

As Introduced

**127th General Assembly
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H. B. No. 531

Representative Goyal

**Cosponsors: Representatives Foley, Yuko, McGregor, J., Skindell,
Hagan, R., Celeste, Brown, Williams, S., Otterman, J., Stewart, D., Letson**

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A BILL

To amend section 3767.41 of the Revised Code to 1
expand the law governing the abatement of public 2
nuisances to buildings not occupied by an owner as 3
a primary residence with three or fewer 4
residential units and to vacant land and to make 5
the title in property sold by court order pursuant 6
to a public nuisance action free and clear of most 7
liens and encumbrances. 8

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

Section 1. That section 3767.41 of the Revised Code be 9
amended to read as follows: 10

Sec. 3767.41. (A) As used in this section: 11

(1) "Building" means, ~~except as otherwise provided in this~~ 12
~~division,~~ any building or structure ~~that is used or intended to be~~ 13
~~used for residential purposes.~~ "Building" includes, but is not 14
~~limited to,~~ a building or structure in which any floor is used for 15
~~retail stores, shops, salesrooms, markets, or similar commercial~~ 16
~~uses, or for offices, banks, civic administration activities,~~ 17
~~professional services, or similar business or civic uses, and in~~ 18

~~which the other floors are used, or designed and intended to be used, for residential purposes. "Building" does not include any except a building or structure that is occupied by its owner and that contains three or fewer residential units, with one of the residential units being occupied by the owner of the building or structure.~~ 19
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(2) "Land" means any parcel of land that is not the site of a building or other structure. 25
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(3)(a) "Public nuisance" as it applies to a building means a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, or is otherwise dangerous to human life, or; that is otherwise no longer fit and habitable if the building is used or designed to be used for residential purposes; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment. 27
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(b) "Public nuisance" as it applies to land means land that constitutes a hazard to the public health, welfare, or safety by reason of unsafe or unsanitary conditions. 37
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(c) "Public nuisance" as it applies to subsidized housing means subsidized housing that fails to meet the following standards as specified in the federal rules governing each standard: 40
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(i) Each building on the site is structurally sound, secure, habitable, and in good repair, as defined in 24 C.F.R. 5.703(b); 44
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(ii) Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system is free of health and safety hazards, functionally adequate, operable, and in good repair, as defined in 24 C.F.R. 46
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5.703(c);	50
(iii) Each dwelling unit within the building is structurally sound, habitable, and in good repair, and all areas and aspects of the dwelling unit are free of health and safety hazards, functionally adequate, operable, and in good repair, as defined in 24 C.F.R. 5.703(d)(1);	51 52 53 54 55
(iv) Where applicable, the dwelling unit has hot and cold running water, including an adequate source of potable water, as defined in 24 C.F.R. 5.703(d)(2);	56 57 58
(v) If the dwelling unit includes its own sanitary facility, it is in proper operating condition, usable in privacy, and adequate for personal hygiene, and the disposal of human waste, as defined in 24 C.F.R. 5.703(d)(3);	59 60 61 62
(vi) The common areas are structurally sound, secure, and functionally adequate for the purposes intended. The basement, garage, carport, restrooms, closets, utility, mechanical, community rooms, daycare, halls, corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas are free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, smoke detectors, stairs, walls, and windows, to the extent applicable, are free of health and safety hazards, operable, and in good repair, as defined in 24 C.F.R. 5.703(e);	63 64 65 66 67 68 69 70 71 72
(vii) All areas and components of the housing are free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint, as defined in 24 C.F.R. 5.703(f).	73 74 75 76 77 78
(3)(4) "Abate" or "abatement" in connection with any building means the removal or correction of any conditions that constitute	79 80

a public nuisance and in connection with any building includes the 81
making of any other improvements that are needed to effect a 82
rehabilitation of the building that is consistent with maintaining 83
safe and habitable conditions over its remaining useful life. 84
~~"Abatement" does not include the~~ The closing or boarding up of any 85
building that is found to be a public nuisance, by itself, does 86
not serve as an abatement of the public nuisance. 87

