



# *ENACTMENT NEWS*

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## **House Bill 390**

Natural Gas Sales Tax Exemption, Expedited Foreclosure, & Omnibus  
Appropriations  
Effective September 28, 2016

On June 28, 2016, the Governor signed into law House Bill 390, which had originally been drafted as a Natural Gas Sales Tax Exemption, but was heavily amended the day before the legislature recessed for the summer. The bill contained a multitude of provisions; the following list is based on relevance to the judiciary.

- HB 390 contained language reauthorizing the Ohio Judicial Conference until 2020, returning its funding for the next fiscal year, and returning the prohibition against OBM or another state agency sweeping the OJI fund. Sec. 309.10 and 701.20 of HB 390.
- HB 390 contained what was once HB 463, the Foreclosures and Private Selling Officers Bill.
  - It creates an expedited foreclosure process for residential property found to be “vacant and abandoned.” The determination of “vacant and abandoned” is made by a judge (a hearing is required) based on monetary default of the mortgage loan and a list of 10 criteria (and an 11<sup>th</sup> catch-all criterion).
    - Three of the criteria for finding a property “vacant and abandoned” require that an “appropriate official of a county, municipal corporation, or township on which the property is located” inspects the property and finds it vacant, provides a written statement indicating the property is vacant, or seals the property because it is abandoned. R.C. 2308.02 (C)(3)(h), (i), and (j).
    - If the court makes a preliminary determination that a property is “vacant and abandoned” without one of the three criterion above, then the court must order the appropriate official to verify that the property is vacant and abandoned. R.C. 2308.02 (C)(6)
  - It creates a new section, R.C. 2329.071, which authorizes a county prosecutor to bring a foreclosed property to sale if the sale has been unreasonably delayed for 12 months.
    - The county prosecutor is required to serve a copy of the motion on all parties who entered an appearance in the foreclosure action.
    - The court is required to decide on the motion not sooner than 30 days after the motion was filed and, if the court finds there is no good reason

why the property has not been sold, the court grants the motion and orders the county prosecutor to issue a praecipe for order of sale.

- The officer making the sale shall record the prepared deed within 14 days after the confirmation of sale and payment of the balance due. If the deed is not prepared and recorded within the 14-day period, the purchaser may file a motion with the court to proceed with the transfer of title. R.C. 2329.31(C)(1).
- It creates a new section, R.C. 2329.152, which creates a process by which a judgment creditor can elect to utilize a private selling officer in a foreclosure sale. This requires authorization from the court.
- It expands the crime of Criminal Mischief to include damaging one's own property if it is subject to a mortgage and a foreclosure is pending. R.C. 2909.07 (A)(1)(b)(i) and (ii).
- HB 390 contained an appropriation for the Court of Claims to be able to conduct the responsibilities newly assigned to it under SB 321, the Public Records Bill (see separate Enactment News). Sec. 251.10 of HB 390.
- HB 390 changed the composition of the Correctional Institution Inspection Committee. R.C. 103.71 and 103.74.
- HB 390 created a "capital case attorney fee council" to determine rates for indigent defense in capital cases. The council is to be composed of 5 active appellate court judges, appointed by the Chief Justice. R.C. 120.33