

**As Reported by the House Housing and Urban Revitalization
Committee**

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Sub. H. B. No. 323

Representative Murray

**Cosponsors: Representatives Chandler, Letson, Okey, Phillips, Koziura,
Yuko, Domenick, Foley, Pillich, Driehaus, Luckie, Winburn, Stewart, Heard**

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A B I L L

To amend sections 317.13, 323.47, 2303.20, 2323.07, 1
2329.01, 2329.02, 2329.09, 2329.191, 2329.26, 2
2329.31, 2329.33, 2329.36, 3767.41, and 5723.01 3
and to enact sections 2308.01 to 2308.05, 4
2308.051, and 2308.06 to 2308.15 of the Revised 5
Code relative to foreclosure actions and certain 6
related nuisance abatement actions. 7

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

Section 1. That sections 317.13, 323.47, 2303.20, 2323.07, 8
2329.01, 2329.02, 2329.09, 2329.191, 2329.26, 2329.31, 2329.33, 9
2329.36, 3767.41, and 5723.01 be amended and sections 2308.01, 10
2308.02, 2308.03, 2308.04, 2308.05, 2308.051, 2308.06, 2308.07, 11
2308.08, 2308.09, 2308.10, 2308.11, 2308.12, 2308.13, 2308.14, and 12
2308.15 of the Revised Code be enacted to read as follows: 13

Sec. 317.13. (A) Except as otherwise provided in division (B) 14
of this section, the county recorder shall record in the proper 15
record, in legible handwriting, typewriting, or printing, or by 16
any authorized photographic or electronic process, all deeds, 17

mortgages, plats, or other instruments of writing that are 18
required or authorized by the Revised Code to be recorded and that 19
are presented to the recorder for that purpose. The recorder shall 20
record the instruments in regular succession, according to the 21
priority of presentation, and shall enter the file number at the 22
beginning of the record. On the record of each instrument, the 23
recorder shall record the date and precise time the instrument was 24
presented for record. All records made, prior to July 28, 1949, by 25
means authorized by this section or by section 9.01 of the Revised 26
Code shall be deemed properly made. 27

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

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

(D) The county recorder shall not record a deed for the sale 44
or transfer of any residential property if the county auditor's 45
delinquent tax records show that the real property taxes for that 46
property are delinquent for one year or more unless the board of 47
county commissioners exempts the property from this provision 48
when, at its discretion, it concludes that the transfer would be 49

beneficial with respect to nuisance abatement and redevelopment 50
efforts. 51

Sec. 323.47. (A) If land held by tenants in common is sold 52
upon proceedings in partition, or taken by the election of any of 53
the parties to such proceedings, or real estate is sold by 54
administrators, executors, guardians, or trustees, the court shall 55
order that the taxes, penalties, and assessments then due and 56
payable, and interest on those taxes, penalties, and assessments, 57
that are or will be a lien on such land or real estate at the time 58
the deed is transferred following the sale, be discharged out of 59
the proceeds of such sale or election. For purposes of determining 60
such amount, the county treasurer shall estimate the amount of 61
taxes, assessments, interest, and penalties that will be payable 62
at the time the deed of the property is transferred to the 63
purchaser. If the county treasurer's estimate exceeds the amount 64
of taxes, assessments, interest, and penalties actually payable 65
when the deed is transferred to the purchaser, the officer who 66
conducted the sale shall refund to the purchaser the difference 67
between the estimate and the amount actually payable. If the 68
amount of taxes, assessments, interest, and penalties actually 69
payable when the deed is transferred to the purchaser exceeds the 70
county treasurer's estimate, the officer shall certify the amount 71
of the excess to the treasurer, who shall enter that amount on the 72
real and public utility property tax duplicate opposite the 73
property; the amount of the excess shall be payable at the next 74
succeeding date prescribed for payment of taxes in section 323.12 75
of the Revised Code. 76

(B)~~(1)~~ If real estate is sold at judicial sale, the court 77
shall order that the total of the following amounts shall be 78
discharged out of the proceeds of the sale but only to the extent 79
of such proceeds: 80

~~(a)(1) Taxes and assessments the lien for which attaches~~ 81
~~before the confirmation of sale but that are not yet determined,~~ 82
~~assessed, and levied for the year in which confirmation occurs,~~ 83
~~apportioned pro rata to the part of that year that precedes~~ 84
~~confirmation, and any penalties and interest on those taxes and~~ 85
~~assessments, the amount of which shall be based on the date of the~~ 86
~~sale;~~ 87

~~(b)(2) All other taxes, assessments, penalties, and interest~~ 88
~~the lien for which attached for a prior tax year but that have not~~ 89
~~been paid on or before the date of confirmation.~~ 90

~~(2) Upon the request of the officer who conducted the sale,~~ 91
~~the county treasurer shall estimate the amount in division~~ 92
~~(B)(1)(a) of this section. If the county treasurer's estimate~~ 93
~~exceeds that amount, the officer who conducted the sale shall~~ 94
~~refund to the purchaser the difference between the estimate and~~ 95
~~the actual amount. If the actual amount exceeds the county~~ 96
~~treasurer's estimate, the officer shall certify the amount of the~~ 97
~~excess to the treasurer, who shall enter that amount on the real~~ 98
~~and public utility property tax duplicate opposite the property;~~ 99
~~the amount of the excess shall be payable at the next succeeding~~ 100
~~date prescribed for payment of taxes in section 323.12 of the~~ 101
~~Revised Code.~~ 102

Sec. 2303.20. Under the circumstances described in sections 103
2969.21 to 2969.27 of the Revised Code, the clerk of the court of 104
common pleas shall charge the fees and perform the other duties 105
specified in those sections. In all other cases, the clerk shall 106
charge the following fees and no more: 107

(A) Twenty-five dollars for each cause of action which shall 108
include the following: 109

(1) Docketing in all dockets; 110

(2) Filing necessary documents, noting the filing of the documents, except subpoena, on the dockets;	111 112
(3) Issuing certificate of deposit in foreign writs;	113
(4) Indexing pending suits and living judgments;	114
(5) Noting on appearance docket all papers mailed;	115
(6) Certificate for attorney's fee;	116
(7) Certificate for stenographer's fee;	117
(8) Preparing cost bill;	118
(9) Entering on indictment any plea;	119
(10) Entering costs on docket and cash book.	120
(B) Two dollars for taking each undertaking, bond, or recognizance;	121 122
(C) Two dollars for issuing each writ, order, or notice, except subpoena;	123 124
(D) Two dollars for each name for issuing subpoena, swearing witness, entering attendance, and certifying fees;	125 126
(E) Twenty-five dollars for calling a jury in each cause;	127
(F) Two dollars for each page, for entering on journal, indexing, and posting on any docket;	128 129
(G) Three dollars for each execution or transcript of judgment, including indexing;	130 131
(H) One dollar for each page, for making complete record, including indexing;	132 133
(I) Five dollars for certifying a plat recorded in the county recorder's office;	134 135
(J) Five dollars for issuing certificate to receiver or order of reference with oath;	136 137

(K) Five dollars for entering satisfaction or partial	138
satisfaction of each lien on record in the county recorder's	139
office, and the clerk of courts' office;	140
(L) One dollar for each certificate of fact under seal of the	141
court, to be paid by the party demanding it;	142
(M) One dollar for taking each affidavit, including	143
certificate and seal;	144
(N) Two dollars for acknowledging all instruments in writing;	145
(O) Five dollars for making certificate of judgment;	146
(P) Ten dollars for filing, docketing, and endorsing a	147
certificate of judgment, including the indexing and noting the	148
return of the certificate;	149
(Q) Twenty-five dollars for each cause of action for each	150
judgment by confession, including all docketing, indexing, and	151
entries on the journal;	152
(R) Five dollars for recording commission of mayor or notary	153
public;	154
(S) One dollar for issuing any license except the licenses	155
issued pursuant to sections 1533.101, 1533.11, 1533.13, and	156
1533.32 of the Revised Code;	157
(T) Fifteen dollars for docketing and indexing each aid in	158
execution or petition to vacate, revive, or modify judgment,	159
including the filing and noting of all necessary documents;	160
(U) Twenty-five dollars for docketing and indexing each	161
appeal, including the filing and noting of all necessary	162
documents;	163
(V) A commission of two per cent on the first ten thousand	164
dollars and one per cent on all exceeding ten thousand dollars for	165
receiving and disbursing money, other than costs and fees, paid to	166
or deposited with the clerk of courts in pursuance of an order of	167

court or on judgments, including moneys invested by order of the 168
court and interest earned on them; 169

(W) Five dollars for numbering, docketing, indexing, and 170
filing each authenticated or certified copy of the record, or any 171
portion of an authenticated or certified copy of the record, of an 172
extra county action or proceeding; 173

(X) Two dollars for each certificate of divorce, annulment, 174
or dissolution of marriage to the bureau of vital statistics; 175

(Y) Two dollars for each electronic transmission of a 176
document, plus one dollar for each page of that document. These 177
fees are to be paid by the party requesting the electronic 178
transmission. 179

(Z) One dollar for each page, for copies of pleadings, 180
process, record, or files, including certificate and seal; 181

(AA) An additional fee of twenty dollars for each filing for 182
a residential mortgage foreclosure action. 183

Sec. 2308.01. As used in this chapter: 184

(A) "Abate," "abatement," and "neighbor" have the same 185
meanings as in section 3767.41 of the Revised Code. 186

(B) "Residential area commercial property mortgage" means an 187
obligation to pay a sum of money evidenced by a note and secured 188
by a lien upon a commercial property that meets all of the 189
following criteria: 190

(1) The structure or structures on the property total less 191
than four thousand square feet. 192

(2) The property is located within five hundred feet of a 193
residential property. 194

(3) The property is not a brownfield, as defined in section 195
122.65 of the Revised Code. 196

(C) "Residential mortgage" means an obligation to pay a sum 197
of money evidenced by a note and secured by a lien upon a 198
residential property. 199

(D) "Residential property" means real property located within 200
this state consisting of land and a structure on that land 201
containing four or fewer dwelling units, each of which is intended 202
for occupancy by a separate household. "Residential property" 203
includes a residential condominium unit owned by an individual, 204
notwithstanding the number of units in the structure, and a 205
manufactured or mobile home that is subject to real property taxes 206
under section 4503.06 of the Revised Code. 207