~~(4)~~(5) "Interested party" means any owner, mortgagee, 88
lienholder, tenant, or person that possesses an interest of record 89
in any property that becomes subject to the jurisdiction of a 90
court pursuant to this section, and any applicant for the 91
appointment of a receiver pursuant to this section. 92

~~(5)~~(6) "Neighbor" means any owner of real property, 93
including, but not limited to, any person who is purchasing real 94
property by land installment contract or under a duly executed 95
purchase contract, that is located within five hundred feet of any 96
real property that becomes subject to the jurisdiction of a court 97
pursuant to this section, and any occupant of a building that is 98
so located. 99

~~(6)~~(7) "Tenant" has the same meaning as in section 5321.01 of 100
the Revised Code. 101

~~(7)~~(8) "Subsidized housing" means a property consisting of 102
more than four dwelling units that, in whole or in part, receives 103
project-based assistance pursuant to a contract under any of the 104
following federal housing programs: 105

(a) The new construction or substantial rehabilitation 106
program under section 8(b)(2) of the "United States Housing Act of 107
1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(b)(2) as 108
that program was in effect immediately before the first day of 109
October, 1983; 110

(b) The moderate rehabilitation program under section 8(e)(2) 111

of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(e)(2);

(c) The loan management assistance program under section 8 of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f;

(d) The rent supplement program under section 101 of the "Housing and Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat. 667, 12 U.S.C. 1701s;

(e) Section 8 of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f, following conversion from assistance under section 101 of the "Housing and Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat. 667, 12 U.S.C. 1701s;

(f) The program of supportive housing for the elderly under section 202 of the "Housing Act of 1959," Pub. L. No. 86-372, 73 Stat. 654, 12 U.S.C. 1701q;

(g) The program of supportive housing for persons with disabilities under section 811 of the "National Affordable Housing Act of 1990," Pub. L. No. 101-625, 104 Stat. 4313, 42 U.S.C. 8013;

(h) The rental assistance program under section 521 of the "United States Housing Act of 1949," Pub. L. No. 90-448, 82 Stat. 551, as amended by Pub. L. No. 93-383, 88 Stat. 696, 42 U.S.C. 1490a.

~~(8)~~(9) "Project-based assistance" means the assistance is attached to the property and provides rental assistance only on behalf of tenants who reside in that property.

~~(9)~~(10) "Landlord" has the same meaning as in section 5321.01 of the Revised Code.

(B)(1)(a) In any civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or

safety code, ordinance, or regulation applicable to buildings, 142
lands, or subsidized housing that is commenced in a court of 143
common pleas, municipal court, housing or environmental division 144
of a municipal court, or county court, or in any civil action for 145
abatement commenced in a court of common pleas, municipal court, 146
housing or environmental division of a municipal court, or county 147
court, by a municipal corporation in which the building, land, or 148
subsidized housing involved is located, by any neighbor, tenant, 149
or by a nonprofit corporation that is duly organized and has as 150
one of its goals the improvement of housing conditions in the 151
county or municipal corporation in which the building, land, or 152
subsidized housing involved is located, if a building, land, or 153
subsidized housing is alleged to be a public nuisance, the 154
municipal corporation, neighbor, tenant, or nonprofit corporation 155
may apply in its complaint for an injunction or other order as 156
described in division (C)(1) of this section, or for the relief 157
described in division (C)(2) of this section, including, if 158
necessary, the appointment of a receiver as described in divisions 159
(C)(2) and (3) of this section, or for both such an injunction or 160
other order and such relief. The municipal corporation, neighbor, 161
tenant, or nonprofit corporation commencing the action is not 162
liable for the costs, expenses, and fees of any receiver appointed 163
pursuant to divisions (C)(2) and (3) of this section. 164

