

LSC 128 0703-7

**128th General Assembly
Regular Session
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Sub. H. B. No. 323

A B I L L

To amend sections 317.13, 323.47, 2303.201, 2323.07, 1
2329.01, 2329.02, 2329.07, 2329.09, 2329.191, 2
2329.26, 2329.31, 2329.33, 2329.36, and 3767.41 3
and to enact sections 2308.01 to 2308.05, 4
2308.051, and 2308.06 to 2308.15 of the Revised 5
Code relative to foreclosure actions and certain 6
related nuisance abatement actions. 7

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

Section 1. That sections 317.13, 323.47, 2303.201, 2323.07, 8
2329.01, 2329.02, 2329.07, 2329.09, 2329.191, 2329.26, 2329.31, 9
2329.33, 2329.36, and 3767.41 be amended and sections 2308.01, 10
2308.02, 2308.03, 2308.04, 2308.05, 2308.051, 2308.06, 2308.07, 11
2308.08, 2308.09, 2308.10, 2308.11, 2308.12, 2308.13, 2308.14, and 12
2308.15 of the Revised Code be enacted to read as follows: 13

Sec. 317.13. (A) Except as otherwise provided in division (B) 14
of this section, the county recorder shall record in the proper 15
record, in legible handwriting, typewriting, or printing, or by 16
any authorized photographic or electronic process, all deeds, 17
mortgages, plats, or other instruments of writing that are 18
required or authorized by the Revised Code to be recorded and that 19
are presented to the recorder for that purpose. The recorder shall 20
record the instruments in regular succession, according to the 21

priority of presentation, and shall enter the file number at the 22
beginning of the record. On the record of each instrument, the 23
recorder shall record the date and precise time the instrument was 24
presented for record. All records made, prior to July 28, 1949, by 25
means authorized by this section or by section 9.01 of the Revised 26
Code shall be deemed properly made. 27

(B) The county recorder may refuse to record an instrument of 28
writing presented to the recorder for recording if the instrument 29
is not required or authorized by the Revised Code to be recorded 30
or the recorder has reasonable cause to believe the instrument is 31
materially false or fraudulent. This division does not create a 32
duty upon a recorder to inspect, evaluate, or investigate an 33
instrument of writing that is presented for recording. 34

(C) If a person presents an instrument of writing to the 35
county recorder for recording and the recorder, pursuant to 36
division (B) of this section, refuses to record the instrument, 37
the person may commence an action in or apply for an order from 38
the court of common pleas in the county that the recorder serves 39
to require the recorder to record the instrument. If the court 40
determines that the instrument is required or authorized by the 41
Revised Code to be recorded and is not materially false or 42
fraudulent, it shall order the recorder to record the instrument. 43

(D) The county recorder shall not record a deed for the sale 44
or transfer of any residential property if the county auditor's 45
delinquent tax records show that the real property taxes for that 46
property are delinquent for one year or more. 47

(E) The county recorder shall not record a deed for the sale 48
or transfer of any property in which one of the parties to the 49
deed is a corporation or limited liability company, either 50
domestic or foreign, unless a copy of a current certificate of 51
registration with the secretary of state, obtained pursuant to 52
Chapter 1701., 1702., 1703., or 1705 of the Revised Code, is 53

attached to the deed for each such party to the deed. 54

Sec. 323.47. (A) If land held by tenants in common is sold 55
upon proceedings in partition, or taken by the election of any of 56
the parties to such proceedings, or real estate is sold by 57
administrators, executors, guardians, or trustees, the court shall 58
order that the taxes, penalties, and assessments then due and 59
payable, and interest on those taxes, penalties, and assessments, 60
that are or will be a lien on such land or real estate at the time 61
the deed is transferred following the sale, be discharged out of 62
the proceeds of such sale or election. For purposes of determining 63
such amount, the county treasurer shall estimate the amount of 64
taxes, assessments, interest, and penalties that will be payable 65
at the time the deed of the property is transferred to the 66
purchaser. If the county treasurer's estimate exceeds the amount 67
of taxes, assessments, interest, and penalties actually payable 68
when the deed is transferred to the purchaser, the officer who 69
conducted the sale shall refund to the purchaser the difference 70
between the estimate and the amount actually payable. If the 71
amount of taxes, assessments, interest, and penalties actually 72
payable when the deed is transferred to the purchaser exceeds the 73
county treasurer's estimate, the officer shall certify the amount 74
of the excess to the treasurer, who shall enter that amount on the 75
real and public utility property tax duplicate opposite the 76
property; the amount of the excess shall be payable at the next 77
succeeding date prescribed for payment of taxes in section 323.12 78
of the Revised Code. 79

(B)~~(1)~~ If real estate is sold at judicial sale, the court 80
shall order that the total of the following amounts shall be 81
discharged out of the proceeds of the sale but only to the extent 82
of such proceeds: 83

~~(a)(1)~~ Taxes and assessments ~~the lien for which attaches~~ 84

~~before the confirmation of sale but that are not yet determined, 85
assessed, and levied for the year in which confirmation occurs, 86
apportioned pro rata to the part of that year that precedes 87
confirmation, and any penalties and interest on those taxes and 88
assessments, the amount of which shall be based on the date of the 89
sale; 90~~

~~(b)(2) All other taxes, assessments, penalties, and interest 91
the lien for which attached for a prior tax year but that have not 92
been paid on or before the date of confirmation. 93~~

~~(2) Upon the request of the officer who conducted the sale, 94
the county treasurer shall estimate the amount in division 95
(B)(1)(a) of this section. If the county treasurer's estimate 96
exceeds that amount, the officer who conducted the sale shall 97
refund to the purchaser the difference between the estimate and 98
the actual amount. If the actual amount exceeds the county 99
treasurer's estimate, the officer shall certify the amount of the 100
excess to the treasurer, who shall enter that amount on the real 101
and public utility property tax duplicate opposite the property; 102
the amount of the excess shall be payable at the next succeeding 103
date prescribed for payment of taxes in section 323.12 of the 104
Revised Code. 105~~

Sec. 2303.201. (A)(1) The court of common pleas of any county 106
may determine that for the efficient operation of the court 107
additional funds are required to computerize the court, to make 108
available computerized legal research services, or to do both. 109
Upon making a determination that additional funds are required for 110
either or both of those purposes, the court shall authorize and 111
direct the clerk of the court of common pleas to charge one 112
additional fee, not to exceed three dollars, on the filing of each 113
cause of action or appeal under divisions (A), (Q), and (U) of 114
section 2303.20 of the Revised Code. 115

(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed, upon an order of the court, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court.

(B)(1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the court of common pleas.

(2) If the court of common pleas of a county makes the determination described in division (B)(1) of this section, the

board of county commissioners of that county may issue one or more 148
general obligation bonds for the purpose of procuring and 149
maintaining the computer systems for the office of the clerk of 150
the court of common pleas. In addition to the purposes stated in 151
division (B)(1) of this section for which the moneys collected 152
under that division may be expended, the moneys additionally may 153
be expended to pay debt charges on and financing costs related to 154
any general obligation bonds issued pursuant to division (B)(2) of 155
this section as they become due. General obligation bonds issued 156
pursuant to division (B)(2) of this section are Chapter 133. 157
securities. 158

(C) The court of common pleas shall collect the sum of 159
twenty-six dollars as additional filing fees in each new civil 160
action or proceeding for the charitable public purpose of 161
providing financial assistance to legal aid societies that operate 162
within the state and to support the office of the state public 163
defender. This division does not apply to proceedings concerning 164
annulments, dissolutions of marriage, divorces, legal separation, 165
spousal support, marital property or separate property 166
distribution, support, or other domestic relations matters; to a 167
juvenile division of a court of common pleas; to a probate 168
division of a court of common pleas, except that the additional 169
filing fees shall apply to name change, guardianship, adoption, 170
and decedents' estate proceedings; or to an execution on a 171
judgment, proceeding in aid of execution, or other post-judgment 172
proceeding arising out of a civil action. The filing fees required 173
to be collected under this division shall be in addition to any 174
other filing fees imposed in the action or proceeding and shall be 175
collected at the time of the filing of the action or proceeding. 176
The court shall not waive the payment of the additional filing 177
fees in a new civil action or proceeding unless the court waives 178
the advanced payment of all filing fees in the action or 179
proceeding. All such moneys collected during a month except for an 180

amount equal to up to one per cent of those moneys retained to 181
cover administrative costs shall be transmitted on or before the 182
twentieth day of the following month by the clerk of the court to 183
the treasurer of state in a manner prescribed by the treasurer of 184
state or by the Ohio legal assistance foundation. The treasurer of 185
state shall deposit four per cent of the funds collected under 186
this division to the credit of the civil case filing fee fund 187
established under section 120.07 of the Revised Code and 188
ninety-six per cent of the funds collected under this division to 189
the credit of the legal aid fund established under section 120.52 190
of the Revised Code. 191

The court may retain up to one per cent of the moneys it 192
collects under this division to cover administrative costs, 193
including the hiring of any additional personnel necessary to 194
implement this division. If the court fails to transmit to the 195
treasurer of state the moneys the court collects under this 196
division in a manner prescribed by the treasurer of state or by 197
the Ohio legal assistance foundation, the court shall forfeit the 198
moneys the court retains under this division to cover 199
administrative costs, including the hiring of any additional 200
personnel necessary to implement this division, and shall transmit 201
to the treasurer of state all moneys collected under this 202
division, including the forfeited amount retained for 203
administrative costs, for deposit in the legal aid fund. 204

(D) On and after the thirtieth day after December 9, 1994, 205
the court of common pleas shall collect the sum of thirty-two 206
dollars as additional filing fees in each new action or proceeding 207
for annulment, divorce, or dissolution of marriage for the purpose 208
of funding shelters for victims of domestic violence pursuant to 209
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 210
required to be collected under this division shall be in addition 211
to any other filing fees imposed in the action or proceeding and 212

shall be collected at the time of the filing of the action or 213
proceeding. The court shall not waive the payment of the 214
additional filing fees in a new action or proceeding for 215
annulment, divorce, or dissolution of marriage unless the court 216
waives the advanced payment of all filing fees in the action or 217
proceeding. On or before the twentieth day of each month, all 218
moneys collected during the immediately preceding month pursuant 219
to this division shall be deposited by the clerk of the court into 220
the county treasury in the special fund used for deposit of 221
additional marriage license fees as described in section 3113.34 222
of the Revised Code. Upon their deposit into the fund, the moneys 223
shall be retained in the fund and expended only as described in 224
section 3113.34 of the Revised Code. 225

(E)(1) The court of common pleas may determine that, for the 226
efficient operation of the court, additional funds are necessary 227
to acquire and pay for special projects of the court, including, 228
but not limited to, the acquisition of additional facilities or 229
the rehabilitation of existing facilities, the acquisition of 230
equipment, the hiring and training of staff, community service 231
programs, mediation or dispute resolution services, the employment 232
of magistrates, the training and education of judges, acting 233
judges, and magistrates, and other related services. Upon that 234
determination, the court by rule may charge a fee, in addition to 235
all other court costs, on the filing of each criminal cause, civil 236
action or proceeding, or judgment by confession. 237

If the court of common pleas offers a special program or 238
service in cases of a specific type, the court by rule may assess 239
an additional charge in a case of that type, over and above court 240
costs, to cover the special program or service. The court shall 241
adjust the special assessment periodically, but not retroactively, 242
so that the amount assessed in those cases does not exceed the 243
actual cost of providing the service or program. 244

