



Ohio Legislative Service Commission

Bill Analysis

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Am. H.B. 5

129th General Assembly
(As Passed by the House)

Reps. Huffman, Okey, Murray, Letson, McKenney, Coley, Bubb, Carney, Combs, DeGeeter, Derickson, Foley, Garland, Luckie, Mallory, McClain, Milkovich, O'Brien, Patmon, Pillich, Slaby, Stebelton, Stinziano, Williams, Batchelder

BILL SUMMARY

- Consolidates references to costs and fees, other than attorney fees, that apply in courts of record, generally organizes costs and fees according to the courts in which they apply, and cross-references the Revised Code sections that create the costs and fees.
 - Requires the Ohio Judicial Conference to adjust each dollar amount set forth in the provision of law that specifies the amount of various types of property that is exempt from execution, garnishment, attachment, or sale to reflect the change in the consumer price index or other generally available comparable index.
 - Requires the Ohio Judicial Conference to prepare a memorandum specifying those adjusted dollar amounts and to transmit that memorandum to the Director of the Legislative Service Commission who must publish that memorandum in the *Register of Ohio*.
 - Allows the Ohio Judicial Conference to publish that memorandum in any other manner it concludes will be reasonably likely to inform persons who are affected by its adjustment of the dollar amounts.
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CONTENT AND OPERATION

Property exempted from execution, garnishment, attachment, or sale – adjustment of dollar amount

Existing law allows a person who is domiciled in Ohio to hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order,

including (1) the person's interest, not to exceed \$3,225, in one motor vehicle, (2) the person's interest, not to exceed an aggregate of \$2,025, in all implements, professional books, or tools of the person's profession, trade, or business, including agriculture, (3) the person's interest in contracts of life or endowment insurance or annuities, as exempted by Ohio law, and (4) the person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by Ohio law.¹

On April 1, 2010, and on the first day of April in each third calendar year after 2010, each dollar amount set forth in this provision must be adjusted, when determining the amount that is exempt from execution, garnishment, attachment, or sale, to reflect the change in the consumer price index for all urban consumers, as published by the United States Department of Labor, or, if that index is no longer published, a generally available comparable index, for the three-year period ending on December 31 of the preceding year. The bill modifies this provision by requiring the Ohio Judicial Conference to adjust each dollar amount to reflect the change in the consumer price index or other generally available comparable index, if applicable.²

The bill also requires the Ohio Judicial Conference to prepare a memorandum specifying the adjusted dollar amounts and transmit that memorandum to the Director of the Legislative Service Commission, who must publish the memorandum in the *Register of Ohio*. The publication of the memorandum in the *Register of Ohio* must continue until the next memorandum specifying an adjustment is published. The Ohio Judicial Conference also may publish the memorandum in any other manner it concludes will be reasonably likely to inform persons who are affected by its adjustment of the dollar amounts.³

The bill also requires that the Ohio Judicial Conference make and cause publication of the adjustment as soon as possible but not later than 30 days after the effective date of the bill.⁴

Consolidation of references to fees and costs in courts of record

Existing law provides for the imposition of numerous charges upon parties in civil and criminal lawsuits. In some instances, the charges are for services rendered by private individuals, such as court interpreters, or public officials, such as sheriffs (for service of process, for example) or court clerks (often for furnishing transcripts of

¹ R.C. 2329.66(A).

² R.C. 2329.66(B).

³ R.C. 2329.66(B).

⁴ Section 3.

judgments or other documents). In other cases, the charges are required in order to pursue a civil action (e.g., filing fees) or are imposed as part of a criminal sentence (e.g., fines or costs of prosecution). The Revised Code characterizes some of these charges as costs that are taxed as part of the judgment, while it refers to others as fees. Occasionally, the Revised Code lists "fees" that are to be taxed as "costs." Some charges apply in only one court, others in more than one court or in all courts. A few Revised Code sections provide lists of fees that apply to particular officials or in particular courts. For example, R.C. 311.17 has a long list of fees to be charged by the sheriff, and R.C. 2101.16 lists dozens of fees charged by the probate court. However, other charges are scattered throughout the Revised Code and can be hard to locate.

