Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 313

128th General Assembly
(As Passed by the House)

Reps. Ujvagi and Winburn, Domenick, Patten, Murray, Hagan, Driehaus, B. Williams, Foley, Skindell, S. Williams, Letson, Stewart, Lehner, Yuko, Bacon, Belcher, Blair, Bolon, Boose, Boyd, Brown, Carney, Celeste, Chandler, Combs, DeBose, DeGeeter, Dyer, Fende, Garland, Garrison, Gerberry, Goyal, Grossman, Hackett, Harris, Heard, Koziura, Luckie, Mallory, Mecklenborg, Moran, Newcomb, Pillich, Szollosi, Weddington, Yates

BILL SUMMARY

- Authorizes a county with a population greater than 100,000, or with a population between 78,000 and 81,000, to organize a county land reutilization corporation (CLRC).

- Authorizes a county treasurer of a county with a CLRC to invoke a potentially shorter period of time within which a property owner can redeem tax-foreclosed property by paying the tax debt.

- Exempts a CLRC from being subject to equitable remedies in connection with a parcel of land the CLRC acquires.

- Immunizes a CLRC from liability for breach of a common law duty in connection with a parcel of land the CLRC acquires.

- Modifies the membership of a CLRC board of directors.

- Authorizes county funds not currently needed for expenditure to be used to purchase CLRC-issued obligations.

- Authorizes a county treasurer to pledge property tax penalties and interest to the repayment of CLRC-issued obligations and to grant a security interest in the penalties and interest if the treasurer, under continuing law, advances money to taxing units in anticipation of collecting otherwise unpaid taxes; requires continued advances as necessary to satisfy the pledge.

- Requires the CLRC annual financial report to be made available online.
- Specifies that when a law designates two or more county ex-officio representatives to serve on a board or other body, and a county's charter combines the designees' offices, the combined office succeeds to only one of the ex-officio positions on the board or body, and any resulting vacancy on the board or body is to be filled by the county taxing authority.

CONTENT AND OPERATION

County land reutilization corporations

Creation of county land reutilization corporations

(R.C. 1724.04)

Current law authorizes the board of county commissioners of a county having a population exceeding 1.2 million (currently, Cuyahoga County), and that has elected to implement land reutilization powers, to create a county land reutilization corporation (CLRC). A CLRC is a nonprofit corporation created for the purposes of promoting development and managing and facilitating the reclamation, rehabilitation, and reutilization of vacant, abandoned, or tax-foreclosed real property.

The bill authorizes counties having a population of more than 100,000, or a population between 78,000 and 81,000, as of the most recent federal decennial census, to create a CLRC.[1]

Board of CLRC

(R.C. 1724.03)

Under current law the board of directors of a CLRC must be composed of at least five members, including the county treasurer, at least two of the members of the board of county commissioners, and two members selected by the treasurer and the county commissioners who are members of the CLRC's board and approved by a majority of the chief executive officers of all municipal corporations the majority of the territory of which is located in the county. The treasurer and county commissioners who are members of the board of directors must establish the process by which this approval is

[1] According to the Department of Development, 27 counties had a 2000 population exceeding 100,000; in 2004, 28 counties had a projected 2010 population exceeding 100,000. One county, Scioto County, had a 2000 population of between 78,000 and 81,000, and that county and Ross County have a projected 2010 population within that range.

obtained. The failure, refusal, or inability of any chief executive officer to respond in writing to any request for approval of the members selected by the treasurer and county commissioners within 14 days is deemed to be an approval by that chief executive officer. Any such failure, refusal, or inability to respond does not prevent the CLRC from exercising its powers and authority under the CLRC Law.

Under the bill, the board of directors of a CLRC must be composed of five, seven, or nine members, including the county treasurer, at least two of the members of the board of county commissioners, one representative of the largest municipal corporation, based on the population according to the most recent federal decennial census, that is located in the county, one representative of a township with a population of at least 10,000 in the unincorporated area of the township according to the most recent federal decennial census, if such a township exists in the county, and any remaining members selected by the treasurer and the county commissioners who are members of the CLRC's board. Additionally, under the bill at least one board member must have "private sector or nonprofit experience in rehabilitation or real estate acquisitions." The bill also removes the mayoral approval process described above.

CLRC liabilities

(R.C. 5722.22)

Under current law, a CLRC that acquires property is not subject to liability for damages arising from damage caused by leaking underground storage tanks, air pollution, sewage waste, and hazardous wastes and chemicals under R.C. Chapters 3704., 3734., 3737., 3745., 3746., 3750., 3751., 3752., 6101., and 6111., or for violation of any rule adopted, or order, permit, license, variance, or plan approval issued, under those chapters that is or was committed by another person in connection with a parcel of land the CLRC acquires.

The bill adds that a CLRC is not liable for damages or subject to equitable remedies for breach of a common law duty or for violation of the chapters listed above or any rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters in connection with a parcel of land the CLRC acquires. The bill also removes the limitation that the violation had to be committed "by another person."