All moneys collected under division (E) of this section shall 245
be paid to the county treasurer for deposit into either a general 246
special projects fund or a fund established for a specific special 247
project. Moneys from a fund of that nature shall be disbursed upon 248
an order of the court in an amount no greater than the actual cost 249
to the court of a project. If a specific fund is terminated 250
because of the discontinuance of a program or service established 251
under division (E) of this section, the court may order that 252
moneys remaining in the fund be transferred to an account 253
established under this division for a similar purpose. 254

(2) As used in division (E) of this section: 255

(a) "Criminal cause" means a charge alleging the violation of 256
a statute or ordinance, or subsection of a statute or ordinance, 257
that requires a separate finding of fact or a separate plea before 258
disposition and of which the defendant may be found guilty, 259
whether filed as part of a multiple charge on a single summons, 260
citation, or complaint or as a separate charge on a single 261
summons, citation, or complaint. "Criminal cause" does not include 262
separate violations of the same statute or ordinance, or 263
subsection of the same statute or ordinance, unless each charge is 264
filed on a separate summons, citation, or complaint. 265

(b) "Civil action or proceeding" means any civil litigation 266
that must be determined by judgment entry. 267

(F)(1) The court of common pleas shall establish by rule a 268
residential mortgage notice fee in an amount of twenty dollars to 269
charge to any person who files a petition for foreclosure on a 270
residential property, except as division (F)(3) of this section 271
otherwise provides. The fee shall be in addition to any other 272
filing fee or court cost that otherwise applies to the filing. The 273
clerk of courts shall pay all moneys collected as a residential 274
mortgage notice fee to the county treasurer for deposit into a 275
residential mortgage notice fund the treasurer establishes. Upon 276

an order of the court, the treasurer shall disburse moneys from 277
the fund to reimburse the court for any foreclosure notice costs 278
the court incurs. If the amount collected as residential mortgage 279
notice fees is more than the amount sufficient to satisfy the 280
purpose for which the fee is imposed, the court may declare a 281
surplus and expend the money for other costs related to 282
residential foreclosure actions. 283

(2) The fee that a filing party pays pursuant to division 284
(F)(1) of this section is an expense that the filing party may 285
recover from the sale of the property or as part of a deficiency 286
judgment. 287

(3) The fee that division (F)(1) of this section establishes 288
does not apply to any foreclosure filing based on a lien for 289
delinquent taxes. 290

Sec. 2308.01. As used in this chapter: 291

(A) "Abate," "abatement," and "neighbor" have the same 292
meanings as in section 3767.41 of the Revised Code. 293

(B) "Residential area commercial property mortgage" means an 294
obligation to pay a sum of money evidenced by a note and secured 295
by a lien upon a commercial property that meets all of the 296
following criteria: 297

(1) The structure or structures on the property total less 298
than four thousand square feet. 299

(2) The property is located within five hundred feet of a 300
residential property. 301

(3) The property is not a brownfield, as defined in section 302
122.65 of the Revised Code. 303

(C) "Residential mortgage" means an obligation to pay a sum 304
of money evidenced by a note and secured by a lien upon a 305
residential property. 306

(D) "Residential property" means real property located within this state consisting of land and a structure on that land containing four or fewer dwelling units, each of which is intended for occupancy by a separate household. "Residential property" includes a residential condominium unit owned by an individual, notwithstanding the number of units in the structure, and a manufactured or mobile home that is subject to real property taxes under section 4503.06 of the Revised Code. 307
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(E) "Tenant" has the same meaning as in section 5321.01 of the Revised Code. 315
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Sec. 2308.02. (A) No person shall file a complaint to initiate a residential mortgage foreclosure action unless that complaint is accompanied by a writing that contains all of the following: 317
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(1) A statement that sets forth the name of the holder of the note and asserts that the named holder is the true party in interest with a right to file the action; 321
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(2) A statement as to whether the mortgage note has been securitized and if so, the identity of any mortgage-backed security that holds the loan and the name of the trustee of that mortgage-backed security; 324
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(3) A statement, based on the best information of the person making the filing, as to whether the residential property is occupied and the date that its occupancy status last was assessed. 328
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(B) Upon filing a complaint to initiate a residential mortgage foreclosure action, the plaintiff shall file with the clerk the preliminary judicial report that section 2329.191 of the Revised Code requires. 331
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Sec. 2308.03. (A) Along with the summons and complaint the clerk issues to the mortgagor in a residential mortgage 335
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foreclosure action, the clerk shall provide both of the following: 337

(1) Notice that along with any answer to that summons and 338
complaint, the mortgagor provide the information that division (B) 339
of this section requires; 340

(2) A blank copy of the property status report in 341
substantially the form as shown in division (B) of this section. 342

(B) A mortgagor shall provide to the court all of the 343
following when answering a summons and complaint in a residential 344
mortgage foreclosure action: 345

(1) An estimate of the value of the property, based on the 346
best information of the plaintiff. This value may be the value the 347
auditor of the county in which the property is located has 348
assigned the property in the course of the auditor's most recent 349
valuation, a good faith estimate by the plaintiff considering the 350
property's current condition, or a formal appraisal conducted by a 351
real estate professional or a licensed appraiser. 352

(2) A copy of any mortgage insurance policy issued with 353
respect to the property. 354

(3) A copy of a completed property status report. 355

"Case Number:....." 356

COURT OF COMMON PLEAS 357
..... COUNTY, OHIO 358

Judge 359

Residential Property Status Report 360

To be completed to the best of the homeowner's knowledge. If any 361
information is not known please write "Don't Know" in the space 362
provided. 363

Address: 364

Titled Owner(s): 365

<u>Number of Units:</u>	<u>Occupied: YES NO</u>	366
<u>If YES, by whom:</u>		367
<u>If NO, when vacated:</u>		368
<u>Current city code violations: YES NO</u>	<u>If YES, attach copy of violation notice(s)</u>	369 370
<u>Abandoned/Unlicensed Vehicles: YES NO</u>		371
<u>Is this property the subject of litigation in any other court? YES NO</u>		372 373
<u>Is owner a defendant in other foreclosure cases in this court? YES NO</u>		374 375
<u>If YES, list case number(s):</u>		376
<u>.....</u>		377
<u>How long has current owner owned property?</u>		378
<u>.....</u>		379
<u>If less than 5 years, list previous owners for last five years:</u>		380
<u>.....</u>		381
<u>(Please affix a color photograph of the premises not older than 30 days here)</u>		382 383
<u>I certify that the information contained herein is accurate and true, to the best of my knowledge.</u>		384 385
<u>.....</u>		386
<u>Signature _____ Date"</u>		387
<u>(4) Answers to the following questions, to the best of the mortgagor's knowledge:</u>		388 389
<u>(a) Whether the plaintiff has agreed to comply with the federal "Home Affordable Modification Program";</u>		390 391
<u>(b) Whether the mortgagor or a representative of the mortgagor has been in contact with the plaintiff;</u>		392 393

(c) Whether the mortgagor has applied for a loan 394
modification, and if so, whether the loan modification has been 395
accepted, denied, or is pending. 396

Sec. 2308.04. A court may adopt by rule forms that 397
incorporate the information that sections 2308.02 and 2308.03 of 398
the Revised Code require. A court may request on those forms any 399
additional information that the court requires, at the court's 400
discretion. 401

Sec. 2308.05. (A)(1) If the mortgagor in a residential 402
mortgage foreclosure action does not answer the clerk's summons 403
and complaint within the time the clerk prescribes in accordance 404
with the Civil Rules, the clerk shall notify the plaintiff that 405
the mortgagor has failed to answer and that this section of the 406
Revised Code requires the plaintiff to file a motion for a default 407
judgment if the property is not occupied. 408

(2) If the property appears not to be occupied, as indicated 409
in the affidavit provided pursuant to this section or section 410
2308.02 of the Revised Code, the plaintiff in that action shall 411
file a dispositive motion with the court or shall submit a 412
statement explaining why the plaintiff is not seeking a default 413
judgment. The plaintiff shall file that motion no later than sixty 414
days after the mortgagor's answer is due unless the plaintiff shows 415
cause for not doing so. The plaintiff shall include with any 416
motion for default judgment an affidavit attesting that the 417
affiant personally inspected the property, attempted to telephone 418
the residents of the residential property, and directed 419
correspondence to all residences located at the residential 420
property, and has no reason to believe that the premises are 421
occupied. 422

(3) The court shall enter a default judgment in favor of the 423

plaintiff upon receiving the motion and accompanying affidavit. 424

(B) The court shall dismiss a complaint to initiate a residential mortgage foreclosure action with prejudice when a plaintiff qualifies to file a motion for default judgment as division (A) of this section permits, but does not do so unless the plaintiff asks leave to show cause why it should not issue a default judgment. 425
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(C) When a plaintiff fails to file for a default judgment as this section requires, the clerk shall notify the court that this section of the Revised Code requires the court to issue an order to the plaintiff demanding the plaintiff to show cause why the property should not be deemed abandoned and transferred pursuant to section 2308.13 of the Revised Code. 431
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(2) The demand notice the court issues shall inform the plaintiff that the plaintiff will lose any right to the lien and the property will be deemed abandoned unless the plaintiff shows cause within sixty days after the issuance of the order why the property should not be deemed abandoned. The plaintiff may assert any reason that the property should not be deemed abandoned and may assert any defense, including mistake and inadvertence under Rule 60 of the Rules of Civil Procedure. 437
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(3) The clerk shall inform any other lienholder that the plaintiff may be deemed to have abandoned the property. 445
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(D)(1) If the plaintiff fails to provide the court with a reason why the property should not be abandoned, the court shall deem that the plaintiff has abandoned any right to the lien, is precluded from making any claims against the property, and may not receive any proceeds from a sale of the property. 447
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(2) If there are no other liens on the property or other claims filed, the property is deemed abandoned by the plaintiff and shall be transferred pursuant to section 2308.13 of the 452
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Revised Code. 455

Sec. 2308.051. (A) Notwithstanding any other provision of the 456
Revised Code, a plaintiff may request, at the time the plaintiff 457
files a motion for a default judgment pursuant to section 2308.05 458
of the Revised Code, that in addition to the default judgment, the 459
court deem that the title of the property be transferred directly 460
and immediately to the plaintiff in lieu of foreclosure. A 461
plaintiff may make such a request, and a court may grant such a 462
request, only if both of the following apply: 463

(1) The only liens attached to the property are the 464
plaintiff's lien and any lien for real property taxes. 465

(2) The mortgagor did not answer the clerk's summons and 466
complaint within the time the clerk prescribed in accordance with 467
the Rules of Civil Procedure. 468

(B) When a court grants a request for a transfer in lieu of 469
foreclosure pursuant to this section, the plaintiff shall provide 470
the information section 2329.271 of the Revised Code requires as 471
if the plaintiff were the successful purchaser at sale, and the 472
officer who would have made the sale shall prepare the deed as 473
section 2329.31 of the Revised Code requires. The court shall 474
confirm the transfer in lieu of foreclosure in the same manner as 475
the court confirms sales under section 2329.31 of the Revised 476
Code. 477

Sec. 2308.06. (A) No court may enter a judgment or a default 478
judgment that orders the sale of a property that is the subject of 479
a residential mortgage foreclosure action or residential area 480
commercial property mortgage foreclosure action, and no county 481
recorder shall accept for recording any deed based on that sale, 482
if a court has found probable cause that the property constitutes 483
a public nuisance as defined in section 3767.41 of the Revised 484

