

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 323

Representative Murray

**Cosponsors: Representatives Chandler, Letson, Okey, Phillips, Koziura,
Yuko, Domenick, Foley, Pillich, Driehaus**

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A B I L L

To amend sections 2323.07, 2329.01, 2329.02, 2329.07, 1
2329.33, and 3767.41 and to enact sections 2308.01 2
to 2308.06 of the Revised Code relative to 3
foreclosure actions and certain related nuisance 4
abatement actions. 5

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

Section 1. That sections 2323.07, 2329.01, 2329.02, 2329.07, 6
2329.33, and 3767.41 be amended and sections 2308.01, 2308.02, 7
2308.03, 2308.04, 2308.05, and 2308.06 of the Revised Code be 8
enacted to read as follows: 9

Sec. 2308.01. As used in this chapter: 10

(A) "Abate," "abatement," and "neighbor" have the same 11
meanings as in section 3767.41 of the Revised Code. 12

(B) "Residential area commercial property mortgage" means an 13
obligation to pay a sum of money evidenced by a note and secured 14
by a lien upon a commercial property that meets all of the 15
following criteria: 16

(1) The structure or structures on the property total less 17

than four thousand square feet. 18

(2) The property is located within five hundred feet of a residential property. 19
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(3) The property is not a brownfield, as defined in section 122.65 of the Revised Code. 21
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(C) "Residential mortgage" means an obligation to pay a sum of money evidenced by a note and secured by a lien upon a residential property. 23
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(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. 26
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(E) "Tenant" has the same meaning as in section 5321.01 of the Revised Code. 34
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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: 36
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(1) A statement setting forth the name of the holder of the note and asserting that the named holder is the true party in interest with a right to file the action; 40
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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; 43
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(3) A statement, based on the best information of the person 47

making the filing, as to whether the residential property is 48
occupied and the date that its occupancy status last was assessed. 49

(B) Within fourteen days after filing a complaint to initiate 50
a residential mortgage foreclosure action, the plaintiff shall 51
file with the clerk the preliminary judicial report that section 52
2329.191 of the Revised Code requires. 53

(C) If the mortgagor answers the summons and complaint the 54
clerk of court issues pursuant to a filing for foreclosure, within 55
forty-five days following that answer, the plaintiff shall file 56
with the clerk all of the following: 57

(1) Based on the best information of the plaintiff, an 58
estimate of the value of the property. This value may be the value 59
the auditor of the county in which the property is located has 60
assigned the property in the course of the auditor's most recent 61
valuation, a good faith estimate by the plaintiff considering the 62
property's current condition, or a formal appraisal conducted by a 63
real estate professional or a licensed appraiser. 64

(2) A copy of a completed property status report in 65
substantially the following form or the form that a court modifies 66
by rule, at the court's discretion. 67
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"Case Number:....." 69

COURT OF COMMON PLEAS 70

..... COUNTY, OHIO 71

Judge 72

Residential Property Status Report 73

Address: 74

Titled Owner(s): 75

Number of Units: Occupied: YES NO 76

If YES, by whom: 77

<u>If NO, when vacated:</u>	78
<u>Current city code violations: YES NO If YES, attach copy of violation notice(s)</u>	79 80
<u>Abandoned/Unlicensed Vehicles: YES NO</u>	81
<u>Is this property the subject of litigation in any other court? YES NO</u>	82 83
<u>Is owner a defendant in other foreclosure cases in this court? YES NO</u>	84 85
<u>If YES, list case number(s):</u> <u>.....</u>	86 87
<u>How long has current owner owned property?</u> <u>.....</u>	88 89
<u>If less than 5 years, list previous owners for last five years:</u> <u>.....</u>	90 91
<u>Is this action being brought pursuant to:</u>	92
<u>(1) R.C. section 5721.39? YES NO</u>	93
<u>(2) The foreclosure of a residential mortgage loan? YES NO</u>	94
<u>(Please affix a color photograph of the premises not older than 30 days here)</u>	95 96
<u>I certify that the information contained herein is accurate and true, to the best of my knowledge.</u> <u>.....</u>	97 98 99
<u>Attorney for Plaintiff _____ Date"</u>	100
<u>(D)(1) In a residential mortgage foreclosure action, if the mortgagor has not filed an answer to the summons and complaint within sixty days after that answer is due, the plaintiff may file with the clerk a motion for a default judgment beginning on the sixty-first day after the answer is due and ending on the one</u>	101 102 103 104 105

hundred twenty-first day after the answer is due. The plaintiff shall include with the motion an affidavit attesting that the affiant personally inspected the property, attempted to telephone all residences located on the property, and directed correspondence to all residences located on the property and that the affiant has no reason to believe that the premises are occupied. Upon receiving the motion and accompanying affidavit, the clerk shall issue a default judgment in favor of the plaintiff. 106
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(2) In a residential mortgage foreclosure action, if the mortgagor has not filed an answer to the summons and complaint within sixty days after that answer is due, and the plaintiff does not file a motion for a default judgment pursuant to division (D)(1) of this section, the plaintiff's complaint is dismissed with prejudice, the plaintiff is deemed to have abandoned any right to the property or making any claim against the property, and the plaintiff shall not receive any proceeds from a sale of the property. 115
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(E) A court may adopt by rule forms that incorporate the information divisions (A) and (C) of this section require, and may include on those forms any additional information that the court requires, at the court's discretion. 124
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Sec. 2308.03. (A) No court may issue a judgment that orders the sale of a property that is the subject of a residential mortgage foreclosure action or residential area commercial property mortgage foreclosure action, and no county recorder shall accept for recording any deed based on that sale, if that property constitutes a public nuisance as defined in section 3767.41 of the Revised Code. 128
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(B) Except as otherwise provided in division (D) of this section, in any residential mortgage foreclosure action or 135
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residential area commercial property mortgage foreclosure action, 137
a court may hold a hearing to determine whether there is probable 138
cause to believe that the property constitutes a public nuisance. 139
A court's determination that there is probable cause to believe 140
that the property is a public nuisance is a rebuttable 141
presumption. The court may hold a probably cause hearing on its 142
own accord or upon a request made pursuant to section 2308.04 of 143
the Revised Code. If the court holds such a hearing, the court 144
shall consider whether there is probable cause on the basis of any 145
of the following: 146

(1) Information the plaintiff provides, including information 147
contained in the property status report; 148

(2) Information in a public record that indicates the 149
existence of a building with air pollution, sanitation, health, 150
fire, zoning, or safety code violations or other conditions that 151
constitute a public nuisance; 152

(3) A court ordered inspection of the property, or a 153
voluntary authorization of inspection of the property under any 154
right of the plaintiff to enter the property. 155

