

**As Introduced**

**128th General Assembly  
Regular Session  
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**S. B. No. 197**

**Senator Jones**

**Cosponsors: Senators Faber, Schaffer, Wagoner**

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**A B I L L**

To amend sections 2303.201 and 2323.06 and to enact 1  
sections 2303.24 and 2308.01 to 2308.05 of the 2  
Revised Code to require courts to establish and 3  
operate programs of mandatory foreclosure 4  
mediation in non-tax foreclosure actions on 5  
occupied residential properties and to establish 6  
procedures for the operation of those foreclosure 7  
mediation programs. 8

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

**Section 1.** That sections 2303.201 and 2323.06 be amended and 9  
sections 2303.24, 2308.01, 2308.02, 2308.03, 2308.04, and 2308.05 10  
of the Revised Code be enacted to read as follows: 11

**Sec. 2303.201.** (A)(1) The court of common pleas of any county 12  
may determine that for the efficient operation of the court 13  
additional funds are required to computerize the court, to make 14  
available computerized legal research services, or to do both. 15  
Upon making a determination that additional funds are required for 16  
either or both of those purposes, the court shall authorize and 17  
direct the clerk of the court of common pleas to charge one 18  
additional fee, not to exceed three dollars, on the filing of each 19

cause of action or appeal under divisions (A), (Q), and (U) of 20  
section 2303.20 of the Revised Code. 21

(2) All fees collected under division (A)(1) of this section 22  
shall be paid to the county treasurer. The treasurer shall place 23  
the funds from the fees in a separate fund to be disbursed, upon 24  
an order of the court, in an amount not greater than the actual 25  
cost to the court of procuring and maintaining computerization of 26  
the court, computerized legal research services, or both. 27

(3) If the court determines that the funds in the fund 28  
described in division (A)(2) of this section are more than 29  
sufficient to satisfy the purpose for which the additional fee 30  
described in division (A)(1) of this section was imposed, the 31  
court may declare a surplus in the fund and expend those surplus 32  
funds for other appropriate technological expenses of the court. 33

(B)(1) The court of common pleas of any county may determine 34  
that, for the efficient operation of the court, additional funds 35  
are required to computerize the office of the clerk of the court 36  
of common pleas and, upon that determination, authorize and direct 37  
the clerk of the court of common pleas to charge an additional 38  
fee, not to exceed ten dollars, on the filing of each cause of 39  
action or appeal, on the filing, docketing, and endorsing of each 40  
certificate of judgment, or on the docketing and indexing of each 41  
aid in execution or petition to vacate, revive, or modify a 42  
judgment under divisions (A), (P), (Q), (T), and (U) of section 43  
2303.20 of the Revised Code. Subject to division (B)(2) of this 44  
section, all moneys collected under division (B)(1) of this 45  
section shall be paid to the county treasurer to be disbursed, 46  
upon an order of the court of common pleas and subject to 47  
appropriation by the board of county commissioners, in an amount 48  
no greater than the actual cost to the court of procuring and 49  
maintaining computer systems for the office of the clerk of the 50  
court of common pleas. 51

(2) If the court of common pleas of a county makes the 52  
determination described in division (B)(1) of this section, the 53  
board of county commissioners of that county may issue one or more 54  
general obligation bonds for the purpose of procuring and 55  
maintaining the computer systems for the office of the clerk of 56  
the court of common pleas. In addition to the purposes stated in 57  
division (B)(1) of this section for which the moneys collected 58  
under that division may be expended, the moneys additionally may 59  
be expended to pay debt charges on and financing costs related to 60  
any general obligation bonds issued pursuant to division (B)(2) of 61  
this section as they become due. General obligation bonds issued 62  
pursuant to division (B)(2) of this section are Chapter 133. 63  
securities. 64

(C) The court of common pleas shall collect the sum of 65  
twenty-six dollars as additional filing fees in each new civil 66  
action or proceeding for the charitable public purpose of 67  
providing financial assistance to legal aid societies that operate 68  
within the state and to support the office of the state public 69  
defender. This division does not apply to proceedings concerning 70  
annulments, dissolutions of marriage, divorces, legal separation, 71  
spousal support, marital property or separate property 72  
distribution, support, or other domestic relations matters; to a 73  
juvenile division of a court of common pleas; to a probate 74  
division of a court of common pleas, except that the additional 75  
filing fees shall apply to name change, guardianship, adoption, 76  
and decedents' estate proceedings; or to an execution on a 77  
judgment, proceeding in aid of execution, or other post-judgment 78  
proceeding arising out of a civil action. The filing fees required 79  
to be collected under this division shall be in addition to any 80  
other filing fees imposed in the action or proceeding and shall be 81  
collected at the time of the filing of the action or proceeding. 82  
The court shall not waive the payment of the additional filing 83  
fees in a new civil action or proceeding unless the court waives 84

