

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 632

**Representative Daniels
Cosponsors: Representatives Hillyer, Lorenz**

A BILL

To amend sections 2329.01, 2329.151, 2329.152, 1
2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 2
2329.211, 2329.26, 2329.27, 2329.312, 2329.51, 3
and 2329.52 of the Revised Code relating to real 4
property foreclosures. 5

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

Section 1. That sections 2329.01, 2329.151, 2329.152, 6
2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 2329.211, 2329.26, 7
2329.27, 2329.312, 2329.51, and 2329.52 of the Revised Code be 8
amended to read as follows: 9

Sec. 2329.01. (A) Lands and tenements, including vested 10
legal interests therein, permanent leasehold estates renewable 11
forever, and goods and chattels, not exempt by law, shall be 12
subject to the payment of debts, and liable to be taken on 13
execution and sold as provided in sections 2329.02 to 2329.61 of 14
the Revised Code. 15

(B) As used in sections 2329.02 to 2329.61 of the Revised 16
Code: 17

(1) "Commercial property" means any property that is not 18

residential property. 19

(2) "Private selling officer" means a resident of this 20
state licensed as both an auctioneer under Chapter 4707. of the 21
Revised Code and as a real estate broker or real estate 22
salesperson under Chapter 4735. of the Revised Code. 23

(3) "Residential mortgage loan" and "residential property" 24
have the same meanings as in section 2308.01 of the Revised 25
Code. 26

(4) "Sale date" means the day on which an auction for real 27
estate concludes. 28

(5) "Start date" means the first day an auction for real 29
estate is open for bidding to the public. 30

Sec. 2329.151. Except as provided in sections 2329.152 to 31
2329.154 of the Revised Code, all public auctions of goods, 32
chattels, or lands levied upon by execution shall be conducted 33
personally by one of the following: 34

(A) An officer of the court; 35

(B) For the public auction of goods and chattels, a 36
resident of this state licensed as an auctioneer under Chapter 37
4707. of the Revised Code; 38

~~(C)~~ (1) For the public auction of lands, a private 39
selling officer who is not affiliated with or employed by either 40
of the following: 41

(a) A mortgagee or mortgage servicer; 42

(b) A subsidiary of a mortgagee or mortgage servicer. 43

(2) As used in division (C) (1) of this section, 44
"affiliated with" a mortgagee or mortgage servicer means a 45

person that, directly or indirectly, through one or more 46
intermediaries, controls, is controlled by, or is under common 47
control with, the specified mortgagee or mortgage servicer. 48

(3) Nothing in this section shall be construed to prohibit 49
a mortgagee or mortgage servicer from engaging in a regular 50
course of business with an independent private selling officer. 51

Sec. 2329.152. (A) In every action demanding the judicial 52
or execution sale of real estate in which the debtor has failed 53
to plead or otherwise defend as provided by the Rules of Civil 54
Procedure, the judgment creditor may elect that the real estate 55
be sold at a public auction by a private selling officer. If the 56
judgment creditor elects to have the real estate sold by the 57
private selling officer, the judgment creditor shall file with 58
the clerk of the court a praecipe directing the issuance of an 59
order of sale to the private selling officer. A judgment 60
creditor may specify multiple private selling officers in the 61
praecipe, any of which may conduct the sale. 62

In every other action demanding the judicial or execution 63
sale of real estate, the county sheriff shall sell the real 64
estate at a public auction, unless the judgment creditor files a 65
motion with the court for an order authorizing a specified 66
private selling officer to sell the real estate at a public 67
auction. If the court authorizes a private selling officer to 68
sell the real estate, the judgment creditor may seek to have the 69
property sold by the private selling officer authorized by the 70
court or by the county sheriff. If the judgment creditor elects 71
to have the property sold by the private selling officer 72
authorized by the court, the judgment creditor shall file with 73
the clerk of the court a praecipe requesting the issuance of an 74
order of ~~appraisal to the sheriff and an order of sale to the~~ 75

private selling officer authorized by the court. ~~Upon~~ 76

Upon the filing of ~~that~~ the praecipe, the clerk of the 77
court shall immediately issue ~~both of the following:~~ 78

~~(1) An order of appraisal to the sheriff, who shall obtain~~ 79
~~an appraisal of the real estate in conformity with sections~~ 80
~~2329.17 and 2329.18 of the Revised Code;~~ 81

~~(2) An~~ an order of sale to the private selling officer, 82
who, ~~after the return or determination of the appraisal,~~ shall 83
advertise and sell the real estate in conformity with applicable 84
provisions of sections 2329.01 to 2329.61 of the Revised Code 85
using the appraised value established under section 2329.17 of 86
the Revised Code. 87

Within ten days after the issuance of an order of sale to 88
a private selling officer, any lienholder who is a party to the 89
action may file a motion with the court objecting to the use of 90
the private selling officer. If such motion is filed within ten 91
days after the issuance of the order of sale and the court 92
determines there is good and reasonable cause, as defined in 93
this division, the court may order that the sale be reset, 94
republished, and conducted by the county sheriff. 95