(E) "Tenant" has the same meaning as in section 5321.01 of 208
the Revised Code. 209

Sec. 2308.02. No person shall file a complaint to initiate a 210
residential mortgage foreclosure action unless that complaint 211
includes or is accompanied by all of the following: 212

(A) A writing that sets forth the name of the holder of the 213
note, asserts that the named holder is the true party in interest 214
with a right to file the action, and states whether the mortgage 215
note has been securitized and if so, the identity of any 216
mortgage-backed security that holds the loan and the name of the 217
trustee of that mortgage-backed security; 218

(B) The preliminary judicial report that section 2329.191 of 219
the Revised Code requires. 220

Sec. 2308.03. If the owner in a residential mortgage 221
foreclosure action answers or otherwise responds to the clerk's 222
summons and complaint in accordance with the Rules of Civil 223
Procedure, the plaintiff shall file with the clerk both of the 224
following within thirty days after that answer or response: 225

(A) A copy of a completed residential property status report. 226

<u>The residential property status report shall be substantially in</u>	227
<u>the following form:</u>	228
<u>"Case Number:</u>	229
<u>COURT OF COMMON PLEAS</u>	230
<u>..... COUNTY, OHIO</u>	231
<u>Judge</u>	232
<u>Residential Property Status Report</u>	233
<u>To be completed to the best of the plaintiff's knowledge. If any</u>	234
<u>information is not known please write "Don't Know" in the space</u>	235
<u>provided.</u>	236
<u>Address:</u>	237
<u>Titled Owner(s):</u>	238
<u>Number of Units: Occupied: YES NO</u>	239
<u>If YES, by whom:</u>	240
<u>If NO, when vacated:</u>	241
<u>The approximate value of the property (This may be</u>	242
<u>your good faith estimate based on information available to you,</u>	243
<u>considering the property's current condition, or the county</u>	244
<u>auditor's most recent valuation or a formal appraisal conducted by</u>	245
<u>a real estate professional or a licensed appraiser.)</u>	246
<u>Current city code violations: YES NO</u>	247
<u>If YES, attach copy of violation notice(s)</u>	248
<u>Abandoned/Unlicensed Vehicles: YES NO</u>	249
<u>Is this property the subject of litigation in any other</u>	250
<u>court? YES NO</u>	251
<u>Is owner a defendant in other foreclosure cases in this</u>	252
<u>court? YES NO</u>	253
<u>If YES, list case number(s):</u>	254
<u>.....</u>	255

	256
<u>How long has current owner owned the property?</u>	257
<u>.....</u>	258
<u>If less than 5 years, list previous owners for last five</u>	259
<u>years:</u>	260
<u>.....</u>	261
<u>(Please affix a color photograph of the premises not older than 30</u>	262
<u>days here)</u>	263
<u>I certify that the information contained herein is accurate and</u>	264
<u>true, to the best of my knowledge.</u>	265
<u>.....</u>	266
<u>Signature _____ Date"</u>	267
<u>(B) A writing that responds to the following questions:</u>	268
<u>(1) Has the plaintiff agreed to comply with the federal "Home</u>	269
<u>Affordable Modification Program"?</u>	270
<u>(2) Has the owner or a representative of the owner been in</u>	271
<u>contact with the plaintiff?</u>	272
<u>(3) Has the owner applied for a loan modification? If so, has</u>	273
<u>the plaintiff responded to the request? Has the request been</u>	274
<u>accepted or denied, or is it pending?</u>	275
<u>(4) Has the owner made further payments since the initiation</u>	276
<u>of the foreclosure action?</u>	277
<u>Sec. 2308.04. A court may adopt by rule forms that</u>	278
<u>incorporate the information that sections 2308.02 and 2308.03 of</u>	279
<u>the Revised Code require. A court may request on those forms any</u>	280
<u>additional information that the court requires, at the court's</u>	281
<u>discretion.</u>	282
<u>Sec. 2308.05. (A) If the owner in a residential mortgage</u>	283

foreclosure action does not answer or otherwise respond to the 284
clerk's summons and complaint in accordance with the Rules of 285
Civil Procedure, within ten days after the last due date for any 286
defendant who was served with a summons and complaint, the clerk 287
shall notify the plaintiff of that failure to respond and inform 288
the plaintiff that if the property is not occupied, the plaintiff 289
shall either file a motion for default judgment with the court or 290
submit a statement showing cause sufficient to the court why the 291
plaintiff is not filing such a motion. The plaintiff shall file 292
such a motion or statement within sixty days after the date of the 293
clerk's notice. 294

(B) If a plaintiff fails to comply with division (A) of this 295
section, the court shall dismiss the residential mortgage 296
foreclosure action without prejudice. 297

Sec. 2308.051. (A) Notwithstanding any other provision of the 298
Revised Code, a plaintiff may request, at the time the plaintiff 299
files a motion for a default judgment pursuant to section 2308.05 300
of the Revised Code, the court deem that the title of the property 301
transferred directly and immediately to the plaintiff in lieu of 302
sale and in lieu of a right to a deficiency judgment. A plaintiff 303
may make such a request, and a court may grant such a request, 304
only if all of the following apply: 305

(1) In the plaintiff's prayer and complaint to initiate the 306
residential mortgage foreclosure action, the plaintiff 307
specifically reserved the right to request the additional relief 308
of a transfer in lieu of sale and in lieu of a right to a 309
deficiency judgment in the event that the plaintiff filed a motion 310
for a default judgment in the course of the foreclosure action. 311

(2) All liens attached to the property, other than liens for 312
real property taxes, are those of the plaintiff. 313

(3) The owner did not answer or otherwise respond to the 314
clerk's summons and complaint in accordance with the Rules of 315
Civil Procedure. 316

(B)(1) Upon receiving a motion for a default judgment 317
accompanied by a request for the additional relief of a transfer 318
in lieu of sale and in lieu of a right to a deficiency judgment 319
that meets the requirements of division (A) of this section, a 320
court immediately shall provide written notice to the owner of 321
that motion and request for additional relief. In that notice, the 322
court shall order the owner to show cause why the court should not 323
enter a default judgment and transfer the property directly and 324
immediately to the plaintiff in lieu of sale and in lieu of a 325
right to a deficiency judgment. An owner shall show cause within 326
thirty days of the court's order or shall be deemed to not oppose 327
the default judgment and transfer of the property to the 328
plaintiff. 329

(2) When a court grants a request for a transfer in lieu of 330
sale and in lieu of a right to a deficiency judgment pursuant to 331
this section, the plaintiff shall provide the information section 332
2329.271 of the Revised Code requires as if the plaintiff were the 333
successful purchaser at sale, and the officer who would have made 334
the sale shall prepare the deed as section 2329.31 of the Revised 335
Code requires. The court shall confirm the transfer in lieu of 336
sale and in lieu of a right to a deficiency judgment in the same 337
manner as the court confirms sales under section 2329.31 of the 338
Revised Code. Such transfer shall be deemed a release of the 339
owner's liability on the underlying debt to the plaintiff, and the 340
value of the property shall be deemed to equal the amount of the 341
underlying debt. 342

Sec. 2308.06. (A) No court may order the sale of a property 343
that is the subject of a residential mortgage foreclosure action 344

or a residential area commercial property mortgage foreclosure 345
action, and no county recorder shall accept for recording any deed 346
based on such a sale, if a court has found probable cause that the 347
property constitutes a public nuisance as defined in section 348
3767.41 of the Revised Code and the finding of probable cause was 349
not effectively rebutted, reversed, or the nuisance abated. 350

(B) A court may stay a foreclosure action and hold a probable 351
cause hearing pursuant to this section on its own accord or upon a 352
request made pursuant to section 2308.11 of the Revised Code. At 353
any such hearing, the court shall consider whether there is 354
probable cause of a public nuisance on the basis of any of the 355
following: 356

(1) Information the plaintiff provides or information 357
contained in the residential property status report; 358

(2) Information in a public record that indicates the 359
existence of a building with air pollution, sanitation, health, 360
fire, zoning, or safety code violations or other conditions that 361
constitute a public nuisance; 362

(3) A court ordered inspection of the property, or a 363
voluntary authorization of inspection of the property under any 364
right of the plaintiff to enter the property. 365

(C) A court's determination that there is probable cause to 366
believe that the property is a public nuisance is a rebuttable 367
presumption. 368

(D) If a court finds probable cause that the residential 369
property constitutes a public nuisance, the plaintiff shall file 370
notice of that finding with the agency that is responsible for 371
enforcement of housing codes within the municipal corporation or 372
county in which the residential property is located, if there is 373
such an agency. An agency inspecting the residential property as a 374
result of receiving such a notice may charge the owner a 375

reasonable fee to cover the costs of the inspection. 376

Sec. 2308.07. (A) Prior to any probable cause hearing held 377
pursuant to section 2308.06 of the Revised Code, the court shall 378
provide the plaintiff and any lienholder who has appeared in the 379
foreclosure action with notice of the time, date, place, and 380
purpose of the hearing. The notice shall inform the plaintiff and 381
such lienholders of an opportunity to appear at the hearing and 382
shall set forth the procedures for requesting such an appearance. 383

(B) A plaintiff, any other lienholder, or the owner in the 384
foreclosure action may appear at any probable cause hearing held 385
pursuant to section 2308.06 of the Revised Code for any of the 386
following purposes: 387

(1) To present information that the property is not a public 388
nuisance; 389

(2) To request permission to abate the nuisance pursuant to 390
section 2308.08 of the Revised Code while the foreclosure action 391
continues; 392

(3) To pledge to enter a bid on the property at the sheriff's 393
sale and to abate the nuisance subsequent to gaining title to the 394
property pursuant to section 2308.09 of the Revised Code. 395

(C) A plaintiff, other lienholder, or owner may request an 396
appearance at a probable cause hearing by submitting a written 397
request for such an appearance to the court within ten days after 398
receiving the court's notice of the hearing. 399

Sec. 2308.08. (A) At a probable cause hearing held pursuant 400
to section 2308.06 of the Revised Code, a plaintiff or other 401
lienholder may request the court to lift the stay on the 402
foreclosure proceedings and permit the plaintiff or other 403
lienholder to abate the alleged nuisance while the foreclosure 404
action continues. The court may grant such a request and require 405

the party to make an initial report to the court within thirty 406
days on the progress in abating the alleged nuisance. The court 407
may request subsequent reports at its discretion. 408

