

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 56

Representative Murray

**Cosponsors: Representatives Foley, Letson, Hagan, Phillips, McGregor,
Pillich, O'Brien, Williams, Yuko, Blair**

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A B I L L

To amend sections 323.47, 2303.20, 2323.07, 2329.01, 1
2329.02, 2329.09, 2329.191, 2329.20, 2329.26, 2
2329.31, 2329.33, 2329.36, 2329.52, 2909.05, 3
2941.47, and 5723.01 and to enact sections 2308.01 4
to 2308.09 of the Revised Code to permit the trial 5
of a corporation in absentia in a criminal 6
proceeding initiated by complaint and relative to 7
residential foreclosure actions. 8

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

Section 1. That sections 323.47, 2303.20, 2323.07, 2329.01, 9
2329.02, 2329.09, 2329.191, 2329.20, 2329.26, 2329.31, 2329.33, 10
2329.36, 2329.52, 2909.05, 2941.47, and 5723.01 be amended and 11
sections 2308.01, 2308.02, 2308.03, 2308.04, 2308.05, 2308.06, 12
2308.07, 2308.08, and 2308.09 of the Revised Code be enacted to 13
read as follows: 14

Sec. 323.47. (A) If land held by tenants in common is sold 15
upon proceedings in partition, or taken by the election of any of 16
the parties to such proceedings, or real estate is sold by 17
administrators, executors, guardians, or trustees, the court shall 18

order that the taxes, penalties, and assessments then due and payable, and interest on those taxes, penalties, and assessments, that are or will be a lien on such land or real estate at the time the deed is transferred following the sale, be discharged out of the proceeds of such sale or election. For purposes of determining such amount, the county treasurer shall estimate the amount of taxes, assessments, interest, and penalties that will be payable at the time the deed of the property is transferred to the purchaser. If the county treasurer's estimate exceeds the amount of taxes, assessments, interest, and penalties actually payable when the deed is transferred to the purchaser, the officer who conducted the sale shall refund to the purchaser the difference between the estimate and the amount actually payable. If the amount of taxes, assessments, interest, and penalties actually payable when the deed is transferred to the purchaser exceeds the county treasurer's estimate, the officer shall certify the amount of the excess to the treasurer, who shall enter that amount on the real and public utility property tax duplicate opposite the property; the amount of the excess shall be payable at the next succeeding date prescribed for payment of taxes in section 323.12 of the Revised Code.

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

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

~~(b)(2)~~ All other taxes, assessments, penalties, and interest 51
the lien for which attached for a prior tax year but that have not 52
been paid on or before the date of confirmation. 53

~~(2) Upon the request of the officer who conducted the sale,~~ 54
~~the county treasurer shall estimate the amount in division~~ 55
~~(B)(1)(a) of this section. If the county treasurer's estimate~~ 56
~~exceeds that amount, the officer who conducted the sale shall~~ 57
~~refund to the purchaser the difference between the estimate and~~ 58
~~the actual amount. If the actual amount exceeds the county~~ 59
~~treasurer's estimate, the officer shall certify the amount of the~~ 60
~~excess to the treasurer, who shall enter that amount on the real~~ 61
~~and public utility property tax duplicate opposite the property;~~ 62
~~the amount of the excess shall be payable at the next succeeding~~ 63
~~date prescribed for payment of taxes in section 323.12 of the~~ 64
~~Revised Code.~~ 65

Sec. 2303.20. Under the circumstances described in sections 66
2969.21 to 2969.27 of the Revised Code, the clerk of the court of 67
common pleas shall charge the fees and perform the other duties 68
specified in those sections. In all other cases, the clerk shall 69
charge the following fees and no more: 70

(A) Twenty-five dollars for each cause of action which shall 71
include the following: 72

(1) Docketing in all dockets; 73

(2) Filing necessary documents, noting the filing of the 74
documents, except subpoena, on the dockets; 75