As used in this division, "good and reasonable cause" 96
means that the lienholder is more likely to have its lien 97
satisfied, in whole or in part, if the sale is conducted by the 98
county sheriff. 99

(B) (1) As used in this division: 100

(a) "Business day" means a calendar day that is not a 101
Saturday or Sunday or a legal holiday as defined in section 1.14 102
of the Revised Code. 103

(b) "Remote bid" means a bid submitted in writing via 104
facsimile, electronic mail, or overnight delivery or courier. 105

(2) If the sale of the real estate is conducted at a 106
physical location and not online, then each judgment creditor 107
and lienholder who was a party to the action may submit a remote 108
bid to the sheriff or the private selling officer. Each sheriff 109
and private selling officer shall establish and maintain a 110
facsimile number or an electronic mail address for use by 111
judgment creditors and lienholders in submitting remote bids. 112
Each remote bid shall be of a fixed maximum amount and shall be 113
delivered to the sheriff or private selling officer on or before 114
four-thirty p.m. on the business day immediately preceding the 115
~~date of the sale~~ date. 116

(3) Before the sale, the sheriff or the private selling 117
officer shall confirm receipt of the remote bid by sending 118
notice of such receipt via facsimile or electronic mail to the 119
judgment creditor or lienholder who submitted the remote bid. 120
During the sale, the sheriff or the private selling officer 121
shall place the remote bid on behalf of the judgment creditor or 122
lienholder who submitted the remote bid. After the sale, the 123
sheriff or the private selling officer shall provide notice of 124
the results of the sale not later than the close of business on 125
the day of the sale to all judgment creditors and lienholders 126
who submitted remote bids. Such notice shall be sent via 127
facsimile or electronic mail to the judgment creditor or 128
lienholder or by posting the results of the sale on a public web 129
site. 130

(4) If a sheriff or private selling officer fails to place 131
a remote bid on behalf of a judgment creditor or lienholder to 132
the prejudice of the judgment creditor or lienholder, then, upon 133

the filing of a motion to vacate the sale within ten business 134
days after the sale date, the sale shall be vacated. 135

(C) (1) A judgment creditor that obtains a court order 136
authorizing a specified private selling officer to sell the real 137
estate at a public auction pursuant to division (A) of this 138
section may instruct the private selling officer to postpone the 139
sale of the real estate one or more times, provided, however 140
that all rescheduled sale dates shall be within one hundred 141
eighty days of the initial sale date. Upon receiving this 142
instruction, the private selling officer shall postpone the sale 143
of the real estate by announcing that the sale is postponed. If 144
the sale is at a physical location, this announcement shall be 145
made at the sale and shall include the date, time, and place of 146
the rescheduled sale of the real estate. If the sale is online, 147
this announcement shall be made on the auction web site and 148
shall include the date of the rescheduled sale of real estate. 149
Each such announcement shall be deemed to meet the notice 150
requirement in section 2329.26 of the Revised Code. 151

(2) If the judgment creditor does not wish to postpone the 152
sale of the real estate, the judgment creditor may instruct the 153
private selling officer to cancel the sale of the real estate. 154
Upon receiving this instruction, the private selling officer 155
shall cancel the sale of the real estate by announcing that the 156
sale is canceled. If the sale is at a physical location, this 157
announcement shall be made at the sale. If the sale is online, 158
this announcement shall be made on the auction web site and 159
shall remain posted there until at least the end of the ~~seven-~~ 160
~~calendar-day-three-calendar-day~~ bidding period described in 161
division (E) (1) (a) of this ~~section 2329.152 of the Revised Code.~~ 162

(3) If the sale of the real estate is postponed or 163

164 canceled as described in divisions (C) (1) and (2) of this
165 section, all bids made on the real estate prior to the
166 postponement or cancellation of the sale shall be void.

167 (D) (1) If the judgment creditor obtains a court order to
168 have the real estate sold by a private selling officer, then:

169 (a) ~~The~~ Except as otherwise provided in division (A) (5) of
170 section 122.17 of the Revised Code, the cost of the appraisal
171 appraisals required by that section 2329.17 of the Revised Code
172 shall be taxed as costs in the case.

173 (b) The cost of the advertisement in a newspaper of
174 general circulation as required by section 2329.26 of the
175 Revised Code, not to exceed fifty dollars, shall be taxed as
176 costs in the case.

177 (c) The fee charged by the private selling officer and all
178 costs incurred by the private selling officer other than the
179 costs described in divisions (D) (1) (a) and (b) of this section
180 shall be taxed as costs in the case up to an amount equal to one
181 and one-half per cent of the sale price of the real estate. To
182 the extent the fees and costs described in division (D) (1) (c) of
183 this section exceed one and one-half per cent of the sale price
184 of the real estate, they shall not be included in the amount
185 necessary to redeem real estate under section 2329.33 of the
186 Revised Code or in the calculation of any deficiency judgment
187 under section 2329.08 of the Revised Code ~~but rather. Rather,~~
188 the fees and costs shall be paid by the buyer of the property,
189 the judgment creditor, or from the judgment creditor's portion
190 of the proceeds of the sale in an amount not exceeding ten per
191 cent of the sale price of the real estate.