(B) The court shall continue with the foreclosure proceedings 409
upon receiving any initial or subsequent report of progress if the 410
court determines that the party abating the alleged nuisance is 411
making reasonable progress. At any time the court determines that 412
the party is not making reasonable progress in abating the alleged 413
nuisance or does not report as required, the court immediately 414
shall stay the foreclosure proceedings and resume the probable 415
cause hearings and may approve any request made pursuant to 416
section 2308.11 of the Revised Code to stay the proceedings so 417
that an interested party may file with the court a motion for the 418
abatement of a public nuisance. 419

Sec. 2308.09. (A) At any time prior to or during a probable 421
cause hearing, the plaintiff or other lienholder may submit to the 422
court a written pledge to purchase the property at the sale and to 423
abate the alleged nuisance subsequent to taking title to the 424
property. In the writing, the plaintiff or other lienholder shall 425
pledge to bid at least the principal balance owed on its lien on 426
the property and, if the successful bidder at the sale, to abate 427
the nuisance. A plaintiff or other lienholder may present the 428
written pledge at the hearing if the plaintiff or other lienholder 429
requests an appearance pursuant to section 2308.08 of the Revised 430
Code. 431

(B) The court shall stay any probable cause hearing on an 432
alleged nuisance condition and continue with the foreclosure 433
proceedings upon receiving from a plaintiff or other such 434
lienholder a written pledge made pursuant to this section. The 435
court shall require that the plaintiff or other such lienholder 436

provide a written report of progress within thirty days after 437
taking title to the property. The court shall maintain continuing 438
jurisdiction over the property pursuant to section 2308.10 of the 439
Revised Code and may require any subsequent reports at the court's 440
discretion. 441

(C) The court shall resume any probable cause hearing and may 442
approve any request to bring a nuisance abatement action if either 443
of the following occur: 444

(1) It receives information from the officer making the sale 445
that the plaintiff failed to bid as pledged at the auction. 446

(2) The plaintiff or other lienholder who pledged to abate a 447
nuisance failed to provide the court with a written report of 448
progress in abating the alleged nuisance condition within thirty 449
days after taking title to the property. 450

Sec. 2308.10. In any foreclosure action in which the court 451
approves the abatement of an alleged nuisance pursuant to section 452
2308.08 or 2308.09 of the Revised Code, the court shall maintain 453
continuing jurisdiction until the nuisance condition is abated. 454
The court may resume a probable cause hearing at the court's own 455
discretion or upon a complaint by any person named in division (A) 456
of section 2308.11 of the Revised Code and may approve any request 457
made pursuant to that section to bring a nuisance abatement action 458
under section 3767.41 of the Revised Code. 459

Sec. 2308.11. (A) Any municipal corporation in which a 460
property is located, or any nonprofit corporation that is duly 461
organized and has as one of its primary goals the improvement of 462
housing conditions in the county or municipal corporation in which 463
the property is located, may intervene as an interested party at 464
any time prior to the issuance of a judgment in a foreclosure 465
proceeding of a residential property to request the court to stay 466

the foreclosure action so the interested party may file with the 467
court a motion under section 3767.41 of the Revised Code for the 468
abatement of a public nuisance. Upon such a request that is 469
supported by sufficient evidence, a court, in its discretion, may 470
hold a probable cause hearing pursuant to section 2308.06 of the 471
Revised Code. 472

(B) If the court finds probable cause to believe that the 473
property is a public nuisance, and if neither the plaintiff nor 474
any other lienholder agreed to abate the alleged nuisance pursuant 475
to section 2308.08 or 2308.09 of the Revised Code, the court may 476
stay the foreclosure action to hold hearings pursuant to section 477
3767.41 of the Revised Code. 478

(C) An interested party who the court authorizes to abate the 479
nuisance shall apprise the court of its progress in writing not 480
later than thirty days after the court grants that permission. If 481
the court does not receive this notice within the specified time, 482
it may resume the foreclosure proceedings. 483

(D) The court may establish any guidelines it considers 484
appropriate as a condition of staying the foreclosure proceedings 485
to enable the interested party to bring an abatement action. Such 486
guidelines shall be in addition to the requirement that the court 487
find probable cause under section 2308.06 of the Revised Code that 488
the property is a public nuisance. 489

(E) Nothing in this section shall be construed as preventing 490
a court from staying a hearing when a plaintiff makes a request 491
pursuant to section 2308.08 or 2308.09 of the Revised Code. 492

Sec. 2308.12. (A)(1) The plaintiff and any other lienholder, 493
within sixty days after receiving the clerk's notice of the filing 494
of the judgment of foreclosure under division (G) of section 495
2329.02 of the Revised Code, shall file for a writ of execution of 496

a judgment in a residential mortgage foreclosure action or show 497
cause for not filing. A lienholder other than the primary 498
lienholder shall file for a contingent writ of execution or show 499
cause why a contingent writ is not being sought within that same 500
sixty-day period. The court shall issue an order accordingly to 501
the owner, the plaintiff, and any other lienholder who appeared in 502
the action stating that, during that same sixty-day period, the 503
owner, the plaintiff, and any other lienholder may show cause why 504
that property should not be deemed abandoned and transferred 505
pursuant to section 2308.13 of the Revised Code. A party may 506
assert any reason that the property should not be deemed 507
abandoned, including those listed under Rule 60 of the Rules of 508
Civil Procedure. 509

(2) A plaintiff or other lienholder who fails to file for a 510
writ of execution as this section requires and who does not show 511
cause for that failure or why the property should not be deemed 512
abandoned and transferred, and an owner who fails to show cause 513
for why that property should not be deemed abandoned and 514
transferred, shall be deemed to have abandoned all interest in the 515
property and to any right of redemption. Any party who is deemed 516
to have abandoned the property is barred from seeking another 517
judgment on that property or making any claim against the 518
property, and shall not receive any proceeds from a sale of the 519
property. 520

(3) The court shall vacate any order of abandonment if the 521
plaintiff or other lienholder files a motion under Rule 60 of the 522
Rules of Civil Procedure, establishing that its failure was due to 523
mistake or inadvertence, or other good cause shown. 524

(4) If the plaintiff, all other lienholders, and the owner 525
are deemed to have abandoned the property, the property shall be 526
transferred pursuant to section 2308.13 of the Revised Code sixty 527
days after the court enters the order of abandonment, unless a 528

motion to vacate the order has been filed prior to that date. If 529
the motion is denied, the property shall be transferred in 530
accordance with this division. 531

(5) When a property is deemed abandoned pursuant to this 532
section, the rights of the plaintiff and other lienholders to seek 533
to collect the debts through other means or against assets other 534
than the real property which is the subject of the foreclosure 535
action remain unaffected. 536

(B) Upon receiving a filing for a writ of execution from the 537
plaintiff, the clerk shall issue the writ of execution pursuant to 538
section 2329.091 of the Revised Code. 539

(C) At its discretion, the court may extend the time period 540
this section establishes for filing for a writ of execution or 541
issuing that writ if the plaintiff and the owner in the action so 542
request, for any reason that the court considers appropriate. 543

(D) Notwithstanding sections 2329.09 and 2329.091 of the 544
Revised Code, a court may for good cause stay the issuance or 545
enforcement of a writ of execution if the owner and the plaintiff, 546
along with all other lienholders, enter into a forbearance or loan 547
modification agreement that allows the owner to make payments over 548
a specified period of time and that agreement is filed with the 549
court. The stay shall be effective so long as all of the parties 550
to the agreement comply with the terms of the agreement. 551

(E) No plaintiff or other lienholder may withdraw or dismiss 552
a petition for a writ of execution or an order of sale unless the 553
plaintiff or the owner requests such a dismissal and shows good 554
cause for that dismissal. 555

Sec. 2308.13. (A) Notwithstanding any other provision of the 556
Revised Code, a property upon which a residential mortgage 557
foreclosure action has been filed is subject to transfer under 558

this section if either of the following occur: 559

(1) The plaintiff, all other lienholders, and the owner are 560
deemed to have abandoned rights to the property under section 561
2308.12 of the Revised Code and no party showed cause sufficient 562
to the court as to why the property should not be deemed 563
abandoned. 564

(2) The officer making the sale has advertised the sale three 565
times and held three auctions on the property, and at those 566
auctions no person placed a bid. Notwithstanding any other section 567
of the Revised Code, the three auctions shall be conducted with 568
the first sale requiring a minimum bid of two-thirds of the 569
appraised value, the second sale requiring a fixed price without 570
reappraisal set at two-thirds of that appraised value, and the 571
third sale being made with the minimum bid as the court sets at 572
its discretion. 573

(B) The title of a property deemed abandoned pursuant to this 574
section vests without further action in the board of county 575
commissioners in the county where the property is located. The 576
clerk shall issue a notice of that vesting to the board of county 577
commissioners. The county prosecuting attorney shall prepare a 578
deed that contains the names of the parties to the judgment and 579
the owners of the foreclosed property, a reference to the volume 580
and page of the recording of the recorded instrument by or through 581
which the board of county commissioners claims title, the date and 582
the amount of the judgment, and the date on which the owner and 583
each lienholder is deemed to have abandoned the property. The 584
board of county commissioners shall record the deed within 585
fourteen business days after the latest date on which an owner and 586
any lienholder is deemed to have abandoned the property. 587

(C) The board of county commissioners may dispose of property 588
acquired under this section pursuant to rules it adopts. The rules 589

shall specify that the board shall place the property in the 590
county's land bank if the county has a land bank. If the county 591
does not have a land bank, the board shall dispose of the property 592
at its discretion. 593

(D) No board of county commissioners shall be liable for 594
damages arising from a breach, or subject to equitable remedies 595
for a breach of common law duty, or for violation of sections 596
3737.87 to 3737.891 of the Revised Code or Chapter 3704., 3734., 597
3745., 3746., 3750., 3751., 3752., 6101., or 6111. of the Revised 598
Code or any rule adopted or order, permit, license, variance, or 599
plan approval issued under any of those chapters that is or was 600
committed by another person in connection with a property the 601
board of county commissioners acquires pursuant to this section. 602