Code. 485

(B) In any residential mortgage foreclosure action or residential area commercial property mortgage foreclosure action, a court may hold a hearing to determine whether there is probable cause to believe that the property constitutes a public nuisance. The court may hold a probable cause hearing on its own accord or upon a request made pursuant to section 2308.11 of the Revised Code. At any such hearing, the court shall consider whether there is probable cause on the basis of any of the following: 486
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(1) Information the plaintiff provides, including information contained in the property status report; 494
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(2) Information in a public record that indicates the existence of a building with air pollution, sanitation, health, fire, zoning, or safety code violations or other conditions that constitute a public nuisance; 496
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(3) A court ordered inspection of the property, or a voluntary authorization of inspection of the property under any right of the plaintiff to enter the property. 500
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(C) A court's determination that there is probable cause to believe that the property is a public nuisance is a rebuttable presumption. 503
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Sec. 2308.07. (A) Prior to any probable cause hearing held pursuant to section 2308.06 of the Revised Code, the court shall provide the plaintiff in the foreclosure action with notice of the time, date, place, and purpose of the hearing. The notice shall inform the plaintiff of an opportunity to appear at the hearing to present any of the information described in division (A) of section 2308.08 of the Revised Code and shall set forth the procedures for requesting such an appearance. 506
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(B) If a court finds probable cause that the residential 514

property constitutes a public nuisance, the plaintiff shall file 515
notice of that finding with the agency that is responsible for 516
enforcement of housing codes within the municipal corporation or 517
county in which the residential property is located, if there is 518
such an agency. An agency inspecting the residential property as a 519
result of receiving such a notice may charge the mortgagor a 520
reasonable fee to cover the costs of the inspection. 521

Sec. 2308.08. (A) A plaintiff or any other lienholder in the 522
foreclosure action may appear at any probable cause hearing held 523
pursuant to section 2308.06 of the Revised Code for any of the 524
following purposes: 525

(1) To present information that the property is not a public 526
nuisance; 527

(2) To request permission to abate the nuisance while the 528
foreclosure action continues; 529

(3) To pledge to enter a bid on the property at the sheriff's 530
sale and to abate the nuisance subsequent to gaining title to the 531
property pursuant to section 2308.09 of the Revised Code. 532

(B) A plaintiff may appear at a probable cause hearing by 533
submitting a writing to the court within ten days after receiving 534
the court's notice of the hearing. 535

(C)(1) At the probable cause hearing, a court shall grant a 536
plaintiff's request to abate a nuisance under division (A)(2) of 537
this section while the foreclosure action continues. The court 538
shall stay the probable cause hearing, maintain continuing 539
jurisdiction when it grants such a request, and require the 540
plaintiff to make an initial report to the court within thirty 541
days on the plaintiff's progress in abating the nuisance. The 542
court may request subsequent reports at its discretion. 543

(2) The court shall continue with the foreclosure proceedings 544

if, upon receiving any initial or subsequent report of progress, 545
the court determines that the plaintiff is making reasonable 546
progress. 547

(3) If at any time the court determines that the plaintiff is 548
not making reasonable progress in abating the nuisance or the 549
plaintiff does not report as required, the court immediately shall 550
resume the probable cause hearings and shall approve any request 551
made pursuant to section 2308.11 of the Revised Code to bring a 552
nuisance abatement action. 553

Sec. 2308.09. (A) At any time prior to or during a probable 554
cause hearing, the plaintiff may submit to the court a written 555
pledge to purchase the property at the sale and to abate the 556
alleged nuisance subsequent to taking title to the property. In 557
the writing, the plaintiff shall pledge to bid at least the 558
principal balance owed on the property and, if the successful 559
bidder at the sale, to abate the nuisance. A plaintiff may present 560
the written pledge at the hearing if the plaintiff requests an 561
appearance pursuant to section 2308.08 of the Revised Code. 562

(B) The court shall stay any probable cause hearing on an 563
alleged nuisance condition upon receiving from a plaintiff a 564
written pledge made pursuant to this section. The court shall 565
require that the plaintiff provide a written report of progress 566
within thirty days after taking title to the property. The court 567
shall maintain continuing jurisdiction over the property until the 568
nuisance condition is abated and may require any subsequent 569
reports at the court's discretion. 570

(C) The court shall resume any probable cause hearing if the 571
court fails to receive confirmation from the officer making the 572
sale pursuant to section 2308.14 of the Revised Code that 573
indicates that the plaintiff failed to bid as pledged at the 574
auction. 575

(D) Not later than thirty days after taking title to the property, a plaintiff who has pledged to abate a nuisance pursuant to this section shall provide the court with a written report of progress in abating the alleged nuisance condition. If the court does not receive a report of progress within that time, the court may resume the probable cause hearing and shall approve any request to bring a nuisance abatement action. 576
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Sec. 2308.10. In any foreclosure action in which the court stays a probable cause hearing pursuant to section 2308.08 or 2308.09 of the Revised Code, the court shall maintain continuing jurisdiction until the nuisance condition is abated. Until the condition is abated, the court may resume a probable cause hearing at the court's own discretion or upon a complaint by any person named in division (A) of section 2308.11 of the Revised Code and shall approve any request made pursuant to that section to bring a nuisance abatement action. 583
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Sec. 2308.11. (A) Any municipal corporation in which a property is located, or any nonprofit corporation that is duly organized and has as one of its goals the improvement of housing conditions in the county or municipal corporation in which the property is located, may intervene as an interested party at any time prior to the issuance of a judgment in the foreclosure proceeding of a residential property to request the court's permission to bring a civil action under section 3767.41 of the Revised Code for the abatement of a public nuisance. 592
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(B) Upon a request made pursuant to division (A) of this section that is supported by sufficient evidence, a court, in its discretion, shall hold a probable cause hearing pursuant to section 2308.06 of the Revised Code. 601
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(C) If the court finds probable cause to believe that the 605

property is a public nuisance, the court may authorize the 606
interested party to bring the abatement action. The court shall 607
stay the foreclosure action to allow hearings to be held on the 608
public nuisance pursuant to section 3767.41 of the Revised Code. 609

(D) An interested party who is authorized to bring a nuisance 610
abatement action shall apprise the court of its progress in the 611
action in writing not later than thirty days after the court 612
grants permission to bring the action. If the court does not 613
receive this notice within the specified time, it may resume the 614
foreclosure proceedings. 615

(E) The court may establish any guidelines it considers 616
appropriate as a condition of granting the interested party 617
permission to bring an abatement action against the residential 618
property undergoing foreclosure. Such guidelines shall be in 619
addition to the requirement that the court find probable cause 620
under section 2308.06 of the Revised Code that the property is a 621
public nuisance. 622

(F) Nothing in this section shall be construed as preventing 623
a court from staying a hearing when a plaintiff makes a request 624
pursuant to section 2308.08 or 2308.09 of the Revised Code. 625

Sec. 2308.12. (A)(1) The plaintiff and any other lienholder 626
shall file for a writ of execution of a judgment in a residential 627
mortgage foreclosure action upon receiving the clerk's notice of 628
the filing of the judgment of execution under division (G) of 629
section 2329.02 of the Revised Code. Instead of filing for a writ 630
of execution, the plaintiff may submit a statement showing cause 631
for not filing. A lienholder other than the primary lienholder 632
shall file for a contingent writ of execution or submit a 633
statement explaining why such a contingent writ is not being 634
sought. 635

(2) Sixty days after filing the certificate of judgment, the 636

clerk shall notify the court that this section of the Revised Code 637
requires the court to issue an order to the plaintiff and other 638
lienholders who did not file for a writ of execution or contingent 639
writ of execution, demanding that the plaintiff or other 640
lienholder show cause why their interest in the property should 641
not be deemed abandoned and the property transferred pursuant to 642
section 2308.13 of the Revised Code. The plaintiff and other 643
lienholders may assert any reason that the property should not be 644
deemed abandoned, including mistake and inadvertence under Rule 60 645
of the Rules of Civil Procedure. 646

(3) A plaintiff or other lienholder who fails to file for a 647
writ of execution as this section requires and who does not submit 648
a statement to the court stating why a writ is not being sought or 649
show cause to the court why the property should not be deemed 650
abandoned, is deemed to have abandoned the lien and is barred from 651
seeking another judgment on that property or making any claim 652
against the property, and shall not receive any proceeds from a 653
sale of the property. 654

(4) If the plaintiff and all other lienholders are deemed to 655
have abandoned their lien to the property, the property shall be 656
transferred pursuant to section 2308.13 of the Revised Code. 657

(B)(1) Upon receiving a filing for a writ of execution from 658
the plaintiff, the clerk shall issue the writ of execution 659
pursuant to section 2329.091 of the Revised Code. 660

(2) The clerk shall direct the officer conducting the sale to 661
distribute the proceeds from the sale of the foreclosed property 662
in the order of priority of the liens of the lienholders who filed 663
for a writ of execution pursuant to this section. 664

(C) At its discretion, the court may extend the time period 665
this section establishes for filing for a writ of execution or 666
issuing that writ if the plaintiff and the mortgagor in the action 667

so request, for any reason that the court considers appropriate. 668

(D) Notwithstanding sections 2329.09 and 2329.091 of the 669
Revised Code, a court may stay the issuance of a writ of execution 670
if the mortgagor and the plaintiff, along with all other 671
lienholders, enter into a forbearance or loan modification 672
agreement that allows the mortgagor to make payments over a 673
specified period of time and that agreement is filed with the 674
court. The stay shall be effective so long as all of the parties 675
to the agreement comply with the terms of the agreement. 676

(E) No plaintiff or other lienholder may withdraw or dismiss 677
a petition for a writ of execution or an order of sale unless the 678
mortgagee and the mortgagor make a request for such a dismissal 679
and show good cause. 680

Sec. 2308.13. (A) Notwithstanding any other provision of the 681
Revised Code, a property upon which a residential mortgage 682
foreclosure action has been filed is deemed abandoned and subject 683
to transfer under this section if any of the following occur: 684

(1) Neither the plaintiff or any other lienholder filed for a 685
writ of execution or a contingent writ of execution under section 686
2308.12 of the Revised Code, and the property owner has not 687
redeemed the property as division (B) of section 2329.33 of the 688
Revised Code provides; 689

(2) The plaintiff failed to file for a default judgment when 690
section 2308.05 of the Revised Code so requires, and no other 691
lienholder has filed to initiate a residential mortgage 692
foreclosure action as that section requires; 693

(3) The officer making the sale has twice advertised the sale 694
and held an auction on the property, and at those auctions neither 695
the plaintiff nor any other party placed a bid. 696

(B) The title of a property deemed abandoned as described in 697

division (A) of this section vests without further action in the 698
name of the county recorder. The clerk shall issue a notice to the 699
county recorder and the county attorney when a property is deemed 700
abandoned as provided in division (A) of this section. The county 701
prosecuting attorney shall prepare a deed to convey that property 702
to the county recorder. The deed shall contain the names of the 703
parties to the judgment and the owners of the property, a 704
reference to the volume and page of the recording of the next 705
preceding recorded instrument by or through which the county 706
recorder claims title, the date and the amount of the judgment, 707
and the date on which each lienholder is deemed to have abandoned 708
the property. The county recorder shall record the deed within 709
fourteen business days after the latest date on which a lienholder 710
is deemed to have abandoned the property. 711

(C) The county recorder may dispose of property acquired 712
under this section pursuant to rules the board of county 713
commissioners adopts. The rules shall specify that, if the county 714
has a land bank, the county recorder shall place the property in 715
that land bank pursuant to the rules. If the county does not have 716
a land bank, the recorder shall dispose of the property pursuant 717
to the discretion of the board of county commissioners. 718

Sec. 2308.14. (A)(1) The officer making a sale pursuant to a 719
residential mortgage foreclosure action on a residential property 720
shall, upon the sale of the lands and tenements in satisfaction of 721
that writ, prepare and submit to the court a confirmation order 722
setting forth the information confirming the sale of those lands 723
and tenements. 724