192 (2) The private selling officer shall file with the court

that issued the order of sale an itemized report of all 193
appraisal, publication, marketing, and other expenses of a sale 194
conducted under this section and all fees charged by the private 195
selling officer for marketing the real estate or conducting the 196
sale of the real estate, including the fee charged by the title 197
agent or title insurance company for administrative services, if 198
applicable, and title, escrow, and closing services. Each filing 199
of such itemized report shall be deemed to meet the writ of 200
execution requirement in section 2329.28 of the Revised Code. 201

(E) (1) The private selling officer who conducts a sale 202
under this section may do any of the following: 203

(a) Market the real estate and conduct the public auction 204
of the real estate online or at any physical location in the 205
county in which the real estate is situated. If the auction 206
occurs online, the auction shall be open for bidding for a 207
minimum of ~~seven~~three calendar days, counted by excluding the 208
day the auction is first open for bidding and, notwithstanding 209
section 1.14 of the Revised Code, including all subsequent days. 210
The online auction shall be conducted in a manner so that all 211
bids are publicly displayed upon entry by the bidder throughout 212
the bidding period described in division (E) (1) (a) of this 213
section. 214

(b) Hire a title insurance agent licensed under Chapter 215
3953. of the Revised Code or title insurance company authorized 216
to do business under that chapter to assist the private selling 217
officer in performing administrative services; 218

(c) Execute to the purchaser, or to the purchaser's legal 219
representatives, a deed of conveyance of the real estate sold; 220

(d) Record on behalf of the purchaser the deed conveying 221

title to the real estate sold, notwithstanding that the deed may 222
not actually have been delivered to the purchaser prior to its 223
recording. 224

(2) By placing a bid at a sale conducted pursuant to this 225
section, a purchaser appoints the private selling officer who 226
conducts the sale as agent of the purchaser for the sole purpose 227
of accepting delivery of the deed. 228

(3) The private selling officer who conducts the sale 229
shall hire a title insurance agent licensed under Chapter 3953. 230
of the Revised Code or title insurance company authorized to do 231
business under that chapter to perform title, escrow, and 232
closing services related to the sale of the real estate. 233

(F) The fee charged by the title agent or title insurance 234
company for services provided under divisions (E) (1) (b) and (3) 235
of this section shall be taxed as costs in the case provided 236
they are reasonable. Fees less than or equal to five hundred 237
dollars are presumed to be reasonable. Fees exceeding five 238
hundred dollars shall be paid only if authorized by a court 239
order. 240

Sec. 2329.153. (A) Not later than ninety days after ~~the~~ 241
~~effective date of this section~~ September 28, 2016, the 242
department of administrative services shall solicit competitive 243
sealed proposals for the creation, operation, and maintenance of 244
the official public sheriff sale web site and an integrated 245
auction management system. The official public sheriff sale web 246
site and integrated auction management system shall be a single 247
statewide system for use by all county sheriffs in accordance 248
with the requirements of this section. 249

(B) The official public sheriff sale web site shall meet 250

the following minimum requirements:	251
(1) The web site shall have a domain name relevant to the judicial sale of real property.	252 253
(2) The web site shall be limited to the judicial sale of real property located in this state.	254 255
(3) The web site shall not charge a fee for members of the public to view properties for sale.	256 257
(4) The web site shall allow each county sheriff to add text, images, or graphics to the web site for the purpose of identifying the county or sheriff conducting the sale.	258 259 260
(5) The web site shall include industry-standard features and functionality, including user guides, online financial transaction device payments, anti-snipe functionality, watch lists, electronic mail notifications, maximum bid limits, automatic incremental bidding, and search and map features that allow users to search by county, zip code, address, parcel number, appraised value, party name, case number, and other variables relevant to the judicial sale of real property. As used in this section, "financial transaction device" has the same meaning as in section 301.28 of the Revised Code.	261 262 263 264 265 266 267 268 269 270
(6) The web site shall include features that allow for the cancellation of sales as required by law or court order and the postponement of sales in accordance with divisions (E) (2) and (3) of this section.	271 272 273 274
(7) The web site shall provide a secure payment processing system that accepts online payments for property sold via the web site and, in an efficient and cost-effective manner, transfers those payments to the appropriate county official or account.	275 276 277 278 279