Sec. 2308.14. The officer making a sale pursuant to a 603
residential mortgage foreclosure action shall, upon the sale of 604
the lands and tenements in satisfaction of the writ of judgment, 605
prepare and submit to the court a confirmation order setting forth 606
the information confirming that sale. The information shall 607
include the name of the person making the purchase of the property 608
in sufficient detail so a court may determine if the purchaser is 609
a plaintiff who pledged to purchase then abate a nuisance pursuant 610
to section 2308.09 of the Revised Code. 611

Sec. 2308.15. (A) No plaintiff or other lienholder in a 612
residential mortgage foreclosure action may file a motion to 613
dismiss or vacate the judgment, the writ of execution, the order 614
of sale, the sale, or the confirmation of the sale, and no court 615
shall accept such a motion unless for good cause shown. 616

(B) In any residential mortgage foreclosure action in which a 617
plaintiff and an owner enter into a workout agreement or loan 618
modification, the court shall stay the foreclosure action at any 619

time prior to the sale upon the filing of a motion and affidavit 620
indicating that the plaintiff and owner have entered into a 621
workout agreement or loan modification. If at any time the 622
plaintiff notifies the court that the owner did not make payments 623
as agreed, the court shall notify the owner that it will resume 624
the foreclosure action. 625

Sec. 2323.07. (A)(1) When a mortgage is foreclosed or a 626
specific lien enforced, a sale of the property, or a transfer of 627
property pursuant to sections 323.28, 323.65 to 323.78, and 628
5721.19 of the Revised Code, shall be ordered by the court having 629
jurisdiction or the county board of revision with jurisdiction 630
pursuant to section 323.66 of the Revised Code. 631

(2) No specific lien may be enforced or suit brought on a 632
note on a residential property unless that action initially is 633
brought in a judicial foreclosure proceeding. 634

(B) When the real property to be sold is in one or more 635
tracts, the court may order the officer who makes the sale to 636
subdivide, appraise, and sell them in parcels, or sell any one of 637
the tracts as a whole. 638

(C) When the mortgaged property is situated in more than one 639
county, the court may order the sheriff or master of each county 640
to make sale of the property in the sheriff's or master's county, 641
or may direct one officer to sell the whole. When it consists of a 642
single tract, the court may direct that it be sold as one tract or 643
in separate parcels, and shall direct whether appraisers shall be 644
selected for each county or one set for all; and whether 645
publication of the sale shall be made in all the counties, or in 646
one county only. 647

Sec. 2329.01. (A) Lands and tenements, including vested legal 648
interests therein, permanent leasehold estates renewable forever, 649

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 681
memorial of the same is entered upon the register of the last 682
certificate of title to the land to be affected. 683

Such certificate shall be made by the clerk of the court in 684
which the judgment was rendered, under the seal of said court, 685
upon the order of any person in whose favor such judgment was 686
rendered or upon the order of any person claiming under ~~him~~ a 687
person in whose favor such judgment was rendered, and shall be 688
delivered to the party so ordering the same; and the fee therefor 689
shall be taxed in the costs of the action. 690

(C) When any such certificate is delivered to the clerk of 691
the court of common pleas of any county in this state, the same 692
shall be filed by such clerk, and ~~he~~ the clerk shall docket and 693
index it under the names of the judgment creditors and the 694
judgment debtors in a judgment docket, which shall show as to each 695
judgment all of the matters set forth in such certificate as 696
required by this section. The fee for such filing, docketing, and 697
indexing shall be taxed as increased costs of such judgment upon 698
such judgment docket and shall be included in the lien of the 699
judgment. 700

(D) When the clerk of any court, other than that rendering 701
the judgment, in whose office any such certificate is filed, has 702
docketed and indexed the same, ~~he~~ the clerk shall indorse upon 703
such certificate the fact of such filing with the date thereof and 704
the volume and page of the docket entry of such certificate and 705
shall return the same so indorsed to the clerk of the court in 706
which the judgment was rendered, who shall note upon the original 707
docket the fact of the filing of said certificate, showing the 708
county in which the same was filed and the date of such filing. 709
When such certificate is filed, docketed, and indexed in the 710
office of the clerk of the court which rendered the judgment, such 711
clerk shall likewise indorse the certificate and make like 712

notation upon the original docket. 713

Each such judgment shall be deemed to have been rendered in 714
the county in which is kept the journal of the court rendering the 715
same, in which journal such judgment is entered. 716

(E) Certificates or certified copies of judgments or decrees 717
of any courts of general jurisdiction, including district courts 718
of the United States, within this state, may be filed, registered, 719
noted, and memorials thereof entered, in the office of the 720
recorder of any county in which is situated land registered under 721
sections 5309.02 to 5309.98, inclusive, and 5310.01 to 5310.21, 722
inclusive, of the Revised Code, for the purpose of making such 723
judgments liens upon such registered land. 724

(F) Notwithstanding any other provision of the Revised Code, 725
any judgment issued in a court of record may be transferred to any 726
other court of record. Any proceedings for collection may be had 727
on such judgment the same as if it had been issued by the 728
transferee court. 729

(G) When a clerk files a judgment of foreclosure in a 730
residential mortgage foreclosure action, the clerk shall provide 731
notice of that filing to the judgment debtor, the judgment 732
creditor, and any lienholder who has appeared in the action. The 733
notice shall include information with respect to the requirements 734
of section 2308.12 of the Revised Code and the consequences of a 735
failure to comply with that section. 736

Sec. 2329.09. (A) The writ of execution against the property 737
of a judgment debtor issuing from a court of record shall command 738
the officer to whom it is directed to levy on the goods and 739
chattels of the debtor. If no goods or chattels can be found, the 740
officer shall levy on the lands and tenements of the debtor. If 741
the court rendering the judgment or decree so orders, real estate 742
may be sold under execution as follows: one third cash on the day 743

of sale, one third in one year, one third in two years thereafter, 744
with interest on deferred payments, to be secured by mortgage on 745
the premises so sold. An execution on a judgment rendered against 746
a partnership firm by its firm name shall operate only on the 747
partnership property. The exact amount of the debt, damages, and 748
costs, for which the judgment is entered, shall be indorsed on the 749
execution. 750

(B) On any order of sale that the clerk delivers to the 751
officer making the sale in a residential mortgage foreclosure 752
action, the clerk shall include a notation that sets forth all of 753
the clerk's costs with respect to that foreclosure action and 754
sale. The clerk shall deliver a copy of the order of sale to the 755
attorney for the lienholder who filed for the writ of execution. 756

Sec. 2329.191. (A) As used in this section, "title insurance 757
company" has the same meaning as in section 3953.01 of the Revised 758
Code. 759

(B) In every action demanding the judicial sale of 760
residential real estate consisting of one to four single-family 761
units, the party seeking that judicial sale shall file with the 762
clerk of the court of common pleas ~~within fourteen days after~~ 763
~~filing the pleadings requesting relief, together with the~~ 764
complaint a preliminary judicial report on a form that is approved 765
by the department of insurance that is prepared and issued by a 766
duly licensed title insurance agent on behalf of a licensed title 767
insurance company or by a title insurance company that is 768
authorized by the department of insurance to transact business in 769
this state. The preliminary judicial report shall be effective 770
within thirty days prior to the filing of the complaint or other 771
pleading requesting a judicial sale and shall include at least all 772
of the following: 773

(1) A legal description of each parcel of real estate to be 774

sold at the judicial sale; 775

(2) The street address of the real estate or, if there is no 776
street address, the name of the street or road upon which the real 777
estate fronts together with the names of the streets or roads 778
immediately to the north and south or east and west of the real 779
estate; 780

(3) The county treasurer's permanent parcel number or other 781
tax identification number of the real estate; 782

(4) The name of the owners of record of the real estate to be 783
sold; 784

(5) A reference to the volume and page or instrument number 785
of the recording by which the owners acquired title to the real 786
estate; 787

(6) A description of the record title to the real estate; 788
however, easements, restrictions, setback lines, declarations, 789
conditions, covenants, reservations, and rights-of-way that were 790
filed for record prior to the lien being foreclosed are not 791
required to be included; 792

(7) The name and address of each lienholder and the name and 793
address of each lienholder's attorney, if any, as shown on the 794
recorded lien of the lienholder. 795

Prior to submitting any order or judgment entry to a court 796
that would order the sale of the residential real estate, the 797
party submitting the order or judgment entry shall file with the 798
clerk of the court of common pleas a final judicial report that 799
updates the state of the record title to that real estate from the 800
effective date of the preliminary judicial report through the date 801
of lis pendens and includes a copy of the court's docket for the 802
case. The cost of the title examination necessary for the 803
preparation of both the preliminary judicial report and the final 804
judicial report together with the premiums for those reports 805

computed as required by the department of insurance, based on the 806
fair market value of the real estate, or in the case of a 807
foreclosure, the principal balance of the mortgage or other lien 808
being foreclosed on or any other additional amount as may be 809
ordered by the court shall be taxed as costs in the case. 810

(C) In every action demanding the judicial sale of 811
residential real estate consisting of more than four single-family 812
units or of commercial real estate, the party seeking that 813
judicial sale shall file with the clerk of the court of common 814
pleas ~~within fourteen days after filing the pleadings requesting~~ 815
~~relief~~ together with the complaint either a preliminary judicial 816
report or a commitment for an owner's fee policy of title 817
insurance on the form approved by the department of insurance that 818
is prepared and issued by a duly licensed title insurance agent on 819
behalf of a licensed title insurance company. Division (B) of this 820
section applies if the party seeking the judicial sale files a 821
preliminary judicial report. If the party seeking the judicial 822
sale files a commitment for an owner's fee policy of title 823
insurance, the commitment shall have an effective date within 824
fourteen days prior to the filing of the complaint or other 825
pleading requesting a judicial sale and shall contain at least all 826
of the information required in divisions (B)(1) to (7) of this 827
section. The commitment shall cover each parcel of real estate to 828
be sold, shall include the amount of the successful bid at the 829
judicial sale, shall show the purchaser at the judicial sale as 830
the proposed insured, and shall not expire until thirty days after 831
the recordation of the deed by the officer who makes the sale to 832
that purchaser. After the officer's return of the order of sale 833
and prior to the confirmation of the sale, the party requesting 834
the order of sale shall cause an invoice for the cost of the title 835
insurance policy, commitment cost related expenses, and 836
cancellation fees, if any, to be filed with the clerk of the court 837
of common pleas. The amount of the invoice shall be taxed as costs 838

in the case. The purchaser at the judicial sale may, by paying the 839
premium for the title insurance policy, obtain the issuance of 840
title insurance in accordance with the commitment. 841