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(b) Prior to commencing a civil action for abatement when the 166
property alleged to be a public nuisance is subsidized housing, 167
the municipal corporation, neighbor, tenant, or nonprofit 168
corporation commencing the action shall provide the landlord of 169
that property with written notice that specifies one or more 170
defective conditions that constitute a public nuisance as that 171
term applies to subsidized housing and states that if the landlord 172
fails to remedy the condition within sixty days of the service of 173
the notice, a claim pursuant to this section may be brought on the 174

basis that the property constitutes a public nuisance in 175
subsidized housing. Any party authorized to bring an action 176
against the landlord shall make reasonable attempts to serve the 177
notice in the manner prescribed in the Rules of Civil Procedure to 178
the landlord or the landlord's agent for the property at the 179
property's management office, or at the place where the tenants 180
normally pay or send rent. If the landlord is not the owner of 181
record, the party bringing the action shall make a reasonable 182
attempt to serve the owner. If the owner does not receive service 183
the person bringing the action shall certify the attempts to serve 184
the owner. 185

(2)(a) In a civil action described in division (B)(1) of this 186
section, a copy of the complaint and a notice of the date and time 187
of a hearing on the complaint shall be served upon the owner of 188
the building, land, or subsidized housing and all other interested 189
parties in accordance with the Rules of Civil Procedure. If 190
certified mail service, personal service, or residence service of 191
the complaint and notice is refused or certified mail service of 192
the complaint and notice is not claimed, and if the municipal 193
corporation, neighbor, tenant, or nonprofit corporation commencing 194
the action makes a written request for ordinary mail service of 195
the complaint and notice, or uses publication service, in 196
accordance with the Rules of Civil Procedure, then a copy of the 197
complaint and notice shall be posted in a conspicuous place on the 198
building, land, or subsidized housing. 199

(b) The judge in a civil action described in division (B)(1) 200
of this section ~~shall~~ may conduct a summary hearing to consider 201
and issue any temporary orders that are necessary to protect the 202
public health, welfare, and safety pending further proceedings. 203

(c) The judge shall conduct a hearing on the complaint at 204
least twenty-eight days after the owner of the building, land, or 205
subsidized housing and the other interested parties have been 206

served with a copy of the complaint and the notice of the date and 207
time of the hearing in accordance with division (B)(2)(a) of this 208
section. 209

~~(e)~~(d) In considering whether subsidized housing is a public 210
nuisance, the judge shall construe the standards set forth in 211
division ~~(A)(2)(b)~~(A)(3)(c) of this section in a manner consistent 212
with department of housing and urban development and judicial 213
interpretations of those standards. The judge shall deem that the 214
property is not a public nuisance if during the twelve months 215
prior to the service of the notice that division (B)(1)(b) of this 216
section requires, the department of housing and urban 217
development's real estate assessment center issued a score of 218
seventy-five or higher out of a possible one hundred points 219
pursuant to its regulations governing the physical condition of 220
multifamily properties pursuant to 24 C.F.R. part 200, subpart P, 221
and since the most recent inspection, there has been no 222
significant change in the property's conditions that would create 223
a serious threat to the health, safety, or welfare of the 224
property's tenants. 225

(C)(1) If the judge in a civil action described in division 226
(B)(1) of this section finds at the hearing required by division 227
(B)(2) of this section that the building involved, land, or 228
subsidized housing is a public nuisance, if the judge additionally 229
determines that the owner of the building, land, or subsidized 230
housing previously has not been afforded a reasonable opportunity 231
to abate the public nuisance or has been afforded such an 232
opportunity and has not refused or failed to abate the public 233
nuisance, and if the complaint of the municipal corporation, 234
neighbor, tenant, or nonprofit corporation commencing the action 235
requested the issuance of an injunction as described in this 236
division, then the judge may issue an injunction requiring the 237
owner of the building, land, or subsidized housing to abate the 238

public nuisance or issue any other order that the judge considers 239
necessary or appropriate to cause the abatement of the public 240
nuisance. If an injunction is issued pursuant to this division, 241
the owner of the building ~~involved, land, or subsidized housing~~ 242
shall be given no more than thirty days from the date of the entry 243
of the judge's order to comply with the injunction, unless the 244
judge, for good cause shown, extends the time for compliance. 245