(8) The web site shall include the ability for an attorney or law firm to enter a bid in a representative capacity.	280 281
(9) The web site shall be integrated with the auction management system described in division (C) of this section.	282 283
(C) The auction management system shall meet the following minimum requirements:	284 285
(1) The auction management system shall have a role-based workflow engine to assist in conducting sales on the web site, capturing data, complying with all relevant laws, and managing administrative processes related to the judicial sale of real property in a timely, secure, and accurate manner.	286 287 288 289 290
(2) The auction management system shall record the data necessary to meet the reporting requirements of section 2329.312 of the Revised Code.	291 292 293
(3) The auction management system shall be able to generate documents required by the court ordering the sale or related to the judicial sale of real property.	294 295 296
(4) The auction management system shall be able to record fees, costs, deposits, and other money items with the objective of ensuring an accurate accounting of moneys received and disbursed in each judicial sale of real property.	297 298 299 300
(5) The auction management system shall be integrated with the web site described in division (B) of this section.	301 302
<u>(6) The auction management system shall conduct the sale in a manner so that all bids are publicly displayed upon entry by the bidder throughout the bidding period described in division (E)(1) of this section.</u>	303 304 305 306
(D) The license fee for the creation, operation, and	307

maintenance of the official public sheriff sale web site and 308
integrated auction management system shall be determined using a 309
per-transaction license fee model or a per-use license fee 310
model. The addition of a property to the official public sheriff 311
sale web site or the auction management system shall each be 312
deemed a transaction for purposes of determining the license 313
fee. The license fee applicable to each judicial sale of real 314
property shall be taxed as costs in the case. No additional 315
license fees shall be assessed to the county sheriff. 316

(E) (1) Not later than one year after ~~the effective date of~~ 317
~~this section~~ September 28, 2016, in all cases in which the 318
sheriff is ordered to conduct a judicial sale of real property, 319
the following shall occur: 320

(a) For residential property, the sale may be conducted on 321
the official public sheriff sale web site for a five-year period 322
beginning on the date the online system is fully operational. 323
After this five-year period sales shall be conducted on the 324
official public sheriff sale web site. 325

(b) For commercial property, the sale may be conducted on 326
the official public sheriff sale web site. 327

All sales conducted on the official public sheriff sale 328
web site shall be open for bidding for at least ~~seven~~ three 329
days. 330

(2) If the sale of the real property is to be conducted on 331
the official public sheriff sale web site, the judgment creditor 332
may instruct the sheriff to postpone the sale of the real 333
property one time for up to one hundred eighty days after the 334
initial sale date. Upon receiving such instruction for 335
postponement, the sheriff shall postpone the sale of the 336

property by announcing on the official public sheriff sale web 337
site that the sale is postponed and giving notice of the 338
rescheduled sale date. This announcement shall be deemed to meet 339
the notice requirement of section 2329.26 of the Revised Code. 340

(3) If the judgment creditor does not wish to postpone the 341
sale of the real property, the judgment creditor may instruct 342
the sheriff to cancel the sale of the property. Upon receiving 343
this instruction, the sheriff shall cancel the sale of the 344
property by announcing on the official public sheriff sale web 345
site that the sale is canceled. This announcement shall remain 346
posted on the official public sheriff sale web site until at 347
least the end of the ~~seven-day~~ three-day bidding period 348
described in division (E) (1) of this section. 349

(4) If the sale of the real property is postponed or 350
canceled according to divisions (E) (2) and (3) of this section, 351
all bids made on the real property prior to the postponement or 352
cancellation of the sale shall be void. 353

(F) Pursuant to their authority in section 9.482 of the 354
Revised Code, counties may elect to enter into a shared services 355
agreement relating to the judicial sale of real property on the 356
official public sheriff sale web site. The shared services 357
agreement may seek to improve efficiency and reduce costs in the 358
judicial sale of real property by consolidating administrative 359
functions and processes. 360

Sec. 2329.17. ~~(A) (A) (1)~~ When execution is levied upon 361
~~lands and tenements~~ residential real property, the sheriff 362
responsible for the sale of the property shall call an inquest 363
~~of three disinterested freeholders, who are residents of, and~~ 364
~~real property owners in, the county where the lands taken in~~ 365
~~execution are situated, who shall appraise the property so~~ 366

~~levied upon, upon actual view. acquire three exterior-only~~ 367
appraisals of the property. 368

(2) Each such appraisal shall be conducted by an 369
individual who meets all of the following criteria: 370

(a) Is licensed under either Chapter 4735. or 4763. of the 371
Revised Code; 372

(b) Is a freeholder in this state; 373

(c) Resides and owns real property in the county where the 374
property is located; 375

(d) Is not the sheriff, the private selling officer, or a 376
person affiliated with the sheriff or private selling officer. 377

(3) The cost of the appraisals shall not exceed an amount 378
that the sheriff determines is reasonable and customary for such 379
services. 380

(4) (a) The individuals selected to conduct the appraisal 381
shall return to the sheriff an estimate of the value of the 382
property within fourteen calendar days after the clerk of court 383
issues the order of appraisal. 384

(b) If a private selling officer is responsible for the 385
sale of the property, the individuals selected by the sheriff 386
also shall deliver an electronic copy of the individual's 387
appraisal to the private selling officer, as directed by the 388
private selling officer, contemporaneously with the delivery of 389
the individual's appraisal to the sheriff. 390