(C)(1) In any hearing held pursuant to division (B) of this 156
section, the court shall provide the plaintiff in the foreclosure 157
action with notice of time, date, place, and purpose of the 158
hearing and provide the plaintiff an opportunity to present 159
information that the property is not a public nuisance or to 160
request the court to allow the plaintiff to abate the nuisance. If 161
the plaintiff wishes to have an opportunity to present information 162
of that nature or to abate the nuisance, the plaintiff shall 163
request the opportunity from the court within ten days after 164
receiving the court's notice of the hearing. 165

(2) If at the hearing a plaintiff elects to abate the 166
nuisance, the court shall grant that request and require the 167

plaintiff to report to the court within thirty days on the 168
progress the plaintiff is making in abating the nuisance. The 169
court shall continue with the foreclosure proceedings if it 170
determines that the plaintiff is making reasonable progress in 171
abating the nuisance condition. If the plaintiff does not make 172
reasonable progress in abating the nuisance or does not report as 173
required, the court immediately shall approve any request made 174
pursuant to section 2308.04 of the Revised Code to bring a 175
nuisance abatement action. 176

(D) A court shall stay any probable cause hearing on an 177
alleged nuisance condition if the mortgagee or any other judgment 178
creditor submits a writing to the court that pledges to bid at the 179
sale of the property at least the balance owed on the mortgage 180
principle on the property and, if the mortgagee or other judgment 181
creditor is the successful bidder at the sale, to abate the 182
nuisance subsequent to taking title to the property. If the court 183
stays a probable cause hearing pursuant to this division and if a 184
judgment creditor takes title to the property, not later than 185
thirty days after the judgment creditor takes title to the 186
property, the judgment creditor shall provide the court with a 187
written appraisal of progress in abating the alleged nuisance 188
conditions. If the court does not receive an appraisal of progress 189
within that time, the court may resume the probable cause hearing. 190

(E) If the court finds probable cause that the residential 191
property constitutes a public nuisance, the plaintiff shall file 192
notice of that finding with the agency that is responsible for 193
enforcement of housing occupancy codes within the municipal 194
corporation or county in which the residential property is 195
located, if there is such an agency. An agency inspecting the 196
residential property as a result of receiving such a notice may 197
charge the judgment debtor a reasonable fee to cover the costs of 198
the inspection. 199

Sec. 2308.04. (A) Any municipal corporation in which a 200
property is located, or any neighbor, tenant, or nonprofit 201
corporation that is duly organized and has as one of its goals the 202
improvement of housing conditions in the county or municipal 203
corporation in which the property is located may intervene as an 204
interested party at any time prior to the issuance of a judgment 205
in the foreclosure proceeding of a residential property to request 206
the court's permission to bring a civil action under section 207
3767.41 of the Revised Code for the abatement of a public 208
nuisance. 209

(B) If pursuant to a request made pursuant to division (A) of 210
this section a court finds under section 2308.03 of the Revised 211
Code probable cause to believe that the property is a public 212
nuisance, the court may authorize the interested party to bring an 213
abatement action and the court shall stay the foreclosure action 214
to allow hearings to be held on the public nuisance pursuant to 215
section 3767.41 of the Revised Code. The interested party shall 216
apprise the court of its progress in the action in writing not 217
later than thirty days after the court grants permission to bring 218
an action. If the court does not receive this notice within the 219
specified time, it may resume the foreclosure proceedings. 220

(C) In addition to the requirement that the court find 222
probable cause that the property is a public nuisance under 223
division (B) of section 2308.03 of the Revised Code, the court may 224
establish any guidelines it considers appropriate as a condition 225
of granting the interested party permission to bring an abatement 226
action against the residential property undergoing foreclosure. 227

(D) Nothing in the section shall be construed as preventing a 229
court from staying a hearing when a judgment creditor complies 230

with division (D) of section 2308.03 of the Revised Code. 231

Sec. 2308.05. (A) Within sixty days after the clerk of court 232
provides lienholders with the notice of the filing of the 233
certificate of judgment under division (G) of section 2329.02 of 234
the Revised Code, the judgment creditor and any other lienholder 235
may file for a writ of execution of that judgment. A lienholder 236
other than the primary lienholder shall file for a contingent writ 237
of execution. A lienholder who fails to file for a writ within the 238
time frame this section establishes is deemed to have abandoned 239
any right to the judgment and to the property, is barred from 240
seeking another judgment on that property or making any claim 241
against the property, and shall not receive any proceeds from a 242
sale of the property. 243

(B)(1) Sixty days after providing notice to lienholders of 244
the filing of the certificate of judgment, the clerk shall issue a 245
writ of execution pursuant to section 2329.091 of the Revised Code 246
in the order of priority of the liens of the lienholders who filed 247
for a writ of execution. The clerk shall direct the officer 248
conducting the sale to distribute the proceeds from the sale in 249
the order of priority of the liens of the lienholders who filed 250
for a writ of execution pursuant to this section. 251

(2) At its discretion, the court may extend the time period 252
this section establishes for filing for a writ of execution or 253
issuing that writ if the mortgagee and the mortgagor in the action 254
so request, for any reason that the court considers appropriate. 255

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(C) Notwithstanding sections 2329.09 and 2329.091 of the 257
Revised Code, a court may stay the issuance of a writ of execution 258
if the judgment debtor and the judgment creditor, along with all 259
other lienholders, enter into a forbearance agreement that allows 260
the judgment debtor to make payments over a specified period of 261

time and that agreement is filed with the court. The stay shall be 262
effective so long as all of the parties to the agreement comply 263
with the terms of the agreement. 264

Sec. 2308.06. (A) Notwithstanding any other provision of the 265
Revised Code, if no lienholder files for a writ of execution or a 266
contingent writ of execution under section 2308.05 of the Revised 267
Code, and the property owner does not redeem the property as 268
division (B) of section 2329.33 of the Revised Code provides, the 269
property owner and lienholders are deemed to have abandoned all 270
rights to the property and the property is deemed an abandoned 271
property. The title of such a property vests without further 272
action in the name of the county recorder. 273

(B) When a property is deemed abandoned pursuant to division 274
(A) of this section, the prosecuting attorney of the county shall 275
prepare a deed to convey that property from the judgment debtor to 276
the county recorder. The deed shall contain the names of the 277
parties to the judgment and the owners of the property, a 278
reference to the volume and page of the recording of the next 279
preceding recorded instrument by or through which the county 280
recorder claims title, the date and the amount of the judgment, 281
and the date on which each lienholder is deemed to have abandoned 282
the property. The county recorder shall record the deed within 283
fourteen business days after the latest date on which a lienholder 284
is deemed to have abandoned the property. 285

(C) The county recorder may dispose of property acquired 286
under this section pursuant to rules the board of county 287
commissioners adopts. The rules shall specify that if the county 288
has a land bank, the county recorder shall place the property in 289
that land bank pursuant to the rules. If the county does not have 290
a land bank, the recorder shall dispose of the property pursuant 291
to the discretion of the board of county commissioners. 292

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.

