

**As Introduced**

**127th General Assembly  
Regular Session  
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**S. B. No. 277**

**Senator Stivers**

**Cosponsors: Senators Seitz, Miller, D., Kearney**

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**A B I L L**

To enact sections 1901.185 and 3767.50 of the Revised 1  
Code to create a new cause of action in 2  
foreclosure in the environmental or housing 3  
division of a municipal court to abate nuisance 4  
properties. 5

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

**Section 1.** That sections 1901.185 and 3767.50 of the Revised 6  
Code be enacted to read as follows: 7

**Sec. 1901.185.** In addition to jurisdiction otherwise granted 8  
in this chapter, the environmental or housing division, where 9  
established, of the municipal court shall have jurisdiction within 10  
its territory in all of the following actions or proceedings and 11  
to perform all of the following functions: 12

(A) To hear actions arising under section 3767.50 of the 13  
Revised Code; 14

(B) In any action authorized by section 3767.50 of the 15  
Revised Code, the environmental or housing division of the 16  
municipal court, where established, shall exercise exclusive 17  
original jurisdiction to make findings and orders pertaining to 18  
nuisance properties. 19

(C) When in aid of execution of a judgment of the 20  
environmental or housing division of the municipal court rendered 21  
pursuant to section 3767.50 of the Revised Code, in actions for 22  
the foreclosure of a mortgage on real property given to secure the 23  
payment of money, or the enforcement of a specific lien for money 24  
or other encumbrance or charge on real property, when the real 25  
property is situated within the territory, and, in those cases, 26  
the environmental or housing division may proceed to foreclose all 27  
liens and all vested and contingent rights and proceed to render 28  
judgments, and make findings and orders, between the parties, in 29  
the same manner and to the same extent as in similar cases in the 30  
court of common pleas. 31

**Sec. 3767.50.** (A) For purposes of this section: 32

(1) "Nuisance property" means a building, premises, real 33  
estate, or an appurtenance thereto that is vacant and meets any of 34  
the following: 35

(a) It is out of compliance with any applicable building, 36  
housing, air pollution, sanitation, health, fire, zoning, or 37  
safety code or it is a blighted parcel as defined in section 1.08 38  
of the Revised Code. 39

(b) Real property taxes remain unpaid on the property at the 40  
time the county auditor delivers the duplicate of the delinquent 41  
land list to the county treasurer under section 5721.011 of the 42  
Revised Code. 43

(c) The existence of a nuisance or public nuisance on the 44  
property has been admitted or established in a civil action under 45  
section 3767.03 or 3767.41 of the Revised Code and the property 46  
owner has failed to abate the nuisance or public nuisance as 47  
otherwise required under this chapter. 48

(d) The property was used or occupied by a criminal gang as 49

defined in section 2923.41 of the Revised Code on more than two 50  
occasions within a one-year period to engage in a pattern of 51  
criminal gang activity as defined in section 2923.41 of the 52  
Revised Code. 53

(e) The property is used in violation of Chapter 2915. of the 54  
Revised Code. 55

(2) "Owner" means any of the following: 56

(a) The owner of record as shown on the current tax list of 57  
the county auditor. 58

(b) The mortgage holder of record, if any, as shown in the 59  
mortgage records of the county recorder. 60

(c) A person who has a freehold or lesser estate in the 61  
premises. 62

(d) A mortgagee or vendee in possession who evidences charge, 63  
care, or control of the premises, including, but not limited to, a 64  
person to whom the sheriff has issued a deed for the premises 65  
after a judicial sale regardless of whether the deed has been 66  
recorded. 67

(e) A person who has charge, care, or control of the premises 68  
as agent, executor, administrator, assignee, receiver, trustee, 69  
guardian, or lessee. 70

(f) A person who holds the person's self out to be in charge, 71  
care, or control of the premises as evidenced by the negotiation 72  
of written or oral lease agreements for the premises, the 73  
collection of rents for the premises, the performance of 74  
maintenance or repairs on the premises, or the authorization of 75  
others to perform maintenance or repairs on the premises. 76