(B) The information the officer provides to the court with 725
respect to a sale shall include the name of the person making the 726
purchase of the property in sufficient detail so a court may 727
determine if the purchaser is a plaintiff who pledged to purchase 728

then abate a nuisance pursuant to section 2308.09 of the Revised Code. 729
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Sec. 2308.15. (A) No plaintiff or other lienholder in a residential mortgage foreclosure action may file a motion to dismiss or vacate the judgment, the writ of execution, the sale, the order of sale, or the confirmation of the sale of a residential property, and no court shall accept such a motion unless good cause is shown. 731
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(B) In any residential mortgage foreclosure action in which a plaintiff and a mortgagor enter into a workout agreement or other payment plan, the court shall stay the foreclosure action at any time prior to the sale upon a plaintiff's filing a motion and affidavit indicating that the plaintiff and mortgagor have entered into a workout agreement or payment plan. If at any time the plaintiff notifies the court that the mortgagor did not make payments as agreed under the plan, the court shall resume the foreclosure action. 737
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Sec. 2323.07. (A)(1) When a mortgage is foreclosed or a specific lien enforced, a sale of the property, or a transfer of property pursuant to sections 323.28, 323.65 to 323.78, and 5721.19 of the Revised Code, shall be ordered by the court having jurisdiction or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code. 746
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(2) The sale of property pursuant to judicial procedure is the only order a court may make for the execution of a judgment on a residential property that is the primary residence of the mortgagor, when the action was brought by a mortgagee or other lienholder of that property. As used in this division, "residential property" has the same meaning as in section 2308.01 of the Revised Code. 752
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(B) When the real property to be sold is in one or more 759
tracts, the court may order the officer who makes the sale to 760
subdivide, appraise, and sell them in parcels, or sell any one of 761
the tracts as a whole. 762

(C) When the mortgaged property is situated in more than one 763
county, the court may order the sheriff or master of each county 764
to make sale of the property in the sheriff's or master's county, 765
or may direct one officer to sell the whole. When it consists of a 766
single tract, the court may direct that it be sold as one tract or 767
in separate parcels, and shall direct whether appraisers shall be 768
selected for each county or one set for all; and whether 769
publication of the sale shall be made in all the counties, or in 770
one county only. 771

Sec. 2329.01. (A) Lands and tenements, including vested legal 772
interests therein, permanent leasehold estates renewable forever, 773
and goods and chattels, not exempt by law, shall be subject to the 774
payment of debts, and liable to be taken on execution and sold as 775
provided in sections 2329.02 to 2329.61, inclusive, of the Revised 776
Code. 777

(B) As used in sections 2329.02 to 2329.61 of the Revised 778
Code, "residential mortgage" and "residential property" have the 779
same meanings as in section 2308.01 of the Revised Code. 780

Sec. 2329.02. (A) Any judgment or decree rendered by any 781
court of general jurisdiction, including district courts of the 782
United States, within this state shall be a lien upon lands and 783
tenements of each judgment debtor within any county of this state 784
from the time there is filed in the office of the clerk of the 785
court of common pleas of such county a certificate of such 786
judgment, setting forth the court in which the same was rendered, 787
the title and number of the action, the names of the judgment 788

creditors and judgment debtors, the amount of the judgment and 789
costs, the rate of interest, if the judgment provides for 790
interest, and the date from which such interest accrues, the date 791
of rendition of the judgment, and the volume and page of the 792
journal entry thereof. 793

(B) No such judgment or decree shall be a lien upon any 794
lands, whether or not situated within the county in which such 795
judgment is rendered, registered under sections 5309.02 to 796
5309.98, inclusive, and 5310.01 to 5310.21, inclusive, of the 797
Revised Code, until a certificate under the hand and official seal 798
of the clerk of the court in which the same is entered or of 799
record, stating the date and purport of the judgment, giving the 800
number of the case, the full names of the parties, plaintiff and 801
defendant, and the volume and page of the journal or record in 802
which it is entered, or a certified copy of such judgment, stating 803
such facts, is filed and noted in the office of the county 804
recorder of the county in which the land is situated, and a 805
memorial of the same is entered upon the register of the last 806
certificate of title to the land to be affected. 807

Such certificate shall be made by the clerk of the court in 808
which the judgment was rendered, under the seal of said court, 809
upon the order of any person in whose favor such judgment was 810
rendered or upon the order of any person claiming under ~~him~~ a 811
person in whose favor such judgment was rendered, and shall be 812
delivered to the party so ordering the same; and the fee therefor 813
shall be taxed in the costs of the action. 814

(C) When any such certificate is delivered to the clerk of 815
the court of common pleas of any county in this state, the same 816
shall be filed by such clerk, and ~~he~~ the clerk shall docket and 817
index it under the names of the judgment creditors and the 818
judgment debtors in a judgment docket, which shall show as to each 819
judgment all of the matters set forth in such certificate as 820

required by this section. The fee for such filing, docketing, and 821
indexing shall be taxed as increased costs of such judgment upon 822
such judgment docket and shall be included in the lien of the 823
judgment. 824

(D) When the clerk of any court, other than that rendering 825
the judgment, in whose office any such certificate is filed, has 826
docketed and indexed the same, ~~he~~ the clerk shall indorse upon 827
such certificate the fact of such filing with the date thereof and 828
the volume and page of the docket entry of such certificate and 829
shall return the same so indorsed to the clerk of the court in 830
which the judgment was rendered, who shall note upon the original 831
docket the fact of the filing of said certificate, showing the 832
county in which the same was filed and the date of such filing. 833
When such certificate is filed, docketed, and indexed in the 834
office of the clerk of the court which rendered the judgment, such 835
clerk shall likewise indorse the certificate and make like 836
notation upon the original docket. 837

Each such judgment shall be deemed to have been rendered in 838
the county in which is kept the journal of the court rendering the 839
same, in which journal such judgment is entered. 840

(E) Certificates or certified copies of judgments or decrees 841
of any courts of general jurisdiction, including district courts 842
of the United States, within this state, may be filed, registered, 843
noted, and memorials thereof entered, in the office of the 844
recorder of any county in which is situated land registered under 845
sections 5309.02 to 5309.98, inclusive, and 5310.01 to 5310.21, 846
inclusive, of the Revised Code, for the purpose of making such 847
judgments liens upon such registered land. 848

(F) Notwithstanding any other provision of the Revised Code, 849
any judgment issued in a court of record may be transferred to any 850
other court of record. Any proceedings for collection may be had 851
on such judgment the same as if it had been issued by the 852

transferee court. 853

(G) When a clerk files a judgment of execution, the clerk shall provide notice of that filing to the judgment debtor, the judgment creditor, and all lienholders and persons listed in division (B)(7) of section 2329.191 of the Revised Code. The notice shall state that a judgment of execution has been filed, that any lienholder has sixty days from the date of the notice to file for a writ of execution to request the sale of the property, and that any lienholder who is not the primary lienholder should file a contingency request for a writ of execution of judgment. 854
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The clerk shall issue the writ in the order of priority of the liens of the lienholders who file pursuant to division (G) of this section. 863
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Any lienholder who fails to file for a writ of execution within the sixty-day time period shall be deemed to have abandoned any right to the lien and has no further right to claim on the property or to collect from any proceeds of the sale of the property. 866
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Sec. 2329.07. (A)(1) If neither execution on a judgment rendered in a court of record or certified to the clerk of the court of common pleas in the county in which the judgment was rendered is issued, nor a certificate of judgment for obtaining a lien upon lands and tenements is issued and filed, as provided in sections 2329.02 and 2329.04 of the Revised Code, within five years from the date of the judgment or within five years from the date of the issuance of the last execution thereon or the issuance and filing of the last such certificate, whichever is later, then, unless the judgment is in favor of the state, the judgment shall be dormant and shall not operate as a lien upon the estate of the judgment debtor. 871
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(2) If the judgment is in favor of the state, the judgment 883

shall not become dormant and shall not cease to operate as a lien 884
against the estate of the judgment debtor provided that either 885
execution on the judgment is issued or a certificate of judgment 886
is issued and filed, as provided in sections 2329.02 and 2329.04 887
of the Revised Code, within ten years from the date of the 888
judgment or within fifteen years from the date of the issuance of 889
the last execution thereon or the issuance and filing of the last 890
such certificate, whichever is later, except as otherwise provided 891
in division (C) of this section. The fifteen-year limitation 892
period applies to executions issued and certificates of judgments 893
issued and filed before, on, or after ~~the effective date of the~~ 894
~~amendment of this section by of the 126th general~~ 895
~~assembly~~ March 29, 2007. 896

(B) If, in any county other than that in which a judgment was 897
rendered, the judgment has become a lien by reason of the filing, 898
in the office of the clerk of the court of common pleas of that 899
county, of a certificate of the judgment as provided in sections 900
2329.02 and 2329.04 of the Revised Code, and if no execution is 901
issued for the enforcement of the judgment within that county, or 902
no further certificate of the judgment is filed in that county, 903
within five years or, if the judgment is in favor of the state, 904
within fifteen years from the date of issuance of the last 905
execution for the enforcement of the judgment within that county 906
or the date of filing of the last certificate in that county, 907
whichever is the later, then the judgment shall cease to operate 908
as a lien upon lands and tenements of the judgment debtor within 909
that county, except as otherwise provided in division (C) of this 910
section. The fifteen-year limitation period applies to executions 911
issued and certificates of judgments issued and filed before, on, 912
or after ~~the effective date of the amendment of this section by~~ 913
~~H.B. 699 of the 126th general assembly~~ March 29, 2007. 914

(C)(1) As used in division (C) of this section, "interim 915

period" means the period beginning September 26, 2003, and ending 916
September 27, 2006. 917

(2) Division (C) of this section applies only to judgments in 918
favor of the state that are subject to this section and to which 919
both of the following apply: 920

(a) The first issuance of execution on the judgment, or the 921
first issuance and filing of the certificate of judgment, was 922
issued or issued and filed within the ten-year period provided in 923
this section before the beginning of the interim period; 924

(b) Subsequent issuance of execution on the judgment or 925
subsequent issuance and filing of the certificate of judgment 926
would have been required during the interim period in order to 927
keep the lien from becoming dormant under this section as this 928
section existed on September 25, 2003, and as if this section as 929
it existed on that date had been in effect during the interim 930
period. 931

(3) Such a judgment shall not become dormant and shall not 932
cease to operate as a lien against the estate of the judgment 933
debtor if either execution on the judgment is issued or a 934
certificate of judgment is issued and filed, as provided in 935
sections 2329.02 and 2329.04 of the Revised Code, within fifteen 936
years after the expiration of the ten-year period following 937
issuance of the last execution on the judgment or following the 938
issuance and filing of the last such certificate, whichever is 939
later. 940

(D) When a judgment is issued with respect to a residential 941
mortgage foreclosure action, the plaintiff and all other 942
lienholders shall make any filing for a writ of execution of the 943
judgment within sixty days following a notice from the clerk of 944
court that the clerk has filed the certificate of judgment. Any 945
lienholder who fails to file for a writ pursuant to division (A) 946

of section 2308.12 of the Revised Code during that time frame is 947
deemed to have abandoned any right to the judgment and the 948
property and is barred from making further claims against the 949
property. 950

Sec. 2329.09. (A) The writ of execution against the property 951
of a judgment debtor issuing from a court of record shall command 952
the officer to whom it is directed to levy on the goods and 953
chattels of the debtor. If no goods or chattels can be found, the 954
officer shall levy on the lands and tenements of the debtor. If 955
the court rendering the judgment or decree so orders, real estate 956
may be sold under execution as follows: one third cash on the day 957
of sale, one third in one year, one third in two years thereafter, 958
with interest on deferred payments, to be secured by mortgage on 959
the premises so sold. An execution on a judgment rendered against 960
a partnership firm by its firm name shall operate only on the 961
partnership property. The exact amount of the debt, damages, and 962
costs, for which the judgment is entered, shall be indorsed on the 963
execution. 964