(5) If the individuals selected by the sheriff under this 391
section do not deliver the individual's appraisal within 392
fourteen calendar days after the clerk of court issues the order 393
of appraisal, then both of the following apply: 394

(a) The cost of the appraisal conducted by the individuals shall not be paid to the individuals or taxed as costs in the case. 395
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(b) The appraised value of the property shall be the most recent appraised value of the property as shown on the records of the county auditor unless, for good cause shown, the court authorizes a separate appraisal of the property. 398
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~~(B) If the property to be appraised is residential property, the freeholders selected by the sheriff shall return to the sheriff an estimate of the value of the property in money within twenty one calendar days of the issuance of the order of appraisal by the clerk of the court.~~ 402
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~~If the court has ordered or the clerk of the court has issued an order for a private selling officer to advertise and sell the appraised property, the freeholders selected by the sheriff shall also deliver a copy of their appraisal to the private selling officer contemporaneously with their delivery of their appraisal to the sheriff.~~ 407
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~~(C) If the freeholders selected by the sheriff under division (B) of this section do not deliver their appraisal within twenty one calendar days of the issuance of the order of appraisal by the clerk of the court as required by division (B) of this section, then all of the following shall occur:~~ 413
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~~(1) The cost of the appraisal by the freeholders shall not be payable to the freeholders or taxed as costs in the case.~~ 418
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~~(2) The appraised value of the property shall be the most recent appraised value of the property as shown on the records of the county auditor, unless, for good cause shown, the court authorizes a separate appraisal of the property.~~ 420
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423

~~(3) The advertisement and sale of the property shall~~ 424
~~proceed immediately in accordance with the order of~~ 425
~~advertisement and sale issued by the clerk of the court.~~ 426

~~If a separate appraisal of the property is obtained, the~~ 427
~~cost of the appraisal shall be included as an expense of the~~ 428
~~sale pursuant to division (D) of section 2329.152 of the Revised~~ 429
~~Code.~~ 430

~~(D)~~ (B) (1) If the property to be appraised sold is 431
commercial property, the sheriff shall acquire three appraisals 432
of the property. Each such appraisal shall be conducted by an 433
individual who meets the criteria prescribed by division (A) (2) 434
of this section. 435

(2) The freeholders selected by the sheriff shall return 436
to the sheriff an estimate of the value of the property in money 437
in accordance with the timing or other requirements, if any, 438
that may be established for the sale. 439

~~(E)~~ (C) The advertisement and sale of real property 440
described in division (A) or (B) of this section shall proceed 441
immediately in accordance with the order of advertisement and 442
sale issued by the clerk of the court. 443

(D) The municipal corporation or township in which the 444
real property described in division (A) or (B) of this section 445
is situated may inspect prior to the judicial sale any 446
structures located on ~~lands subject to a writ of execution such~~ 447
real property. 448

Sec. 2329.18. (A) If a court has ordered or the clerk of a 449
court has issued an order for the sheriff to advertise and sell 450
the real estate ~~for which the appraised value has been~~ 451
~~determined pursuant to section 2329.17 of the Revised Code, the~~ 452

sheriff shall ~~deposit a copy of the appraisal with the clerk of~~ 453
~~the court from which the writ was issued, and~~ immediately 454
advertise and sell ~~such the~~ real estate in conformity with 455
sections 2329.01 to 2329.61 of the Revised Code. 456

(B) If the court has ordered or the clerk of the court has 457
issued an order for a private selling officer to advertise and 458
sell the real estate ~~for which the appraised value has been~~ 459
~~determined pursuant to section 2329.17 of the Revised Code,~~ the 460
private selling officer shall immediately advertise and sell the 461
real estate in conformity with sections 2329.01 to 2329.61 of 462
the Revised Code. 463

Sec. 2329.19. ~~Upon the determination of the appraised~~ 464
~~value pursuant to section 2329.17 of the Revised Code, if~~ If it 465
appears that two-thirds of the appraised value, as established 466
pursuant to section 2329.17 of the Revised Code, of the ~~lands~~ 467
~~and tenements~~ real property levied upon is sufficient to satisfy 468
the execution, with costs, the judgment on which the execution 469
issued shall not operate as a lien on the residue of the 470
debtor's estate to the prejudice of any other judgment creditor. 471

Sec. 2329.20. Except as otherwise provided in this section 472
or sections 2329.51 and 2329.52 of the Revised Code, no tract of 473
land shall be sold for less than two-thirds the amount of the 474
appraised value as ~~determined~~ established pursuant to section 475
2329.17 of the Revised Code. In all cases in which a junior 476
mortgage or other junior lien is sought to be enforced against 477
real estate by an order, judgment, or decree of court, subject 478
to a prior lien thereon, and such prior lien, and the claims or 479
obligations secured thereby, are unaffected by such order, 480
judgment, or decree, the court making such order, judgment, or 481
decree, may determine the minimum amount for which such real 482

estate may be sold. In such a case, the minimum amount shall be 483
not less than two-thirds of the difference between the appraised 484
value of the real estate as ~~determined~~established in that 485
section, and the amount remaining unpaid on the claims or 486
obligations secured by such prior lien. 487