(3) Issuing certificate of deposit in foreign writs; 76

(4) Indexing pending suits and living judgments; 77

(5) Noting on appearance docket all papers mailed; 78

(6) Certificate for attorney's fee; 79

(7) Certificate for stenographer's fee;	80
(8) Preparing cost bill;	81
(9) Entering on indictment any plea;	82
(10) Entering costs on docket and cash book.	83
(B) Two dollars for taking each undertaking, bond, or recognizance;	84 85
(C) Two dollars for issuing each writ, order, or notice, except subpoena;	86 87
(D) Two dollars for each name for issuing subpoena, swearing witness, entering attendance, and certifying fees;	88 89
(E) Twenty-five dollars for calling a jury in each cause;	90
(F) Two dollars for each page, for entering on journal, indexing, and posting on any docket;	91 92
(G) Three dollars for each execution or transcript of judgment, including indexing;	93 94
(H) One dollar for each page, for making complete record, including indexing;	95 96
(I) Five dollars for certifying a plat recorded in the county recorder's office;	97 98
(J) Five dollars for issuing certificate to receiver or order of reference with oath;	99 100
(K) Five dollars for entering satisfaction or partial satisfaction of each lien on record in the county recorder's office, and the clerk of courts' office;	101 102 103
(L) One dollar for each certificate of fact under seal of the court, to be paid by the party demanding it;	104 105
(M) One dollar for taking each affidavit, including certificate and seal;	106 107

(N) Two dollars for acknowledging all instruments in writing;	108
(O) Five dollars for making certificate of judgment;	109
(P) Ten dollars for filing, docketing, and endorsing a certificate of judgment, including the indexing and noting the return of the certificate;	110 111 112
(Q) Twenty-five dollars for each cause of action for each judgment by confession, including all docketing, indexing, and entries on the journal;	113 114 115
(R) Five dollars for recording commission of mayor or notary public;	116 117
(S) One dollar for issuing any license except the licenses issued pursuant to sections 1533.101, 1533.11, 1533.13, and 1533.32 of the Revised Code;	118 119 120
(T) Fifteen dollars for docketing and indexing each aid in execution or petition to vacate, revive, or modify judgment, including the filing and noting of all necessary documents;	121 122 123
(U) Twenty-five dollars for docketing and indexing each appeal, including the filing and noting of all necessary documents;	124 125 126
(V) A commission of two per cent on the first ten thousand dollars and one per cent on all exceeding ten thousand dollars for receiving and disbursing money, other than costs and fees, paid to or deposited with the clerk of courts in pursuance of an order of court or on judgments, including moneys invested by order of the court and interest earned on them;	127 128 129 130 131 132
(W) Five dollars for numbering, docketing, indexing, and filing each authenticated or certified copy of the record, or any portion of an authenticated or certified copy of the record, of an extra county action or proceeding;	133 134 135 136
(X) Two dollars for each certificate of divorce, annulment,	137

or dissolution of marriage to the bureau of vital statistics; 138

(Y) Two dollars for each electronic transmission of a 139
document, plus one dollar for each page of that document. These 140
fees are to be paid by the party requesting the electronic 141
transmission. 142

(Z) One dollar for each page, for copies of pleadings, 143
process, record, or files, including certificate and seal; 144

(AA) An additional fee of twenty dollars for each filing for 145
a residential mortgage foreclosure action. 146

Sec. 2308.01. As used in this chapter: 147

(A) "Residential mortgage" means an obligation to pay a sum 148
of money evidenced by a note and secured by a lien upon a 149
residential property. 150

(B) "Residential property" means real property located within 151
this state consisting of land and a structure on that land 152
containing four or fewer dwelling units, each of which is intended 153
for occupancy by a separate household. "Residential property" 154
includes a residential condominium unit owned by an individual, 155
notwithstanding the number of units in the structure, and a 156
manufactured or mobile home that is subject to real property taxes 157
under section 4503.06 of the Revised Code. 158

**Sec. 2308.02. No person shall file a complaint to initiate a 159
residential mortgage foreclosure action unless that complaint is 160
accompanied by the preliminary judicial report that section 161
2329.191 of the Revised Code requires. 162**

**Sec. 2308.03. (A) If the owner in a residential mortgage 163
foreclosure action does not answer or otherwise respond to the 164
clerk's summons and complaint in accordance with the Rules of 165
Civil Procedure, within ten days after the last due date for any 166**

defendant who was served with a summons and complaint, the clerk 167
shall notify the plaintiff of that failure to respond and inform 168
the plaintiff that if the property is not occupied, the plaintiff 169
shall either file a motion for default judgment with the court or 170
submit a statement showing cause sufficient to the court why the 171
plaintiff is not filing such a motion. The plaintiff shall file 172
such a motion or statement within sixty days after the date of the 173
clerk's notice. 174