(B) On any order of sale that the clerk delivers to the 965
officer making the sale in a residential mortgage foreclosure 966
action, the clerk shall include a notation that sets forth all of 967
the clerk's costs with respect to that foreclosure action and 968
sale. 969

Sec. 2329.191. (A) As used in this section, "title insurance 970
company" has the same meaning as in section 3953.01 of the Revised 971
Code. 972

(B) In every action demanding the judicial sale of 973
residential real estate consisting of one to four single-family 974
units, the party seeking that judicial sale shall file with the 975
clerk of the court of common pleas within fourteen days after 976

filing the pleadings requesting relief or upon filing the 977
pleadings if so required pursuant to section 2308.02 of the 978
Revised Code, a preliminary judicial report on a form that is 979
approved by the department of insurance that is prepared and 980
issued by a duly licensed title insurance agent on behalf of a 981
licensed title insurance company or by a title insurance company 982
that is authorized by the department of insurance to transact 983
business in this state. The preliminary judicial report shall be 984
effective within thirty days prior to the filing of the complaint 985
or other pleading requesting a judicial sale and shall include at 986
least all of the following: 987

(1) A legal description of each parcel of real estate to be 988
sold at the judicial sale; 989

(2) The street address of the real estate or, if there is no 990
street address, the name of the street or road upon which the real 991
estate fronts together with the names of the streets or roads 992
immediately to the north and south or east and west of the real 993
estate; 994

(3) The county treasurer's permanent parcel number or other 995
tax identification number of the real estate; 996

(4) The name of the owners of record of the real estate to be 997
sold; 998

(5) A reference to the volume and page or instrument number 999
of the recording by which the owners acquired title to the real 1000
estate; 1001

(6) A description of the record title to the real estate; 1002
however, easements, restrictions, setback lines, declarations, 1003
conditions, covenants, reservations, and rights-of-way that were 1004
filed for record prior to the lien being foreclosed are not 1005
required to be included; 1006

(7) The name and address of each lienholder and the name and 1007

address of each lienholder's attorney, if any, as shown on the 1008
recorded lien of the lienholder. 1009

Prior to submitting any order or judgment entry to a court 1010
that would order the sale of the residential real estate, the 1011
party submitting the order or judgment entry shall file with the 1012
clerk of the court of common pleas a final judicial report that 1013
updates the state of the record title to that real estate from the 1014
effective date of the preliminary judicial report through the date 1015
of lis pendens and includes a copy of the court's docket for the 1016
case. The cost of the title examination necessary for the 1017
preparation of both the preliminary judicial report and the final 1018
judicial report together with the premiums for those reports 1019
computed as required by the department of insurance, based on the 1020
fair market value of the real estate, or in the case of a 1021
foreclosure, the principal balance of the mortgage or other lien 1022
being foreclosed on or any other additional amount as may be 1023
ordered by the court shall be taxed as costs in the case. 1024

(C) In every action demanding the judicial sale of 1025
residential real estate consisting of more than four single-family 1026
units or of commercial real estate, the party seeking that 1027
judicial sale shall file with the clerk of the court of common 1028
pleas within fourteen days after filing the pleadings requesting 1029
relief either a preliminary judicial report or a commitment for an 1030
owner's fee policy of title insurance on the form approved by the 1031
department of insurance that is prepared and issued by a duly 1032
licensed title insurance agent on behalf of a licensed title 1033
insurance company. Division (B) of this section applies if the 1034
party seeking the judicial sale files a preliminary judicial 1035
report. If the party seeking the judicial sale files a commitment 1036
for an owner's fee policy of title insurance, the commitment shall 1037
have an effective date within fourteen days prior to the filing of 1038
the complaint or other pleading requesting a judicial sale and 1039

shall contain at least all of the information required in 1040
divisions (B)(1) to (7) of this section. The commitment shall 1041
cover each parcel of real estate to be sold, shall include the 1042
amount of the successful bid at the judicial sale, shall show the 1043
purchaser at the judicial sale as the proposed insured, and shall 1044
not expire until thirty days after the recordation of the deed by 1045
the officer who makes the sale to that purchaser. After the 1046
officer's return of the order of sale and prior to the 1047
confirmation of the sale, the party requesting the order of sale 1048
shall cause an invoice for the cost of the title insurance policy, 1049
commitment cost related expenses, and cancellation fees, if any, 1050
to be filed with the clerk of the court of common pleas. The 1051
amount of the invoice shall be taxed as costs in the case. The 1052
purchaser at the judicial sale may, by paying the premium for the 1053
title insurance policy, obtain the issuance of title insurance in 1054
accordance with the commitment. 1055

Sec. 2329.26. (A) Lands and tenements taken in execution 1056
shall not be sold until all of the following occur: 1057

(1)(a) Except as otherwise provided in division (A)(1)(b) of 1058
this section, the judgment creditor who seeks the sale of the 1059
lands and tenements or the judgment creditor's attorney does both 1060
of the following: 1061

(i) Causes a written notice of the date, time, and place of 1062
the sale to be served in accordance with divisions (A) and (B) of 1063
Civil Rule 5 upon the judgment debtor and upon each other party to 1064
the action in which the judgment giving rise to the execution was 1065
rendered; 1066

(ii) At least seven calendar days prior to the date of the 1067
sale, files with the clerk of the court that rendered the judgment 1068
giving rise to the execution a copy of the written notice 1069
described in division (A)(1)(a)(i) of this section with proof of 1070

service endorsed on the copy in the form described in division (D) 1071
of Civil Rule 5. 1072

(b) Service of the written notice described in division 1073
(A)(1)(a)(i) of this section is not required to be made upon any 1074
party who is in default for failure to appear in the action in 1075
which the judgment giving rise to the execution was rendered. 1076

(2) The officer taking the lands and tenements gives public 1077
notice of the date, time, and place of the sale for at least three 1078
weeks before the day of sale by ~~advertisement~~ either of the 1079
following methods: 1080

(a) Advertisement in a newspaper published in and of general 1081
circulation in the county. The court ordering the sale may 1082
designate in the order of sale the newspaper in which this public 1083
notice shall be published, and this public notice is subject to 1084
division (A) of section 2329.27 of the Revised Code. 1085

(b) If the officer making the sale maintains a searchable web 1086
site, publication of the public notice on that web site for three 1087
consecutive weeks before the day of the sale. 1088

(3) The officer taking the lands and tenements ~~shall collect~~ 1089
~~collects~~ the purchaser's information required by section 2329.271 1090
of the Revised Code. 1091

(B) The officer making the sale may accept a written bid from 1092
a lienholder at any time prior to that sale. The public notice of 1093
the sale may include notice of this opportunity to make a written 1094
bid prior to the sale. The officer may, at the officer's 1095
discretion, open the bidding at the amount of any written bid. 1096

(C) If the purchaser at a sale is a lienholder, the officer 1097
making the sale shall not charge the purchaser any deposit or 1098
other fees at any time prior to that time at which the amount is 1099
due on the purchase price pursuant to division (B) of section 1100
2329.31 of the Revised Code. 1101

(D) If the purchaser at sale plans to assign the purchaser's right to purchase to another party who will pay the purchase price to the officer making the sale, that assignment of the purchaser's bid may be made at any time prior to the preparation of the deed pursuant to section 2329.31 of the Revised Code, and notice of that assignment may be filed with the officer making the sale at any time prior to the preparation of the deed. 1102
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(E) A sale of lands and tenements taken in execution may be set aside in accordance with division (B) of section 2329.27 of the Revised Code. 1109
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Sec. 2329.31. (A) ~~Upon~~ (1) Except as otherwise provided in division (A)(2) of this section, upon the return of any writ of execution for the satisfaction of which lands and tenements have been sold, on careful examination of the proceedings of the officer making the sale, if the court of common pleas finds that the sale was made, in all respects, in conformity with sections 2329.01 to 2329.61 of the Revised Code, it shall, within thirty days of the return of the writ, direct the clerk of the court of common pleas to make an entry on the journal that the court is satisfied of the legality of such sale and that the attorney who filed the writ of execution make to the purchaser a deed for the lands and tenements. ~~Nothing~~ 1112
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(2) In any sale that is based on a residential mortgage foreclosure action, if the clerk of court receives no written objection to that sale within seven days after the return of the writ of execution and order of sale, and on careful examination of the proceedings of the officer making the sale, the clerk shall deem that the sale is final and shall confirm that sale. The clerk shall make an entry on the journal that the sale is deemed legal. 1124
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(3) Nothing in this section prevents the court of common pleas from staying the confirmation of the sale to permit a 1131
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property owner time to redeem the property or for any other reason 1133
that it determines is appropriate. In those instances, the sale 1134
shall be confirmed within thirty days after the termination of any 1135
stay of confirmation. 1136

(B) The officer making the sale shall require the purchaser, 1137
including a lienholder, to pay within thirty days ~~of~~ after the 1138
confirmation of the sale the ~~balance~~ amount due on the purchase 1139
price of the lands and tenements unless the court grants the 1140
purchaser an exception for good cause. 1141

(C) Except for good cause, no lienholder may file a motion to 1142
dismiss or vacate the sale or the confirmation of the sale of a 1143
foreclosed residential property, and no court shall accept such a 1144
motion unless the lienholder is the purchaser at the sale and the 1145
lienholder submits an affidavit that the lienholder and the 1146
mortgagor have entered into a workout agreement or payment plan. 1147

Sec. 2329.33. ~~In~~ (A) Except as otherwise provided in division 1148
(B) of this section, in sales of real estate on execution or order 1149
of sale, at any time before the confirmation thereof, the debtor 1150
may redeem it from sale by depositing in the hands of the clerk of 1151
the court of common pleas to which such execution or order is 1152
returnable, the amount of the judgment or decree upon which such 1153
lands were sold, with all costs, including poundage, and interest 1154
at the rate of eight per cent per annum on the purchase money from 1155
the day of sale to the time of such deposit, except where the 1156
judgment creditor is the purchaser, the interest at such rate on 1157
the excess above ~~his~~ the judgment creditor's claim. The court of 1158
common pleas thereupon shall make an order setting aside such 1159
sale, and apply the deposit to the payment of such judgment or 1160
decree and costs, and award such interest to the purchaser, who 1161
shall receive from the officer making the sale the purchase money 1162
paid by ~~him~~ the purchaser, and the interest from the clerk. ~~This~~ 1163

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(B) Notwithstanding division (A) of this section, in any residential mortgage foreclosure action, the judgment debtor's right of redemption expires at the end of the business day on the sixtieth day following the clerk's notice of the filing the judgment of execution pursuant to section 2329.07 of the Revised Code. Before that time, a judgment debtor may redeem the property by depositing with the clerk of the court who filed the judgment of execution the amount of the judgment along with all costs. The court shall deposit the amount of the payment to the satisfaction of the judgment of any party and order any such judgment set aside.

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(C) This section does not take away the power of the court to set aside such sale for any reason for which it might have been set aside prior to April 16, 1888.

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Sec. 2329.36. (A) The attorney who files the writ of execution shall, not later than seven days after the ~~filing of~~ clerk files the order of confirmation of sale pursuant to section 2329.31 of the Revised Code, make to the purchaser a deed, containing the names of the parties to the judgment, the names of the owners of the property sold, a reference to the volume and page of the recording of the next preceding recorded instrument by or through which the owners claim title, the date and amount of the judgment, the substance of the execution or order on which the property was sold, the substance of the officer's return thereon, and the order of confirmation and deliver the deed to the officer who sold the real property. The deed shall be executed, acknowledged, and recorded as other deeds. The officer or the officer's legal representative may review and approve or reject the deed for form and substance.

