



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 56 of the 129th G.A.

**Date:** December 6, 2011

**Status:** As Introduced

**Sponsor:** Rep. Murray

**Local Impact Statement Procedure Required:** No

**Contents:** Foreclosure procedures

### State Fiscal Highlights

- No direct fiscal effect on the state.

### Local Fiscal Highlights

#### LOCAL GOVERNMENT

#### FY 2012 – FUTURE YEARS

##### Counties

Revenues	Likely gain in additional foreclosure filing fees deposited in general fund, with annual magnitude varying by county and level of foreclosure activity
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Expenditures	Likely annual increase of uncertain magnitude to perform certain foreclosure duties, degree to which offset by additional foreclosure filing fee revenues uncertain
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##### Local Taxing Units

Revenues	Potential loss of taxes, assessment charges, penalties, interest, costs, and subordinate liens from forfeited property, annual magnitude uncertain
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Expenditures	Uncertain annual effect resulting from potential revenue lost
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Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **County general fund revenues.** The required additional fee of \$20 for each filing for a residential mortgage foreclosure action, could, based on the 2010 level of foreclosure activity, generate in excess of \$1.0 million annually for county general funds statewide.
- **Common pleas courts and clerks.** The bill specifies when a plaintiff is required or permitted to file certain motions, which would in turn require the clerk of court to make certain notices and the court of common pleas to make certain findings. The annual cost for clerks and courts to perform these duties is uncertain.
- **County commissioners.** The bill specifies the circumstances under which the title of certain properties vests in the name of the county commissioners and the manner in which the commissioners can then dispose of the property. This duty will in all likelihood generate additional administrative work for the commissioners, the amount and annual cost of which is uncertain and would vary by county.

- **County prosecutors.** The bill assigns duties that could create some additional work for prosecutors, the likely cost of which will not exceed minimal annually.
- **County sheriffs.** Sheriffs may realize an annual savings of uncertain magnitude, as the bill permits notices for the sale of lands and tenements taken to be made electronically after the first attempt to sell.
- **Local taxing units.** The bill could result in a loss of revenue to local taxing units if properties foreclosed due to delinquent taxes are forfeited to a political subdivision, school district, or land bank free of taxes, assessment charges, penalties, interest, costs, and subordinate liens. The frequency and magnitude of such a loss annually will likely vary greatly over time and from place-to-place, and is thus difficult to predict. Whether the revenue lost for any given local taxing unit would be significant enough to trigger a reduction in expenditures is uncertain.

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## Detailed Fiscal Analysis

### Local fiscal effects<sup>1</sup>

#### Common pleas courts and clerks

In addition to codifying some of the procedures that Ohio courts currently utilize to adjudicate foreclosure actions, the bill: (1) requires the clerk of courts to collect an additional \$20 filing fee, and (2) specifies circumstances both requiring and permitting a plaintiff to file certain motions with the clerk of courts. Subsequent to these filings, the clerk has to make certain notices and the court is required to make certain findings. The annual cost for courts and clerks to perform these duties is uncertain. It is likely that annual cost will be a function of the level of foreclosure activity, such that, as the foreclosure rate increases so would the cost to make notices and findings, and, as the foreclosure rate decreases so would the cost to make notices and findings.

#### County general fund

##### Estimated revenue potential from additional filing fee

The bill directs the clerk of a court of common pleas to collect an additional fee of \$20 for each filing for a residential mortgage foreclosure action. As noted in the table below, based on the total number of new foreclosure cases filed in 2010 (85,483), this additional fee could have generated in excess of \$1.7 million for counties statewide. The table depicts the number of calendar year 2010 new foreclosure filings in a sampling of various sized counties across the state and the amount of new revenue that would have been generated in those local jurisdictions if the additional foreclosure filing fee had been in effect at that time. These fees would, absent language to the contrary, be deposited in the county's general fund, the chief operating fund of the county. The county general fund supports appropriations for programs and services in the areas of general government, health and human services, and justice and law enforcement.