Sec. 2329.211. (A) (1) In every action demanding the 488
judicial or execution sale of residential property, if the 489
judgment creditor is the purchaser at the sale, the purchaser 490
shall not be required to make a sale deposit. All other 491
purchasers shall make a sale deposit as follows: 492

(a) If the appraised value of the residential property is 493
less than or equal to ten thousand dollars, the deposit shall be 494
two thousand dollars. 495

(b) If the appraised value of the residential property is 496
greater than ten thousand dollars but less than or equal to two 497
hundred thousand dollars, the deposit shall be five thousand 498
dollars. 499

(c) If the appraised value of the residential property is 500
greater than two hundred thousand dollars, the deposit shall be 501
ten thousand dollars. 502

(2) The timing of the deposit and other payment 503
requirements shall be established by the court or the person 504
conducting the sale and included in the advertisement of the 505
sale. If the purchaser fails to meet the timing or other 506
requirements of the deposit, the sale shall be invalid and the 507
residential property may be brought to sale on ~~the provisional~~
~~second sale~~any subsequent start date, if any, described in 508
division (B) of section 2329.52 of the Revised Code, and 509
included in the notice required by division (A) (1) (a) (i) of 510
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section 2329.26 of the Revised Code. 512

(3) If the sale is held online, the deposit may be made by 513
a financial transaction device as defined in section 301.28 of 514
the Revised Code. 515

(B) In every action demanding the judicial or execution 516
sale of commercial property, the purchaser at the sale shall 517
make a deposit pursuant to the requirements, if any, established 518
for the sale. 519

Sec. 2329.26. (A) Lands and tenements taken in execution 520
shall not be sold until all of the following occur: 521

(1) (a) Except as otherwise provided in division (A) (1) (b) 522
of this section, the judgment creditor who seeks the sale of the 523
lands and tenements or the judgment creditor's attorney does 524
both of the following: 525

(i) Causes a written notice to be served in accordance 526
with divisions (A) and (B) of Civil Rule 5 upon the judgment 527
debtor and upon each other party to the action in which the 528
judgment giving rise to the execution was rendered. Such notice 529
shall include the start date, time, and place of the sale if the 530
sale is to be held at a physical location or the start date and 531
web site address of the sale if the sale is to be held online. 532
Such notice shall also include ~~the provisional second sale any~~ 533
subsequent start date described in division (B) of section 534
2329.52 of the Revised Code, if applicable. 535

(ii) At least seven calendar days prior to the sale date 536
~~of the sale~~, files with the clerk of the court that rendered the 537
judgment giving rise to the execution a copy of the written 538
notice described in division (A) (1) (a) (i) of this section with 539
proof of service endorsed on the copy in the form described in 540

division (B) of Civil Rule 5. 541

(b) Service of the written notice described in division 542
(A) (1) (a) (i) of this section is not required to be made upon any 543
party who is in default for failure to appear in the action in 544
which the judgment giving rise to the execution was rendered. 545

(2) One of the following applies: 546

(a) The officer taking the lands and tenements gives 547
public notice once a week for at least three consecutive weeks 548
~~before the day of sale if the sale is to be held at a physical-~~ 549
~~location or the start date of the sale if the sale is to be~~ 550
~~conducted online~~date. The last date of publication shall be four 551
or more calendar days prior to the sale date. 552

~~Such~~ Except as otherwise provided in division (C) of this 553
section, the first such notice, occurring at least three weeks 554
before the sale date, shall be by advertisement in a newspaper 555
of general circulation in the county. The newspaper shall meet 556
the requirements of section 7.12 of the Revised Code. The court 557
ordering the sale may designate in the order of sale the 558
newspaper in which this public notice shall be published. 559

Subsequent notices required by division (A) (2) (a) of this 560
section shall be made on the sheriff's web site, or a web site 561
maintained by the sheriff for that purpose. 562

The ~~notice~~ notices shall include all the following 563
information: 564

(i) The date, time, and place of the sale if the sale is 565
to be held at a physical location; 566

(ii) The start date, the minimum duration, and web site 567
address of the sale if the sale is to be held online; 568

