

As Reported by the House Judiciary Committee

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 134

Representatives Grossman, Curtin

**Cosponsors: Representatives Becker, Antonio, Fedor, Lepore-Hagan, Blessing,
Hambley, Sheehy, Schuring, Dever, McColley**

A BILL

To amend sections 323.47, 1901.18, 2303.26, 1
2329.01, 2329.02, 2329.20, 2329.21, 2329.23, 2
2329.26, 2329.30, 2329.31, 2329.33, 2329.52, and 3
2909.07 and to enact sections 2308.01 to 4
2308.04, 2329.211, and 2329.311 of the Revised 5
Code to establish summary actions to foreclose 6
mortgages on vacant and abandoned residential 7
properties and to make other changes relative to 8
residential foreclosure actions. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 323.47, 1901.18, 2303.26, 10
2329.01, 2329.02, 2329.20, 2329.21, 2329.23, 2329.26, 2329.30, 11
2329.31, 2329.33, 2329.52, and 2909.07 be amended and sections 12
2308.01, 2308.02, 2308.03, 2308.04, 2329.211, and 2329.311 of 13
the Revised Code be enacted to read as follows: 14

Sec. 323.47. (A) If land held by tenants in common is sold 15
upon proceedings in partition, or taken by the election of any 16
of the parties to such proceedings, or real estate is sold by 17
administrators, executors, guardians, or trustees, the court 18

shall order that the taxes, penalties, and assessments then due 19
and payable, and interest on those taxes, penalties, and 20
assessments, that are or will be a lien on such land or real 21
estate at the time the deed is transferred following the sale, 22
be discharged out of the proceeds of such sale or election. For 23
purposes of determining such amount, the county treasurer shall 24
estimate the amount of taxes, assessments, interest, and 25
penalties that will be payable at the time the deed of the 26
property is transferred to the purchaser. If the county 27
treasurer's estimate exceeds the amount of taxes, assessments, 28
interest, and penalties actually payable when the deed is 29
transferred to the purchaser, the officer who conducted the sale 30
shall refund to the purchaser the difference between the 31
estimate and the amount actually payable. If the amount of 32
taxes, assessments, interest, and penalties actually payable 33
when the deed is transferred to the purchaser exceeds the county 34
treasurer's estimate, the officer shall certify the amount of 35
the excess to the treasurer, who shall enter that amount on the 36
real and public utility property tax duplicate opposite the 37
property; the amount of the excess shall be payable at the next 38
succeeding date prescribed for payment of taxes in section 39
323.12 of the Revised Code. 40

(B) (1) Except as provided in division (B) (3) of this 41
section, if real estate is sold at judicial sale, the court 42
shall order that the total of the following amounts shall be 43
discharged out of the proceeds of the sale but only to the 44
extent of such proceeds: 45

(a) Taxes and assessments the lien for which attaches 46
before the confirmation of sale but that are not yet determined, 47
assessed, and levied for the year in which confirmation occurs, 48
apportioned pro rata to the part of that year that precedes 49

confirmation, and any penalties and interest on those taxes and assessments; 50
51

(b) All other taxes, assessments, penalties, and interest 52
the lien for which attached for a prior tax year but that have 53
not been paid on or before the date of confirmation. 54

~~(2) Upon the request of the officer who conducted the 55
sale, the county treasurer shall estimate the amount in division 56
(B)(1)(a) of this section. If the county treasurer's estimate 57
exceeds that amount, the officer who conducted the sale shall 58
refund to the purchaser the difference between the estimate and 59
the actual amount. If the actual amount exceeds the county 60
treasurer's estimate, the officer shall certify the amount of 61
the excess to the treasurer, who shall enter that amount on the 62
real and public utility property tax duplicate opposite the 63
property; the amount of the excess shall be payable at the next 64
succeeding date prescribed for payment of taxes in section 65
323.12 of the Revised Code. The purchaser of real estate at a 66
judicial sale is responsible for payment of any and all taxes 67
and assessments, and any penalties and interest on those taxes 68
and assessments, that attach as of the day following the date of 69
the sale, including taxes and assessments levied for the year in 70
which the sale occurred, apportioned pro rata after the date of 71
the judicial sale, and any penalties and interest on those taxes 72
and assessments. 73~~

(3) The amounts described in division (B)(1) of this 74
section shall not be discharged out of the proceeds of a 75
judicial sale, but shall instead be deemed to be satisfied and 76
extinguished upon confirmation of sale, if both of the following 77
conditions apply: 78

(a) The real estate is sold pursuant to a foreclosure 79

proceeding other than a tax foreclosure proceeding initiated by 80
the county treasurer under section 323.25, sections 323.65 to 81
323.79, or Chapter 5721. of the Revised Code. 82

(b) A county land reutilization corporation organized 83
under Chapter 1724. of the Revised Code is both the purchaser of 84
the real estate and the judgment creditor or assignee of all 85
rights, title, and interest in the judgment arising from the 86
foreclosure proceeding. 87

