Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 201 of the 130th G.A. **Date**: February 28, 2014

Status: As Passed by the House **Sponsor**: Rep. Butler

Local Impact Statement Procedure Required: No

Contents: Revises requirements for entries of mortgage satisfaction and clarifies the priority of interests in real property

State and Local Fiscal Highlights

- The additional recordation requirement under the bill is likely to lead to a gain in base fees retained by county recorders as well as Housing Trust Fund fees that are transferred to the state Low- and Moderate-Income Housing Trust Fund (Fund 6460) under the Development Services Agency budget.

Detailed Fiscal Analysis

The bill revises statutes regarding mortgages and entries of satisfaction involving mortgages for residential and commercial property. First, the bill establishes the priority of mortgage and lien interests in real property, providing that a mortgage granted to secure funds used to satisfy a previous mortgage retains the previous mortgage's position of priority to the extent of the amount satisfied. Secondly, the bill requires that a mortgagee record a release of a mortgage evidencing its satisfaction in the appropriate county recorder's office. Current law requires that the mortgagee record only the fact that the mortgage has been satisfied. As a consequence of this additional recordation requirement, the bill most likely will increase the volume of filings handled by county recorders. If so, this will increase the amount of recordation fees collected, including the portion remitted to the state for deposit into the Low- and Moderate-Income Housing Trust Fund (Fund 6460), commonly referred to as the Housing Trust Fund. County recorders charge a base fee of $14 and a Housing Trust Fund fee of $14 for the first two pages recorded, and a $4 base fee and $4 Housing Trust Fund fee for each additional page.

The bill also increases damages that can be recovered by a mortgagor in a civil action when the mortgagee fails to record the release of the mortgage within 90 days of the mortgage's satisfaction. Under current law, the amount of allowable civil damages that a mortgagor is entitled to is capped at $250. Under the bill, if the release of the mortgage remains unrecorded after 90 days, the mortgagor must notify the mortgagee of its failure to record the release. If after 15 days of being notified the mortgagee still has not recorded the release of mortgage, the mortgagor may recover damages of $100 per day, not to exceed $5,000 in total damages, for each day the release remains unrecorded. The bill also allows a mortgagor to recover reasonable attorneys' fees and costs related to these cases. Finally, the bill specifies the requirements and damages for noncompliance with the requirements for a mortgagee, mortgagor, and property owner who are parties to an unreleased mortgage that has been satisfied, but not recorded, prior to the effective date of the bill. Overall, it is not entirely clear how the changes in the bill would affect civil caseloads handled by the courts, since the penalties in the bill are in addition to other legal remedies and damages to which a mortgagor is entitled under current law.

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