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(B) By placing a bid at a sale conducted pursuant to this

chapter, the purchaser appoints the officer who makes the sale as 1195
agent of the purchaser for the sole purpose of accepting delivery 1196
of the deed described in division (A) of this section. 1197

(C)(1) The officer who sells the real property shall record 1198
the deed, or for registered land file the documents required by 1199
section 5309.64 of the Revised Code, with the county recorder 1200
within fourteen business days ~~of~~ after the date the purchaser pays 1201
the balance due on the purchase price of the lands and tenements. 1202
The officer shall charge the purchaser a fee to cover the actual 1203
costs of preparing and recording the deed or filing the documents. 1204
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(2) Notwithstanding division (C)(1) of this section, if the 1206
purchaser delivers any remaining balance of the purchase price to 1207
the officer making the sale, together with an affidavit stating 1208
the purchaser will record the deed within seven business days 1209
after receipt of the deed, the officer making the sale shall 1210
release the unrecorded deed to the purchaser who shall record that 1211
deed or face penalties for contempt of court. If the deed has not 1212
been recorded within fourteen days following the receipt of the 1213
affidavit, the officer making the sale shall file the deed 1214
pursuant to division (C)(1) of this section. 1215

Sec. 3767.41. (A) As used in this section: 1216

(1) "Building" means, ~~except as otherwise provided in this 1217
division, any building or structure that is used or intended to be 1218
used for residential purposes. "Building" includes, but is not 1219
limited to, a building or structure in which any floor is used for 1220
retail stores, shops, salesrooms, markets, or similar commercial 1221
uses, or for offices, banks, civic administration activities, 1222
professional services, or similar business or civic uses, and in 1223
which the other floors are used, or designed and intended to be 1224
used, for residential purposes. "Building" does not include any 1225~~

building or structure that ~~is occupied by its owner and that~~ 1226
contains three or fewer residential units when one of the units is 1227
occupied by the owner of the building or structure unless that 1228
building or structure is a residential property as defined in 1229
section 2308.01 of the Revised Code and the nuisance action is 1230
initiated pursuant to section 2308.06 or 2308.11 of the Revised 1231
Code. 1232

(2) "Land" means any parcel of land that is not the site of a 1233
building or other structure. 1234

(3)(a) "Public nuisance" as it applies to a building means a 1235
building that is a menace to the public health, welfare, or 1236
safety; that is structurally unsafe, unsanitary, or not provided 1237
with adequate safe egress; that constitutes a fire hazard, or is 1238
otherwise dangerous to human life, ~~or; that~~ is otherwise no longer 1239
fit and habitable if used or designed to be used for residential 1240
purposes; or that, in relation to its existing use, constitutes a 1241
hazard to the public health, welfare, or safety by reason of 1242
inadequate maintenance, dilapidation, obsolescence, or 1243
abandonment. 1244

(b) "Public nuisance" as it applies to land means land that 1245
constitutes a hazard to the public health, welfare, or safety by 1246
reason of unsafe or unsanitary conditions. 1247

(c) "Public nuisance" as it applies to subsidized housing 1248
means subsidized housing that fails to meet the following 1249
standards as specified in the federal rules governing each 1250
standard: 1251

(i) Each building on the site is structurally sound, secure, 1252
habitable, and in good repair, as defined in 24 C.F.R. 5.703(b); 1253

(ii) Each building's domestic water, electrical system, 1254
elevators, emergency power, fire protection, HVAC, and sanitary 1255
system is free of health and safety hazards, functionally 1256

adequate, operable, and in good repair, as defined in 24 C.F.R. 1257
5.703(c); 1258

(iii) Each dwelling unit within the building is structurally 1259
sound, habitable, and in good repair, and all areas and aspects of 1260
the dwelling unit are free of health and safety hazards, 1261
functionally adequate, operable, and in good repair, as defined in 1262
24 C.F.R. 5.703(d)(1); 1263

(iv) Where applicable, the dwelling unit has hot and cold 1264
running water, including an adequate source of potable water, as 1265
defined in 24 C.F.R. 5.703(d)(2); 1266

(v) If the dwelling unit includes its own sanitary facility, 1267
it is in proper operating condition, usable in privacy, and 1268
adequate for personal hygiene, and the disposal of human waste, as 1269
defined in 24 C.F.R. 5.703(d)(3); 1270

(vi) The common areas are structurally sound, secure, and 1271
functionally adequate for the purposes intended. The basement, 1272
garage, carport, restrooms, closets, utility, mechanical, 1273
community rooms, daycare, halls, corridors, stairs, kitchens, 1274
laundry rooms, office, porch, patio, balcony, and trash collection 1275
areas are free of health and safety hazards, operable, and in good 1276
repair. All common area ceilings, doors, floors, HVAC, lighting, 1277
smoke detectors, stairs, walls, and windows, to the extent 1278
applicable, are free of health and safety hazards, operable, and 1279
in good repair, as defined in 24 C.F.R. 5.703(e); 1280

(vii) All areas and components of the housing are free of 1281
health and safety hazards. These areas include, but are not 1282
limited to, air quality, electrical hazards, elevators, 1283
emergency/fire exits, flammable materials, garbage and debris, 1284
handrail hazards, infestation, and lead-based paint, as defined in 1285
24 C.F.R. 5.703(f). 1286

~~(3)(4) "Abate" or "abatement" in connection with any building~~ 1287

means the removal or correction of any conditions that constitute 1288
a public nuisance and, in connection with any building, includes 1289
the making of any other improvements that are needed to effect a 1290
rehabilitation of the building that is consistent with maintaining 1291
safe and habitable conditions over its remaining useful life. 1292
~~"Abatement" does not include the~~ The closing or boarding up of any 1293
building that is found to be a public nuisance, by itself, does 1294
not serve as an abatement of the public nuisance. 1295

~~(4)~~(5) "Interested party" means any owner, mortgagee, 1296
lienholder, tenant, or person that possesses an interest of record 1297
in any property that becomes subject to the jurisdiction of a 1298
court pursuant to this section, and any applicant for the 1299
appointment of a receiver pursuant to this section. 1300

~~(5)~~(6) "Neighbor" means any owner of real property, 1301
including, but not limited to, any person who is purchasing real 1302
property by land installment contract or under a duly executed 1303
purchase contract, that is located within five hundred feet of any 1304
real property that becomes subject to the jurisdiction of a court 1305
pursuant to this section, and any occupant of a building that is 1306
so located. 1307

~~(6)~~(7) "Tenant" has the same meaning as in section 5321.01 of 1308
the Revised Code. 1309

~~(7)~~(8) "Subsidized housing" means a property consisting of 1310
more than four dwelling units that, in whole or in part, receives 1311
project-based assistance pursuant to a contract under any of the 1312
following federal housing programs: 1313

(a) The new construction or substantial rehabilitation 1314
program under section 8(b)(2) of the "United States Housing Act of 1315
1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(b)(2) as 1316
that program was in effect immediately before the first day of 1317
October, 1983; 1318

(b) The moderate rehabilitation program under section 8(e)(2)	1319
of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50	1320
Stat. 888, 42 U.S.C. 1437f(e)(2);	1321
(c) The loan management assistance program under section 8 of	1322
the "United States Housing Act of 1937," Pub. L. No. 75-412, 50	1323
Stat. 888, 42 U.S.C. 1437f;	1324
(d) The rent supplement program under section 101 of the	1325
"Housing and Urban Development Act of 1965," Pub. L. No. 89-174,	1326
79 Stat. 667, 12 U.S.C. 1701s;	1327
(e) Section 8 of the "United States Housing Act of 1937,"	1328
Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f, following	1329
conversion from assistance under section 101 of the "Housing and	1330
Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat. 667,	1331
12 U.S.C. 1701s;	1332
(f) The program of supportive housing for the elderly under	1333
section 202 of the "Housing Act of 1959," Pub. L. No. 86-372, 73	1334
Stat. 654, 12 U.S.C. 1701q;	1335
(g) The program of supportive housing for persons with	1336
disabilities under section 811 of the "National Affordable Housing	1337
Act of 1990," Pub. L. No. 101-625, 104 Stat. 4313, 42 U.S.C. 8013;	1338
(h) The rental assistance program under section 521 of the	1339
"United States Housing Act of 1949," Pub. L. No. 90-448, 82 Stat.	1340
551, as amended by Pub. L. No. 93-383, 88 Stat. 696, 42 U.S.C.	1341
1490a.	1342
(8) (9) "Project-based assistance" means the assistance is	1343
attached to the property and provides rental assistance only on	1344
behalf of tenants who reside in that property.	1345
(9) (10) "Landlord" has the same meaning as in section 5321.01	1346
of the Revised Code.	1347
(B)(1)(a) In any civil action to enforce any local building,	1348

housing, air pollution, sanitation, health, fire, zoning, or 1349
safety code, ordinance, resolution, or regulation applicable to 1350
buildings, lands, or subsidized housing that is commenced in a 1351
court of common pleas, municipal court, housing or environmental 1352
division of a municipal court, or county court, or in any civil 1353
action for abatement commenced in a court of common pleas, 1354
municipal court, housing or environmental division of a municipal 1355
court, or county court, by a municipal corporation or township in 1356
which the building, land, or subsidized housing involved is 1357
located, by any neighbor, tenant, or by a nonprofit corporation 1358
that is duly organized and has as one of its goals the improvement 1359
of housing conditions in the county or municipal corporation in 1360
which the building, land, or subsidized housing involved is 1361
located, if a building, land, or subsidized housing is alleged to 1362
be a public nuisance, the municipal corporation, township, 1363
neighbor, tenant, or nonprofit corporation may apply in its 1364
complaint for an injunction, relief, or other order as described 1365
in division (C)(1) of this section, ~~or for the relief described in~~ 1366
~~division (C)(2) of this section~~, including, if necessary, the 1367
appointment of a receiver as described in divisions (C)(2) and (3) 1368
of this section, or for both such an injunction or other order and 1369
such relief. The municipal corporation, township, neighbor, 1370
tenant, or nonprofit corporation commencing the action is not 1371
liable for the costs, expenses, and fees of any receiver appointed 1372
pursuant to divisions (C)(2) and (3) of this section. 1373

(b) Prior to commencing a civil action for abatement when the 1374
property alleged to be a public nuisance is subsidized housing, 1375
the municipal corporation, township, neighbor, tenant, or 1376
nonprofit corporation commencing the action shall provide the 1377
landlord of that property with written notice that specifies one 1378
or more defective conditions that constitute a public nuisance as 1379
that term applies to subsidized housing and states that if the 1380
landlord fails to remedy the condition within sixty days of the 1381

service of the notice, a claim pursuant to this section may be 1382
brought on the basis that the property constitutes a public 1383
nuisance in subsidized housing. Any party authorized to bring an 1384
action against the landlord shall make reasonable attempts to 1385
serve the notice in the manner prescribed in the Rules of Civil 1386
Procedure to the landlord or the landlord's agent for the property 1387
at the property's management office, or at the place where the 1388
tenants normally pay or send rent. If the landlord is not the 1389
owner of record, the party bringing the action shall make a 1390
reasonable attempt to serve the owner. If the owner does not 1391
receive service the person bringing the action shall certify the 1392
attempts to serve the owner. 1393

(2)(a) In a civil action described in division (B)(1) of this 1394
section, a copy of the complaint and a notice of the date and time 1395
of a hearing on the complaint shall be served upon the owner of 1396
the building, land, or subsidized housing and all other interested 1397
parties in accordance with the Rules of Civil Procedure. If 1398
certified mail service, personal service, or residence service of 1399
the complaint and notice is refused or certified mail service of 1400
the complaint and notice is not claimed, and if the municipal 1401
corporation, township, neighbor, tenant, or nonprofit corporation 1402
commencing the action makes a written request for ordinary mail 1403
service of the complaint and notice, or uses publication service, 1404
in accordance with the Rules of Civil Procedure, then a copy of 1405
the complaint and notice shall be posted in a conspicuous place on 1406
the building, land, or subsidized housing. 1407

(b) The judge in a civil action described in division (B)(1) 1408
of this section ~~shall~~ may conduct a summary hearing ~~at least to~~ 1409
consider and issue any temporary orders that are necessary to 1410
protect the public health, welfare, and safety pending further 1411
proceedings. 1412

(c) The judge shall conduct a hearing on the complaint not 1413

earlier than twenty-eight days after the owner of the building,
land, or subsidized housing and the other interested parties have
been served with a copy of the complaint and the notice of the
date and time of the hearing in accordance with division (B)(2)(a)
of this section.