(B) A municipal corporation, in addition to any other remedy 77  
authorized by law, has a cause of action to foreclose liens upon a 78  
nuisance property located in the municipal corporation. The 79

environmental or housing division of the municipal court has 80  
exclusive original jurisdiction of the action. To maintain the 81  
action, it is not necessary for the municipal corporation to have 82  
a lien of its own upon the property. Rather, it is sufficient for 83  
the municipal corporation to allege that, because of the 84  
continuing existence of conditions causing the property to be 85  
nuisance property, the owner has defaulted on the terms of any 86  
agreement giving rise to a lien for failure to maintain the 87  
property, and then to marshal and plead for foreclosure of any or 88  
all outstanding liens upon the nuisance property. The municipal 89  
corporation shall not marshal a lien held by the United States, by 90  
this state, or by a political subdivision other than itself, or a 91  
lien vested by a tax certificate held under sections 5721.30 to 92  
5721.43 of the Revised Code. The municipal corporation shall join 93  
as a party to the action a lienholder whose lien is being 94  
marshaled and shall notify the lienholder party that the municipal 95  
corporation is proceeding to foreclose the lien under this section 96  
and that the lienholder party may abate the nuisance. If a 97  
lienholder party abates the nuisance within forty-five days after 98  
the party is served with notice of the foreclosure action, the 99  
municipal corporation shall move to dismiss the action. 100

In a judicial sale of a nuisance property that is ordered as 101  
a result of the foreclosure action, the priority of distribution 102  
of the proceeds from the sale shall not be altered because the 103  
municipal corporation marshaled and foreclosed on one or more 104  
liens. Rather, proceeds from the sale shall be distributed 105  
according to the priorities otherwise established by law. 106

(C)(1) With respect to any nuisance property that is or may 107  
be subject to an action under this section, the municipal 108  
corporation may notify the taxing authority of each taxing unit in 109  
which the nuisance property is located that the municipal 110  
corporation is proceeding to foreclose the lien under this 111

section. The notice shall state that the taxing authority may 112  
preserve its claim on any distributions of delinquent or unpaid 113  
taxes and assessments charged against the property and arising 114  
from the judicial sale proceeds by responding in writing to the 115  
municipal corporation within a period of time to be specified in 116  
the notice. The written response shall be certified by the taxing 117  
authority or by the fiscal officer or other person authorized by 118  
the taxing authority to respond. If such a response is received by 119  
the municipal corporation within the specified time, or if such a 120  
notice is not provided, the taxing authority's claim on 121  
distributions of delinquent or unpaid taxes and assessments 122  
charged against the property and payable from proceeds of the 123  
judicial sale shall be preserved and shall be disposed of in the 124  
priority and manner otherwise prescribed by law. If such a notice 125  
is provided and the response is not received within the specified 126  
time, the taxing authority's claim on the delinquent or unpaid 127  
taxes and assessments is extinguished, the lien for such taxes is 128  
satisfied and discharged to the extent of that claim, and the 129  
property may be sold at judicial sale free and clear of such lien 130  
to that extent, unless the successful bidder at the judicial sale 131  
is a lienholder of the property. If the successful bidder is a 132  
lienholder of the property, the lien for all delinquent or unpaid 133  
taxes and assessments charged against the property shall continue 134  
until discharged as otherwise provided by law. 135

(2) The taxing authority of a taxing unit and a municipal 136  
corporation may enter into an agreement whereby the taxing 137  
authority consents in advance to release the taxing authority's 138  
claim on distributions of delinquent or unpaid taxes and 139  
assessments charged against nuisance properties in the taxing 140  
unit's territory and waives its right to prior notice and response 141  
under division (C)(1) of this section. The agreement shall provide 142  
for any terms and conditions on the release of such claim as are 143  
mutually agreeable to the taxing authority and municipal 144

<u>corporation, including any option vesting in the taxing authority</u>	145
<u>the right to revoke its release with respect to any nuisance</u>	146
<u>property before the release becomes effective, and the manner in</u>	147
<u>which notice of such revocation shall be effected.</u>	148