Sec. 1901.18. (A) Except as otherwise provided in this 88
division or section 1901.181 of the Revised Code, subject to the 89
monetary jurisdiction of municipal courts as set forth in 90
section 1901.17 of the Revised Code, a municipal court has 91
original jurisdiction within its territory in all of the 92
following actions or proceedings and to perform all of the 93
following functions: 94

(1) In any civil action, of whatever nature or remedy, of 95
which judges of county courts have jurisdiction; 96

(2) In any action or proceeding at law for the recovery of 97
money or personal property of which the court of common pleas 98
has jurisdiction; 99

(3) In any action at law based on contract, to determine, 100
preserve, and enforce all legal and equitable rights involved in 101
the contract, to decree an accounting, reformation, or 102
cancellation of the contract, and to hear and determine all 103
legal and equitable remedies necessary or proper for a complete 104
determination of the rights of the parties to the contract; 105

(4) In any action or proceeding for the sale of personal 106
property under chattel mortgage, lien, encumbrance, or other 107
charge, for the foreclosure and marshalling of liens on personal 108

property of that nature, and for the rendering of personal	109
judgment in the action or proceeding;	110
(5) In any action or proceeding to enforce the collection	111
of its own judgments or the judgments rendered by any court	112
within the territory to which the municipal court has succeeded,	113
and to subject the interest of a judgment debtor in personal	114
property to satisfy judgments enforceable by the municipal	115
court;	116
(6) In any action or proceeding in the nature of	117
interpleader;	118
(7) In any action of replevin;	119
(8) In any action of forcible entry and detainer;	120
(9) In any action concerning the issuance and enforcement	121
of temporary protection orders pursuant to section 2919.26 of	122
the Revised Code or protection orders pursuant to section	123
2903.213 of the Revised Code or the enforcement of protection	124
orders issued by courts of another state, as defined in section	125
2919.27 of the Revised Code;	126
(10) If the municipal court has a housing or environmental	127
division, in any action over which the division is given	128
jurisdiction by section 1901.181 of the Revised Code, provided	129
that, except as specified in division (B) of that section, no	130
judge of the court other than the judge of the division shall	131
hear or determine any action over which the division has	132
jurisdiction;	133
(11) In any action brought pursuant to division (I) of	134
section 4781.40 of the Revised Code, if the residential premises	135
that are the subject of the action are located within the	136
territorial jurisdiction of the court;	137

(12) In any civil action as described in division (B) (1) 138
of section 3767.41 of the Revised Code that relates to a public 139
nuisance, and, to the extent any provision of this chapter 140
conflicts or is inconsistent with a provision of that section, 141
the provision of that section shall control in the civil action; 142

(13) In a proceeding brought pursuant to section 955.222 143
of the Revised Code by the owner of a dog that has been 144
designated as a nuisance dog, dangerous dog, or vicious dog. 145

(B) The Cleveland and Toledo municipal ~~court~~ courts also 146
shall have jurisdiction within ~~its~~ their territory in all of the 147
following actions or proceedings and to perform all of the 148
following functions: 149

(1) In all actions and proceedings for the sale of real 150
property under lien of a judgment of the municipal court or a 151
lien for machinery, material, or fuel furnished or labor 152
performed, irrespective of amount, and, in those actions and 153
proceedings, the court may proceed to foreclose and marshal all 154
liens and all vested or contingent rights, to appoint a 155
receiver, and to render personal judgment irrespective of amount 156
in favor of any party. 157

(2) In all actions for the foreclosure of a mortgage on 158
real property given to secure the payment of money or the 159
enforcement of a specific lien for money or other encumbrance or 160
charge on real property, when the amount claimed by the 161
plaintiff does not exceed fifteen thousand dollars and the real 162
property is situated within the territory, and, in those 163
actions, the court may proceed to foreclose all liens and all 164
vested and contingent rights and may proceed to render judgments 165
and make findings and orders between the parties in the same 166
manner and to the same extent as in similar actions in the court 167

of common pleas. 168

(3) In all actions for the recovery of real property 169
situated within the territory to the same extent as courts of 170
common pleas have jurisdiction; 171

(4) In all actions for injunction to prevent or terminate 172
violations of the ordinances and regulations of the city of 173
Cleveland or Toledo enacted or promulgated under the police 174
power of the city of Cleveland or Toledo, pursuant to Section 3 175
of Article XVIII, Ohio Constitution, over which the court of 176
common pleas has or may have jurisdiction, and, in those 177
actions, the court may proceed to render judgments and make 178
findings and orders in the same manner and to the same extent as 179
in similar actions in the court of common pleas. 180

Sec. 2303.26. The clerk of the court of common pleas shall 181
exercise the powers conferred and perform the duties enjoined 182
upon ~~him~~ the clerk by statute and by the common law; and in the 183
performance of ~~his~~ official duties ~~he~~ the clerk shall be under 184
the direction of ~~his~~ such court. The clerk shall not restrict, 185
prohibit, or otherwise modify the rights of parties to seek 186
service on party defendants allowed by the Rules of Civil 187
Procedure, either singularly or concurrently. 188