the advanced payment of all filing fees in the action or 85  
proceeding. All such moneys collected during a month except for an 86  
amount equal to up to one per cent of those moneys retained to 87  
cover administrative costs shall be transmitted on or before the 88  
twentieth day of the following month by the clerk of the court to 89  
the treasurer of state in a manner prescribed by the treasurer of 90  
state or by the Ohio legal assistance foundation. The treasurer of 91  
state shall deposit four per cent of the funds collected under 92  
this division to the credit of the civil case filing fee fund 93  
established under section 120.07 of the Revised Code and 94  
ninety-six per cent of the funds collected under this division to 95  
the credit of the legal aid fund established under section 120.52 96  
of the Revised Code. 97

The court may retain up to one per cent of the moneys it 98  
collects under this division to cover administrative costs, 99  
including the hiring of any additional personnel necessary to 100  
implement this division. If the court fails to transmit to the 101  
treasurer of state the moneys the court collects under this 102  
division in a manner prescribed by the treasurer of state or by 103  
the Ohio legal assistance foundation, the court shall forfeit the 104  
moneys the court retains under this division to cover 105  
administrative costs, including the hiring of any additional 106  
personnel necessary to implement this division, and shall transmit 107  
to the treasurer of state all moneys collected under this 108  
division, including the forfeited amount retained for 109  
administrative costs, for deposit in the legal aid fund. 110

(D) On and after the thirtieth day after December 9, 1994, 111  
the court of common pleas shall collect the sum of thirty-two 112  
dollars as additional filing fees in each new action or proceeding 113  
for annulment, divorce, or dissolution of marriage for the purpose 114  
of funding shelters for victims of domestic violence pursuant to 115  
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 116

required to be collected under this division shall be in addition 117  
to any other filing fees imposed in the action or proceeding and 118  
shall be collected at the time of the filing of the action or 119  
proceeding. The court shall not waive the payment of the 120  
additional filing fees in a new action or proceeding for 121  
annulment, divorce, or dissolution of marriage unless the court 122  
waives the advanced payment of all filing fees in the action or 123  
proceeding. On or before the twentieth day of each month, all 124  
moneys collected during the immediately preceding month pursuant 125  
to this division shall be deposited by the clerk of the court into 126  
the county treasury in the special fund used for deposit of 127  
additional marriage license fees as described in section 3113.34 128  
of the Revised Code. Upon their deposit into the fund, the moneys 129  
shall be retained in the fund and expended only as described in 130  
section 3113.34 of the Revised Code. 131

(E)(1) The court of common pleas may determine that, for the 132  
efficient operation of the court, additional funds are necessary 133  
to acquire and pay for special projects of the court, including, 134  
but not limited to, the acquisition of additional facilities or 135  
the rehabilitation of existing facilities, the acquisition of 136  
equipment, the hiring and training of staff, community service 137  
programs, mediation or dispute resolution services, the employment 138  
of magistrates, the training and education of judges, acting 139  
judges, and magistrates, and other related services. Upon that 140  
determination, the court by rule may charge a fee, in addition to 141  
all other court costs, on the filing of each criminal cause, civil 142  
action or proceeding, or judgment by confession. 143

If the court of common pleas offers a special program or 144  
service in cases of a specific type, the court by rule may assess 145  
an additional charge in a case of that type, over and above court 146  
costs, to cover the special program or service. The court shall 147  
adjust the special assessment periodically, but not retroactively, 148

so that the amount assessed in those cases does not exceed the 149  
actual cost of providing the service or program. 150

All moneys collected under division (E) of this section shall 151  
be paid to the county treasurer for deposit into either a general 152  
special projects fund or a fund established for a specific special 153  
project. Moneys from a fund of that nature shall be disbursed upon 154  
an order of the court in an amount no greater than the actual cost 155  
to the court of a project. If a specific fund is terminated 156  
because of the discontinuance of a program or service established 157  
under division (E) of this section, the court may order that 158  
moneys remaining in the fund be transferred to an account 159  
established under this division for a similar purpose. 160

(2) As used in division (E) of this section: 161

(a) "Criminal cause" means a charge alleging the violation of 162  
a statute or ordinance, or subsection of a statute or ordinance, 163  
that requires a separate finding of fact or a separate plea before 164  
disposition and of which the defendant may be found guilty, 165  
whether filed as part of a multiple charge on a single summons, 166  
citation, or complaint or as a separate charge on a single 167  
summons, citation, or complaint. "Criminal cause" does not include 168  
separate violations of the same statute or ordinance, or 169  
subsection of the same statute or ordinance, unless each charge is 170  
filed on a separate summons, citation, or complaint. 171