(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 when the action was brought by a mortgagee of that property. As used in this division, "residential property" has the same meaning as in section 2308.01 of the Revised Code.

(B) When the real property to be sold is in one or more tracts, the court may order the officer who makes the sale to subdivide, appraise, and sell them in parcels, or sell any one of the tracts as a whole.

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

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

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

Sec. 2329.02. (A) Any judgment or decree rendered by any court of general jurisdiction, including district courts of the United States, within this state shall be a lien upon lands and tenements of each judgment debtor within any county of this state from the time there is filed in the office of the clerk of the court of common pleas of such county a certificate of such judgment, setting forth the court in which the same was rendered, the title and number of the action, the names of the judgment creditors and judgment debtors, the amount of the judgment and costs, the rate of interest, if the judgment provides for interest, and the date from which such interest accrues, the date of rendition of the judgment, and the volume and page of the journal entry thereof.

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

Such certificate shall be made by the clerk of the court in

which the judgment was rendered, under the seal of said court, 354
upon the order of any person in whose favor such judgment was 355
rendered or upon the order of any person claiming under ~~him~~ a 356
person in whose favor such judgment was rendered, and shall be 357
delivered to the party so ordering the same; and the fee therefor 358
shall be taxed in the costs of the action. 359

(C) When any such certificate is delivered to the clerk of 360
the court of common pleas of any county in this state, the same 361
shall be filed by such clerk, and ~~he~~ the clerk shall docket and 362
index it under the names of the judgment creditors and the 363
judgment debtors in a judgment docket, which shall show as to each 364
judgment all of the matters set forth in such certificate as 365
required by this section. The fee for such filing, docketing, and 366
indexing shall be taxed as increased costs of such judgment upon 367
such judgment docket and shall be included in the lien of the 368
judgment. 369

(D) When the clerk of any court, other than that rendering 370
the judgment, in whose office any such certificate is filed, has 371
docketed and indexed the same, ~~he~~ the clerk shall indorse upon 372
such certificate the fact of such filing with the date thereof and 373
the volume and page of the docket entry of such certificate and 374
shall return the same so indorsed to the clerk of the court in 375
which the judgment was rendered, who shall note upon the original 376
docket the fact of the filing of said certificate, showing the 377
county in which the same was filed and the date of such filing. 378
When such certificate is filed, docketed, and indexed in the 379
office of the clerk of the court which rendered the judgment, such 380
clerk shall likewise indorse the certificate and make like 381
notation upon the original docket. 382

Each such judgment shall be deemed to have been rendered in 383
the county in which is kept the journal of the court rendering the 384
same, in which journal such judgment is entered. 385

(E) Certificates or certified copies of judgments or decrees 386
of any courts of general jurisdiction, including district courts 387
of the United States, within this state, may be filed, registered, 388
noted, and memorials thereof entered, in the office of the 389
recorder of any county in which is situated land registered under 390
sections 5309.02 to 5309.98, inclusive, and 5310.01 to 5310.21, 391
inclusive, of the Revised Code, for the purpose of making such 392
judgments liens upon such registered land. 393

(F) Notwithstanding any other provision of the Revised Code, 394
any judgment issued in a court of record may be transferred to any 395
other court of record. Any proceedings for collection may be had 396
on such judgment the same as if it had been issued by the 397
transferee court. 398

(G)(1) The clerk of the court shall include a notation on any 399
certificate that is filed pursuant to the foreclosure of a 400
residential mortgage that the payment of that judgment shall be 401
made to the judgment creditor and other lienholders in the order 402
of the priority of the liens of the lienholders who file for a 403
writ of execution of judgment pursuant to division (G) of this 404
section. 405

(2) When a clerk files a certificate of judgment, the clerk 406
shall provide notice of that filing to the judgment debtor, the 407
judgement creditor, and all lienholders and persons listed in 408
division (B)(7) of section 2329.191 of the Revised Code. The 409
notice shall state that a certificate of judgment has been filed 410
and that the lienholder has sixty days from the date of the notice 411
to file for a writ of execution to request the sale of the 412
property. A lienholder who is not the primary lienholder shall 413
file a contingency request for a writ of execution of judgment. 414
The clerk shall issue the writ in the order of priority of the 415
liens of the lienholders who file pursuant to this section. 416

(3) Any lienholder who fails to file for a writ of execution 417

as division (G) of this section requires shall be deemed to have 418
abandoned any right to the lien and has no further right to claim 419
on the property or to collect from any proceeds of the sale of the 420
property. 421

Sec. 2329.07. (A)(1) If neither execution on a judgment 422
rendered in a court of record or certified to the clerk of the 423
court of common pleas in the county in which the judgment was 424
rendered is issued, nor a certificate of judgment for obtaining a 425
lien upon lands and tenements is issued and filed, as provided in 426
sections 2329.02 and 2329.04 of the Revised Code, within five 427
years from the date of the judgment or within five years from the 428
date of the issuance of the last execution thereon or the issuance 429
and filing of the last such certificate, whichever is later, then, 430
unless the judgment is in favor of the state, the judgment shall 431
be dormant and shall not operate as a lien upon the estate of the 432
judgment debtor. 433

(2) If the judgment is in favor of the state, the judgment 434
shall not become dormant and shall not cease to operate as a lien 435
against the estate of the judgment debtor provided that either 436
execution on the judgment is issued or a certificate of judgment 437
is issued and filed, as provided in sections 2329.02 and 2329.04 438
of the Revised Code, within ten years from the date of the 439
judgment or within fifteen years from the date of the issuance of 440
the last execution thereon or the issuance and filing of the last 441
such certificate, whichever is later, except as otherwise provided 442
in division (C) of this section. The fifteen-year limitation 443
period applies to executions issued and certificates of judgments 444
issued and filed before, on, or after ~~the effective date of the~~ 445
~~amendment of this section by of the 126th general~~ 446
~~assembly~~ March 29, 2007. 447

