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COMMISSION
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Ohio Revised Code

Section 5721.192 Deficiency judgment.

Effective: July 18, 1990
Legislation: House Bill 387 - 118th General Assembly

(A) If the proceeds from a sale of a parcel under section 5721.19 or 5723.06 of the Revised Code are insufficient to pay in full the amount of the taxes, assessments, charges, penalties, and interest which are due and unpaid; the costs incurred in the foreclosure proceeding, the foreclosure and forfeiture proceeding, or both foreclosure and forfeiture proceedings which are due and unpaid; and, if division (B)(1) or (2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code, the court may enter a deficiency judgment for the unpaid amount as authorized by sections 5721.17, 5721.19, 5723.05, and 5723.18 of the Revised Code, in accordance with this section.

(B) Before entering the deficiency judgment, the court shall notify the board of revision of the county in which the parcel is located, of its intention to enter the judgment, and request the board to make a recommendation with respect to whether the judgment should be entered and to specify the reasons why it should or should not be entered. The notification shall list, and shall require the board to consider in making its recommendation, the factors that the court is required to consider under divisions (C)(1) to (3) of this section, but, in making its recommendation, the board also may consider other relevant factors. Additionally, if a corporate owner of record of foreclosed lands or a corporate last owner of record of forfeited lands is involved, the court shall specify in its notification whether the judgment is proposed to be made against the corporation or the majority stockholder of the corporation. To assist the board in making its recommendation, the board may invite the person against whom the judgment would be entered to appear before it. The board shall make a recommendation to the court within thirty days from the date that the court notified it under this division.

(C) In determining whether to enter the deficiency judgment, the court shall consider all relevant factors, including, but not limited to, the following:

(1) Whether the owner of record or, in the case of forfeited lands, the last owner of record, appears to have owned the parcel only for speculative purposes, and had the means to pay, but purposely did not pay, the taxes, assessments, charges, penalties, and interest due;

(2) Whether the owner of record or, in the case of forfeited lands, the last owner of record purposely failed to pay the delinquent taxes, assessments, charges, penalties, and interest, although he had the means to do so;

(3) Whether there are other circumstances that would make it inequitable to enter the deficiency judgment.

(D) At least thirty days from the date of any notification to the board of revision under division (B) of this section, and if the court proposes to enter a deficiency judgment, the clerk of the court shall notify the person against whom the judgment is proposed to be entered, by ordinary mail, of the proposed entry of the judgment and its amount. The notification shall state that the person against whom the judgment is proposed to be entered may file, within ten days from the date the notice is mailed, a motion with the court protesting the proposed entry of the judgment and requesting an opportunity to appear and show cause why the judgment should not be entered. The notification also shall state that, if such a motion is not filed within the ten-day period, the judgment shall be entered and shall be considered to be a final judgment. If the proposed judgment would be entered against the majority stockholder of a corporation, the notification shall be sent to him at the address of the principal office of the corporation.

(E) Proceeds paid pursuant to the entry and satisfaction of a deficiency judgment shall be distributed as if they had been received as a part of the proceeds from the sale of the parcel under section 5721.19 or 5723.06 of the Revised Code to satisfy the amount of the taxes, assessments, charges, penalties, and interest which are due and unpaid; the costs incurred in the associated proceeding or proceedings which were due and unpaid; and, if division (B)(1) or (2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code.