(B) If a plaintiff fails to comply with division (A) of this 175
section, the court shall dismiss the residential mortgage 176
foreclosure action without prejudice. 177

(C) Nothing in this section shall be construed to affect any 178
right of the plaintiff to file a motion for a default judgment on 179
an occupied property. 180

Sec. 2308.04. (A) Notwithstanding any other provision of the 181
Revised Code, a plaintiff may request, at the time the plaintiff 182
files a motion for a default judgment pursuant to section 2308.03 183
of the Revised Code, the court deem that the title of the property 184
transferred directly and immediately to the plaintiff in lieu of 185
sale and in lieu of a right to a deficiency judgment. A plaintiff 186
may make such a request, and a court may grant such a request, 187
only if all of the following apply: 188

(1) In the plaintiff's prayer and complaint to initiate the 189
residential mortgage foreclosure action, the plaintiff 190
specifically reserved the right to request the additional relief 191
of a transfer in lieu of sale and in lieu of a right to a 192
deficiency judgment in the event that the plaintiff filed a motion 193
for a default judgment in the course of the foreclosure action. 194

(2) All liens attached to the property, other than liens for 195
real property taxes, are those of the plaintiff. 196

(3) The owner did not answer or otherwise respond to the clerk's summons and complaint in accordance with the Rules of Civil Procedure. 197
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(B)(1) Upon receiving a motion for a default judgment accompanied by a request for the additional relief of a transfer in lieu of sale and in lieu of a right to a deficiency judgment that meets the requirements of division (A) of this section, a court immediately shall provide written notice to the owner of that motion and request for additional relief. In that notice, the court shall order the owner to show cause why the court should not enter a default judgment and transfer the property directly and immediately to the plaintiff in lieu of sale and in lieu of a right to a deficiency judgment. An owner shall show cause within thirty days of the court's order or shall be deemed to not oppose the default judgment and transfer of the property to the plaintiff. 200
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(2) When a court grants a request for a transfer in lieu of sale and in lieu of a right to a deficiency judgment pursuant to this section, the plaintiff shall provide the information section 2329.271 of the Revised Code requires as if the plaintiff were the successful purchaser at sale, and the officer who would have made the sale shall prepare the deed as section 2329.31 of the Revised Code requires. The court shall confirm the transfer in lieu of sale and in lieu of a right to a deficiency judgment in the same manner as the court confirms sales under section 2329.31 of the Revised Code. Such transfer shall be deemed a release of the owner's liability on the underlying debt to the plaintiff, and the value of the property shall be deemed to equal the amount of the underlying debt. 213
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Sec. 2308.05. (A)(1) The plaintiff and any other lienholder, within sixty days after receiving the clerk's notice of the filing 226
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of the judgment of foreclosure under division (G) of section 228
2329.02 of the Revised Code, shall file for a writ of execution of 229
a judgment in a residential mortgage foreclosure action or show 230
cause for not filing. A lienholder other than the primary 231
lienholder shall file for a contingent writ of execution or show 232
cause why a contingent writ is not being sought within that same 233
sixty-day period. The court shall issue an order accordingly to 234
the owner, the plaintiff, and any other lienholder who appeared in 235
the action stating that, during that same sixty-day period, the 236
owner, the plaintiff, and any other lienholder may show cause why 237
that property should not be deemed abandoned and transferred 238
pursuant to section 2308.06 of the Revised Code. A party may 239
assert any reason that the property should not be deemed 240
abandoned, including those listed under Rule 60 of the Rules of 241
Civil Procedure. 242

(2) A plaintiff or other lienholder who fails to file for a 243
writ of execution as this section requires and who does not show 244
cause for that failure or why the property should not be deemed 245
abandoned and transferred, and an owner who fails to show cause 246
for why that property should not be deemed abandoned and 247
transferred, shall be deemed to have abandoned all interest in the 248
property and to any right of redemption. Any party who is deemed 249
to have abandoned the property is barred from seeking another 250
judgment on that property or making any claim against the 251
property, and shall not receive any proceeds from a sale of the 252
property. 253