Sec. 2308.01. As used in this chapter: 189

(A) "Manufactured home" has the same meaning as in section 190
3781.06 of the Revised Code. 191

(B) "Mobile home" has the same meaning as in section 192
4501.01 of the Revised Code. 193

(C) "Residential condominium unit" means a "residential 194
unit" as defined in section 5311.01 of the Revised Code. 195

(D) "Residential mortgage loan" means a loan or agreement 196
to extend credit, including the renewal, refinancing, or 197
modification of such a loan or agreement, that is made to a 198
person and that is primarily secured by a mortgage, deed of 199
trust, or other lien upon any interest in residential property 200
or any certification of stock or other evidence of ownership in, 201
and a proprietary lease from, a corporation or partnership 202
formed for the purpose of cooperative ownership of residential 203
property. 204

(E) "Residential property" means real property located 205
within this state consisting of land and a structure on that 206
land containing four or fewer dwelling units, each of which is 207
intended for occupancy by a separate household. "Residential 208
property" includes a residential condominium unit owned by an 209
individual, notwithstanding the number of units in the 210
structure, but includes a manufactured or mobile home only if it 211
is taxed as real property. 212

Sec. 2308.02. (A) A mortgagee who files a foreclosure 213
action on a residential property may file a motion with the 214
court to proceed in an expedited manner under this section on 215
the basis that the property is vacant and abandoned. In order to 216
proceed in an expedited manner, upon commencement of the 217
foreclosure action, the mortgagee must be a person entitled to 218
enforce the instrument secured by the mortgage under division 219
(A) (1) or (2) of section 1303.31 of the Revised Code or a person 220
with the right to enforce the obligation secured by the mortgage 221
pursuant to law outside of Chapter 1303. of the Revised Code. 222

(B) If a motion to proceed in an expedited manner is filed 223
before the last answer period has expired, the court shall 224
decide the motion not later than twenty-one days, or within the 225

time consistent with the local rules, after the last answer 226
period has expired. If a motion to proceed in an expedited 227
manner is filed after the last answer period has expired, the 228
court shall decide the motion not later than twenty-one days, or 229
within the time consistent with local rules, after the motion is 230
filed. 231

(C) In deciding the motion to proceed in an expedited 232
manner, the court shall deem the property to be vacant and 233
abandoned if all of the following apply: 234

(1) The court finds by a preponderance of the evidence 235
that the residential mortgage loan is in monetary default. 236

(2) The court finds by a preponderance of the evidence 237
that the mortgagee is a person entitled to enforce the 238
instrument secured by the mortgage under division (A) (1) or (2) 239
of section 1303.31 of the Revised Code or a person with the 240
right to enforce the obligation secured by the mortgage pursuant 241
to law outside of Chapter 1303. of the Revised Code. 242

(3) The court finds by clear and convincing evidence that 243
at least three of the following factors are true: 244

(a) Gas, electric, sewer, or water utility services to the 245
property have been disconnected. 246

(b) Windows or entrances to the property are boarded up or 247
closed off, or multiple window panes are broken and unrepaired. 248

(c) Doors on the property are smashed through, broken off, 249
unhinged, or continuously unlocked. 250

(d) Junk, litter, trash, debris, or hazardous, noxious, or 251
unhealthy substances or materials have accumulated on the 252
property. 253

(e) Furnishings, window treatments, or personal items are 254
absent from the structure on the land. 255

(f) The property is the object of vandalism, loitering, or 256
criminal conduct, or there has been physical destruction or 257
deterioration of the property. 258

(g) A mortgagor has made a written statement expressing 259
the intention of all mortgagors to abandon the property. 260

(h) Neither an owner nor a tenant appears to be residing 261
in the property at the time of an inspection of the property by 262
the appropriate official of a county, municipal corporation, or 263
township in which the property is located or by the mortgagee. 264

(i) Government employees provide written statements 265
indicating that the structure on the land is vacant and 266
abandoned. 267

(j) The property is sealed because, immediately prior to 268
being sealed, it was considered by an appropriate official to be 269
open, vacant, or vandalized. 270

(k) Other reasonable indicia of abandonment exist. 271

(4) No mortgagor or other defendant has filed an answer or 272
objection setting forth a defense or objection that, if proven, 273
would preclude the entry of a final judgment and decree of 274
foreclosure. 275

(5) No mortgagor or other defendant has filed a written 276
statement with the court indicating that the property is not 277
vacant and abandoned. 278

(D) If the court decides that the property is vacant and 279
abandoned and that the mortgagee who filed the motion to proceed 280
in an expedited manner is entitled to judgment, the court shall 281

enter a final judgment and decree of foreclosure and order the 282
property to be sold in accordance with division (E) of this 283
section. If the court does not decide that the property is 284
vacant and abandoned, the seventy-five-day deadline established 285
in division (E) of this section shall not apply to the sale of 286
the property. 287