The bill consolidates in eight new Revised Code sections references to the numerous costs and fees, other than fees of receivers (see "**Fees of receivers**," below) and attorney fees, that apply in Ohio's courts of record. The bill does not amend the sections that establish these costs and fees or abolish or create any costs or fees. Rather, the bill organizes existing costs and fees according to the courts in which they apply, and it refers to the Revised Code sections that create them. In essence, the bill provides a reference guide to fees and costs in Ohio's courts.

Organization of fees and costs by court

Every Revised Code section in the bill except R.C. 2746.09 (see "**Fees of receivers**," below) starts with a statement that specifies the court or courts in which the listed costs and fees apply. For example, R.C. 2746.05 begins, "In addition to any applicable fees or costs set forth in sections 2746.01, 2746.02, and 2746.04 of the Revised Code or any other applicable provision of law, a *juvenile court* shall tax as costs or otherwise require the payment of fees for the following services or as compensation for the following persons." This statement is followed by the costs and fees specific to that court or those courts, identified by the Revised Code section where those charges are found. Here, as an illustration, is the list in R.C. 2746.05 for juvenile courts:

- (A) The fees provided for in section 2151.54 of the Revised Code;
- (B) Additional fees to computerize the court, make available computerized legal research services, and computerize the office of the clerk of the court, as provided in sections 2151.541, 2153.081, and 2301.031 of the Revised Code;
- (C) The costs of house arrest with electronic monitoring, as provided in section 2152.19 of the Revised Code;
- (D) Witness fees, as provided in section 2151.28 of the Revised Code.

The bill organizes costs and fees according to the courts in which they apply, as follows:

R.C. 2746.01: All courts of record (primarily in civil cases).

R.C. 2746.02: All courts of record (in criminal and juvenile cases and some civil actions related to criminal cases).

R.C. 2746.03: Supreme Court, courts of appeals, Court of Claims (in addition to the charges applicable in all courts of record).

R.C. 2746.04: Courts of common pleas (in certain civil cases, in addition to the charges applicable in all courts of record).

R.C. 2746.05: Juvenile courts (in addition to the charges applicable in all courts of record and the courts of common pleas).

R.C. 2746.06: Probate courts (in addition to the charges applicable in all courts of record and the courts of common pleas, subject to any waiver of fees for combat zone casualties under R.C. 2101.164 and any reduction of fees that R.C. 2101.20 allows the judge to make).

R.C. 2746.07: Municipal courts (in addition to the charges applicable in all courts of record and the courts of common pleas).

R.C. 2746.08: County courts (in addition to the charges applicable in all courts of record and the courts of common pleas).

The Revised Code sections dealing with municipal and county courts include references to costs and fees named in R.C. 2746.04 (charges applicable in courts of common pleas) because (1) various sections of the Municipal Court Law and County Court Law provide for the imposition of fees or costs in accordance with the statutes that govern courts of common pleas, and (2) R.C. Ch. 2335., although placed in the title that governs courts of common pleas, does not expressly limit to those courts the fees and costs it establishes. Many of these charges apply to trial courts generally.

Fees of receivers

The bill consolidates Revised Code references to the costs, expenses, or fees of receivers in a separate section. These references include costs or expenses expressly allowed to receivers by statute, fees to which a receiver appointed under R.C. 2715.20 (attachment) or 2735.01 (mortgage foreclosure and other specified types of cases) may be entitled, and fees allowed to a receiver under any applicable rule of court. The bill

does not amend any of the sections that provide for the appointment, costs, or expenses of receivers.⁵

HISTORY

ACTION	DATE
Introduced	01-11-11
Reported, H. Judiciary & Ethics	02-02-11
Passed House (95-1)	03-29-11

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⁵ R.C. 2746.09.