~~(2) If the judge in a civil action described in division 246
(B)(1) of this section finds at the hearing required by division 247
(B)(2) of this section that the involves a building involved is a 248
public nuisance, if and the judge additionally determines that the 249
owner of the building previously has been afforded a reasonable 250
opportunity to abate the public nuisance and has refused or failed 251
to do so, and if the complaint of the municipal corporation, 252
neighbor, tenant, or nonprofit corporation commencing the action 253
requested relief as described in this division, then the judge 254
shall offer any mortgagee, lienholder, or other interested party 255
associated with the property on which the building is located, in 256
the order of the priority of interest in title, the opportunity to 257
undertake the work and to furnish the materials necessary to abate 258
the public nuisance. Prior to selecting any interested party, the 259
judge shall require the interested party to demonstrate the 260
ability to promptly undertake the work and furnish the materials 261
required, to provide the judge with a viable financial and 262
construction plan for the rehabilitation of the building as 263
described in division (D) of this section, and to post security 264
for the performance of the work and the furnishing of the 265
materials. 266
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(2) If the judge determines, at the hearing, that the owner 268
of the building, land, or subsidized housing previously has been 269
afforded a reasonable opportunity to abate the public nuisance and 270

has refused or failed to do so and, if the civil action involves a 271
building, that no interested party associated with the property on 272
which the building is located is willing or able to undertake the 273
work and to furnish the materials necessary to abate the public 274
nuisance, or if the judge determines, at any time after the 275
hearing, that any party who is undertaking corrective work 276
pursuant to this division cannot or will not proceed, or has not 277
proceeded with due diligence, the judge may appoint a receiver 278
pursuant to division (C)(3) of this section to take possession and 279
control of the building, land, or subsidized housing. 280

(3)(a) The judge in a civil action described in division 281
(B)(1) of this section shall not appoint any person as a receiver 282
unless the person first has provided the judge with a viable 283
financial and construction plan for the rehabilitation of the 284
building involved, land, or subsidized housing as described in 285
division (D) of this section and has demonstrated the capacity and 286
expertise to perform the required work and to furnish the required 287
materials in a satisfactory manner. An appointed receiver may be a 288
financial institution that possesses an interest of record in the 289
building or the property on which it is located, land, or 290
subsidized housing, a nonprofit corporation as described in 291
divisions (B)(1) and (C)(3)(b) of this section, including, but not 292
limited to, a nonprofit corporation that commenced the action 293
described in division (B)(1) of this section, or any other 294
qualified property manager. 295

(b) To be eligible for appointment as a receiver, no part of 296
the net earnings of a nonprofit corporation shall inure to the 297
benefit of any private shareholder or individual. Membership on 298
the board of trustees of a nonprofit corporation appointed as a 299
receiver does not constitute the holding of a public office or 300
employment within the meaning of sections 731.02 and 731.12 or any 301
other section of the Revised Code and does not constitute a direct 302

or indirect interest in a contract or expenditure of money by any 303
municipal corporation. A member of a board of trustees of a 304
nonprofit corporation appointed as a receiver shall not be 305
disqualified from holding any public office or employment, and 306
shall not forfeit any public office or employment, by reason of 307
membership on the board of trustees, notwithstanding any law to 308
the contrary. 309

(D) Prior to ordering an owner, interested party, or receiver 310
to undertake any work ~~to be undertaken, or the furnishing of any~~ 311
~~materials,~~ to abate a public nuisance under this section, the 312
judge in a civil action described in division (B)(1) of this 313
section shall review the submitted financial and construction plan 314
for the rehabilitation of the building involved, land, or 315
subsidized housing and, if it specifies all of the following, 316
shall approve that plan: 317

(1) The estimated cost of the labor, materials, and any other 318
development costs that are required to abate the public nuisance; 319

(2) The estimated income and expenses of the building and the 320
property on which it is located, land, or subsidized housing after 321
the furnishing of the materials and the completion of the repairs 322
and improvements; 323