(E) If the court decides that the property is vacant and 288
abandoned and enters a final judgment and decree of foreclosure 289
under division (D) of this section, the property shall be 290
offered for sale not later than seventy-five days after the 291
issuance of the order of sale. The sale of the property shall be 292
conducted in accordance with the requirements in Chapter 2329. 293
of the Revised Code. 294

(F) Nothing in this section shall supersede or limit other 295
procedures adopted by the court to resolve the residential 296
mortgage loan foreclosure action, including foreclosure 297
mediation. 298

Sec. 2308.03. (A) Except as otherwise provided in division 299
(B) of this section, if a residential property is found to be 300
vacant and abandoned under section 2308.02 of the Revised Code, 301
a mortgagee of the residential property may enter that property 302
to secure and protect it from damage. 303

(B) A mortgagee that has not filed a residential mortgage 304
loan foreclosure action on a property for which the mortgagee 305
holds a mortgage may enter and secure that property only if the 306
mortgage contract or other documents provide for such an entry. 307

(C) The equitable and statutory rights to redemption of a 308
mortgage on a property found to be vacant and abandoned pursuant 309
to section 2308.02 of the Revised Code expire upon the 310

confirmation of sale of the property. 311

Sec. 2308.04. A person who is an owner of residential 312
property who knowingly causes physical harm to that property 313
after the person has been personally served with a summons and 314
complaint in a residential mortgage loan foreclosure action 315
relating to that property is guilty of criminal mischief in 316
violation of section 2909.07 of the Revised Code. This section 317
shall not apply to a person who is an owner of a residential 318
property who is making a good faith effort to improve or 319
maintain the value of the property. 320

Sec. 2329.01. (A) Lands and tenements, including vested 321
legal interests therein, permanent leasehold estates renewable 322
forever, and goods and chattels, not exempt by law, shall be 323
subject to the payment of debts, and liable to be taken on 324
execution and sold as provided in sections 2329.02 to 2329.61, 325
~~inclusive,~~ of the Revised Code. 326

(B) As used in sections 2329.02 to 2329.61 of the Revised 327
Code, "residential mortgage loan" and "residential property" 328
have the same meanings as in section 2308.01 of the Revised 329
Code. 330

Sec. 2329.02. (A) Any judgment or decree rendered by any 331
court of general jurisdiction, including district courts of the 332
United States, within this state shall be a lien upon lands and 333
tenements of each judgment debtor within any county of this 334
state from the time there is filed in the office of the clerk of 335
the court of common pleas of such county a certificate of such 336
judgment, setting forth the court in which the same was 337
rendered, the title and number of the action, the names of the 338
judgment creditors and judgment debtors, the amount of the 339
judgment and costs, the rate of interest, if the judgment 340

provides for interest, and the date from which such interest 341
accrues, the date of rendition of the judgment, and the volume 342
and page of the journal entry thereof. 343

(B) No such judgment or decree shall be a lien upon any 344
lands, whether or not situated within the county in which such 345
judgment is rendered, registered under sections 5309.02 to 346
5309.98, ~~inclusive,~~ and 5310.01 to 5310.21, ~~inclusive,~~ of the 347
Revised Code, until a certificate under the hand and official 348
seal of the clerk of the court in which the same is entered or 349
of record, stating the date and purport of the judgment, giving 350
the number of the case, the full names of the parties, plaintiff 351
and defendant, and the volume and page of the journal or record 352
in which it is entered, or a certified copy of such judgment, 353
stating such facts, is filed and noted in the office of the 354
county recorder of the county in which the land is situated, and 355
a memorial of the same is entered upon the register of the last 356
certificate of title to the land to be affected. 357

Such certificate shall be made by the clerk of the court 358
in which the judgment was rendered, under the seal of said 359
court, upon the order of any person in whose favor such judgment 360
was rendered or upon the order of any person claiming under ~~him~~ 361
a person in whose favor such judgment was rendered, and shall be 362
delivered to the party so ordering the same; and the fee 363
therefor shall be taxed in the costs of the action. 364

(C) When any such certificate is delivered to the clerk of 365
the court of common pleas of any county in this state, the same 366
shall be filed by such clerk, and ~~he~~ the clerk shall docket and 367
index it under the names of the judgment creditors and the 368
judgment debtors in a judgment docket, which shall show as to 369
each judgment all of the matters set forth in such certificate 370

as required by this section. The fee for such filing, docketing, 371
and indexing shall be taxed as increased costs of such judgment 372
upon such judgment docket and shall be included in the lien of 373
the judgment. 374