(B) If, in any county other than that in which a judgment was 448

rendered, the judgment has become a lien by reason of the filing, 449
in the office of the clerk of the court of common pleas of that 450
county, of a certificate of the judgment as provided in sections 451
2329.02 and 2329.04 of the Revised Code, and if no execution is 452
issued for the enforcement of the judgment within that county, or 453
no further certificate of the judgment is filed in that county, 454
within five years or, if the judgment is in favor of the state, 455
within fifteen years from the date of issuance of the last 456
execution for the enforcement of the judgment within that county 457
or the date of filing of the last certificate in that county, 458
whichever is the later, then the judgment shall cease to operate 459
as a lien upon lands and tenements of the judgment debtor within 460
that county, except as otherwise provided in division (C) of this 461
section. The fifteen-year limitation period applies to executions 462
issued and certificates of judgments issued and filed before, on, 463
or after ~~the effective date of the amendment of this section by~~ 464
~~H.B. 699 of the 126th general assembly~~ March 29, 2007. 465

(C)(1) As used in division (C) of this section, "interim 466
period" means the period beginning September 26, 2003, and ending 467
September 27, 2006. 468

(2) Division (C) of this section applies only to judgments in 469
favor of the state that are subject to this section and to which 470
both of the following apply: 471

(a) The first issuance of execution on the judgment, or the 472
first issuance and filing of the certificate of judgment, was 473
issued or issued and filed within the ten-year period provided in 474
this section before the beginning of the interim period; 475

(b) Subsequent issuance of execution on the judgment or 476
subsequent issuance and filing of the certificate of judgment 477
would have been required during the interim period in order to 478
keep the lien from becoming dormant under this section as this 479
section existed on September 25, 2003, and as if this section as 480

it existed on that date had been in effect during the interim 481
period. 482

(3) Such a judgment shall not become dormant and shall not 483
cease to operate as a lien against the estate of the judgment 484
debtor if either execution on the judgment is issued or a 485
certificate of judgment is issued and filed, as provided in 486
sections 2329.02 and 2329.04 of the Revised Code, within fifteen 487
years after the expiration of the ten-year period following 488
issuance of the last execution on the judgment or following the 489
issuance and filing of the last such certificate, whichever is 490
later. 491

(D) When a judgment is issued with respect to a residential 492
mortgage foreclosure action, a judgment creditor and all other 493
lienholders may file for a writ of execution of the judgment 494
pursuant to division (A) of section 2308.05 of the Revised Code 495
within sixty days following a notice from the clerk of court that 496
the clerk has filed the certificate of judgment. Any lienholder 497
who fails to file for a writ during the time frame this section 498
provides is deemed to have abandoned any right to the judgment and 499
the property, and pursuant to section 2308.05 of the Revised Code 500
is barred from making further claims against the property. 501

Sec. 2329.33. ~~In~~ (A) Except as otherwise provided in division 502
(B) of this section, in sales of real estate on execution or order 503
of sale, at any time before the confirmation thereof, the debtor 504
may redeem it from sale by depositing in the hands of the clerk of 505
the court of common pleas to which such execution or order is 506
returnable, the amount of the judgment or decree upon which such 507
lands were sold, with all costs, including poundage, and interest 508
at the rate of eight per cent per annum on the purchase money from 509
the day of sale to the time of such deposit, except where the 510
judgment creditor is the purchaser, the interest at such rate on 511

the excess above ~~his~~ the judgment creditor's claim. The court of 512
common pleas thereupon shall make an order setting aside such 513
sale, and apply the deposit to the payment of such judgment or 514
decree and costs, and award such interest to the purchaser, who 515
shall receive from the officer making the sale the purchase money 516
paid by ~~him~~ the purchaser, and the interest from the clerk. ~~This~~ 517

(B) Notwithstanding division (A) of this section, in any 519
residential mortgage foreclosure action, the judgment debtor may 520
redeem the property not later than sixty days following the date 521
the clerk of the court provides notice of the filing of the 522
certificate of judgment pursuant to section 2329.02 of the Revised 523
Code. Any such right of redemption expires at the end of the 524
business day on the sixtieth day following the clerk's notice of 525
filing the certificate of judgment. A judgment debtor may redeem 526
the property by depositing with the clerk of the court who filed 527
the certificate of judgment the amount of the judgment along with 528
all costs. The court shall deposit the amount of the payment to 529
the satisfaction of the judgment and order the judgment set aside. 530

(C) This section does not take away the power of the court to 532
set aside such sale for any reason for which it might have been 533
set aside prior to April 16, 1888. 534

Sec. 3767.41. (A) As used in this section: 535

(1) "Building" means, ~~except as otherwise provided in this 536~~
~~division,~~ any building or structure ~~that is used or intended to be 537~~
~~used for residential purposes. "Building" includes, but is not 538~~
~~limited to,~~ a building or structure in which any floor is used for 539
~~retail stores, shops, salesrooms, markets, or similar commercial 540~~
~~uses, or for offices, banks, civic administration activities, 541~~
~~professional services, or similar business or civic uses, and in 542~~

which the other floors are used, or designed and intended to be 543
used, for residential purposes. "Building" does not include any 544
building or structure that ~~is occupied by its owner and that~~ 545
contains three or fewer residential units when one of the units is 546
occupied by the owner of the building or structure unless that 547
building or structure is a residential property as defined in 548
section 2308.01 of the Revised Code and the nuisance action is 549
initiated pursuant to section 2308.04 of the Revised Code. 550

(2) "Land" means any parcel of land that is not the site of a 551
building or other structure. 552

(3)(a) "Public nuisance" as it applies to a building means a 553
building that is a menace to the public health, welfare, or 554
safety; that is structurally unsafe, unsanitary, or not provided 555
with adequate safe egress; that constitutes a fire hazard, or is 556
otherwise dangerous to human life, ~~or; that is otherwise~~ no longer 557
fit and habitable if used or designed to be used for residential 558
purposes; or that, in relation to its existing use, constitutes a 559
hazard to the public health, welfare, or safety by reason of 560
inadequate maintenance, dilapidation, obsolescence, or 561
abandonment. 562

(b) "Public nuisance" as it applies to land means land that 563
constitutes a hazard to the public health, welfare, or safety by 564
reason of unsafe or unsanitary conditions. 565

(c) "Public nuisance" as it applies to subsidized housing 566
means subsidized housing that fails to meet the following 567
standards as specified in the federal rules governing each 568
standard: 569

(i) Each building on the site is structurally sound, secure, 570
habitable, and in good repair, as defined in 24 C.F.R. 5.703(b); 571

(ii) Each building's domestic water, electrical system, 572
elevators, emergency power, fire protection, HVAC, and sanitary 573

system is free of health and safety hazards, functionally 574
adequate, operable, and in good repair, as defined in 24 C.F.R. 575
5.703(c); 576