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<sup>1</sup> The analysis is based on conversations with multiple staff members of the Ohio Clerks of Courts Association, and the Ohio Judicial Conference as well as staff members of the County Commissioner's Association of Ohio, and a judge from the Judicial Conference's Civil Law and Procedure Committee.

<b>Potential Additional Revenue Gain from \$20 Additional Filing Fee for Select Counties and Statewide</b>			
<b>County</b>	<b>Census 2010 Population</b>	<b>2010 New Foreclosure Filings</b>	<b>Potential Additional Revenue</b>
Cuyahoga	1,280,122	12,825	\$256,500
Franklin	1,163,414	9,649	\$192,980
Hamilton	802,374	6,556	\$131,120
Huron	59,626	382	\$7,640
Seneca	56,745	355	\$7,100
Pickaway	55,698	297	\$5,940
Noble	14,645	126	\$2,520
Monroe	14,642	32	\$640
Vinton	13,435	56	\$1,120
<b>Statewide Total*</b>	<b>11,536,504</b>	<b>85,483</b>	<b>\$1,709,660</b>

\*Total encompasses all 88 counties, including 9 listed above.

## **County commissioners**

### **Assuming title to a property**

The bill provides for the county commissioners to take on a new property titling duty, thus adding to the current duties of the commissioners and potentially increasing administrative expenditures. According to the bill, if during a foreclosure proceeding, no lien holder to the property files a writ of execution, then the title to that property will vest in the name of the county commissioners. It is then the duty of the commissioners to dispose of the property according to rules adopted by the board of county commissioners. The bill requires boards of county commissioners to specify in its rules that the property is to be placed in the county's land bank, if available. If a land bank is not available, then the property is to be disposed of at the discretion of the board of county commissioners.

Given this information, the annual fiscal impact on the commissioners is likely to vary from county-to-county depending upon the number of foreclosed titles a county takes on and whether a land bank is available. If a land bank is not available, a representative of the County Commissioners Association of Ohio indicated that the commissioners would likely solicit a request for proposals and hire a realtor to sell the property. In that case, the commissioners would likely be able to recoup a percentage of the proceeds to cover the expenses incurred. In terms of the property itself, the commissioners would be responsible for maintenance but would not incur the tax liability. Overall, the bill is not expected to result in substantial costs to commissioners.

### **County prosecuting attorney**

If the courts opt to take certain foreclosure related actions which result in the deed to a property vesting in the name of the county recorder, the bill requires that the prosecutor prepare that deed. This would likely create some additional administrative

work for the prosecutor, the magnitude and cost of which would vary, but is unlikely to exceed minimal annually.

### **County sheriff**

Under current law, the officer taking the lands and tenements gives public notice of the date, time, and place of the sale for at least three weeks before the day of the sale by advertisement in a newspaper published and in general circulation of the county. The bill allows notices of subsequent sales of the lands and tenements to be made electronically on a web site maintained by the officer. According to the Buckeye State Sheriffs' Association, this provision could result in savings for sheriff departments, the annual magnitude of which is uncertain.

### **Local taxing units**

The bill provides that properties foreclosed due to delinquent taxes that are forfeited to a political subdivision, school district, or land bank are free of taxes, assessment charges, penalties, interest, costs, and subordinate liens. To the extent that this includes property tax liens, this provision could result in a loss of revenue to local taxing units that would otherwise have been entitled to those lien amounts had they been paid. The frequency and magnitude of such a loss annually will likely vary greatly over time and from place-to-place, and is thus difficult to predict.

### **Owner's physical harm is vandalism**

Under the bill, a person, who is the owner of residential property and receives a summons and complaint in a residential mortgage foreclosure action, knowingly causes physical harm to that property is guilty of vandalism. As such conduct already constitutes vandalism under current law, this provision will have no fiscal effect on the state or any local criminal justice systems.