Sec. 2329.26. (A) Lands and tenements taken in execution 842
shall not be sold until all of the following occur: 843

(1)(a) Except as otherwise provided in division (A)(1)(b) of 844
this section, the judgment creditor who seeks the sale of the 845
lands and tenements or the judgment creditor's attorney does both 846
of the following: 847

(i) Causes a written notice of the date, time, and place of 848
the sale to be served in accordance with divisions (A) and (B) of 849
Civil Rule 5 upon the judgment debtor and upon each other party to 850
the action in which the judgment giving rise to the execution was 851
rendered; 852

(ii) At least seven calendar days prior to the date of the 853
sale, files with the clerk of the court that rendered the judgment 854
giving rise to the execution a copy of the written notice 855
described in division (A)(1)(a)(i) of this section with proof of 856
service endorsed on the copy in the form described in division (D) 857
of Civil Rule 5. 858

(b) Service of the written notice described in division 859
(A)(1)(a)(i) of this section is not required to be made upon any 860
party who is in default for failure to appear in the action in 861
which the judgment giving rise to the execution was rendered. 862

(2) The officer taking the lands and tenements gives public 863
notice of the date, time, and place of the sale for at least three 864
weeks before the day of sale by advertisement in a newspaper 865
published in and of general circulation in the county. The court 866
ordering the sale may designate in the order of sale the newspaper 867
in which this public notice shall be published, and this public 868

notice is subject to division (A) of section 2329.27 of the Revised Code.

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

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

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

(D) If the purchaser at sale plans to assign the right to purchase that property to another party, and that party will pay the balance of the purchase price to the officer making the sale, the assignment of the purchaser's bid may be made at any time prior to the preparation of the deed, and notice of that assignment may be filed with the officer at any time prior to the preparation of the deed.

(E) A sale of lands and tenements taken in execution may be set aside in accordance with division (B) of section 2329.27 of the Revised Code.

Sec. 2329.31. (A) ~~Upon~~ (1) Except as otherwise provided in division (A)(2) of this section, upon the return of any writ of execution for the satisfaction of which lands and tenements have been sold, on careful examination of the proceedings of the officer making the sale, if the court of common pleas finds that the sale was made, in all respects, in conformity with sections

2329.01 to 2329.61 of the Revised Code, it shall, within thirty 899
days of the return of the writ, direct the clerk of the court of 900
common pleas to make an entry on the journal that the court is 901
satisfied of the legality of such sale and that the attorney who 902
filed the writ of execution make to the purchaser a deed for the 903
lands and tenements. ~~Nothing~~ 904

(2) In any sale pursuant to a residential mortgage 905
foreclosure action, if the clerk of court receives no written 906
objection to that sale within seven days after the return to the 907
clerk of the writ of execution, on careful examination of the 908
proceedings of the officer making the sale, the court shall deem 909
that the sale is final and shall confirm that sale. The clerk 910
shall make an entry on the journal that the sale is deemed legal. 911

(3) Nothing in this section prevents the court of common 912
pleas from staying the confirmation of the sale to permit a 913
property owner time to redeem the property or for any other reason 914
that it determines is appropriate. In those instances, the sale 915
shall be confirmed within thirty days after the termination of any 916
stay of confirmation. 917

(B) The officer making the sale shall require the purchaser, 918
including a lienholder, to pay within thirty days ~~of~~ after the 919
confirmation of the sale the ~~balance amount~~ due on the purchase 920
price of the lands and tenements unless the court grants the 921
purchaser an extension for good cause. 922

Sec. 2329.33. In sales of real estate on execution or order 923
of sale, at any time before the confirmation thereof or, if a 924
residential foreclosure action, not later than sixty days 925
following the clerk's notice of the filing of the judgment, the 926
debtor may redeem it from sale by depositing in the hands of the 927
clerk of the court of common pleas to which such execution or 928
order is returnable, the amount of the judgment or decree upon 929

which such lands were sold, with all costs, including poundage, 930
and interest at the rate of eight per cent per annum on the 931
purchase money from the day of sale to the time of such deposit, 932
except where the judgment creditor is the purchaser, the interest 933
at such rate on the excess above his the judgment creditor's 934
claim. The court of common pleas thereupon shall make an order 935
setting aside such sale, and apply the deposit to the payment of 936
such judgment or decree and costs, and award such interest to the 937
purchaser, who shall receive from the officer making the sale the 938
purchase money paid by him the purchaser, and the interest from 939
the clerk. This section does not take away the power of the court 940
to set aside such sale for any reason for which it might have been 941
set aside prior to April 16, 1888. 942

Sec. 2329.36. (A) The attorney who files the writ of 943
execution shall, not later than seven days after the ~~filing of~~ 944
clerk files the order of confirmation of sale pursuant to section 945
2329.31 of the Revised Code, make to the purchaser a deed, 946
containing the names of the parties to the judgment, the names of 947
the owners of the property sold, a reference to the volume and 948
page of the recording of the next preceding recorded instrument by 949
or through which the owners claim title, the date and amount of 950
the judgment, the substance of the execution or order on which the 951
property was sold, the substance of the officer's return thereon, 952
and the order of confirmation and deliver the deed to the officer 953
who sold the real property. The deed shall be executed, 954
acknowledged, and recorded as other deeds. The officer or the 955
officer's legal representative may review and approve or reject 956
the deed for form and substance. 957

(B) By placing a bid at a sale conducted pursuant to this 958
chapter, the purchaser appoints the officer who makes the sale as 959
agent of the purchaser for the sole purpose of accepting delivery 960
of the deed described in division (A) of this section. 961

(C)(1) The officer who sells the real property shall record 962
the deed, or for registered land file the documents required by 963
section 5309.64 of the Revised Code, with the county recorder 964
within fourteen ~~business~~ days ~~of~~ after the date the purchaser pays 965
the balance due on the purchase price of the lands and tenements. 966
The officer shall charge the purchaser a fee to cover the actual 967
costs of preparing and recording the deed or filing the documents. 968

(2) Notwithstanding division (C)(1) of this section, a 970
purchaser may deliver any remaining balance of the purchase price 971
to the officer making the sale, together with an affidavit stating 972
the purchaser will submit the deed for recording within seven days 973
after receipt of the deed. Upon receiving the remaining balance 974
and affidavit, the officer making the sale shall release the 975
unrecorded deed to the purchaser who shall submit that deed for 976
recording within the seven-day period and deliver evidence of the 977
same to the sheriff or face penalties for contempt of court. If 978
the purchaser fails to deliver evidence to the sheriff that the 979
deed has been submitted for recording with the seven-day period, 980
the sheriff shall notify the court and the court shall schedule 981
proceedings against the purchaser for contempt of court. 982

Sec. 3767.41. (A) As used in this section: 983

(1) "Building" means, ~~except as otherwise provided in this~~ 984
~~division, any building or structure that is used or intended to be~~ 985
~~used for residential purposes. "Building" includes, but is not~~ 986
~~limited to, a building or structure in which any floor is used for~~ 987
~~retail stores, shops, salesrooms, markets, or similar commercial~~ 988
~~uses, or for offices, banks, civic administration activities,~~ 989
~~professional services, or similar business or civic uses, and in~~ 990
~~which the other floors are used, or designed and intended to be~~ 991
~~used, for residential purposes. "Building" does not include any~~ 992

building or structure that ~~is occupied by its owner and that~~ 993
contains three or fewer residential units when one of the units is 994
occupied by the owner of the building or structure unless that 995
building or structure is a residential property as defined in 996
section 2308.01 of the Revised Code and the nuisance action is 997
initiated pursuant to section 2308.06 or 2308.11 of the Revised 998
Code. 999

(2) "Land" means any parcel of land that is not the site of a 1000
building or other structure. 1001

(3)(a) "Public nuisance" as it applies to a building means a 1002
building that is a menace to the public health, welfare, or 1003
safety; that is structurally unsafe, unsanitary, or not provided 1004
with adequate safe egress; that constitutes a fire hazard, or is 1005
otherwise dangerous to human life, ~~or; that is otherwise~~ no longer 1006
fit and habitable if used or designed to be used for residential 1007
purposes; or that, in relation to its existing use, constitutes a 1008
hazard to the public health, welfare, or safety by reason of 1009
inadequate maintenance, dilapidation, obsolescence, or 1010
abandonment. 1011

(b) "Public nuisance" as it applies to land means land that 1012
constitutes a hazard to the public health, welfare, or safety by 1013
reason of unsafe or unsanitary conditions. 1014

(c) "Public nuisance" as it applies to subsidized housing 1015
means subsidized housing that fails to meet the following 1016
standards as specified in the federal rules governing each 1017
standard: 1018

(i) Each building on the site is structurally sound, secure, 1019
habitable, and in good repair, as defined in 24 C.F.R. 5.703(b); 1020

(ii) Each building's domestic water, electrical system, 1021
elevators, emergency power, fire protection, HVAC, and sanitary 1022
system is free of health and safety hazards, functionally 1023

adequate, operable, and in good repair, as defined in 24 C.F.R. 1024
5.703(c); 1025

(iii) Each dwelling unit within the building is structurally 1026
sound, habitable, and in good repair, and all areas and aspects of 1027
the dwelling unit are free of health and safety hazards, 1028
functionally adequate, operable, and in good repair, as defined in 1029
24 C.F.R. 5.703(d)(1); 1030

(iv) Where applicable, the dwelling unit has hot and cold 1031
running water, including an adequate source of potable water, as 1032
defined in 24 C.F.R. 5.703(d)(2); 1033

(v) If the dwelling unit includes its own sanitary facility, 1034
it is in proper operating condition, usable in privacy, and 1035
adequate for personal hygiene, and the disposal of human waste, as 1036
defined in 24 C.F.R. 5.703(d)(3); 1037