(3) The court shall vacate any order of abandonment if the 254
plaintiff or other lienholder files a motion under Rule 60 of the 255
Rules of Civil Procedure, establishing that its failure was due to 256
mistake or inadvertence, or other good cause shown. 257

(4) If the plaintiff, all other lienholders, and the owner 258
are deemed to have abandoned the property, the property shall be 259

transferred pursuant to section 2308.06 of the Revised Code sixty 260
days after the court enters the order of abandonment, unless a 261
motion to vacate the order has been filed prior to that date. If 262
the motion is denied, the property shall be transferred in 263
accordance with this division. 264

(5) When a property is deemed abandoned pursuant to this 265
section, the rights of the plaintiff and other lienholders to seek 266
to collect the debts through other means or against assets other 267
than the real property that is the subject of the foreclosure 268
action remain unaffected. Any right to collect any such debt or 269
deficiency thereon remains unenforceable after the expiration of 270
two years after the date of transfer of the property. 271

(B) Upon receiving a filing for a writ of execution from the 272
plaintiff, the clerk shall issue the writ of execution pursuant to 273
section 2329.091 of the Revised Code. 274

(C) At its discretion, the court may extend the time period 275
this section establishes for filing for a writ of execution or 276
issuing that writ if the plaintiff and the owner in the action so 277
request, for any reason that the court considers appropriate. 278

(D) Notwithstanding sections 2329.09 and 2329.091 of the 279
Revised Code, a court may for good cause stay the issuance or 280
enforcement of a writ of execution if the owner and the plaintiff, 281
along with all other lienholders, enter into a forbearance or loan 282
modification agreement that allows the owner to make payments over 283
a specified period of time and that agreement is filed with the 284
court. The stay shall be effective so long as all of the parties 285
to the agreement comply with the terms of the agreement. 286

(E) No plaintiff or other lienholder may withdraw or dismiss 287
a petition for a writ of execution or an order of sale unless the 288
plaintiff or the owner requests such a dismissal and shows good 289
cause for that dismissal. 290

Sec. 2308.06. (A) Notwithstanding any other provision of the 291
Revised Code, a property upon which a residential mortgage 292
foreclosure action has been filed shall be deemed abandoned and is 293
subject to transfer under this section if either of the following 294
occur: 295

(1) The plaintiff, all other lienholders, and the owner are 296
deemed to have abandoned rights to the property under section 297
2308.05 of the Revised Code and no party showed cause sufficient 298
to the court as to why the property should not be deemed 299
abandoned. 300

(2) The officer making the sale has advertised the sale three 301
times and held three auctions on the property as described in 302
division (B) of section 2329.52 of the Revised Code, and at those 303
auctions no person placed a bid. 304

(B) The title of a property deemed abandoned pursuant to this 305
section vests without further action in the board of county 306
commissioners in the county where the property is located. The 307
clerk shall issue a notice of that vesting to the board of county 308
commissioners. The county prosecuting attorney shall prepare a 309
deed that contains the names of the parties to the judgment and 310
the owners of the foreclosed property, a reference to the volume 311
and page of the recording of the recorded instrument by or through 312
which the board of county commissioners claims title, the date and 313
the amount of the judgment, and the date on which the owner and 314
each lienholder is deemed to have abandoned the property. The 315
board of county commissioners shall record the deed within 316
fourteen business days after the latest date on which an owner and 317
any lienholder is deemed to have abandoned the property. 318

(C) The board of county commissioners may dispose of property 319
acquired under this section pursuant to rules it adopts. The rules 320
shall specify that the board shall place the property in the 321

county's land bank if the county has a land bank. If the county 322
does not have a land bank, the board shall dispose of the property 323
at its discretion. 324

(D) No board of county commissioners shall be liable for 325
damages arising from a breach, or subject to equitable remedies 326
for a breach of common law duty, or for violation of sections 327
3737.87 to 3737.891 of the Revised Code or Chapter 3704., 3734., 328
3745., 3746., 3750., 3751., 3752., 6101., or 6111. of the Revised 329
Code or any rule adopted or order, permit, license, variance, or 330
plan approval issued under any of those chapters that is or was 331
committed by another person in connection with a property the 332
board of county commissioners acquires pursuant to this section. 333

