

As Reported by the House Civil and Commercial Law Committee

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Senator Stivers

Cosponsors: Senators Seitz, Miller, D., Kearney, Goodman, Schuring, Fedor,

Harris, Mason, Miller, R., Mumper, Roberts, Sawyer, Cates

Representative Hughes

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A B I L L

To enact sections 1901.185 and 3767.50 of the Revised Code to create a new cause of action in foreclosure in the environmental division of a municipal court to abate blighted parcels.

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

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

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

(A) To exercise exclusive original jurisdiction to hear actions arising under section 3767.50 of the Revised Code and in those actions to make findings and orders pertaining to blighted parcels;

(B) When in aid of execution of a judgment of the environmental division of the municipal court rendered pursuant to

section 3767.50 of the Revised Code, in actions for the 18
foreclosure of a mortgage on real property given to secure the 19
payment of money, or the enforcement of a specific lien for money 20
or other encumbrance or charge on real property, when the real 21
property is situated within the territory, to foreclose all liens 22
and all vested and contingent rights, render judgments, and make 23
findings and orders, between the parties, in the same manner and 24
to the same extent as in similar cases in the court of common 25
pleas. 26

Sec. 3767.50. (A) For purposes of this section: 27

(1) "Blighted parcel" has the same meaning as in section 1.08 28
of the Revised Code. 29

(2) "Owner" means any of the following: 30

(a) The owner of record as shown on the current tax list of 31
the county auditor; 32

(b) A person who has a freehold or lesser estate in the 33
premises; 34

(c) A mortgagee in possession or vendee in possession who 35
evidences charge, care, or control of the premises, including, but 36
not limited to, a person to whom the sheriff has issued a deed for 37
the premises after a judicial sale regardless of whether the deed 38
has been recorded; 39

(d) A person who has charge, care, or control of the premises 40
as executor, administrator, assignee, receiver, trustee, or legal 41
guardian; 42

(e) A person who holds the person's self out to be in charge, 43
care, or control of the premises as evidenced by the negotiation 44
of written or oral lease agreements for the premises, the 45
collection of rents for the premises, the performance of 46
maintenance or repairs on the premises, or the authorization of 47

others to perform maintenance or repairs on the premises. 48

(B)(1) A municipal corporation, in addition to any other 49
remedy authorized by law, has a cause of action in the 50
environmental division of the municipal court to foreclose any 51
existing liens upon a blighted parcel located in the municipal 52
corporation provided that no other foreclosure action affecting 53
the blighted parcel is being actively prosecuted in any court of 54
record. It is an affirmative defense to an action under this 55
division that the owner of the blighted parcel has not been in 56
default on any mortgage on the property for twelve months or more 57
or that there is a bankruptcy proceeding pending in which the 58
blighted parcel has been listed as an asset. To maintain the 59
action, it is not necessary for the municipal corporation to have 60
a lien of its own upon the property. Rather, it is sufficient for 61
the municipal corporation to allege that, because of the 62
continuing existence of conditions causing the property to be a 63
blighted parcel, the owner has defaulted on the terms of any 64
agreement giving rise to a lien for failure to maintain the 65
property, and then to marshal and plead for foreclosure of any or 66
all outstanding liens upon the blighted parcel. Section 3767.50 of 67
the Revised Code does not create a cause of action regarding any 68
property not subject to a lien. The municipal corporation shall 69
not marshal a lien held by the United States, a lien held by this 70
state other than a lien for real property taxes and assessments, a 71
lien held by a political subdivision other than itself, or a lien 72
vested by a tax certificate held under sections 5721.30 to 5721.43 73
of the Revised Code. The municipal corporation shall join as a 74
party to the action a lienholder whose lien is being marshaled and 75
shall notify the lienholder party that the municipal corporation 76
is proceeding to foreclose the lien under this section and that 77
the lienholder party may remediate the conditions of the parcel 78
constituting blight. If a lienholder party certifies to the court 79
that the party will remediate the conditions of the parcel 80

constituting blight within sixty days after the party is served 81
with a copy of the complaint of the foreclosure action, the 82
municipal corporation shall move to dismiss the action. 83

In a judicial sale of a blighted parcel that is ordered as a 85
result of the foreclosure action, the priority of distribution of 86
the proceeds from the sale shall not be altered because the 87
municipal corporation marshaled and foreclosed on one or more 88
liens. Rather, proceeds from the sale shall be distributed 89
according to the priorities otherwise established by law. 90

(2) The environmental division of the municipal court has 91
exclusive original jurisdiction of an action under this section. 92

(C)(1) With respect to any blighted parcel that is or may be 93
subject to an action under this section, the municipal corporation 94
may notify the taxing authority of each taxing unit in which the 95
blighted parcel is located that the municipal corporation is 96
proceeding to foreclose the lien under this section. The notice 97
shall state that the taxing authority may preserve its claim on 98
any distributions of delinquent or unpaid taxes and assessments 99
charged against the blighted parcel and arising from the judicial 100
sale proceeds by responding in writing to the municipal 101
corporation within a period of time to be specified in the notice. 102
The written response shall be certified by the taxing authority or 103
by the fiscal officer or other person authorized by the taxing 104
authority to respond. If such a response is received by the 105
municipal corporation within the specified time, or if such a 106
notice is not provided, the taxing authority's claim on 107
distributions of delinquent or unpaid taxes and assessments 108
charged against the blighted parcel and payable from proceeds of 109
the judicial sale shall be preserved and shall be disposed of in 110
the priority and manner otherwise prescribed by law. If such a 111
notice is provided and the response is not received within the 112

specified time, the taxing authority's claim on the delinquent or 113
unpaid taxes and assessments is extinguished, the lien for such 114
taxes is satisfied and discharged to the extent of that claim, and 115
the blighted parcel may be sold at judicial sale free and clear of 116
such lien to that extent, unless the successful bidder at the 117
judicial sale is a lienholder of the blighted parcel. If the 118
successful bidder is a lienholder of the blighted parcel, the lien 119
for all delinquent or unpaid taxes and assessments charged against 120
the blighted parcel shall continue until discharged as otherwise 121
provided by law. 122

(2) The taxing authority of a taxing unit and a municipal 123
corporation may enter into an agreement whereby the taxing 124
authority consents in advance to release the taxing authority's 125
claim on distributions of delinquent or unpaid taxes and 126
assessments charged against blighted parcels in the taxing unit's 127
territory and waives its right to prior notice and response under 128
division (C)(1) of this section. The agreement shall provide for 129
any terms and conditions on the release of such claim as are 130
mutually agreeable to the taxing authority and municipal 131
corporation, including any option vesting in the taxing authority 132
the right to revoke its release with respect to any blighted 133
parcel before the release becomes effective, and the manner in 134
which notice of such revocation shall be effected. 135