(D) When the clerk of any court, other than that rendering 375
the judgment, in whose office any such certificate is filed, has 376
docketed and indexed the same, ~~he the clerk~~ shall indorse upon 377
such certificate the fact of such filing with the date thereof 378
and the volume and page of the docket entry of such certificate 379
and shall return the same so indorsed to the clerk of the court 380
in which the judgment was rendered, who shall note upon the 381
original docket the fact of the filing of said certificate, 382
showing the county in which the same was filed and the date of 383
such filing. When such certificate is filed, docketed, and 384
indexed in the office of the clerk of the court which rendered 385
the judgment, such clerk shall likewise indorse the certificate 386
and make like notation upon the original docket. 387

Each such judgment shall be deemed to have been rendered 388
in the county in which is kept the journal of the court 389
rendering the same, in which journal such judgment is entered. 390

(E) Certificates or certified copies of judgments or 391
decrees of any courts of general jurisdiction, including 392
district courts of the United States, within this state, may be 393
filed, registered, noted, and memorials thereof entered, in the 394
office of the recorder of any county in which is situated land 395
registered under sections 5309.02 to 5309.98, ~~inclusive,~~ and 396
5310.01 to 5310.21, ~~inclusive,~~ of the Revised Code, for the 397
purpose of making such judgments liens upon such registered 398
land. 399

(F) Notwithstanding any other provision of the Revised 400

Code, any judgment issued in a court of record may be 401
transferred to any other court of record. Any proceedings for 402
collection may be had on such judgment the same as if it had 403
been issued by the transferee court. 404

(G) When a clerk files a judgment of foreclosure in a 405
residential mortgage loan foreclosure action, the clerk shall 406
provide notice of that filing to the judgment debtor, the 407
judgment creditor, and any lienholder who has appeared in the 408
action. 409

Sec. 2329.20. ~~No~~ Except as otherwise provided in this 410
section or sections 2329.51 and 2329.52 of the Revised Code, no 411
tract of land shall be sold for less than two-thirds of the 412
value returned in the inquest required by section 2329.17 of the 413
Revised Code; ~~except that in~~. In all cases where in which a 414
junior mortgage or other junior lien is sought to be enforced 415
against real estate by an order, judgment, or decree of court, 416
subject to a prior lien thereon, and such prior lien, and the 417
claims or obligations secured thereby, are unaffected by such 418
order, judgment, or decree, the court making such order, 419
judgment, or decree, may determine the minimum amount for which 420
such real estate may be sold, such minimum amount to be not less 421
than two-thirds of the difference between the value of the real 422
estate appraised as provided in such section, and the amount 423
remaining unpaid on the claims or obligations secured by such 424
prior lien. The price at which a foreclosed residential property 425
sells at a sheriff's auction shall not be used as a basis for 426
establishing the market value of any other property. 427

Sec. 2329.21. If the sum bid by the purchaser for the real 428
estate sold under section 2329.20 of the Revised Code relating 429
to the enforcement of junior liens is insufficient to pay the 430

costs and allowance which the court has determined prior to such 431
sale should be paid out of the proceeds thereof, pursuant to the 432
terms of the mortgage or lien sought to be enforced, then the 433
purchaser, in addition to the amount of ~~his~~ the purchaser's bid, 434
must pay a sum which with the amount so bid will be sufficient 435
to pay the costs and allowances. The court may fix the amount 436
remaining unpaid on such claims or obligations for the purpose 437
of the sale, and to that end require the parties to the suit to 438
furnish to it satisfactory evidence of such unpaid amount. The 439
advertisement for the sale of real estate sold under section 440
2329.20 of the Revised Code shall state that the purchaser shall 441
be responsible for those costs and allowances that the proceeds 442
of the sale are insufficient to cover. 443

Sec. 2329.211. A successful purchaser at a sale of lands 444
and tenements taken in execution shall make a deposit in the 445
amount of five per cent of the appraised value of the property, 446
but not less than five thousand dollars or more than ten 447
thousand dollars, to the officer conducting the sale. The 448
deposit is due at the time of sale, unless the purchaser is the 449
plaintiff in the action or the judgment creditor. In that case, 450
the deposit shall be tendered to the officer by the close of 451
business the day of the sale. Failure of the purchaser to timely 452
make its deposit shall invalidate the sale. 453

Sec. 2329.23. All notices and advertisements for the sale 454
of lands and tenements located in a municipal corporation, made 455
by virtue of the proceedings in a court of record, in addition 456
to a description of the lands and tenements, shall contain the 457
street number of the buildings erected on the lands, or the 458
street number of the lots offered for sale. If no such number 459
exists, then the notice or advertisement shall contain the name 460
of the street or road upon which the lands and tenements are 461

located together with the names of the streets or roads 462
immediately north and south or east and west of the lands and 463
tenements that cross or intersect the street or road upon which 464
they are located. The notice or advertisement shall, if 465
applicable, include the web site address of the officer who 466
makes the sale that allows a person to obtain a complete legal 467
description of the lands and tenements. 468

All notices and advertisements for the sale of residential 469
property located in a municipal corporation, made by virtue of 470
the proceeding in a court of record pursuant to a mortgage loan 471
foreclosure action, shall include the provisional date for a 472
second sale of the property, should the property not sell for 473
the minimum bid established pursuant to section 2329.20 of the 474
Revised Code. 475