Foreclosure procedure: right of redemption

(R.C. 323.78)

After a tax foreclosure action is initiated, a property owner can "redeem" the property by paying the debt for which the property is being foreclosed. Before S.B. 353 of the 127th General Assembly, the right to redeem continued until the filing of an entry of confirmation of sale or transfer, which occurs after the property is sold in a tax sale auction. S.B. 353 created an alternative redemption period and authorized it to be invoked by the county treasurer of a county having a population of more than 1.2 million (i.e., only in the one county, Cuyahoga County, where a CLRC could be created). The alternative redemption period potentially shortens the time within which an owner or other interested party may redeem abandoned tax-foreclosed property. The alternative redemption period is the 45-day period after an adjudication of foreclosure is journalized by a court or county board of revision.

The bill authorizes the county treasurer of all counties in which a CLRC operates, not just those having a population exceeding 1.2 million, to invoke the alternative redemption period.

Financial investment or deposit

(R.C. 135.35)

Current law specifies several classifications of securities and obligations county treasurers may purchase with county inactive money. (Inactive money refers to public funds on deposit with public depositories that are not needed to meet the current needs of the county treasury.) Current law also states that all such investments, except for ones specifically exempted, must be made only through a member of the National Association of Securities Dealers, through a bank, savings bank, or savings and loan association regulated by the Superintendent of Financial Institutions, or through an institution regulated by the Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.

Under the bill, a county treasurer may invest county inactive moneys in bonds and other obligations of a CLRC if the CLRC is located wholly or partly within the same county as the county treasurer. Additionally, the bill exempts this type of investment from the requirement of being made through a member of the National Association of Securities Dealers, through a bank, savings bank, or savings and loan association regulated by the Superintendent of Financial Institutions, or through an institution regulated by the Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.

CLRC obligations: pledging of penalties and interest; security

(R.C. 321.343)

Continuing law authorizes the county treasurer of a county where a CLRC has been created to make advance payments to taxing units of unpaid property taxes in anticipation of eventually collecting the taxes. (R.C. 321.341.) The advances are funded by either a line of credit or securities issued by the county. Once the taxes and associated penalties and interest are collected, the taxes may be applied to reimbursing the line of credit or to the securities' debt charges; the penalties and interest are credited to a special fund used to pay the CLRC's expenses or to reimburse the line of credit or pay the debt charges.

The bill authorizes a county treasurer making such advances to agree with the CLRC to pledge the penalties and interest collected to the payment of debt charges on CLRC-issued obligations. The pledge agreement may include the granting of a security interest to the CLRC in the penalty and interest collections and a covenant that the treasurer will continue to advance payments to taxing units for as long as the CLRC debt remains outstanding as needed to pay the debt charges. The treasurer's duties and obligations under the agreement are enforceable by writ of mandamus.[2]

Making of loans by CLRC

(R.C. 1724.02)

Under current law, a CLRC can make revolving loans to community development corporations or "groups" for the purposes contained in the CLRC's plan. The bill modifies to whom a CLRC can make revolving loans by authorizing them to be made to community development corporations, "private entities, or any person."

Financial report

(R.C. 1724.05)

Under continuing law, a CLRC must prepare an annual financial report that conforms to rules prescribed by the Auditor of State, that is prepared according to generally accepted accounting principles, and that is certified by the board of directors of the CLRC or its treasurer or other chief fiscal officer to the best knowledge and belief of those persons certifying the report. The financial report must be filed with the Auditor within 120 days following the last day of the CLRC's fiscal year, unless the Auditor extends that deadline. The Auditor can establish terms and conditions for granting any extension of that deadline.

The bill adds that the financial report must be published on the CLRC's web site, or if the CLRC does not have a web site, on the web site of the county in which the CLRC is located.

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[2] Mandamus is a writ, issued in the name of the state to an inferior tribunal, a corporation, board, or person, commanding the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station (R.C. 2731.01, not in the bill).

Charter county representation on boards

(R.C. 1.62)

Current law specifies that, with respect to charter counties, any references in the Revised Code to a county's board of commissioners, officers, or other bodies refer as well to the equivalent board, officer, or body designated by the charter to perform the same duties or functions.

The bill states that for a county that has adopted a charter under the Ohio Constitution (currently, only Summit and Cuyahoga counties), if any section of the Revised Code requires county representation on a board, commission, or authority by more than one county officer, and the charter vests the powers, duties, or functions of each county officer representing the county on the board, commission, or authority in fewer officers or in only a single county officer, the county officers or officer must succeed to the representation of only one of the county officers on the board, commission, or authority. If any vacancy in the representation of the county on the board, commission, or authority remains, the taxing authority of the county must adopt a resolution to fill the vacancy.

Because the board of directors of a CLRC includes at least two members of a board of county commissioners, this provision might be applicable to a charter county that creates a CLRC.

HISTORY

ACTION	DATE
Introduced	10-14-09
Reported, H. Local Gov't & Public Administration	12-10-09
Passed House (84-14)	12-16-09

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