(3) The terms, conditions, and availability of any financing 324
that is necessary to perform the work and to furnish the 325
materials; 326

(4) If repair and rehabilitation of ~~the~~ a building are found 327
not to be feasible, the cost of demolition of the building or of 328
the portions of the building that constitute the public nuisance. 329

(E) Upon the written request of any of the interested parties 330
to have a building, or portions of a building, that constitute a 331
public nuisance demolished because repair and rehabilitation of 332
the building are found not to be feasible, the judge may order the 333

demolition. However, the demolition shall not be ordered unless 334
the requesting interested parties have paid the costs of 335
demolition and, if any, of the receivership, and, if any, all 336
notes, certificates, mortgages, and fees of the receivership. 337

(F) Before proceeding with the duties of receiver, any 338
receiver appointed by the judge in a civil action described in 339
division (B)(1) of this section may be required by the judge to 340
post a bond in an amount fixed by the judge, but not exceeding the 341
value of the building ~~involved, land, or subsidized housing~~ as 342
determined by the judge. 343

The judge may empower the receiver to do any or all of the 344
following: 345

(1) Take possession and control of the building and the 346
property on which it is located, land, or subsidized housing, 347
operate and manage the building and ~~the property, land, or~~ 348
subsidized housing, establish and collect rents and income, lease 349
and rent the building and ~~the property, land, or subsidized~~ 350
housing, and evict tenants; 351

(2) Pay all expenses of operating and conserving the building 352
and the property, land, or subsidized housing, including, but not 353
limited to, the cost of electricity, gas, water, sewerage, heating 354
fuel, repairs and supplies, custodian services, taxes and 355
assessments, and insurance premiums, and hire and pay reasonable 356
compensation to a managing agent; 357

(3) Pay pre-receivership mortgages or installments of them 358
and other liens; 359

(4) Perform or enter into contracts for the performance of 360
all work and the furnishing of materials necessary to abate, and 361
obtain financing for the abatement of, the public nuisance; 362

(5) Pursuant to court order, remove and dispose of any 363
personal property abandoned, stored, or otherwise located in or on 364

the building and the property on which the building is located, 365
land, or subsidized housing that creates a dangerous or unsafe 366
condition or that constitutes a violation of any local building, 367
housing, air pollution, sanitation, health, fire, zoning, or 368
safety code, ordinance, or regulation; 369

(6) Obtain mortgage insurance for any receiver's mortgage 370
~~from any agency of the federal government;~~ 371

(7) Enter into any agreement and do those things necessary to 372
maintain and preserve the building and the property on which the 373
building is located, land, or subsidized housing and comply with 374
all local building, housing, air pollution, sanitation, health, 375
fire, zoning, or safety codes, ordinances, and regulations; 376

(8) Give the custody of the building and the property on 377
which the building is located, land, or subsidized housing, and 378
the opportunity to abate the nuisance and operate the building and 379
property, land, or subsidized housing, to its owner or any 380
mortgagee or lienholder of record; 381

(9) Issue notes and secure them by a mortgage bearing 382
interest, and upon terms and conditions, that the judge approves. 383
When sold or transferred by the receiver in return for valuable 384
consideration in money, material, labor, or services, the notes or 385
certificates shall be freely transferable. Any mortgages granted 386
by the receiver shall be superior to any claims of the receiver. 387
Priority among the receiver's mortgages shall be determined by the 388
order in which they are recorded. 389

(G) A receiver appointed pursuant to this section is not 390
personally liable except for misfeasance, malfeasance, or 391
nonfeasance in the performance of the functions of the office of 392
receiver. 393

(H)(1) The judge in a civil action described in division 394
(B)(1) of this section may assess as court costs, the expenses 395

described in division (F)(2) of this section, and may approve 396
receiver's fees to the extent that they are not covered by the 397
income from the property. Subject to that limitation, a receiver 398
appointed pursuant to divisions (C)(2) and (3) of this section is 399
entitled to receive fees in the same manner and to the same extent 400
as receivers appointed in actions to foreclose mortgages. 401