(iii) Each dwelling unit within the building is structurally 577
sound, habitable, and in good repair, and all areas and aspects of 578
the dwelling unit are free of health and safety hazards, 579
functionally adequate, operable, and in good repair, as defined in 580
24 C.F.R. 5.703(d)(1); 581

(iv) Where applicable, the dwelling unit has hot and cold 582
running water, including an adequate source of potable water, as 583
defined in 24 C.F.R. 5.703(d)(2); 584

(v) If the dwelling unit includes its own sanitary facility, 585
it is in proper operating condition, usable in privacy, and 586
adequate for personal hygiene, and the disposal of human waste, as 587
defined in 24 C.F.R. 5.703(d)(3); 588

(vi) The common areas are structurally sound, secure, and 589
functionally adequate for the purposes intended. The basement, 590
garage, carport, restrooms, closets, utility, mechanical, 591
community rooms, daycare, halls, corridors, stairs, kitchens, 592
laundry rooms, office, porch, patio, balcony, and trash collection 593
areas are free of health and safety hazards, operable, and in good 594
repair. All common area ceilings, doors, floors, HVAC, lighting, 595
smoke detectors, stairs, walls, and windows, to the extent 596
applicable, are free of health and safety hazards, operable, and 597
in good repair, as defined in 24 C.F.R. 5.703(e); 598

(vii) All areas and components of the housing are free of 599
health and safety hazards. These areas include, but are not 600
limited to, air quality, electrical hazards, elevators, 601
emergency/fire exits, flammable materials, garbage and debris, 602
handrail hazards, infestation, and lead-based paint, as defined in 603
24 C.F.R. 5.703(f). 604

~~(3)~~(4) "Abate" or "abatement" ~~in connection with any building~~ 605
means the removal or correction of any conditions that constitute 606
a public nuisance and, in connection with any building, includes 607
the making of any other improvements that are needed to effect a 608
rehabilitation of the building that is consistent with maintaining 609
safe and habitable conditions over its remaining useful life. 610
~~"Abatement" does not include the~~ The closing or boarding up of any 611
building that is found to be a public nuisance, by itself, does 612
not serve as an abatement of the public nuisance. 613

~~(4)~~(5) "Interested party" means any owner, mortgagee, 614
lienholder, tenant, or person that possesses an interest of record 615
in any property that becomes subject to the jurisdiction of a 616
court pursuant to this section, and any applicant for the 617
appointment of a receiver pursuant to this section. 618

~~(5)~~(6) "Neighbor" means any owner of real property, 619
including, but not limited to, any person who is purchasing real 620
property by land installment contract or under a duly executed 621
purchase contract, that is located within five hundred feet of any 622
real property that becomes subject to the jurisdiction of a court 623
pursuant to this section, and any occupant of a building that is 624
so located. 625

~~(6)~~(7) "Tenant" has the same meaning as in section 5321.01 of 626
the Revised Code. 627

~~(7)~~(8) "Subsidized housing" means a property consisting of 628
more than four dwelling units that, in whole or in part, receives 629
project-based assistance pursuant to a contract under any of the 630
following federal housing programs: 631

(a) The new construction or substantial rehabilitation 632
program under section 8(b)(2) of the "United States Housing Act of 633
1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(b)(2) as 634
that program was in effect immediately before the first day of 635

October, 1983;	636
(b) The moderate rehabilitation program under section 8(e)(2) of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(e)(2);	637 638 639
(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;	640 641 642
(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;	643 644 645
(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;	646 647 648 649 650
(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;	651 652 653
(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;	654 655 656
(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.	657 658 659 660
(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.	661 662 663
(9) (10) "Landlord" has the same meaning as in section 5321.01 of the Revised Code.	664 665

(B)(1)(a) In any civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, resolution, or regulation applicable to buildings, lands, or subsidized housing that is commenced in a court of common pleas, municipal court, housing or environmental division of a municipal court, or county court, or in any civil action for abatement commenced in a court of common pleas, municipal court, housing or environmental division of a municipal court, or county court, by a municipal corporation or township in which the building, land, or subsidized housing involved is located, by any neighbor, tenant, or by a 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 building, land, or subsidized housing involved is located, if a building, land, or subsidized housing is alleged to be a public nuisance, the municipal corporation, township, neighbor, tenant, or nonprofit corporation may apply in its complaint for an injunction, relief, or other order as described in division (C)(1) of this section, ~~or for the relief described in division (C)(2) of this section,~~ including, if necessary, the appointment of a receiver as described in divisions (C)(2) and (3) of this section, or for both such an injunction or other order and such relief. The municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action is not liable for the costs, expenses, and fees of any receiver appointed pursuant to divisions (C)(2) and (3) of this section.

(b) Prior to commencing a civil action for abatement when the property alleged to be a public nuisance is subsidized housing, the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action shall provide the landlord of that property with written notice that specifies one or more defective conditions that constitute a public nuisance as

that term applies to subsidized housing and states that if the 699
landlord fails to remedy the condition within sixty days of the 700
service of the notice, a claim pursuant to this section may be 701
brought on the basis that the property constitutes a public 702
nuisance in subsidized housing. Any party authorized to bring an 703
action against the landlord shall make reasonable attempts to 704
serve the notice in the manner prescribed in the Rules of Civil 705
Procedure to the landlord or the landlord's agent for the property 706
at the property's management office, or at the place where the 707
tenants normally pay or send rent. If the landlord is not the 708
owner of record, the party bringing the action shall make a 709
reasonable attempt to serve the owner. If the owner does not 710
receive service the person bringing the action shall certify the 711
attempts to serve the owner. 712

(2)(a) In a civil action described in division (B)(1) of this 713
section, a copy of the complaint and a notice of the date and time 714
of a hearing on the complaint shall be served upon the owner of 715
the building, land, or subsidized housing and all other interested 716
parties in accordance with the Rules of Civil Procedure. If 717
certified mail service, personal service, or residence service of 718
the complaint and notice is refused or certified mail service of 719
the complaint and notice is not claimed, and if the municipal 720
corporation, township, neighbor, tenant, or nonprofit corporation 721
commencing the action makes a written request for ordinary mail 722
service of the complaint and notice, or uses publication service, 723
in accordance with the Rules of Civil Procedure, then a copy of 724
the complaint and notice shall be posted in a conspicuous place on 725
the building, land, or subsidized housing. 726

(b) The judge in a civil action described in division (B)(1) 727
of this section ~~shall~~ may conduct a summary hearing ~~at least to~~ 728
consider and issue any temporary orders that are necessary to 729
730

protect the public health, welfare, and safety pending further 731
proceedings. 732