Sec. 2329.26. (A) Lands and tenements taken in execution 476
shall not be sold until all of the following occur: 477

(1) (a) Except as otherwise provided in division (A) (1) (b) 478
of this section, the judgment creditor who seeks the sale of the 479
lands and tenements or the judgment creditor's attorney does 480
both of the following: 481

(i) Causes a written notice of the date, time, and place 482
of the sale, and of the provisional second sale described in 483
division (B) of section 2329.52 of the Revised Code, if 484
applicable, to be served in accordance with divisions (A) and 485
(B) of Civil Rule 5 upon the judgment debtor and upon each other 486
party to the action in which the judgment giving rise to the 487
execution was rendered; 488

(ii) At least seven calendar days prior to the date of the 489
sale, files with the clerk of the court that rendered the 490

judgment giving rise to the execution a copy of the written 491
notice described in division (A) (1) (a) (i) of this section with 492
proof of service endorsed on the copy in the form described in 493
division (D) of Civil Rule 5. 494

(b) Service of the written notice described in division 495
(A) (1) (a) (i) of this section is not required to be made upon any 496
party who is in default for failure to appear in the action in 497
which the judgment giving rise to the execution was rendered. 498

(2) The officer taking the lands and tenements gives 499
public notice of the date, time, and place of the sale, and of 500
the provisional second sale described in division (B) of section 501
2329.52 of the Revised Code, if applicable, once a week for at 502
least three consecutive weeks before the day of sale by 503
advertisement in a newspaper of general circulation in the 504
county. The newspaper shall meet the requirements of section 505
7.12 of the Revised Code. The court ordering the sale may 506
designate in the order of sale the newspaper in which this 507
public notice shall be published. 508

(3) The officer taking the lands and tenements shall 509
collect the purchaser's information required by section 2329.271 510
of the Revised Code. 511

(B) A sale of lands and tenements taken in execution may 512
be set aside in accordance with division (A) or (B) of section 513
2329.27 of the Revised Code. 514

Sec. 2329.30. The court from which an execution or order 515
of sale issues, upon notice and motion of the officer who makes 516
the sale or of an interested party, may punish any purchaser of 517
lands and tenements who fails to pay within thirty days of the 518
confirmation of the sale the balance due on the purchase price 519

of the lands and tenements by forfeiting the sale of the lands 520
and tenements and returning any deposit paid in connection with 521
the sale of the lands and tenements, by forfeiting any deposit 522
paid in connection with the sale of the lands and tenements, as 523
for contempt, or in any other manner the court considers 524
appropriate. Upon motion, the court shall order the return of 525
any remaining portion of the deposit of the purchaser, less the 526
costs of a subsequent sale and any other remedy the court 527
considers appropriate. The effect of an order for contempt for 528
failure of the purchaser to pay shall be considered an order to 529
void the confirmation of sale and transfer. 530

Sec. 2329.31. (A) Upon the return of any writ of execution 531
for the satisfaction of which lands and tenements have been 532
sold, on careful examination of the proceedings of the officer 533
making the sale, if the court of common pleas finds that the 534
sale was made, in all respects, in conformity with sections 535
2329.01 to 2329.61 of the Revised Code, it shall, within thirty 536
days of the return of the writ, direct the clerk of the court of 537
common pleas to make an entry on the journal that the court is 538
satisfied of the legality of such sale ~~and that the attorney who~~ 539
~~filed the writ of execution make to the purchaser a deed for the~~ 540
~~lands and tenements.~~ Nothing in this section prevents the court 541
of common pleas from staying the confirmation of the sale to 542
permit a property owner time to redeem the property or for any 543
other reason that it determines is appropriate. In those 544
instances, the sale shall be confirmed within thirty days after 545
the termination of any stay of confirmation. 546

(B) The officer making the sale shall require the 547
purchaser, including a lienholder, to pay within thirty days of 548
the confirmation of the sale the balance due on the purchase 549
price of the lands and tenements. 550

(C) (1) The officer making the sale shall record the 551
prepared deed required by section 2329.36 of the Revised Code 552
within fourteen days after the confirmation of sale and payment 553
of the balance due. 554

(2) (a) If the deed is not prepared and recorded within the 555
fourteen-day period, the purchaser may file a motion with the 556
court to proceed with the recording of the confirmation of sale. 557

If the court finds that payment was made of the balance 558
due, it shall enter an order ordering the plaintiff to present a 559
certified copy of the order of confirmation of sale to the 560
county recorder for recording, and ordering the county recorder 561
to record the order of confirmation of sale in the record of 562
deeds. The order of confirmation of sale, when filed with the 563
county recorder, shall have the same effect as a deed prepared 564
pursuant to section 2329.36 of the Revised Code. 565