~~(e)~~(d) In considering whether subsidized housing is a public
nuisance, the judge shall construe the standards set forth in
division ~~(A)(2)(b)~~(A)(3)(c) of this section in a manner consistent
with department of housing and urban development and judicial
interpretations of those standards. The judge shall deem that the
property is not a public nuisance if during the twelve months
prior to the service of the notice that division (B)(1)(b) of this
section requires, the department of housing and urban
development's real estate assessment center issued a score of
seventy-five or higher out of a possible one hundred points
pursuant to its regulations governing the physical condition of
multifamily properties pursuant to 24 C.F.R. part 200, subpart P,
and since the most recent inspection, there has been no
significant change in the property's conditions that would create
a serious threat to the health, safety, or welfare of the
property's tenants.

(C)(1) If the judge in a civil action described in division
(B)(1) of this section finds at the hearing required by division
(B)(2) of this section that the building ~~involved, land, or~~
subsidized housing is a public nuisance, if the judge additionally
determines that the owner of the building, land, or subsidized
housing previously has not been afforded a reasonable opportunity
to abate the public nuisance or has been afforded such an
opportunity and has not refused or failed to abate the public
nuisance, and if the complaint of the municipal corporation,
township, neighbor, tenant, or nonprofit corporation commencing
the action requested the issuance of an injunction as described in

this division, then the judge may issue an injunction requiring 1446
the owner of the building, land, or subsidized housing to abate 1447
the public nuisance or issue any other order that the judge 1448
considers necessary or appropriate to cause the abatement of the 1449
public nuisance. If an injunction is issued pursuant to this 1450
division, the owner of the building, land, or subsidized housing 1451
involved shall be given no more than thirty days from the date of 1452
the entry of the judge's order to comply with the injunction, 1453
unless the judge, for good cause shown, extends the time for 1454
compliance. 1455

~~(2)~~ If the judge in a the civil action ~~described in division~~ 1456
~~(B)(1) of this section finds at the hearing required by division~~ 1457
~~(B)(2) of this section that the building involved is a public~~ 1458
~~nuisance, if the judge additionally~~ determines that the owner of 1459
the building, land, or subsidized housing previously ~~has been~~ was 1460
afforded a reasonable opportunity to abate the public nuisance and 1461
has refused or failed to do so, and if the complaint of the 1462
municipal corporation, township, neighbor, tenant, or nonprofit 1463
corporation commencing the action requested relief as described in 1464
this division, then the judge shall offer any mortgagee, 1465
lienholder, or other interested party associated with the property 1466
on which the building is located, in the order of the priority of 1467
interest in title, the opportunity to undertake the work and to 1468
furnish the materials necessary to abate the public nuisance. 1469
Prior to selecting any interested party, the judge shall require 1470
the interested party to demonstrate the ability to promptly 1471
undertake the work and furnish the materials required, to provide 1472
the judge with a viable financial and construction plan for the 1473
rehabilitation of the building as described in division (D) of 1474
this section, and to post security for the performance of the work 1475
and the furnishing of the materials. 1476

(2) If the judge determines, at the hearing, that no 1477

interested party associated with the building, land, or subsidized 1478
housing is willing or able to undertake the work and to furnish 1479
the materials necessary to abate the public nuisance, or if the 1480
judge determines, at any time after the hearing, that any party 1481
who is undertaking corrective work pursuant to this division 1482
cannot or will not proceed, or has not proceeded with due 1483
diligence, the judge may appoint a receiver pursuant to division 1484
(C)(3) of this section to take possession and control of the 1485
building, land, or subsidized housing. 1486

(3)(a) The judge in a civil action described in division 1487
(B)(1) of this section shall not appoint any person as a receiver 1488
unless the person first has provided the judge with a viable 1489
financial and construction plan for the rehabilitation of the 1490
building involved, land, or subsidized housing as described in 1491
division (D) of this section and has demonstrated the capacity and 1492
expertise to perform the required work and to furnish the required 1493
materials in a satisfactory manner. An appointed receiver may be a 1494
financial institution that possesses an interest of record in the 1495
building or the property on which ~~it~~ the building is located, 1496
land, or subsidized housing, a nonprofit corporation as described 1497
in divisions (B)(1) and (C)(3)(b) of this section, including, but 1498
not limited to, a nonprofit corporation that commenced the action 1499
described in division (B)(1) of this section, or any other 1500
qualified property manager. 1501

(b) To be eligible for appointment as a receiver, no part of 1502
the net earnings of a nonprofit corporation shall inure to the 1503
benefit of any private shareholder or individual. Membership on 1504
the board of trustees of a nonprofit corporation appointed as a 1505
receiver does not constitute the holding of a public office or 1506
employment within the meaning of sections 731.02 and 731.12 or any 1507
other section of the Revised Code and does not constitute a direct 1508
or indirect interest in a contract or expenditure of money by any 1509

municipal corporation. A member of a board of trustees of a 1510
nonprofit corporation appointed as a receiver shall not be 1511
disqualified from holding any public office or employment, and 1512
shall not forfeit any public office or employment, by reason of 1513
membership on the board of trustees, notwithstanding any law to 1514
the contrary. 1515

(D) Prior to ordering an owner, interested party, or receiver 1516
to undertake any work ~~to be undertaken, or the furnishing of any~~ 1517
~~materials,~~ to abate a public nuisance under this section, the 1518
judge in a civil action described in division (B)(1) of this 1519
section shall review the submitted financial and construction plan 1520
for the rehabilitation of the building involved, land, or 1521
subsidized housing and, if it specifies all of the following, 1522
shall approve that plan: 1523

(1) The estimated cost of the labor, materials, and any other 1524
development costs that are required to abate the public nuisance; 1525

(2) The estimated income and expenses of the building and the 1526
property on which ~~it~~ the building is located, land, or subsidized 1527
housing after the furnishing of the materials and the completion 1528
of the repairs and improvements; 1529

(3) The terms, conditions, and availability of any financing 1530
that is necessary to perform the work and to furnish the 1531
materials; 1532

(4) If repair and rehabilitation of ~~the~~ a building are found 1533
not to be feasible, the cost of demolition of the building or of 1534
the portions of the building that constitute the public nuisance. 1535

(E) Upon the written request of any of the interested parties 1536
to have a building, or portions of a building, that constitute a 1537
public nuisance demolished because repair and rehabilitation of 1538
the building are found not to be feasible, the judge may order the 1539
demolition. However, the demolition shall not be ordered unless 1540

the requesting interested parties have paid the costs of 1541
demolition and, if any, of the receivership, and, if any, all 1542
notes, certificates, mortgages, and fees of the receivership. 1543

(F) Before proceeding with the duties of receiver, any 1544
receiver appointed by the judge in a civil action described in 1545
division (B)(1) of this section may be required by the judge to 1546
post a bond in an amount fixed by the judge, but not exceeding the 1547
value of the building ~~involved~~, land, or subsidized housing as 1548
determined by the judge. 1549

The judge may empower the receiver to do any or all of the 1550
following: 1551

(1) Take possession and control of the building and the 1552
property on which ~~it~~ the building is located, land, or subsidized 1553
housing, operate and manage the building and ~~the property, land,~~ 1554
or subsidized housing, establish and collect rents and income, 1555
lease and rent the building and ~~the property, land, or subsidized~~ 1556
housing, and evict tenants; 1557

(2) Pay all expenses of operating and conserving the building 1558
and ~~the property, land, or subsidized housing~~, including, but not 1559
limited to, the cost of electricity, gas, water, sewerage, heating 1560
fuel, repairs and supplies, custodian services, taxes and 1561
assessments, and insurance premiums, and hire and pay reasonable 1562
compensation to a managing agent; 1563

(3) Pay pre-receivership mortgages or installments of them 1564
and other liens; 1565

(4) Perform or enter into contracts for the performance of 1566
all work and the furnishing of materials necessary to abate, and 1567
obtain financing for the abatement of, the public nuisance; 1568

(5) Pursuant to court order, remove and dispose of any 1569
personal property abandoned, stored, or otherwise located in or on 1570
the building and ~~the property, land, or subsidized housing~~ that 1571

creates a dangerous or unsafe condition or that constitutes a 1572
violation of any local building, housing, air pollution, 1573
sanitation, health, fire, zoning, or safety code, ordinance, or 1574
regulation; 1575

(6) Obtain mortgage insurance for any receiver's mortgage 1576
~~from any agency of the federal government;~~ 1577

(7) Enter into any agreement and do those things necessary to 1578
maintain and preserve the building and ~~the~~ property, land, or 1579
subsidized housing and comply with all local building, housing, 1580
air pollution, sanitation, health, fire, zoning, or safety codes, 1581
ordinances, resolutions, and regulations; 1582

(8) Give the custody of the building and ~~the~~ property, land, 1583
or subsidized housing, and the opportunity to abate the nuisance 1584
and operate the building and property, land, or subsidized 1585
housing, to its owner or any mortgagee or lienholder of record; 1586

(9) Issue notes and secure them by a mortgage bearing 1587
interest, and upon terms and conditions, that the judge approves. 1588
When sold or transferred by the receiver in return for valuable 1589
consideration in money, material, labor, or services, the notes or 1590
certificates shall be freely transferable. Any mortgages granted 1591
by the receiver shall be superior to any claims of the receiver. 1592
Priority among the receiver's mortgages shall be determined by the 1593
order in which they are recorded. 1594

(G) A receiver appointed pursuant to this section is not 1595
personally liable except for misfeasance, malfeasance, or 1596
nonfeasance in the performance of the functions of the office of 1597
receiver. 1598

(H)(1) The judge in a civil action described in division 1599
(B)(1) of this section may assess as court costs, the expenses 1600
described in division (F)(2) of this section, and may approve 1601
receiver's fees to the extent that they are not covered by the 1602

income from the property. Subject to that limitation, a receiver 1603
appointed pursuant to divisions (C)(2) and (3) of this section is 1604
entitled to receive fees in the same manner and to the same extent 1605
as receivers appointed in actions to foreclose mortgages. 1606

(2)(a) Pursuant to the police powers vested in the state, all 1607
expenditures of a mortgagee, lienholder, or other interested party 1608
that has been selected pursuant to division (C)~~(2)~~(1) of this 1609
section to undertake the work and to furnish the materials 1610
necessary to abate a public nuisance, and any expenditures in 1611
connection with the foreclosure of the lien created by this 1612
division, is a first lien upon the building ~~involved~~ and the 1613
property on which ~~it~~ the building is located, land, or subsidized 1614
housing and is superior to all prior and subsequent liens or other 1615
encumbrances associated with the building ~~or the~~ and property, 1616
land, or subsidized housing, including, but not limited to, those 1617
for taxes and assessments, upon the occurrence of both of the 1618
following: 1619

(i) The prior approval of the expenditures by, and the entry 1620
of a judgment to that effect by, the judge in the civil action 1621
described in division (B)(1) of this section; 1622