(c) The judge shall conduct a hearing on the complaint not 733
earlier than twenty-eight days after the owner of the building, 734
land, or subsidized housing and the other interested parties have 735
been served with a copy of the complaint and the notice of the 736
date and time of the hearing in accordance with division (B)(2)(a) 737
of this section. 738

~~(e)~~(d) In considering whether subsidized housing is a public 739
nuisance, the judge shall construe the standards set forth in 740
division ~~(A)(2)(b)~~(A)(3)(c) of this section in a manner consistent 741
with department of housing and urban development and judicial 742
interpretations of those standards. The judge shall deem that the 743
property is not a public nuisance if during the twelve months 744
prior to the service of the notice that division (B)(1)(b) of this 745
section requires, the department of housing and urban 746
development's real estate assessment center issued a score of 747
seventy-five or higher out of a possible one hundred points 748
pursuant to its regulations governing the physical condition of 749
multifamily properties pursuant to 24 C.F.R. part 200, subpart P, 750
and since the most recent inspection, there has been no 751
significant change in the property's conditions that would create 752
a serious threat to the health, safety, or welfare of the 753
property's tenants. 754

(C)(1) If the judge in a civil action described in division 755
(B)(1) of this section finds at the hearing required by division 756
(B)(2) of this section that the building ~~involved, land, or~~ 757
subsidized housing is a public nuisance, if the judge additionally 758
determines that the owner of the building, land, or subsidized 759
housing previously has not been afforded a reasonable opportunity 760
to abate the public nuisance or has been afforded such an 761
opportunity and has not refused or failed to abate the public 762

nuisance, and if the complaint of the municipal corporation, 763
township, neighbor, tenant, or nonprofit corporation commencing 764
the action requested the issuance of an injunction as described in 765
this division, then the judge may issue an injunction requiring 766
the owner of the building, land, or subsidized housing to abate 767
the public nuisance or issue any other order that the judge 768
considers necessary or appropriate to cause the abatement of the 769
public nuisance. If an injunction is issued pursuant to this 770
division, the owner of the building, land, or subsidized housing 771
involved shall be given no more than thirty days from the date of 772
the entry of the judge's order to comply with the injunction, 773
unless the judge, for good cause shown, extends the time for 774
compliance. 775

~~(2) If the judge in a the civil action described in division~~ 776
~~(B)(1) of this section finds at the hearing required by division~~ 777
~~(B)(2) of this section that the building involved is a public~~ 778
~~nuisance, if the judge additionally~~ determines that the owner of 779
the building, land, or subsidized housing previously ~~has been~~ was 780
afforded a reasonable opportunity to abate the public nuisance and 781
has refused or failed to do so, and if the complaint of the 782
municipal corporation, township, neighbor, tenant, or nonprofit 783
corporation commencing the action requested relief as described in 784
this division, then the judge shall offer any mortgagee, 785
lienholder, or other interested party associated with the property 786
on which the building is located, in the order of the priority of 787
interest in title, the opportunity to undertake the work and to 788
furnish the materials necessary to abate the public nuisance. 789
Prior to selecting any interested party, the judge shall require 790
the interested party to demonstrate the ability to promptly 791
undertake the work and furnish the materials required, to provide 792
the judge with a viable financial and construction plan for the 793
rehabilitation of the building as described in division (D) of 794
this section, and to post security for the performance of the work 795

and the furnishing of the materials. 796

(2) If the judge determines, at the hearing, that no 797
interested party associated with the building, land, or subsidized 798
housing is willing or able to undertake the work and to furnish 799
the materials necessary to abate the public nuisance, or if the 800
judge determines, at any time after the hearing, that any party 801
who is undertaking corrective work pursuant to this division 802
cannot or will not proceed, or has not proceeded with due 803
diligence, the judge may appoint a receiver pursuant to division 804
(C)(3) of this section to take possession and control of the 805
building, land, or subsidized housing. 806

(3)(a) The judge in a civil action described in division 807
(B)(1) of this section shall not appoint any person as a receiver 808
unless the person first has provided the judge with a viable 809
financial and construction plan for the rehabilitation of the 810
building involved, land, or subsidized housing as described in 811
division (D) of this section and has demonstrated the capacity and 812
expertise to perform the required work and to furnish the required 813
materials in a satisfactory manner. An appointed receiver may be a 814
financial institution that possesses an interest of record in the 815
building or the property on which ~~it~~ the building is located, 816
land, or subsidized housing, a nonprofit corporation as described 817
in divisions (B)(1) and (C)(3)(b) of this section, including, but 818
not limited to, a nonprofit corporation that commenced the action 819
described in division (B)(1) of this section, or any other 820
qualified property manager. 821

(b) To be eligible for appointment as a receiver, no part of 822
the net earnings of a nonprofit corporation shall inure to the 823
benefit of any private shareholder or individual. Membership on 824
the board of trustees of a nonprofit corporation appointed as a 825
receiver does not constitute the holding of a public office or 826
employment within the meaning of sections 731.02 and 731.12 or any 827

other section of the Revised Code and does not constitute a direct 828
or indirect interest in a contract or expenditure of money by any 829
municipal corporation. A member of a board of trustees of a 830
nonprofit corporation appointed as a receiver shall not be 831
disqualified from holding any public office or employment, and 832
shall not forfeit any public office or employment, by reason of 833
membership on the board of trustees, notwithstanding any law to 834
the contrary. 835

(D) Prior to ordering an owner, interested party, or receiver 836
to undertake any work ~~to be undertaken, or the furnishing of any~~ 837
~~materials,~~ to abate a public nuisance under this section, the 838
judge in a civil action described in division (B)(1) of this 839
section shall review the submitted financial and construction plan 840
for the rehabilitation of the building ~~involved, land, or~~ 841
subsidized housing and, if it specifies all of the following, 842
shall approve that plan: 843

(1) The estimated cost of the labor, materials, and any other 844
development costs that are required to abate the public nuisance; 845

(2) The estimated income and expenses of the building and the 846
property on which ~~it~~ the building is located, land, or subsidized 847
housing after the furnishing of the materials and the completion 848
of the repairs and improvements; 849

(3) The terms, conditions, and availability of any financing 850
that is necessary to perform the work and to furnish the 851
materials; 852

(4) If repair and rehabilitation of ~~the~~ a building are found 853
not to be feasible, the cost of demolition of the building or of 854
the portions of the building that constitute the public nuisance. 855

(E) Upon the written request of any of the interested parties 856
to have a building, or portions of a building, that constitute a 857
public nuisance demolished because repair and rehabilitation of 858

the building are found not to be feasible, the judge may order the demolition. However, the demolition shall not be ordered unless the requesting interested parties have paid the costs of demolition and, if any, of the receivership, and, if any, all notes, certificates, mortgages, and fees of the receivership.