(b) Upon the issuance of the court order described in 566
division (C) (2) (a) of this section, the plaintiff, or the 567
plaintiff's attorney, shall present a certified copy of the 568
order of confirmation of sale to be recorded in the office of 569
the county recorder. The county recorder shall record the order 570
in the record of deeds. 571

(c) The clerk shall issue a copy of the court order 572
described in division (C) (2) (a) of this section to the county 573
auditor to transfer record ownership of the lands and tenements 574
for the purpose of real estate taxes. Real estate taxes coming 575
due after the date of the sale shall not prohibit the auditor 576
from transferring ownership of the lands and tenements on its 577
records or cause the recorder to deny recording. The real estate 578
taxes shall become the responsibility of the new title holder of 579
the lands and tenements beginning on the date of the 580

confirmation of sale. The sheriff shall not require the 581
confirmation of sale to be amended for taxes not due and payable 582
as of the date of the sale. 583

Sec. 2329.311. In sales of residential properties taken in 584
execution or order of sale that are sold at an auction with no 585
set minimum bid pursuant to division (B) of section 2329.52 of 586
the Revised Code, the judgment creditor and the first lienholder 587
each have the right to redeem the property within fourteen days 588
after the sale by paying the purchase price. The redeeming party 589
shall pay the purchase price to the clerk of the court in which 590
the judgment was rendered or the order of sale was made. Upon 591
timely payment, the court shall proceed as described in section 592
2329.31 of the Revised Code, with the redeeming party considered 593
the successful purchaser at sale. 594

Sec. 2329.33. In ~~Except as provided in division (C) of~~ 595
section 2308.03 or any other section of the Revised Code, in 596
sales of real estate on execution or order of sale, at any time 597
before the confirmation thereof, the debtor may redeem it from 598
sale by depositing in the hands of the clerk of the court of 599
common pleas to which such execution or order is returnable, the 600
amount of the judgment or decree upon which such lands were 601
sold, with all costs, including poundage, and interest at the 602
rate of eight per cent per annum on the purchase money from the 603
day of sale to the time of such deposit, except where the 604
judgment creditor is the purchaser, the interest at such rate on 605
the excess above ~~his~~ the judgment creditor's claim. The 606
Redemption of the debtor is a satisfaction of the judgment 607
against the debtor only and shall not serve to discharge the 608
judgment debtor of the judgment creditor's advancements for real 609
estate taxes, insurance premium, and property protection if such 610
a requirement was included in the judgment. Upon successful 611

redemption, the judgment debtor may petition the court to 612
require the judgment creditor to provide an itemization of those 613
advances within a reasonable amount of time for payment by the 614
judgment debtor. Should the judgment debtor pay all sums 615
required by this section, the court of common pleas thereupon 616
shall make an order setting aside such sale, and apply the 617
deposit to the payment of such judgment or decree and costs, and 618
award such interest to the purchaser, who shall receive from the 619
officer making the sale the purchase money paid by ~~him~~ the 620
purchaser, and the interest from the clerk. This section does 621
not take away the power of the court to set aside such sale for 622
any reason for which it might have been set aside prior to April 623
16, 1888. 624

Sec. 2329.52. ~~When~~ (A) Except as otherwise provided in 625
division (B) of this section, when premises are ordered to be 626
sold, if said premises, or a part thereof, remain unsold for 627
want of bidders after having been once appraised, advertised, 628
and offered for sale, the court from which the order of sale 629
issued may, on motion of the plaintiff or defendant and from 630
time to time until said premises are disposed of, order a new 631
appraisement and sale or direct the amount for which said 632
premises, or a part thereof, may be sold. 633

The court may order that the premises be sold as follows: 634
One third cash in hand, one third in nine months from the day of 635
sale, and the remaining one third in eighteen months from the 636
day of sale, the deferred payments to draw interest at six per 637
cent and be secured by a mortgage on the premises. 638

(B) When a residential property is ordered to be sold 639
pursuant to a residential mortgage loan foreclosure action, if 640
the property remains unsold after the first auction with a 641

minimum bid of two-thirds of the appraised value as established 642
pursuant to section 2329.17 of the Revised Code, a second 643
auction shall be held with no set minimum bid, and the 644
residential property shall be sold to the highest bidder. This 645
second auction shall be held not earlier than seven days and not 646
later than thirty days after the first auction. As a condition 647
of the second auction, the purchaser shall pay, in addition to 648
the amount bid, a deposit to the sheriff to be used to pay the 649
costs and allowances of the sale. This deposit shall be not less 650
than five thousand dollars and not more than ten thousand 651
dollars, as determined by the sheriff. The sheriff shall return 652
the deposit, less the amount used for costs and allowances, to 653
the purchaser within fourteen days after the transfer of sale. A 654
residential property that remains unsold after two auctions may 655
be subsequently offered for sale from time to time with no set 656
minimum bid or disposed of in any other manner pursuant to this 657
chapter or any other provision of the Revised Code. 658