(2)(a) Pursuant to the police powers vested in the state, all 402
expenditures of a mortgagee, lienholder, or other interested party 403
that has been selected pursuant to division (C)~~(2)~~(1) of this 404
section to undertake the work and to furnish the materials 405
necessary to abate a public nuisance, and any expenditures in 406
connection with the foreclosure of the lien created by this 407
division, is a first lien upon the building ~~involved~~ and the 408
property on which ~~it~~ the building is located, land, or subsidized 409
housing and is superior to all prior and subsequent liens or other 410
encumbrances associated with the building ~~or the~~ and property, 411
land, or subsidized housing including, but not limited to, those 412
for taxes and assessments, upon the occurrence of both of the 413
following: 414

(i) The prior approval of the expenditures by, and the entry 415
of a judgment to that effect by, the judge in the civil action 416
described in division (B)(1) of this section; 417

(ii) The recordation of a certified copy of the judgment 418
entry and a sufficient description of the property on which the 419
building is located, land, or subsidized housing with the county 420
recorder in the county in which the property is located within 421
sixty days after the date of the entry of the judgment. 422

(b) Pursuant to the police powers vested in the state, all 423
expenses and other amounts paid in accordance with division (F) of 424
this section by a receiver appointed pursuant to divisions (C)(2) 425
and (3) of this section, the amounts of any notes issued by the 426
receiver in accordance with division (F) of this section, all 427

mortgages granted by the receiver in accordance with that 428
division, the fees of the receiver approved pursuant to division 429
(H)(1) of this section, and any amounts expended in connection 430
with the foreclosure of a mortgage granted by the receiver in 431
accordance with division (F) of this section or with the 432
foreclosure of the lien created by this division, are a first lien 433
upon the building ~~involved~~ and the property on which ~~it~~ the 434
building is located, land, or subsidized housing and are superior 435
to all prior and subsequent liens or other encumbrances associated 436
with the building ~~or the~~ and property, land, or subsidized 437
housing, including, but not limited to, those for taxes and 438
assessments, upon the occurrence of both of the following: 439

(i) The approval of the expenses, amounts, or fees by, and 441
the entry of a judgment to that effect by, the judge in the civil 442
action described in division (B)(1) of this section; or the 443
approval of the mortgages in accordance with division (F)(9) of 444
this section by, and the entry of a judgment to that effect by, 445
that judge; 446

(ii) The recordation of a certified copy of the judgment 447
entry and a sufficient description of the property on which the 448
building is located, land, or subsidized housing, or, in the case 449
of a mortgage, the recordation of the mortgage, a certified copy 450
of the judgment entry, and such a description, with the county 451
recorder of the county in which the property is located within 452
sixty days after the date of the entry of the judgment. 453

(c) Priority among the liens described in divisions (H)(2)(a) 454
and (b) of this section shall be determined as described in 455
division (I) of this section. Additionally, the creation pursuant 456
to this section of a mortgage lien that is prior to or superior to 457
any mortgage of record at the time the mortgage lien is so 458
created, does not disqualify the mortgage of record as a legal 459

investment under Chapter 1107. or 1151. or any other chapter of 460
the Revised Code. 461

(I)(1) If a receiver appointed pursuant to divisions (C)(2) 462
and (3) of this section files with the judge in the civil action 463
described in division (B)(1) of this section a report indicating 464
that the public nuisance has been abated, if the judge confirms 465
that the receiver has abated the public nuisance, and if the 466
receiver or any interested party requests the judge to enter an 467
order directing the receiver to sell the building and the property 468
on which ~~it~~ the building is located, land, or subsidized housing, 469
the judge may enter that order after holding a hearing as 470
described in division (I)(2) of this section and otherwise 471
complying with that division. 472