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

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

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

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

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

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

(5) Pursuant to court order, remove and dispose of any

personal property abandoned, stored, or otherwise located in or on 890
the building and ~~the property, land, or subsidized housing~~ that 891
creates a dangerous or unsafe condition or that constitutes a 892
violation of any local building, housing, air pollution, 893
sanitation, health, fire, zoning, or safety code, ordinance, or 894
regulation; 895

(6) Obtain mortgage insurance for any receiver's mortgage 896
~~from any agency of the federal government;~~ 897

(7) Enter into any agreement and do those things necessary to 898
maintain and preserve the building and ~~the property, land, or~~ 899
subsidized housing and comply with all local building, housing, 900
air pollution, sanitation, health, fire, zoning, or safety codes, 901
ordinances, resolutions, and regulations; 902

(8) Give the custody of the building and ~~the property, land,~~ 903
or subsidized housing, and the opportunity to abate the nuisance 904
and operate the building and property, land, or subsidized 905
housing, to its owner or any mortgagee or lienholder of record; 906

(9) Issue notes and secure them by a mortgage bearing 907
interest, and upon terms and conditions, that the judge approves. 908
When sold or transferred by the receiver in return for valuable 909
consideration in money, material, labor, or services, the notes or 910
certificates shall be freely transferable. Any mortgages granted 911
by the receiver shall be superior to any claims of the receiver. 912
Priority among the receiver's mortgages shall be determined by the 913
order in which they are recorded. 914

(G) A receiver appointed pursuant to this section is not 915
personally liable except for misfeasance, malfeasance, or 916
nonfeasance in the performance of the functions of the office of 917
receiver. 918

(H)(1) The judge in a civil action described in division 919
(B)(1) of this section may assess as court costs, the expenses 920

described in division (F)(2) of this section, and may approve 921
receiver's fees to the extent that they are not covered by the 922
income from the property. Subject to that limitation, a receiver 923
appointed pursuant to divisions (C)(2) and (3) of this section is 924
entitled to receive fees in the same manner and to the same extent 925
as receivers appointed in actions to foreclose mortgages. 926

(2)(a) Pursuant to the police powers vested in the state, all 927
expenditures of a mortgagee, lienholder, or other interested party 928
that has been selected pursuant to division (C)~~(2)~~(1) of this 929
section to undertake the work and to furnish the materials 930
necessary to abate a public nuisance, and any expenditures in 931
connection with the foreclosure of the lien created by this 932
division, is a first lien upon the building ~~involved~~ and the 933
property on which ~~it~~ the building is located, land, or subsidized 934
housing and is superior to all prior and subsequent liens or other 935
encumbrances associated with the building ~~or the~~ and property, 936
land, or subsidized housing, including, but not limited to, those 937
for taxes and assessments, upon the occurrence of both of the 938
following: 939

(i) The prior approval of the expenditures by, and the entry 940
of a judgment to that effect by, the judge in the civil action 941
described in division (B)(1) of this section; 942

(ii) The recordation of a certified copy of the judgment 943
entry and a sufficient description of the property on which the 944
building is located, land, or subsidized housing with the county 945
recorder in the county in which the property is located within 946
sixty days after the date of the entry of the judgment. 947

(b) Pursuant to the police powers vested in the state, all 948
expenses and other amounts paid in accordance with division (F) of 949
this section by a receiver appointed pursuant to divisions (C)(2) 950
and (3) of this section, the amounts of any notes issued by the 951
receiver in accordance with division (F) of this section, all 952

mortgages granted by the receiver in accordance with that 953
division, the fees of the receiver approved pursuant to division 954
(H)(1) of this section, and any amounts expended in connection 955
with the foreclosure of a mortgage granted by the receiver in 956
accordance with division (F) of this section or with the 957
foreclosure of the lien created by this division, are a first lien 958
upon the building ~~involved~~ and the property on which ~~it~~ the 959
building is located, land, or subsidized housing and are superior 960
to all prior and subsequent liens or other encumbrances associated 961
with the building ~~or the~~ and property, land, or subsidized 962
housing, including, but not limited to, those for taxes and 963
assessments, upon the occurrence of both of the following: 964

(i) The approval of the expenses, amounts, or fees by, and 965
the entry of a judgment to that effect by, the judge in the civil 966
action described in division (B)(1) of this section; or the 967
approval of the mortgages in accordance with division (F)(9) of 968
this section by, and the entry of a judgment to that effect by, 969
that judge; 970

(ii) The recordation of a certified copy of the judgment 971
entry and a sufficient description of the property on which the 972
building is located, land, or subsidized housing, or, in the case 973
of a mortgage, the recordation of the mortgage, a certified copy 974
of the judgment entry, and such a description, with the county 975
recorder of the county in which the property is located within 976
sixty days after the date of the entry of the judgment. 977

(c) Priority among the liens described in divisions (H)(2)(a) 978
and (b) of this section shall be determined as described in 979
division (I) of this section. Additionally, the creation pursuant 980
to this section of a mortgage lien that is prior to or superior to 981
any mortgage of record at the time the mortgage lien is so 982
created, does not disqualify the mortgage of record as a legal 983
investment under Chapter 1107. or 1151. or any other chapter of 984

the Revised Code. 985

(I)(1) If a receiver appointed pursuant to divisions (C)(2) 986
and (3) of this section files with the judge in the civil action 987
described in division (B)(1) of this section a report indicating 988
that the public nuisance has been abated, if the judge confirms 989
that the receiver has abated the public nuisance, and if the 990
receiver or any interested party requests the judge to enter an 991
order directing the receiver to sell the building and the property 992
on which ~~it~~ the building is located, land, or subsidized housing, 993
the judge may enter that order after holding a hearing as 994
described in division (I)(2) of this section and otherwise 995
complying with that division. 996

(2)(a) The receiver or interested party requesting an order 997
as described in division (I)(1) of this section shall cause a 998
notice of the date and time of a hearing on the request to be 999
served on the owner of the building ~~involved~~, land, or subsidized 1000
housing and all other interested parties in accordance with 1001
division (B)(2)(a) of this section. The judge in the civil action 1002
described in division (B)(1) of this section shall conduct the 1003
scheduled hearing. At the hearing, if the owner or any interested 1004
party objects to the sale of the building and ~~the property~~, land, 1005
or subsidized housing, the burden of proof shall be upon the 1006
objecting person to establish, by a preponderance of the evidence, 1007
that the benefits of not selling the building and ~~the property~~, 1008
land, or subsidized housing outweigh the benefits of selling them. 1009
If the judge determines that there is no objecting person, or if 1010
the judge determines that there is one or more objecting persons 1011
but no objecting person has sustained the burden of proof 1012
specified in this division, the judge may enter an order directing 1013
the receiver to offer the building and ~~the property~~, land, or 1014
subsidized housing for sale upon terms and conditions that the 1015
judge shall specify. 1016