(vi) The common areas are structurally sound, secure, and 1038
functionally adequate for the purposes intended. The basement, 1039
garage, carport, restrooms, closets, utility, mechanical, 1040
community rooms, daycare, halls, corridors, stairs, kitchens, 1041
laundry rooms, office, porch, patio, balcony, and trash collection 1042
areas are free of health and safety hazards, operable, and in good 1043
repair. All common area ceilings, doors, floors, HVAC, lighting, 1044
smoke detectors, stairs, walls, and windows, to the extent 1045
applicable, are free of health and safety hazards, operable, and 1046
in good repair, as defined in 24 C.F.R. 5.703(e); 1047

(vii) All areas and components of the housing are free of 1048
health and safety hazards. These areas include, but are not 1049
limited to, air quality, electrical hazards, elevators, 1050
emergency/fire exits, flammable materials, garbage and debris, 1051
handrail hazards, infestation, and lead-based paint, as defined in 1052
24 C.F.R. 5.703(f). 1053

~~(3)(4) "Abate" or "abatement" in connection with any building~~ 1054

means the removal or correction of any conditions that constitute 1055
a public nuisance and, in connection with any building, includes 1056
the making of any other improvements that are needed to effect a 1057
rehabilitation of the building that is consistent with maintaining 1058
safe and habitable conditions over its remaining useful life. 1059
~~"Abatement" does not include the~~ The closing or boarding up of any 1060
building that is found to be a public nuisance, by itself, does 1061
not serve as an abatement of the public nuisance. 1062

~~(4)~~(5) "Interested party" means any owner, mortgagee, 1063
lienholder, tenant, or person that possesses an interest of record 1064
in any property that becomes subject to the jurisdiction of a 1065
court pursuant to this section, and any applicant for the 1066
appointment of a receiver pursuant to this section. 1067

~~(5)~~(6) "Neighbor" means any owner of real property, 1068
including, but not limited to, any person who is purchasing real 1069
property by land installment contract or under a duly executed 1070
purchase contract, that is located within five hundred feet of any 1071
real property that becomes subject to the jurisdiction of a court 1072
pursuant to this section, and any occupant of a building that is 1073
so located. 1074

~~(6)~~(7) "Tenant" has the same meaning as in section 5321.01 of 1075
the Revised Code. 1076

~~(7)~~(8) "Subsidized housing" means a property consisting of 1077
more than four dwelling units that, in whole or in part, receives 1078
project-based assistance pursuant to a contract under any of the 1079
following federal housing programs: 1080

(a) The new construction or substantial rehabilitation 1081
program under section 8(b)(2) of the "United States Housing Act of 1082
1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(b)(2) as 1083
that program was in effect immediately before the first day of 1084
October, 1983; 1085

(b) The moderate rehabilitation program under section 8(e)(2) 1086
of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 1087
Stat. 888, 42 U.S.C. 1437f(e)(2); 1088

(c) The loan management assistance program under section 8 of 1089
the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 1090
Stat. 888, 42 U.S.C. 1437f; 1091

(d) The rent supplement program under section 101 of the 1092
"Housing and Urban Development Act of 1965," Pub. L. No. 89-174, 1093
79 Stat. 667, 12 U.S.C. 1701s; 1094

(e) Section 8 of the "United States Housing Act of 1937," 1095
Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f, following 1096
conversion from assistance under section 101 of the "Housing and 1097
Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat. 667, 1098
12 U.S.C. 1701s; 1099

(f) The program of supportive housing for the elderly under 1100
section 202 of the "Housing Act of 1959," Pub. L. No. 86-372, 73 1101
Stat. 654, 12 U.S.C. 1701q; 1102

(g) The program of supportive housing for persons with 1103
disabilities under section 811 of the "National Affordable Housing 1104
Act of 1990," Pub. L. No. 101-625, 104 Stat. 4313, 42 U.S.C. 8013; 1105

(h) The rental assistance program under section 521 of the 1106
"United States Housing Act of 1949," Pub. L. No. 90-448, 82 Stat. 1107
551, as amended by Pub. L. No. 93-383, 88 Stat. 696, 42 U.S.C. 1108
1490a. 1109

~~(8)~~(9) "Project-based assistance" means the assistance is 1110
attached to the property and provides rental assistance only on 1111
behalf of tenants who reside in that property. 1112

~~(9)~~(10) "Landlord" has the same meaning as in section 5321.01 1113
of the Revised Code. 1114

(B)(1)(a) In any civil action to enforce any local building, 1115

housing, air pollution, sanitation, health, fire, zoning, or 1116
safety code, ordinance, resolution, or regulation applicable to 1117
buildings, lands, or subsidized housing that is commenced in a 1118
court of common pleas, municipal court, housing or environmental 1119
division of a municipal court, or county court, or in any civil 1120
action for abatement commenced in a court of common pleas, 1121
municipal court, housing or environmental division of a municipal 1122
court, or county court, by a municipal corporation or township in 1123
which the building, land, or subsidized housing involved is 1124
located, by any neighbor, tenant, or by a nonprofit corporation 1125
that is duly organized and has as one of its goals the improvement 1126
of housing conditions in the county or municipal corporation in 1127
which the building, land, or subsidized housing involved is 1128
located, if a building, land, or subsidized housing is alleged to 1129
be a public nuisance, the municipal corporation, township, 1130
neighbor, tenant, or nonprofit corporation may apply in its 1131
complaint for an injunction, relief, or other order as described 1132
in division (C)(1) of this section, ~~or for the relief described in~~ 1133
~~division (C)(2) of this section~~, including, if necessary, the 1134
appointment of a receiver as described in divisions (C)(2) and (3) 1135
of this section, or for both such an injunction or other order and 1136
such relief. The municipal corporation, township, neighbor, 1137
tenant, or nonprofit corporation commencing the action is not 1138
liable for the costs, expenses, and fees of any receiver appointed 1139
pursuant to divisions (C)(2) and (3) of this section. 1140

(b) Prior to commencing a civil action for abatement when the 1141
property alleged to be a public nuisance is subsidized housing, 1142
the municipal corporation, township, neighbor, tenant, or 1143
nonprofit corporation commencing the action shall provide the 1144
landlord of that property with written notice that specifies one 1145
or more defective conditions that constitute a public nuisance as 1146
that term applies to subsidized housing and states that if the 1147
landlord fails to remedy the condition within sixty days of the 1148

service of the notice, a claim pursuant to this section may be 1149
brought on the basis that the property constitutes a public 1150
nuisance in subsidized housing. Any party authorized to bring an 1151
action against the landlord shall make reasonable attempts to 1152
serve the notice in the manner prescribed in the Rules of Civil 1153
Procedure to the landlord or the landlord's agent for the property 1154
at the property's management office, or at the place where the 1155
tenants normally pay or send rent. If the landlord is not the 1156
owner of record, the party bringing the action shall make a 1157
reasonable attempt to serve the owner. If the owner does not 1158
receive service the person bringing the action shall certify the 1159
attempts to serve the owner. 1160

(2)(a) In a civil action described in division (B)(1) of this 1161
section, a copy of the complaint and a notice of the date and time 1162
of a hearing on the complaint shall be served upon the owner of 1163
the building, land, or subsidized housing and all other interested 1164
parties in accordance with the Rules of Civil Procedure. If 1165
certified mail service, personal service, or residence service of 1166
the complaint and notice is refused or certified mail service of 1167
the complaint and notice is not claimed, and if the municipal 1168
corporation, township, neighbor, tenant, or nonprofit corporation 1169
commencing the action makes a written request for ordinary mail 1170
service of the complaint and notice, or uses publication service, 1171
in accordance with the Rules of Civil Procedure, then a copy of 1172
the complaint and notice shall be posted in a conspicuous place on 1173
the building, land, or subsidized housing. 1174

(b) The judge in a civil action described in division (B)(1) 1175
of this section ~~shall~~ may conduct a summary hearing ~~at least to~~ 1176
consider and issue any temporary orders that are necessary to 1177
protect the public health, welfare, and safety pending further 1178
proceedings. 1179

(c) The judge shall conduct a hearing on the complaint not 1180

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

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

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

this division, then the judge may issue an injunction requiring 1213
the owner of the building, land, or subsidized housing to abate 1214
the public nuisance or issue any other order that the judge 1215
considers necessary or appropriate to cause the abatement of the 1216
public nuisance. If an injunction is issued pursuant to this 1217
division, the owner of the building, land, or subsidized housing 1218
involved shall be given no more than thirty days from the date of 1219
the entry of the judge's order to comply with the injunction, 1220
unless the judge, for good cause shown, extends the time for 1221
compliance. 1222

~~(2)~~ If the judge in a the civil action ~~described in division~~ 1223
~~(B)(1) of this section finds at the hearing required by division~~ 1224
~~(B)(2) of this section that the building involved is a public~~ 1225
~~nuisance, if the judge additionally~~ determines that the owner of 1226
the building, land, or subsidized housing previously ~~has been~~ was 1227
afforded a reasonable opportunity to abate the public nuisance and 1228
has refused or failed to do so, and if the complaint of the 1229
municipal corporation, township, neighbor, tenant, or nonprofit 1230
corporation commencing the action requested relief as described in 1231
this division, then the judge shall offer any mortgagee, 1232
lienholder, or other interested party associated with the property 1233
on which the building is located, in the order of the priority of 1234
interest in title, the opportunity to undertake the work and to 1235
furnish the materials necessary to abate the public nuisance. 1236
Prior to selecting any interested party, the judge shall require 1237
the interested party to demonstrate the ability to promptly 1238
undertake the work and furnish the materials required, to provide 1239
the judge with a viable financial and construction plan for the 1240
rehabilitation of the building as described in division (D) of 1241
this section, and to post security for the performance of the work 1242
and the furnishing of the materials. 1243

(2) If the judge determines, at the hearing, that no 1244

interested party associated with the building, land, or subsidized 1245
housing is willing or able to undertake the work and to furnish 1246
the materials necessary to abate the public nuisance, or if the 1247
judge determines, at any time after the hearing, that any party 1248
who is undertaking corrective work pursuant to this division 1249
cannot or will not proceed, or has not proceeded with due 1250
diligence, the judge may appoint a receiver pursuant to division 1251
(C)(3) of this section to take possession and control of the 1252
building, land, or subsidized housing. 1253