(2)(a) The receiver or interested party requesting an order 473
as described in division (I)(1) of this section shall cause a 474
notice of the date and time of a hearing on the request to be 475
served on the owner of the building ~~involved~~, land, or subsidized 476
housing and all other interested parties in accordance with 477
division (B)(2)(a) of this section. The judge in the civil action 478
described in division (B)(1) of this section shall conduct the 479
scheduled hearing. At the hearing, if the owner or any interested 480
party objects to the sale of the building and ~~the property~~, land, 481
or subsidized housing, the burden of proof shall be upon the 482
objecting person to establish, by a preponderance of the evidence, 483
that the benefits of not selling the building and ~~the property~~, 484
land, or subsidized housing outweigh the benefits of selling them. 485
If the judge determines that there is no objecting person, or if 486
the judge determines that there is one or more objecting persons 487
but no objecting person has sustained the burden of proof 488
specified in this division, the judge may enter an order directing 489
the receiver to offer the building and ~~the property~~, land, or 490
subsidized housing for sale upon terms and conditions that the 491

judge shall specify. 492

(b) In any sale of subsidized housing that is ordered 493
pursuant to this section, the judge shall specify that the 494
subsidized housing not be conveyed unless that conveyance complies 495
with applicable federal law and applicable program contracts for 496
that housing. Any such conveyance shall be subject to the 497
condition that the purchaser enter into a contract with the 498
department of housing and urban development or the rural housing 499
service of the federal department of agriculture under which the 500
property continues to be subsidized housing and the owner 501
continues to operate that property as subsidized housing unless 502
the secretary of housing and urban development or the 503
administrator of the rural housing service terminates that 504
property's contract prior to or upon the conveyance of the 505
property. 506

(3) If a sale of a building and the property, on which it is 507
located, land, or subsidized housing is ordered pursuant to 508
divisions (I)(1) and (2) of this section and if the sale occurs in 509
accordance with the terms and conditions specified by the judge in 510
the judge's order of sale, then the receiver shall distribute the 511
proceeds of the sale and the balance of any funds that the 512
receiver may possess, after the payment of the costs of the sale, 513
in the following order of priority and in the described manner: 514
515

(a) First, in satisfaction of any notes issued by the 516
receiver pursuant to division (F) of this section, in their order 517
of priority; 518

(b) Second, any unreimbursed expenses and other amounts paid 519
in accordance with division (F) of this section by the receiver, 520
and the fees of the receiver approved pursuant to division (H)(1) 521
of this section; 522

(c) Third, all expenditures of a mortgagee, lienholder, or 523
other interested party that has been selected pursuant to division 524
(C)~~(2)~~(1) of this section to undertake the work and to furnish the 525
materials necessary to abate a public nuisance, provided that the 526
expenditures were approved as described in division (H)(2)(a) of 527
this section and provided that, if any such interested party 528
subsequently became the receiver, its expenditures shall be paid 529
prior to the expenditures of any of the other interested parties 530
so selected; 531

(d) Fourth, the amount due for delinquent taxes, assessments, 532
charges, penalties, and interest owed to this state or a political 533
subdivision of this state, provided that, if the amount available 534
for distribution pursuant to division (I)(3)(d) of this section is 535
insufficient to pay the entire amount of those taxes, assessments, 536
charges, penalties, and interest, the proceeds and remaining funds 537
shall be paid to each claimant in proportion to the amount of 538
those taxes, assessments, charges, penalties, and interest that 539
each is due. 540

(e) The amount of any pre-receivership mortgages, liens, or 541
other encumbrances, in their order of priority. 542

(4) Following a distribution in accordance with division 543
(I)(3) of this section, the receiver shall request the judge in 544
the civil action described in division (B)(1) of this section to 545
enter an order terminating the receivership. If the judge 546
determines that the sale of the building and the property on which 547
it is located, land, or subsidized housing, occurred in accordance 548
with the terms and conditions specified by the judge in the 549
judge's order of sale under division (I)(2) of this section and 550
that the receiver distributed the proceeds of the sale and the 551
balance of any funds that the receiver possessed, after the 552
payment of the costs of the sale, in accordance with division 553
(I)(3) of this section, and if the judge approves any final 554

accounting required of the receiver, the judge may terminate the 555
receivership. 556