(b) In any sale of subsidized housing that is ordered 1017
pursuant to this section, the judge shall specify that the 1018
subsidized housing not be conveyed unless that conveyance complies 1019
with applicable federal law and applicable program contracts for 1020
that housing. Any such conveyance shall be subject to the 1021
condition that the purchaser enter into a contract with the 1022
department of housing and urban development or the rural housing 1023
service of the federal department of agriculture under which the 1024
property continues to be subsidized housing and the owner 1025
continues to operate that property as subsidized housing unless 1026
the secretary of housing and urban development or the 1027
administrator of the rural housing service terminates that 1028
property's contract prior to or upon the conveyance of the 1029
property. 1030

(3) If a sale of a building and the property on which it is 1031
located, land, or subsidized housing is ordered pursuant to 1032
divisions (I)(1) and (2) of this section and if the sale occurs in 1033
accordance with the terms and conditions specified by the judge in 1034
the judge's order of sale, then the receiver shall distribute the 1035
proceeds of the sale and the balance of any funds that the 1036
receiver may possess, after the payment of the costs of the sale, 1037
in the following order of priority and in the described manner: 1038

(a) First, in satisfaction of any notes issued by the 1040
receiver pursuant to division (F) of this section, in their order 1041
of priority; 1042

(b) Second, any unreimbursed expenses and other amounts paid 1043
in accordance with division (F) of this section by the receiver, 1044
and the fees of the receiver approved pursuant to division (H)(1) 1045
of this section; 1046

(c) Third, all expenditures of a mortgagee, lienholder, or 1047
other interested party that has been selected pursuant to division 1048

(C)~~(2)~~(1) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance, provided that the expenditures were approved as described in division (H)(2)(a) of this section and provided that, if any such interested party subsequently became the receiver, its expenditures shall be paid prior to the expenditures of any of the other interested parties so selected;

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

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

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

(J)(1) A receiver appointed pursuant to divisions (C)(2) and 1081
(3) of this section may be discharged at any time in the 1082
discretion of the judge in the civil action described in division 1083
(B)(1) of this section. The receiver shall be discharged by the 1084
judge as provided in division (I)(4) of this section, or when all 1085
of the following have occurred: 1086

(a) The public nuisance has been abated; 1087

(b) All costs, expenses, and approved fees of the 1088
receivership have been paid; 1089

(c) Either all receiver's notes issued and mortgages granted 1090
pursuant to this section have been paid, or all the holders of the 1091
notes and mortgages request that the receiver be discharged. 1092

(2) If a judge in a civil action described in division (B)(1) 1093
of this section determines that, and enters of record a 1094
declaration that, a public nuisance has been abated by a receiver, 1095
and if, within three days after the entry of the declaration, all 1096
costs, expenses, and approved fees of the receivership have not 1097
been paid in full, then, in addition to the circumstances 1098
specified in division (I) of this section for the entry of such an 1099
order, the judge may enter an order directing the receiver to sell 1100
the building ~~involved~~ and the property on which ~~it~~ the building is 1101
located, land, or subsidized housing. Any such order shall be 1102
entered, and the sale shall occur, only in compliance with 1103
division (I) of this section. 1104

(K) The title in any building, ~~and~~ in the property on which 1105
~~it~~ the building is located, land, or subsidized housing, that is 1106
sold at a sale ordered under division (I) or (J)(2) of this 1107
section shall be incontestable in the purchaser and shall be free 1108
and clear of all liens for delinquent taxes, assessments, charges, 1109
penalties, and interest owed to this state or any political 1110
subdivision of this state, that could not be satisfied from the 1111

proceeds of the sale and the remaining funds in the receiver's 1112
possession pursuant to the distribution under division (I)(3) of 1113
this section. ~~All and of all~~ other liens and encumbrances with 1114
respect to the building and the property ~~shall survive the sale,~~ 1115
~~including, but not limited to, land, or subsidized housing, except~~ 1116
a federal tax lien notice that was properly filed in accordance 1117
with section 317.09 of the Revised Code prior to the time of the 1118
sale, and the easements and covenants of record running with the 1119
property that were created prior to the time of the sale. 1120

(L)(1) Nothing in this section shall be construed as a 1122
limitation upon the powers granted to a court of common pleas, a 1123
municipal court or a housing or environmental division of a 1124
municipal court under Chapter 1901. of the Revised Code, or a 1125
county court under Chapter 1907. of the Revised Code. 1126

(2) The monetary and other limitations specified in Chapters 1127
1901. and 1907. of the Revised Code upon the jurisdiction of 1128
municipal and county courts, and of housing or environmental 1129
divisions of municipal courts, in civil actions do not operate as 1130
limitations upon any of the following: 1131

(a) Expenditures of a mortgagee, lienholder, or other 1132
interested party that has been selected pursuant to division 1133
(C)(2) of this section to undertake the work and to furnish the 1134
materials necessary to abate a public nuisance; 1135

(b) Any notes issued by a receiver pursuant to division (F) 1136
of this section; 1137

(c) Any mortgage granted by a receiver in accordance with 1138
division (F) of this section; 1139

(d) Expenditures in connection with the foreclosure of a 1140
mortgage granted by a receiver in accordance with division (F) of 1141
this section; 1142

(e) The enforcement of an order of a judge entered pursuant 1143
to this section; 1144

(f) The actions that may be taken pursuant to this section by 1145
a receiver or a mortgagee, lienholder, or other interested party 1146
that has been selected pursuant to division (C)~~(2)~~(1) of this 1147
section to undertake the work and to furnish the materials 1148
necessary to abate a public nuisance. 1149

(3) A judge in a civil action described in division (B)(1) of 1150
this section, or the judge's successor in office, has continuing 1151
jurisdiction to review the condition of any building, land, or 1152
subsidized housing that was determined to be a public nuisance 1153
pursuant to this section. 1154

(4) Nothing in this section shall be construed to limit or 1155
prohibit a municipal corporation or township that has filed with 1156
the superintendent of insurance a certified copy of an adopted 1157
resolution, ordinance, or regulation authorizing the procedures 1158
described in divisions (C) and (D) of section 3929.86 of the 1159
Revised Code from receiving insurance proceeds under section 1160
3929.86 of the Revised Code. 1161

Section 2. That existing sections 2323.07, 2329.01, 2329.02, 1162
2329.07, 2329.33, and 3767.41 of the Revised Code are hereby 1163
repealed. 1164