(3)(a) The judge in a civil action described in division 1254
(B)(1) of this section shall not appoint any person as a receiver 1255
unless the person first has provided the judge with a viable 1256
financial and construction plan for the rehabilitation of the 1257
building ~~involved,~~ land, or subsidized housing as described in 1258
division (D) of this section and has demonstrated the capacity and 1259
expertise to perform the required work and to furnish the required 1260
materials in a satisfactory manner. An appointed receiver may be a 1261
financial institution that possesses an interest of record in the 1262
building or the property on which ~~it~~ the building is located, 1263
land, or subsidized housing, a nonprofit corporation as described 1264
in divisions (B)(1) and (C)(3)(b) of this section, including, but 1265
not limited to, a nonprofit corporation that commenced the action 1266
described in division (B)(1) of this section, or any other 1267
qualified property manager. 1268

(b) To be eligible for appointment as a receiver, no part of 1269
the net earnings of a nonprofit corporation shall inure to the 1270
benefit of any private shareholder or individual. Membership on 1271
the board of trustees of a nonprofit corporation appointed as a 1272
receiver does not constitute the holding of a public office or 1273
employment within the meaning of sections 731.02 and 731.12 or any 1274
other section of the Revised Code and does not constitute a direct 1275
or indirect interest in a contract or expenditure of money by any 1276

municipal corporation. A member of a board of trustees of a 1277
nonprofit corporation appointed as a receiver shall not be 1278
disqualified from holding any public office or employment, and 1279
shall not forfeit any public office or employment, by reason of 1280
membership on the board of trustees, notwithstanding any law to 1281
the contrary. 1282

(D) Prior to ordering an owner, interested party, or receiver 1283
to undertake any work ~~to be undertaken, or the furnishing of any~~ 1284
~~materials,~~ to abate a public nuisance under this section, the 1285
judge in a civil action described in division (B)(1) of this 1286
section shall review the submitted financial and construction plan 1287
for the rehabilitation of the building involved, land, or 1288
subsidized housing and, if it specifies all of the following, 1289
shall approve that plan: 1290

(1) The estimated cost of the labor, materials, and any other 1291
development costs that are required to abate the public nuisance; 1292

(2) The estimated income and expenses of the building and the 1293
property on which ~~it~~ the building is located, land, or subsidized 1294
housing after the furnishing of the materials and the completion 1295
of the repairs and improvements; 1296

(3) The terms, conditions, and availability of any financing 1297
that is necessary to perform the work and to furnish the 1298
materials; 1299

(4) If repair and rehabilitation of ~~the~~ a building are found 1300
not to be feasible, the cost of demolition of the building or of 1301
the portions of the building that constitute the public nuisance. 1302

(E) Upon the written request of any of the interested parties 1303
to have a building, or portions of a building, that constitute a 1304
public nuisance demolished because repair and rehabilitation of 1305
the building are found not to be feasible, the judge may order the 1306
demolition. However, the demolition shall not be ordered unless 1307

the requesting interested parties have paid the costs of 1308
demolition and, if any, of the receivership, and, if any, all 1309
notes, certificates, mortgages, and fees of the receivership. 1310

(F) Before proceeding with the duties of receiver, any 1311
receiver appointed by the judge in a civil action described in 1312
division (B)(1) of this section may be required by the judge to 1313
post a bond in an amount fixed by the judge, but not exceeding the 1314
value of the building ~~involved~~, land, or subsidized housing as 1315
determined by the judge. 1316

The judge may empower the receiver to do any or all of the 1317
following: 1318

(1) Take possession and control of the building and the 1319
property on which ~~it~~ the building is located, land, or subsidized 1320
housing, operate and manage the building and ~~the property, land,~~ 1321
or subsidized housing, establish and collect rents and income, 1322
lease and rent the building and ~~the property, land, or subsidized~~ 1323
housing, and evict tenants; 1324

(2) Pay all expenses of operating and conserving the building 1325
and ~~the property, land, or subsidized housing~~, including, but not 1326
limited to, the cost of electricity, gas, water, sewerage, heating 1327
fuel, repairs and supplies, custodian services, taxes and 1328
assessments, and insurance premiums, and hire and pay reasonable 1329
compensation to a managing agent; 1330

(3) Pay pre-receivership mortgages or installments of them 1331
and other liens; 1332

(4) Perform or enter into contracts for the performance of 1333
all work and the furnishing of materials necessary to abate, and 1334
obtain financing for the abatement of, the public nuisance; 1335

(5) Pursuant to court order, remove and dispose of any 1336
personal property abandoned, stored, or otherwise located in or on 1337
the building and ~~the property, land, or subsidized housing~~ that 1338

creates a dangerous or unsafe condition or that constitutes a 1339
violation of any local building, housing, air pollution, 1340
sanitation, health, fire, zoning, or safety code, ordinance, or 1341
regulation; 1342

(6) Obtain mortgage insurance for any receiver's mortgage 1343
~~from any agency of the federal government;~~ 1344

(7) Enter into any agreement and do those things necessary to 1345
maintain and preserve the building and ~~the~~ property, land, or 1346
subsidized housing and comply with all local building, housing, 1347
air pollution, sanitation, health, fire, zoning, or safety codes, 1348
ordinances, resolutions, and regulations; 1349

(8) Give the custody of the building and ~~the~~ property, land, 1350
or subsidized housing, and the opportunity to abate the nuisance 1351
and operate the building and property, land, or subsidized 1352
housing, to its owner or any mortgagee or lienholder of record; 1353

(9) Issue notes and secure them by a mortgage bearing 1354
interest, and upon terms and conditions, that the judge approves. 1355
When sold or transferred by the receiver in return for valuable 1356
consideration in money, material, labor, or services, the notes or 1357
certificates shall be freely transferable. Any mortgages granted 1358
by the receiver shall be superior to any claims of the receiver. 1359
Priority among the receiver's mortgages shall be determined by the 1360
order in which they are recorded. 1361

(G) A receiver appointed pursuant to this section is not 1362
personally liable except for misfeasance, malfeasance, or 1363
nonfeasance in the performance of the functions of the office of 1364
receiver. 1365

(H)(1) The judge in a civil action described in division 1366
(B)(1) of this section may assess as court costs, the expenses 1367
described in division (F)(2) of this section, and may approve 1368
receiver's fees to the extent that they are not covered by the 1369

income from the property. Subject to that limitation, a receiver 1370
appointed pursuant to divisions (C)(2) and (3) of this section is 1371
entitled to receive fees in the same manner and to the same extent 1372
as receivers appointed in actions to foreclose mortgages. 1373

(2)(a) Pursuant to the police powers vested in the state, all 1374
expenditures of a mortgagee, lienholder, or other interested party 1375
that has been selected pursuant to division (C)~~(2)~~(1) of this 1376
section to undertake the work and to furnish the materials 1377
necessary to abate a public nuisance, and any expenditures in 1378
connection with the foreclosure of the lien created by this 1379
division, is a first lien upon the building ~~involved~~ and the 1380
property on which ~~it~~ the building is located, land, or subsidized 1381
housing and is superior to all prior and subsequent liens or other 1382
encumbrances associated with the building ~~or the~~ and property, 1383
land, or subsidized housing, including, but not limited to, those 1384
for taxes and assessments, upon the occurrence of both of the 1385
following: 1386

(i) The prior approval of the expenditures by, and the entry 1387
of a judgment to that effect by, the judge in the civil action 1388
described in division (B)(1) of this section; 1389

(ii) The recordation of a certified copy of the judgment 1390
entry and a sufficient description of the property on which the 1391
building is located, land, or subsidized housing with the county 1392
recorder in the county in which the property is located within 1393
sixty days after the date of the entry of the judgment. 1394

(b) Pursuant to the police powers vested in the state, all 1395
expenses and other amounts paid in accordance with division (F) of 1396
this section by a receiver appointed pursuant to divisions (C)(2) 1397
and (3) of this section, the amounts of any notes issued by the 1398
receiver in accordance with division (F) of this section, all 1399
mortgages granted by the receiver in accordance with that 1400
division, the fees of the receiver approved pursuant to division 1401

(H)(1) of this section, and any amounts expended in connection 1402
with the foreclosure of a mortgage granted by the receiver in 1403
accordance with division (F) of this section or with the 1404
foreclosure of the lien created by this division, are a first lien 1405
upon the building ~~involved~~ and the property on which ~~it~~ the 1406
building is located, land, or subsidized housing and are superior 1407
to all prior and subsequent liens or other encumbrances associated 1408
with the building ~~or the~~ and property, land, or subsidized 1409
housing, including, but not limited to, those for taxes and 1410
assessments, upon the occurrence of both of the following: 1411

(i) The approval of the expenses, amounts, or fees by, and 1412
the entry of a judgment to that effect by, the judge in the civil 1413
action described in division (B)(1) of this section; or the 1414
approval of the mortgages in accordance with division (F)(9) of 1415
this section by, and the entry of a judgment to that effect by, 1416
that judge; 1417

(ii) The recordation of a certified copy of the judgment 1418
entry and a sufficient description of the property on which the 1419
building is located, land, or subsidized housing, or, in the case 1420
of a mortgage, the recordation of the mortgage, a certified copy 1421
of the judgment entry, and such a description, with the county 1422
recorder of the county in which the property is located within 1423
sixty days after the date of the entry of the judgment. 1424

(c) Priority among the liens described in divisions (H)(2)(a) 1425
and (b) of this section shall be determined as described in 1426
division (I) of this section. Additionally, the creation pursuant 1427
to this section of a mortgage lien that is prior to or superior to 1428
any mortgage of record at the time the mortgage lien is so 1429
created, does not disqualify the mortgage of record as a legal 1430
investment under Chapter 1107. or 1151. or any other chapter of 1431
the Revised Code. 1432

(I)(1) If a receiver appointed pursuant to divisions (C)(2) 1433

and (3) of this section files with the judge in the civil action 1434
described in division (B)(1) of this section a report indicating 1435
that the public nuisance has been abated, if the judge confirms 1436
that the receiver has abated the public nuisance, and if the 1437
receiver or any interested party requests the judge to enter an 1438
order directing the receiver to sell the building and the property 1439
on which ~~it~~ the building is located, land, or subsidized housing, 1440
the judge may enter that order after holding a hearing as 1441
described in division (I)(2) of this section and otherwise 1442
complying with that division. 1443