(ii) The recordation of a certified copy of the judgment 1623
entry and a sufficient description of the property on which the 1624
building is located, land, or subsidized housing with the county 1625
recorder in the county in which the property is located within 1626
sixty days after the date of the entry of the judgment. 1627

(b) Pursuant to the police powers vested in the state, all 1628
expenses and other amounts paid in accordance with division (F) of 1629
this section by a receiver appointed pursuant to divisions (C)(2) 1630
and (3) of this section, the amounts of any notes issued by the 1631
receiver in accordance with division (F) of this section, all 1632
mortgages granted by the receiver in accordance with that 1633
division, the fees of the receiver approved pursuant to division 1634

(H)(1) of this section, and any amounts expended in connection 1635
with the foreclosure of a mortgage granted by the receiver in 1636
accordance with division (F) of this section or with the 1637
foreclosure of the lien created by this division, are a first lien 1638
upon the building ~~involved~~ and the property on which ~~it~~ the 1639
building is located, land, or subsidized housing and are superior 1640
to all prior and subsequent liens or other encumbrances associated 1641
with the building ~~or the~~ and property, land, or subsidized 1642
housing, including, but not limited to, those for taxes and 1643
assessments, upon the occurrence of both of the following: 1644

(i) The approval of the expenses, amounts, or fees by, and 1645
the entry of a judgment to that effect by, the judge in the civil 1646
action described in division (B)(1) of this section; or the 1647
approval of the mortgages in accordance with division (F)(9) of 1648
this section by, and the entry of a judgment to that effect by, 1649
that judge; 1650

(ii) The recordation of a certified copy of the judgment 1651
entry and a sufficient description of the property on which the 1652
building is located, land, or subsidized housing, or, in the case 1653
of a mortgage, the recordation of the mortgage, a certified copy 1654
of the judgment entry, and such a description, with the county 1655
recorder of the county in which the property is located within 1656
sixty days after the date of the entry of the judgment. 1657

(c) Priority among the liens described in divisions (H)(2)(a) 1658
and (b) of this section shall be determined as described in 1659
division (I) of this section. Additionally, the creation pursuant 1660
to this section of a mortgage lien that is prior to or superior to 1661
any mortgage of record at the time the mortgage lien is so 1662
created, does not disqualify the mortgage of record as a legal 1663
investment under Chapter 1107. or 1151. or any other chapter of 1664
the Revised Code. 1665

(I)(1) If a receiver appointed pursuant to divisions (C)(2) 1666

and (3) of this section files with the judge in the civil action 1667
described in division (B)(1) of this section a report indicating 1668
that the public nuisance has been abated, if the judge confirms 1669
that the receiver has abated the public nuisance, and if the 1670
receiver or any interested party requests the judge to enter an 1671
order directing the receiver to sell the building and the property 1672
on which ~~it~~ the building is located, land, or subsidized housing, 1673
the judge may enter that order after holding a hearing as 1674
described in division (I)(2) of this section and otherwise 1675
complying with that division. 1676

(2)(a) The receiver or interested party requesting an order 1677
as described in division (I)(1) of this section shall cause a 1678
notice of the date and time of a hearing on the request to be 1679
served on the owner of the building ~~involved~~, land, or subsidized 1680
housing and all other interested parties in accordance with 1681
division (B)(2)(a) of this section. The judge in the civil action 1682
described in division (B)(1) of this section shall conduct the 1683
scheduled hearing. At the hearing, if the owner or any interested 1684
party objects to the sale of the building and ~~the property~~, land, 1685
or subsidized housing, the burden of proof shall be upon the 1686
objecting person to establish, by a preponderance of the evidence, 1687
that the benefits of not selling the building and ~~the property~~, 1688
land, or subsidized housing outweigh the benefits of selling them. 1689
If the judge determines that there is no objecting person, or if 1690
the judge determines that there is one or more objecting persons 1691
but no objecting person has sustained the burden of proof 1692
specified in this division, the judge may enter an order directing 1693
the receiver to offer the building and ~~the property~~, land, or 1694
subsidized housing for sale upon terms and conditions that the 1695
judge shall specify. 1696

(b) In any sale of subsidized housing that is ordered 1697
pursuant to this section, the judge shall specify that the 1698

subsidized housing not be conveyed unless that conveyance complies 1699
with applicable federal law and applicable program contracts for 1700
that housing. Any such conveyance shall be subject to the 1701
condition that the purchaser enter into a contract with the 1702
department of housing and urban development or the rural housing 1703
service of the federal department of agriculture under which the 1704
property continues to be subsidized housing and the owner 1705
continues to operate that property as subsidized housing unless 1706
the secretary of housing and urban development or the 1707
administrator of the rural housing service terminates that 1708
property's contract prior to or upon the conveyance of the 1709
property. 1710

(3) If a sale of a building and the property on which it is 1711
located, land, or subsidized housing is ordered pursuant to 1712
divisions (I)(1) and (2) of this section and if the sale occurs in 1713
accordance with the terms and conditions specified by the judge in 1714
the judge's order of sale, then the receiver shall distribute the 1715
proceeds of the sale and the balance of any funds that the 1716
receiver may possess, after the payment of the costs of the sale, 1717
in the following order of priority and in the described manner: 1718

(a) First, in satisfaction of any notes issued by the 1719
receiver pursuant to division (F) of this section, in their order 1720
of priority; 1721

(b) Second, any unreimbursed expenses and other amounts paid 1722
in accordance with division (F) of this section by the receiver, 1723
and the fees of the receiver approved pursuant to division (H)(1) 1724
of this section; 1725

(c) Third, all expenditures of a mortgagee, lienholder, or 1726
other interested party that has been selected pursuant to division 1727
(C)~~(2)~~(1) of this section to undertake the work and to furnish the 1728
materials necessary to abate a public nuisance, provided that the 1729
expenditures were approved as described in division (H)(2)(a) of 1730

this section and provided that, if any such interested party 1731
subsequently became the receiver, its expenditures shall be paid 1732
prior to the expenditures of any of the other interested parties 1733
so selected; 1734

(d) Fourth, the amount due for delinquent taxes, assessments, 1735
charges, penalties, and interest owed to this state or a political 1736
subdivision of this state, provided that, if the amount available 1737
for distribution pursuant to division (I)(3)(d) of this section is 1738
insufficient to pay the entire amount of those taxes, assessments, 1739
charges, penalties, and interest, the proceeds and remaining funds 1740
shall be paid to each claimant in proportion to the amount of 1741
those taxes, assessments, charges, penalties, and interest that 1742
each is due. 1743

(e) The amount of any pre-receivership mortgages, liens, or 1744
other encumbrances, in their order of priority. 1745

(4) Following a distribution in accordance with division 1746
(I)(3) of this section, the receiver shall request the judge in 1747
the civil action described in division (B)(1) of this section to 1748
enter an order terminating the receivership. If the judge 1749
determines that the sale of the building and the property on which 1750
it is located, land, or subsidized housing occurred in accordance 1751
with the terms and conditions specified by the judge in the 1752
judge's order of sale under division (I)(2) of this section and 1753
that the receiver distributed the proceeds of the sale and the 1754
balance of any funds that the receiver possessed, after the 1755
payment of the costs of the sale, in accordance with division 1756
(I)(3) of this section, and if the judge approves any final 1757
accounting required of the receiver, the judge may terminate the 1758
receivership. 1759

(J)(1) A receiver appointed pursuant to divisions (C)(2) and 1760
(3) of this section may be discharged at any time in the 1761
discretion of the judge in the civil action described in division 1762

(B)(1) of this section. The receiver shall be discharged by the judge as provided in division (I)(4) of this section, or when all of the following have occurred:

(a) The public nuisance has been abated;

(b) All costs, expenses, and approved fees of the receivership have been paid;

(c) Either all receiver's notes issued and mortgages granted pursuant to this section have been paid, or all the holders of the notes and mortgages request that the receiver be discharged.

(2) If a judge in a civil action described in division (B)(1) of this section determines that, and enters of record a declaration that, a public nuisance has been abated by a receiver, and if, within three days after the entry of the declaration, all costs, expenses, and approved fees of the receivership have not been paid in full, then, in addition to the circumstances specified in division (I) of this section for the entry of such an order, the judge may enter an order directing the receiver to sell the building ~~involved~~ and the property on which ~~it~~ the building is located, land, or subsidized housing. Any such order shall be entered, and the sale shall occur, only in compliance with division (I) of this section.

(K) The title in any building, ~~and~~ in the property on which ~~it~~ the building is located, land, or subsidized housing, that is sold at a sale ordered under division (I) or (J)(2) of this section shall be incontestable in the purchaser and shall be free and clear of all liens for delinquent taxes, assessments, charges, penalties, and interest owed to this state or any political subdivision of this state, that could not be satisfied from the proceeds of the sale and the remaining funds in the receiver's possession pursuant to the distribution under division (I)(3) of this section. ~~All~~ and of all other liens and encumbrances with

respect to the building and the property ~~shall survive the sale,~~ 1794
~~including, but not limited to, land, or subsidized housing, except~~ 1795
a federal tax lien notice that was properly filed in accordance 1796
with section 317.09 of the Revised Code prior to the time of the 1797
sale, and the easements and covenants of record running with the 1798
property that were created prior to the time of the sale. 1799

(L)(1) Nothing in this section shall be construed as a 1800
limitation upon the powers granted to a court of common pleas, a 1801
municipal court or a housing or environmental division of a 1802
municipal court under Chapter 1901. of the Revised Code, or a 1803
county court under Chapter 1907. of the Revised Code. 1804

(2) The monetary and other limitations specified in Chapters 1805
1901. and 1907. of the Revised Code upon the jurisdiction of 1806
municipal and county courts, and of housing or environmental 1807
divisions of municipal courts, in civil actions do not operate as 1808
limitations upon any of the following: 1809

(a) Expenditures of a mortgagee, lienholder, or other 1810
interested party that has been selected pursuant to division 1811
(C)(2) of this section to undertake the work and to furnish the 1812
materials necessary to abate a public nuisance; 1813

(b) Any notes issued by a receiver pursuant to division (F) 1814
of this section; 1815

(c) Any mortgage granted by a receiver in accordance with 1816
division (F) of this section; 1817

(d) Expenditures in connection with the foreclosure of a 1818
mortgage granted by a receiver in accordance with division (F) of 1819
this section; 1820

(e) The enforcement of an order of a judge entered pursuant 1821
to this section; 1822

(f) The actions that may be taken pursuant to this section by 1823

a receiver or a mortgagee, lienholder, or other interested party 1824
that has been selected pursuant to division (C)~~(2)~~(1) of this 1825
section to undertake the work and to furnish the materials 1826
necessary to abate a public nuisance. 1827

(3) A judge in a civil action described in division (B)(1) of 1828
this section, or the judge's successor in office, has continuing 1829
jurisdiction to review the condition of any building, land, or 1830
subsidized housing that was determined to be a public nuisance 1831
pursuant to this section. 1832

(4) Nothing in this section shall be construed to limit or 1833
prohibit a municipal corporation or township that has filed with 1834
the superintendent of insurance a certified copy of an adopted 1835
resolution, ordinance, or regulation authorizing the procedures 1836
described in divisions (C) and (D) of section 3929.86 of the 1837
Revised Code from receiving insurance proceeds under section 1838
3929.86 of the Revised Code. 1839

Section 2. That existing sections 317.13, 323.47, 2303.201, 1840
2323.07, 2329.01, 2329.02, 2329.07, 2329.09, 2329.191, 2329.26, 1841
2329.31, 2329.33, 2329.36, and 3767.41 of the Revised Code are 1842
hereby repealed. 1843