(J)(1) A receiver appointed pursuant to divisions (C)(2) and 557
(3) of this section may be discharged at any time in the 558
discretion of the judge in the civil action described in division 559
(B)(1) of this section. The receiver shall be discharged by the 560
judge as provided in division (I)(4) of this section, or when all 561
of the following have occurred: 562

(a) The public nuisance has been abated; 563

(b) All costs, expenses, and approved fees of the 564
receivership have been paid; 565

(c) Either all receiver's notes issued and mortgages granted 566
pursuant to this section have been paid, or all the holders of the 567
notes and mortgages request that the receiver be discharged. 568

(2) If a judge in a civil action described in division (B)(1) 569
of this section determines that, and enters of record a 570
declaration that, a public nuisance has been abated by a receiver, 571
and if, within three days after the entry of the declaration, all 572
costs, expenses, and approved fees of the receivership have not 573
been paid in full, then, in addition to the circumstances 574
specified in division (I) of this section for the entry of such an 575
order, the judge may enter an order directing the receiver to sell 576
the building ~~involved~~ and the property on which ~~it~~ the building is 577
located, land, or subsidized housing. Any such order shall be 578
entered, and the sale shall occur, only in compliance with 579
division (I) of this section. 580

(K) The title in any building, ~~and~~ in the property on which 581
~~it~~ the building is located, land, or subsidized housing, that is 582
sold at a sale ordered under division (I) or (J)(2) of this 583
section shall be incontestable in the purchaser and shall be free 584
and clear of all liens for delinquent taxes, assessments, charges, 585

penalties, and interest owed to this state or any political 586
subdivision of this state, that could not be satisfied from the 587
proceeds of the sale and the remaining funds in the receiver's 588
possession pursuant to the distribution under division (I)(3) of 589
this section. ~~All and of all~~ other liens and encumbrances with 590
respect to the building and the property ~~shall survive the sale,~~ 591
~~including, but not limited to, land, or subsidized housing, except~~ 592
a federal tax lien notice that was properly filed in accordance 593
with section 317.09 of the Revised Code prior to the time of the 594
sale, and the easements and covenants of record running with the 595
property that were created prior to the time of the sale. 596

(L)(1) Nothing in this section shall be construed as a 598
limitation upon the powers granted to a court of common pleas, a 599
municipal court or a housing or environmental division of a 600
municipal court under Chapter 1901. of the Revised Code, or a 601
county court under Chapter 1907. of the Revised Code. 602

(2) The monetary and other limitations specified in Chapters 603
1901. and 1907. of the Revised Code upon the jurisdiction of 604
municipal and county courts, and of housing or environmental 605
divisions of municipal courts, in civil actions do not operate as 606
limitations upon any of the following: 607

(a) Expenditures of a mortgagee, lienholder, or other 608
interested party that has been selected pursuant to division 609
(C)~~(2)~~(1) of this section to undertake the work and to furnish the 610
materials necessary to abate a public nuisance; 611

(b) Any notes issued by a receiver pursuant to division (F) 612
of this section; 613

(c) Any mortgage granted by a receiver in accordance with 614
division (F) of this section; 615

(d) Expenditures in connection with the foreclosure of a 616

mortgage granted by a receiver in accordance with division (F) of 617
this section; 618

(e) The enforcement of an order of a judge entered pursuant 619
to this section; 620

(f) The actions that may be taken pursuant to this section by 621
a receiver or a mortgagee, lienholder, or other interested party 622
that has been selected pursuant to division (C)~~(2)~~(1) of this 623
section to undertake the work and to furnish the materials 624
necessary to abate a public nuisance. 625

(3) A judge in a civil action described in division (B)(1) of 626
this section, or the judge's successor in office, has continuing 627
jurisdiction to review the condition of any building, land, or 628
subsidized housing that was determined to be a public nuisance 629
pursuant to this section. 630

Section 2. That existing section 3767.41 of the Revised Code 631
is hereby repealed. 632