(b) "Civil action or proceeding" means any civil litigation 172  
that must be determined by judgment entry. 173

(F)(1) The court of common pleas shall establish by rule a 174  
residential foreclosure filing fee in an amount up to five hundred 175  
dollars to charge to any person who files a petition for 176  
foreclosure on a residential property, except as division (F)(3) 177  
of this section otherwise provides. The fee shall be in addition 178  
to any other filing fee or court cost that otherwise applies to 179

the filing. The clerk of courts shall pay all moneys collected as 180  
a residential foreclosure filing fee to the county treasurer for 181  
deposit into a residential foreclosure mediation fund the 182  
treasurer establishes. Upon an order of the court, the treasurer 183  
shall disburse moneys from the fund to reimburse the court for any 184  
foreclosure mediation costs the court incurs pursuant to the 185  
foreclosure mediation program it establishes pursuant to section 186  
2303.24 of the Revised Code. If the amount collected as 187  
residential foreclosure filing fees is more than the amount 188  
sufficient to satisfy the purpose for which the fee is imposed, 189  
the court may declare a surplus and expend the money for other 190  
costs related to residential foreclosure actions. 191

(2) The fee that a filing party pays pursuant to division 192  
(F)(1) of this section is an expense that the filing party may 193  
recover from the sale of the property or as part of a deficiency 194  
judgment. 195

(3) The fee that division (F)(1) of this section establishes 196  
does not apply to any foreclosure filing based on a lien for 197  
delinquent taxes. 198

**Sec. 2303.24.** A court of common pleas shall establish a 199  
program of mandatory mediation to be conducted by a 200  
court-appointed mediator that shall apply to all foreclosure 201  
actions on occupied residential structures, except for those 202  
listed in division (B) of section 2308.02 of the Revised Code. 203

The foreclosure mediation program shall be consistent with 204  
sections 2308.02 to 2308.05 of the Revised Code. 205

**Sec. 2308.01.** As used in this chapter: 206

(A) "Occupied residential property" means real property with 207  
a structure containing four or fewer residential units, or an 208  
individually owned condominium unit, occupied by the owner of the 209

property or a tenant of the owner; 210

(B) "Filing party" means the party who files an action for 211  
foreclosure on a residential property. "Filing party" does not 212  
include any person who files for a foreclosure action based on a 213  
lien for delinquent taxes. 214

**Sec. 2308.02.** (A) Except as otherwise provided in division 215  
(B) of this section and division (E) of section 2308.05 of the 216  
Revised Code, no action for foreclosure on an occupied residential 217  
property shall proceed unless the filing party and the homeowner 218  
participate in foreclosure mediation pursuant to the program the 219  
court establishes under this section and section 2303.24 of the 220  
Revised Code. 221

(B) The mediation this section requires does not apply to any 222  
of the following: 223

(1) A foreclosure filing that is based on a lien for 224  
delinquent taxes; 225

(2) A foreclosure action on a property that is not an 226  
occupied residential property; 227

(3) A foreclosure action in which the property owner does not 228  
answer or otherwise respond to the summons and complaint within 229  
twenty-eight days after its issuance. 230

(C) The court shall adopt rules that establish training 231  
requirements for mediators that the court appoints under its 232  
foreclosure mediation program. The rules shall comply with rule 233  
sixteen of the rules of superintendence for the courts of Ohio, 234  
and shall include all of the following as minimal requirements: 235

(1) Twelve hours of basic mediation training; 236

(2) Foreclosure mediation training approved by the supreme 237  
court; 238



(3) Two hours of training on the provisions of Chapter 2710. 239  
of the Revised Code. 240

(D) The court may appoint volunteer mediators or mediators 241  
who require a fee to conduct the mediations in its foreclosure 242  
mediation program, so long as the mediator meets the court's 243  
training requirements. The court shall pay any costs of mediation 244  
from the residential foreclosure mediation fund the county 245  
treasurer establishes pursuant to division (F) of section 2303.201 246  
of the Revised Code. 247

**Sec. 2308.03.** Along with the summons that the clerk of courts 248  
issues when a foreclosure action is filed on a residential 249  
property, except when the filing is based on a lien for delinquent 250  
taxes, the clerk shall provide a written notice of the mediation 251  
consistent with division (A) of this section and the information 252  
described in division (B) of this section. 253

(A) The written notice the clerk provides shall include all 254  
of the following: 255

(1) That the filing party and the owner of an occupied 256  
residential property are required to participate in mediation with 257  
a court-appointed mediator as a condition of the foreclosure 258  
action proceeding; 259