(iii) The deposit required by section 2329.211 of the Revised Code;	569 570
(iv) That the purchaser shall be responsible for those costs, allowances, and taxes that the proceeds of the sale are insufficient to cover;	571 572 573
(v) <u>The Information meeting the requirements of division (A) (2) (a) (i) or (ii) of this section, as applicable to where the sale is to be held, for any subsequent provisional second sale date described in division (B) of section 2329.52 of the Revised Code, if applicable; provided, however, that no sale shall be invalid, nor shall the court vacate any sale, if the notice described in division (A) (1) (a) (i) of this section or the public notice described in division (A) (2) of this section fails to include the provisional <u>sale date</u> for a second <u>subsequent sale</u> of the property and the property is sold on the initial sale date.</u>	574 575 576 577 578 579 580 581 582 583 584
(vi) <u>The notices required by division (A) (2) of this section need not include a description of the property in metes and bounds.</u>	585 586 587
(b) <u>If Except as provided in division (B) of this section, if a private selling officer has been ordered to sell the lands and tenements, the private selling officer shall give the public notice described in division (A) (2) (a) of this section in the newspaper designated by the court. If the court has not designated a newspaper, the private selling officer shall give this public notice in the newspaper customarily used or designated by the county sheriff, except that the online notices required by that division shall be posted to the private selling officer's web site, or a web site maintained by the private selling officer for those purposes, rather than the sheriff's</u>	588 589 590 591 592 593 594 595 596 597 598

web site, or a web site maintained by the sheriff for those 599
purposes. No sale that otherwise complies with division (A) (2) 600
of this section shall be invalid. 601

(B) Any officer taking lands and tenements in execution 602
that are advertised and offered for sale but unsold for want of 603
bidders may advertise any subsequent sale in any method the 604
officer finds suitable, which may include online advertisement 605
instead of print. Any such advertisement of a subsequent sale 606
shall be deemed to meet the notice requirement in division (A) 607
of this section. 608

(C) (1) A sheriff or private selling officer shall not 609
charge or include as an expense of the sale any amount for 610
publishing notice on the sheriff's or private selling officer's 611
web site or a web site maintained by the sheriff or private 612
selling officer for those purposes. 613

(2) A sheriff or private selling officer shall not include 614
as an expense of the sale more than fifty dollars to give public 615
notice of the sale in a newspaper of general circulation in the 616
county. 617

(3) If the court ordering the sale designates the 618
newspaper in which the public notice is to be published, and the 619
sheriff or private selling officer is unable to publish notice 620
in that newspaper for fifty dollars or less, then the sheriff or 621
private selling officer may publish notice in another newspaper 622
of general circulation in the county. 623

(4) If the sheriff or private selling officer, despite 624
reasonable efforts, is unable to find a newspaper of general 625
circulation in the county that will publish notice of the sale 626
for fifty dollars or less, subject to division (C) (1) of this 627

section, the sheriff or private selling officer may instead 628
publish notice of the sale on a sheriff's or private selling 629
officer's web site, or a web site maintained by the sheriff or 630
private selling officer for those purposes. 631

(D) The sheriff or private selling officer taking the 632
lands and tenements shall collect the purchaser's information 633
required by section 2329.271 of the Revised Code. 634

~~(C) (E)~~ A sale of lands and tenements taken in execution 635
may be set aside in accordance with ~~division (A) or (B) of~~ 636
section 2329.27 of the Revised Code. 637

Sec. 2329.27. ~~(A) When the public notice required by~~ 638
~~division (A) (2) of section 2329.26 of the Revised Code is made~~ 639
~~in a newspaper published weekly, it is sufficient to insert it~~ 640
~~for three consecutive weeks. If both a daily and weekly edition~~ 641
~~of the paper are published and the circulation of the daily in~~ 642
~~the county exceeds that of the weekly in the county, or if the~~ 643
~~lands and tenements taken in execution are situated in a city,~~ 644
~~both a daily and weekly edition of the paper are published, and~~ 645
~~the circulation of the daily in that city exceeds the~~ 646
~~circulation of the weekly in that city, it is sufficient to~~ 647
~~publish the public notice in the daily once a week for three~~ 648
~~consecutive weeks before the day of sale, each insertion to be~~ 649
~~on the same day of the week. The expense of that publication in~~ 650
~~a daily shall not exceed the cost of publishing it in a weekly.~~ 651

~~(B) (1) Subject~~ Except as provided in division (B) of 652
section 2329.26 of the Revised Code and subject to divisions ~~(B)~~ 653
~~(2) (B) and (3) (C)~~ of this section, all sales of lands and 654
tenements taken in execution that are made without compliance 655
with the written notice requirements of division (A) (1) (a) of 656
section 2329.26 of the Revised Code, the public notice 657

requirements of division (A) (2) of that section, and the notice 658
requirements of section 2329.261 of the Revised Code, the 659
purchaser information requirements of section 2329.271 of the 660
Revised Code, ~~and division (A) of this section~~ shall be set 661
aside, on motion by any interested party, by the court to which 662
the execution is returnable. 663

~~(2)~~ (B) Proof of service endorsed upon a copy of the 664
written notice required by division (A) (1) (a) of section 2329.26 665
of the Revised Code shall be conclusive evidence of the service 666
of the written notice in compliance with the requirements of 667
that division, unless a party files a motion to set aside the 668
sale of the lands and tenements pursuant to division ~~(B) (1)~~ (A) 669
of this section and establishes by a preponderance of the 670
evidence that the proof of service is fraudulent. 671

