



ENACTMENT NEWS

HB 463 Expedited Foreclosure Effective Date: April 2017

HB 463 was introduced in February, 2016, and was composed of two main parts: (1) a part that created an expedited foreclosure process for vacant and abandoned buildings and (2) a part that created a procedure by which a judgment creditor could utilize a private selling officer to sell a foreclosed property. Those provisions were enacted in May 2016 as part of HB 390 and became effective September 28, 2016. HB 463, then, was amended to include adjustments to the recently enacted processes and, right before passage, was enacted to include some unrelated bills concerning housing discrimination cases before the Civil Rights Commission, UCC updates, and local elections. The bill was signed by the Governor on January 4, 2017 and will become effective in April, 2017. A summary of the bill follows.

EXPEDITED FORECLOSURE:

- A court is required to hold an oral hearing in determining whether to proceed in an expedited manner in a foreclosure action (although this was the intent in the earlier version of the bill, it was not explicit). (RC 2308.02(C))
- When both a judgment creditor and the first lienholder seek to redeem a foreclosed property, the first lienholder prevails. (RC 2329.311(B))

HOUSING CIVIL RIGHTS:

- Current actual damages and attorney's fees in housing discrimination cases before the Civil Rights Commission are mandatory; the bill makes them permissive. (RC 4112.05(G)(1)(a))
- Currently, the Civil Rights Commission can award a complainant punitive damages; the bill instead allows the Commission to assess a civil penalty against a person found to have engaged in housing discrimination; the penalty is paid to the state. Current actual damages are not altered by the bill. (RC 4112.05(G)(1)(b))

CHANGES TO OHIO UCC LAWS:

- “Writing” or “written” in the UCC on commercial paper and bank deposits is changed to “record” to allow electronic records and signatures. (RC 1303.05(A)(2), (A)(3), and (B))
- Suretyship and guaranty rules are modernized. (RC 1303.01(B)(2) and 1303.59(G))

LOCAL ELECTIONS:

- If a board of elections or the Secretary of State determines that a local initiative petition does not fall within the scope of a local government’s constitutional authority, the board of elections or the Secretary of State is required to invalidate the local initiative petition; examples provided during hearings included municipal marijuana legalization and local minimum wage laws. (RC 307.95(B)) This provision may be unconstitutional, both as a violation of separation of powers and as an infringement on the people’s power of initiative.
- A municipal recall petition is not valid after 90 days after the date of the first signature; the recall election must be held at the next primary or general election 90 days after the petition is certified. (RC 705.92)