Sec. 2909.07. (A) No person shall: 659

(1) Without privilege to do so, knowingly move, deface, 660
damage, destroy, or otherwise improperly tamper with the 661
property of another or one's own property, except when making a 662
good faith effort to improve or maintain the value of one's own 663
property, after a foreclosure complaint is filed against that 664
property; 665

(2) With purpose to interfere with the use or enjoyment of 666
property of another, employ a tear gas device, stink bomb, smoke 667
generator, or other device releasing a substance that is harmful 668
or offensive to persons exposed or that tends to cause public 669
alarm; 670

(3) Without privilege to do so, knowingly move, deface, 671

damage, destroy, or otherwise improperly tamper with a bench 672
mark, triangulation station, boundary marker, or other survey 673
station, monument, or marker; 674

(4) Without privilege to do so, knowingly move, deface, 675
damage, destroy, or otherwise improperly tamper with any safety 676
device, the property of another, or the property of the offender 677
when required or placed for the safety of others, so as to 678
destroy or diminish its effectiveness or availability for its 679
intended purpose; 680

(5) With purpose to interfere with the use or enjoyment of 681
the property of another, set a fire on the land of another or 682
place personal property that has been set on fire on the land of 683
another, which fire or personal property is outside and apart 684
from any building, other structure, or personal property that is 685
on that land; 686

(6) Without privilege to do so, and with intent to impair 687
the functioning of any computer, computer system, computer 688
network, computer software, or computer program, knowingly do 689
any of the following: 690

(a) In any manner or by any means, including, but not 691
limited to, computer hacking, alter, damage, destroy, or modify 692
a computer, computer system, computer network, computer 693
software, or computer program or data contained in a computer, 694
computer system, computer network, computer software, or 695
computer program; 696

(b) Introduce a computer contaminant into a computer, 697
computer system, computer network, computer software, or 698
computer program. 699

(B) As used in this section, "safety device" means any 700

fire extinguisher, fire hose, or fire axe, or any fire escape, 701
emergency exit, or emergency escape equipment, or any life line, 702
life-saving ring, life preserver, or life boat or raft, or any 703
alarm, light, flare, signal, sign, or notice intended to warn of 704
danger or emergency, or intended for other safety purposes, or 705
any guard railing or safety barricade, or any traffic sign or 706
signal, or any railroad grade crossing sign, signal, or gate, or 707
any first aid or survival equipment, or any other device, 708
apparatus, or equipment intended for protecting or preserving 709
the safety of persons or property. 710

(C) (1) Whoever violates this section is guilty of criminal 711
mischief, and shall be punished as provided in division (C) (2) 712
or (3) of this section. 713

(2) Except as otherwise provided in this division, 714
criminal mischief committed in violation of division (A) (1), 715
(2), (3), (4), or (5) of this section is a misdemeanor of the 716
third degree. Except as otherwise provided in this division, if 717
the violation of division (A) (1), (2), (3), (4), or (5) of this 718
section creates a risk of physical harm to any person, criminal 719
mischief committed in violation of division (A) (1), (2), (3), 720
(4), or (5) of this section is a misdemeanor of the first 721
degree. If the property involved in the violation of division 722
(A) (1), (2), (3), (4), or (5) of this section is an aircraft, an 723
aircraft engine, propeller, appliance, spare part, fuel, 724
lubricant, hydraulic fluid, any other equipment, implement, or 725
material used or intended to be used in the operation of an 726
aircraft, or any cargo carried or intended to be carried in an 727
aircraft, criminal mischief committed in violation of division 728
(A) (1), (2), (3), (4), or (5) of this section is one of the 729
following: 730

(a) If the violation creates a risk of physical harm to any person, except as otherwise provided in division (C) (2) (b) of this section, criminal mischief committed in violation of division (A) (1), (2), (3), (4), or (5) of this section is a felony of the fifth degree.

(b) If the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal mischief committed in violation of division (A) (1), (2), (3), (4), or (5) of this section is a felony of the fourth degree.

(3) Except as otherwise provided in this division, criminal mischief committed in violation of division (A) (6) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division, if the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A) (6) of this section or the loss to the victim resulting from the violation is one thousand dollars or more and less than ten thousand dollars, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A) (6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, criminal mischief committed in violation of division (A) (6) of this section is a felony of the fifth degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A) (6) of this section or the loss to the victim resulting from the violation is ten thousand dollars or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of

division (A) (6) of this section is used or intended to be used 762
in the operation of an aircraft and the violation creates a 763
substantial risk of physical harm to any person or the aircraft 764
in question is an occupied aircraft, criminal mischief committed 765
in violation of division (A) (6) of this section is a felony of 766
the fourth degree. 767

Section 2. That existing sections 323.47, 1901.18, 768
2303.26, 2329.01, 2329.02, 2329.20, 2329.21, 2329.23, 2329.26, 769
2329.30, 2329.31, 2329.33, 2329.52, and 2909.07 of the Revised 770
Code are hereby repealed. 771