(2) That the homeowner has twenty-eight days to answer or 260  
otherwise respond to the summons and complaint, that in any answer 261  
or response the homeowner should assert whether the property is an 262  
occupied residential property, and that if the homeowner does not 263  
answer or otherwise respond within twenty-eight days after the 264  
service of the summons and complaint, the mediation will not be 265  
held and the filing party may seek a default judgment; 266

(3) That upon receiving an answer or other response from the 267  
 268

homeowner, the court will schedule the mediation to be held within 269  
sixty days and will notify the filing party and the homeowner of 270  
the date, time, and place of the mediation meeting; 271

(4) That all further proceedings will be stayed pending the 273  
filing of the mediation report; 274

(5) That the homeowner may be accompanied and represented by 275  
an attorney at the mediation; 276

(6) That at the discretion of the mediator, the first 277  
mediation meeting may be held by telephone. 278

(B) The information the clerk provides along with the summons 279  
and complaint shall include information about programs that help 280  
homeowners who face foreclosure, including information on state 281  
programs such as the "save the dream program" and any local 282  
programs organized by local task forces or other entities. 283

**Sec. 2308.04.** (A) Upon receiving a homeowner's answer or 284  
other response to the clerk's summons and complaint in a 285  
residential foreclosure action, if the property is an occupied 286  
residential property, the court shall appoint a mediator who is 287  
qualified pursuant to section 2303.24 of the Revised Code and 288  
schedule a mediation meeting to be held within sixty days after 289  
receiving that homeowner's answer or other response. The clerk 290  
shall provide the filing party and the homeowner written notice of 291  
that meeting. The notice shall include the name of the mediator 292  
and the date, time, and place of the mediation meeting, or 293  
information with respect to establishing the date, time, and place 294  
of the meeting. The notice also shall include a statement that the 295  
homeowner has a right to be accompanied and represented by an 296  
attorney. 297

(B) If the homeowner does not answer or otherwise respond to 298

the summons and complaint in a residential foreclosure action 299  
within twenty-eight days after the service of the summons, or if 300  
the property is not an occupied residential property, the 301  
mediation requirement established in section 2308.02 of the 302  
Revised Code does not apply and the filing party may proceed 303  
pursuant to usual procedures in the foreclosure action. 304

Sec. 2308.05. (A) A foreclosure mediation meeting shall 305  
proceed according to Chapter 2710. of the Revised Code unless 306  
otherwise provided. 307

(B) At the discretion of the mediator, the first mediation 308  
meeting may be conducted by telephone. The mediation shall 309  
continue for as many sessions as the mediator determines is 310  
beneficial, at the discretion of the mediator. 311

(C) Upon a reasonable request of either party that certain 312  
documents be provided to the mediator, or at the mediator's 313  
discretion, a mediator may require a party to provide those 314  
documents. The privileges and exceptions pertaining to mediation 315  
communications that are contained in Chapter 2710. of the Revised 316  
Code apply to foreclosure mediations. 317

(D) Any person who represents a party attending a mediation 318  
meeting may fully negotiate on behalf of that party in negotiating 319  
a compromise. 320

(E) If the homeowner does not attend a scheduled mediation 321  
meeting, the mediator immediately shall report this to the court 322  
and the foreclosure shall proceed as if the mediation meeting had 323  
been held. If the filing party does not attend a mediation 324  
meeting, the court shall, subject to a showing of good cause, 325  
dismiss the foreclosure action. 326

(F) A mediator shall prepare a written report of the 327  
mediation and provide that report to the court within fourteen 328

days after the final mediation meeting. The mediator shall include 329  
in that report the dates of all scheduled mediation meetings, 330  
whether the mediation was successful in resolving the issue, 331  
whether both parties attended scheduled mediation meetings and 332  
participated in good faith, and any other information the mediator 333  
considers appropriate. The court shall lift the stay on the 334  
foreclosure proceedings upon the filing of the mediator's report. 335

(G) The clerk shall serve all parties with a copy of the 336  
mediator's report. 337

(H) A homeowner who filed a response that is not an answer 338  
shall have twenty-eight days after the filing of the mediator's 339  
report to answer, or with leave of the court, to otherwise respond 340  
to the complaint. 341

**Sec. 2323.06.** In addition to the mediation that section 343  
2308.02 of the Revised Code requires, in an action for the 344  
foreclosure of a mortgage, the court may at any stage in the 345  
action require the mortgagor and the mortgagee to participate in 346  
mediation as the court considers appropriate and may include a 347  
stipulation that requires the mortgagor and the mortgagee to 348  
appear at ~~the~~ that mediation in person. 349

**Section 2.** That existing sections 2303.201 and 2323.06 of the 350  
Revised Code are hereby repealed. 351