee**	SPONSOR:	**Sen. Latta**

LOCAL IMPACT STATEMENT REQUIRED: **No — Offsetting revenues**

CONTENTS: **Requires notice to be given to specified parties prior to an execution sale and specifies consequences of execution sales after such notice has been given**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Counties			
Revenues	Minimal gain	Minimal gain	Minimal gain
Expenditures	Minimal effect	Minimal effect	Minimal effect
Municipalities			
Revenues	Minimal gain	Minimal gain	Minimal gain
Expenditures	Minimal effect	Minimal effect	Minimal effect

- A minimal gain in filing fee revenues may accrue to municipal, county, and common pleas courts statewide as a result of creditors' attorneys filing with clerks of courts copies of notices given to affected parties in execution sales. It is expected that, in most cases, these filing fees will be added to the total court costs collected from the sale of the property.

- There will be a minimal annual effect on clerks of court and courts statewide. Clerks of court will have to handle copies of notices given to affected parties, but will presumably recover the administrative burden created through the collection of filing fees. And in certain instances around the state, some municipal, county, and common pleas courts may be relieved of the burden of taking additional judicial actions on some execution sales.

Detailed Fiscal Analysis

Provisions of the Bill

This bill requires the judgement creditor or the judgement creditor's attorney to serve a written notice of the date, time, and place of the sale upon the debtor and serve such notice to any other parties to the action. The creditor or the creditor's attorney is to file with the clerk of court that rendered the execution judgement a copy of the written notice with accompanying proof of service. Parties who are in default for failure to appear in the execution action are not entitled to be served such notices. These same written notice requirements apply to subsequent execution sales if the property remains unsold after the first execution sale, and to the sale of lands and tenements.

The bill specifies consequences for failure to comply with written or public notice requirements. The sale of property or lands and tenements made without compliance with the written notice requirements stated in the bill would result in the sale being set aside by the original court, on motion. Proper filing of written and public notice requirements constitutes a judicial finding barring further motions to set aside the execution sale.

Fiscal Effects on Local Government

The majority of the provisions of this bill have no fiscal effect, as many of the provisions deal with actions that must be taken by the judgement creditor or the judgement creditor's attorney.

In general, common pleas courts are responsible for execution sales of real property, while municipal courts are responsible for sales of goods and chattels. There are two potential sources of fiscal impact to these courts. First, creditors' attorneys would be required to file notices to involved parties with the clerk of courts. LBO assumes that, in the majority of cases, that the cost of filing these notices ($1 per page in Franklin County) would be added to the total court costs. These court costs generally are assessed against the property at the time of the sale. Therefore, county, municipal, and common pleas courts will experience a minimal annual gain in revenues.

Second, as this bill is in response to holdings by the Ohio Supreme Court and other courts concerning notice given to parties involved in execution sales, the provisions of this bill may eliminate the need for certain courts to take additional judicial actions on certain execution sales. It is assumed that this bill will clarify the law concerning execution sales, and would prevent unnecessary court action by barring the filing of further motions by debtors to set aside sales of property.

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