~~(3)~~ (C) If the court to which the execution is returnable 672
enters its order confirming the sale of the lands and tenements, 673
the order shall have both of the following effects: 674

~~(a)~~ (1) The order shall be deemed to constitute a judicial 675
finding as follows: 676

~~(i)~~ (a) That the sale of the lands and tenements complied 677
with the written notice requirements of division (A) (1) (a) of 678
section 2329.26 of the Revised Code and the public notice 679
requirements of division (A) (2) of that section, and section 680
2329.261 of the Revised Code, ~~and division (A) of this section,~~ 681
or that compliance of that nature did not occur but the failure 682
to give a written notice to a party entitled to notice under 683
division (A) (1) (a) of section 2329.26 of the Revised Code has 684
not prejudiced that party; 685

~~(ii)~~ (b) That all parties entitled to notice under 686

division (A) (1) (a) of section 2329.26 of the Revised Code 687
received adequate notice of the date, time, and place of the 688
sale of the lands and tenements; 689

~~(iii)~~ (c) That the purchaser has submitted the contact 690
information required by section 2329.271 of the Revised Code. 691

~~(b)~~ (2) The order bars the filing of any further motions 692
to set aside the sale of the lands and tenements. 693

Sec. 2329.312. (A) All levying officers appointed or 694
authorized by a court under this chapter to conduct the judicial 695
or execution sale of residential property consisting of one to 696
four single-family units shall submit quarterly reports to the 697
attorney general. The reports shall include data on each such 698
sale conducted by the officer, including data showing whether or 699
not the deadlines required under division (E) of section 700
2308.02, ~~division (B) of section 2329.17,~~ and sections 2329.30 701
and 2329.31 of the Revised Code are met. 702

(B) The attorney general shall make the information 703
included in the reports described in division (A) of this 704
section publicly available. 705

Sec. 2329.51. When real estate taken on execution ~~and~~ 706
~~appraised,~~ is advertised, and offered for sale but is unsold for 707
want of bidders meeting the minimum bid requirements established 708
under this chapter, the court from which the execution issued, 709
on motion of the plaintiff, shall ~~set aside such appraisal~~ 710
~~and order a new appraisal to be made, or shall set aside the~~ 711
~~levy and appraisal and award a new execution to issue. When~~ 712
~~such real estate or a part of it has been two times appraised~~ 713
~~and thereafter advertised and offered for sale, and is unsold~~ 714
~~for want of bidders, the court may direct the amount for which~~ 715

it shall be sold. 716

Sec. 2329.52. (A) Except as otherwise provided in division 717
(B) of this section, when premises are ordered to be sold, if 718
said premises, or a part thereof, remain unsold for want of 719
bidders meeting the minimum bid requirements established under 720
this chapter, after having been once ~~appraised,~~ advertised, and 721
offered for sale, the court from which the order of sale issued 722
may, on motion of the plaintiff or defendant and from time to 723
time until said premises are disposed of, order a new 724
~~appraisement and sale~~ or direct the amount for which said 725
premises, or a part thereof, may be sold. 726

The court may order that the premises be sold as follows: 727
One third cash in hand, one third in nine months from the ~~day of~~ 728
sale date, and the remaining one third in eighteen months from 729
the ~~day of sale date,~~ the deferred payments to draw interest at 730
six per cent and be secured by a mortgage on the premises. 731

(B) (1) When a residential property is ordered to be sold 732
pursuant to a residential mortgage loan foreclosure action, if 733
the property remains unsold after the first auction, then a 734
~~second subsequent~~ auction shall be held and the property shall 735
be sold to the highest bidder without regard to the minimum bid 736
requirement in section 2329.20 of the Revised Code, but subject 737
to section 2329.21 of the Revised Code relating to costs, 738
allowances, and real estate taxes, or disposed of in any other 739
manner pursuant to this chapter or any other provision of the 740
Revised Code. ~~This second~~ Any subsequent auction shall be held 741
not earlier than ~~seven~~ three days and not later than thirty days 742
after the ~~first~~ previous auction start date. ~~A residential~~ 743
~~property that remains unsold after two auctions may be~~ 744
~~subsequently offered for sale without regard to the minimum bid~~ 745

~~requirement in section 2329.20 of the Revised Code, but subject-~~ 746
~~to section 2329.21 of the Revised Code relating to costs,~~ 747
~~allowances, and real estate taxes, or disposed of in any other-~~ 748
~~manner pursuant to this chapter or any other provision of the~~ 749
~~Revised Code.~~ 750

(2) For purposes of division (B)(1) of this section, the 751
first day an online auction is open for bidding shall be 752
considered the start date ~~of the auction.~~ 753

Section 2. That existing sections 2329.01, 2329.151, 754
2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 755
2329.211, 2329.26, 2329.27, 2329.312, 2329.51, and 2329.52 of 756
the Revised Code are hereby repealed. 757