(2)(a) The receiver or interested party requesting an order 1444
as described in division (I)(1) of this section shall cause a 1445
notice of the date and time of a hearing on the request to be 1446
served on the owner of the building ~~involved~~, land, or subsidized 1447
housing and all other interested parties in accordance with 1448
division (B)(2)(a) of this section. The judge in the civil action 1449
described in division (B)(1) of this section shall conduct the 1450
scheduled hearing. At the hearing, if the owner or any interested 1451
party objects to the sale of the building and ~~the property~~, land, 1452
or subsidized housing, the burden of proof shall be upon the 1453
objecting person to establish, by a preponderance of the evidence, 1454
that the benefits of not selling the building and ~~the property~~, 1455
land, or subsidized housing outweigh the benefits of selling them. 1456
If the judge determines that there is no objecting person, or if 1457
the judge determines that there is one or more objecting persons 1458
but no objecting person has sustained the burden of proof 1459
specified in this division, the judge may enter an order directing 1460
the receiver to offer the building and ~~the property~~, land, or 1461
subsidized housing for sale upon terms and conditions that the 1462
judge shall specify. 1463

(b) In any sale of subsidized housing that is ordered 1464
pursuant to this section, the judge shall specify that the 1465

subsidized housing not be conveyed unless that conveyance complies 1466
with applicable federal law and applicable program contracts for 1467
that housing. Any such conveyance shall be subject to the 1468
condition that the purchaser enter into a contract with the 1469
department of housing and urban development or the rural housing 1470
service of the federal department of agriculture under which the 1471
property continues to be subsidized housing and the owner 1472
continues to operate that property as subsidized housing unless 1473
the secretary of housing and urban development or the 1474
administrator of the rural housing service terminates that 1475
property's contract prior to or upon the conveyance of the 1476
property. 1477

(3) If a sale of a building and the property on which it is 1478
located, land, or subsidized housing is ordered pursuant to 1479
divisions (I)(1) and (2) of this section and if the sale occurs in 1480
accordance with the terms and conditions specified by the judge in 1481
the judge's order of sale, then the receiver shall distribute the 1482
proceeds of the sale and the balance of any funds that the 1483
receiver may possess, after the payment of the costs of the sale, 1484
in the following order of priority and in the described manner: 1485

(a) First, in satisfaction of any notes issued by the 1486
receiver pursuant to division (F) of this section, in their order 1487
of priority; 1488

(b) Second, any unreimbursed expenses and other amounts paid 1489
in accordance with division (F) of this section by the receiver, 1490
and the fees of the receiver approved pursuant to division (H)(1) 1491
of this section; 1492

(c) Third, all expenditures of a mortgagee, lienholder, or 1493
other interested party that has been selected pursuant to division 1494
(C)~~(2)~~(1) of this section to undertake the work and to furnish the 1495
materials necessary to abate a public nuisance, provided that the 1496
expenditures were approved as described in division (H)(2)(a) of 1497

this section and provided that, if any such interested party 1498
subsequently became the receiver, its expenditures shall be paid 1499
prior to the expenditures of any of the other interested parties 1500
so selected; 1501

(d) Fourth, the amount due for delinquent taxes, assessments, 1502
charges, penalties, and interest owed to this state or a political 1503
subdivision of this state, provided that, if the amount available 1504
for distribution pursuant to division (I)(3)(d) of this section is 1505
insufficient to pay the entire amount of those taxes, assessments, 1506
charges, penalties, and interest, the proceeds and remaining funds 1507
shall be paid to each claimant in proportion to the amount of 1508
those taxes, assessments, charges, penalties, and interest that 1509
each is due. 1510

(e) The amount of any pre-receivership mortgages, liens, or 1511
other encumbrances, in their order of priority. 1512

(4) Following a distribution in accordance with division 1513
(I)(3) of this section, the receiver shall request the judge in 1514
the civil action described in division (B)(1) of this section to 1515
enter an order terminating the receivership. If the judge 1516
determines that the sale of the building and the property on which 1517
it is located, land, or subsidized housing occurred in accordance 1518
with the terms and conditions specified by the judge in the 1519
judge's order of sale under division (I)(2) of this section and 1520
that the receiver distributed the proceeds of the sale and the 1521
balance of any funds that the receiver possessed, after the 1522
payment of the costs of the sale, in accordance with division 1523
(I)(3) of this section, and if the judge approves any final 1524
accounting required of the receiver, the judge may terminate the 1525
receivership. 1526

(J)(1) A receiver appointed pursuant to divisions (C)(2) and 1527
(3) of this section may be discharged at any time in the 1528
discretion of the judge in the civil action described in division 1529

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

(a) The public nuisance has been abated;

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

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

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

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

respect to the building and the property ~~shall survive the sale,~~ 1561
~~including, but not limited to, land, or subsidized housing, except~~ 1562
a federal tax lien notice that was properly filed in accordance 1563
with section 317.09 of the Revised Code prior to the time of the 1564
sale, and the easements and covenants of record running with the 1565
property that were created prior to the time of the sale. 1566

(L)(1) Nothing in this section shall be construed as a 1567
limitation upon the powers granted to a court of common pleas, a 1568
municipal court or a housing or environmental division of a 1569
municipal court under Chapter 1901. of the Revised Code, or a 1570
county court under Chapter 1907. of the Revised Code. 1571

(2) The monetary and other limitations specified in Chapters 1572
1901. and 1907. of the Revised Code upon the jurisdiction of 1573
municipal and county courts, and of housing or environmental 1574
divisions of municipal courts, in civil actions do not operate as 1575
limitations upon any of the following: 1576

(a) Expenditures of a mortgagee, lienholder, or other 1577
interested party that has been selected pursuant to division 1578
(C)(2) of this section to undertake the work and to furnish the 1579
materials necessary to abate a public nuisance; 1580

(b) Any notes issued by a receiver pursuant to division (F) 1581
of this section; 1582

(c) Any mortgage granted by a receiver in accordance with 1583
division (F) of this section; 1584

(d) Expenditures in connection with the foreclosure of a 1585
mortgage granted by a receiver in accordance with division (F) of 1586
this section; 1587

(e) The enforcement of an order of a judge entered pursuant 1588
to this section; 1589

(f) The actions that may be taken pursuant to this section by 1590

a receiver or a mortgagee, lienholder, or other interested party 1591
that has been selected pursuant to division (C)~~(2)~~(1) of this 1592
section to undertake the work and to furnish the materials 1593
necessary to abate a public nuisance. 1594

(3) A judge in a civil action described in division (B)(1) of 1595
this section, or the judge's successor in office, has continuing 1596
jurisdiction to review the condition of any building, land, or 1597
subsidized housing that was determined to be a public nuisance 1598
pursuant to this section. 1599

(4) Nothing in this section shall be construed to limit or 1600
prohibit a municipal corporation or township that has filed with 1601
the superintendent of insurance a certified copy of an adopted 1602
resolution, ordinance, or regulation authorizing the procedures 1603
described in divisions (C) and (D) of section 3929.86 of the 1604
Revised Code from receiving insurance proceeds under section 1605
3929.86 of the Revised Code. 1606

Sec. 5723.01. (A)(1) Every tract of land and town lot, which, 1607
pursuant to foreclosure proceedings under section 323.25, sections 1608
323.65 to 323.79, or section 5721.18 of the Revised Code, has been 1609
advertised and offered for sale on two separate occasions, not 1610
less than two weeks apart, and not sold for want of bidders, shall 1611
be forfeited to the state or to a political subdivision, school 1612
district, or county land reutilization corporation pursuant to 1613
division (A)(3) of this section. 1614

(2) The county prosecuting attorney shall certify to the 1615
court that such tract of land or town lot has been twice offered 1616
for sale and not sold for want of a bidder. Such forfeiture of 1617
lands and town lots shall be effective when the court by entry 1618
orders such lands and town lots forfeited to the state or to a 1619
political subdivision, school district, or county land 1620
reutilization corporation pursuant to division (A)(3) of this 1621

section. A copy of such entry shall be certified to the county auditor and, after the date of the certification, all the right, title, claim, and interest of the former owner is transferred to and vested in the state to be disposed of in compliance with this chapter.

(3) After having been notified pursuant to division (A)(2) of this section that the tract of land or town lot has been twice offered for sale and not sold for want of bidders, the court shall notify the political subdivision and school district in which the property is located, and any county land reutilization corporation in the county, and offer to forfeit the property to the political subdivision, school district, or corporation, or to an electing subdivision as defined in section 5722.01 of the Revised Code, upon a petition from the political subdivision, school district, or corporation. If no such petition is filed with the court within ten days after notification by the court, the court shall forfeit the property to the state. If a political subdivision, school district, or corporation requests through a petition to receive the property through forfeiture, the forfeiture of land and town lots is effective when, by entry, the court orders such lands and town lots forfeited to the political subdivision, school district, or corporation. The court shall certify a copy of the entry to the county auditor and, after the date of certification, ~~all the right, title, claim, and interest of the former owner is transferred to and vested in the political subdivision, school district, or corporation~~ the county auditor shall promptly transfer to such political subdivision, school district, or corporation, by auditor's deed, the fee simple title to the property free and clear of all taxes, assessments, charges, penalties, interest, and costs. Any subordinate liens shall be deemed fully and forever satisfied and discharged and the property shall be deemed sold by the state for no consideration. The political subdivision, school district, or corporation shall file

the deed for recording. 1655

(B) Every parcel against which a judgment of foreclosure and 1656
forfeiture is made in accordance with section 5721.16 of the 1657
Revised Code is forfeited to the state on the date the court 1658
enters a finding under that section. After that date, all the 1659
right, title, claim, and interest of the former owner is 1660
transferred to the state to be disposed of in compliance with the 1661
relevant provisions of this chapter. 1662

Section 2. That existing sections 317.13, 323.47, 2303.20, 1663
2323.07, 2329.01, 2329.02, 2329.09, 2329.191, 2329.26, 2329.31, 1664
2329.33, 2329.36, 3767.41, and 5723.01 of the Revised Code are 1665
hereby repealed. 1666