Sec. 2308.07. (A) No plaintiff or other lienholder in a 334
residential mortgage foreclosure action may file a motion to 335
dismiss or vacate the judgment, the writ of execution, the order 336
of sale, the sale, or the confirmation of the sale, and no court 337
shall accept such a motion unless for good cause shown. 338

(B) In any residential mortgage foreclosure action in which a 339
plaintiff and an owner enter into a workout agreement or loan 340
modification, the court shall stay the foreclosure action at any 341
time prior to the sale upon the filing of a motion and affidavit 342
indicating that the plaintiff and owner have entered into a 343
workout agreement or loan modification. If at any time the 344
plaintiff notifies the court that the owner did not make payments 345
as agreed, the court shall notify the owner that it will resume 346
the foreclosure action. 347

Sec. 2308.08. (A) A lender who holds a mortgage on a 348
residential property may document a good faith belief that the 349
owner has abandoned the property. Documentation may include, but 350
is not limited to, a record of any of the following: 351

(1) Contacting or attempting to contact the owner by 352
telephone at any number available to the lender, including 353
landline and any means of wireless communication, to determine 354
whether the owner has abandoned the property; 355

(2) Contacting or attempting to contact the owner by regular 356
or electronic mail to determine whether the owner has abandoned 357
the property; 358

(3) Photographing the property from its exterior to 359
demonstrate signs of neglect or abandonment. 360

(B) Unless otherwise prohibited by the mortgage contract or a 361
specific provision of law, a lender who has documented a good 362
faith belief that a property on which the lender holds a mortgage 363
is abandoned may enter that property to secure and protect it from 364
damage any time after the lender has filed a residential mortgage 365
foreclosure action on that property. 366

(C) A lender who has not filed a residential mortgage 367
foreclosure action on a property for which the lender holds a 368
mortgage may enter and secure that property only if the mortgage 369
contract or other documents provide for such an entry. 370

(D) During the five-year period following the effective date 371
of this section, a plaintiff in a residential mortgage foreclosure 372
action who has a good faith belief that the property is abandoned 373
may provide the court with documentation of a good faith belief 374
that the owner has abandoned the property and request the court to 375
deny the owner the equitable and statutory rights to redemption of 376
the mortgage on that property. 377

Sec. 2308.09. A person who is an owner of residential 378
property who knowingly causes physical harm to that property after 379
the person has been personally served with a summons and complaint 380
in a residential mortgage foreclosure action relating to that 381

property is guilty of vandalism in violation of section 2909.05 of 382
the Revised Code. 383

Sec. 2323.07. (A)(1) When a mortgage is foreclosed or a 384
specific lien enforced, a sale of the property, or a transfer of 385
property pursuant to sections 323.28, 323.65 to 323.78, and 386
5721.19 of the Revised Code, shall be ordered by the court having 387
jurisdiction or the county board of revision with jurisdiction 388
pursuant to section 323.66 of the Revised Code. 389

(2) No specific lien may be enforced or suit brought on a 390
note on a residential property unless that action initially is 391
brought in a judicial foreclosure proceeding. 392

(B) When the real property to be sold is in one or more 393
tracts, the court may order the officer who makes the sale to 394
subdivide, appraise, and sell them in parcels, or sell any one of 395
the tracts as a whole. 396

(C) When the mortgaged property is situated in more than one 397
county, the court may order the sheriff or master of each county 398
to make sale of the property in the sheriff's or master's county, 399
or may direct one officer to sell the whole. When it consists of a 400
single tract, the court may direct that it be sold as one tract or 401
in separate parcels, and shall direct whether appraisers shall be 402
selected for each county or one set for all; and whether 403
publication of the sale shall be made in all the counties, or in 404
one county only. 405

Sec. 2329.01. (A) Lands and tenements, including vested legal 406
interests therein, permanent leasehold estates renewable forever, 407
and goods and chattels, not exempt by law, shall be subject to the 408
payment of debts, and liable to be taken on execution and sold as 409
provided in sections 2329.02 to 2329.61, ~~inclusive,~~ of the Revised 410
Code. 411

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

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

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

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

which the judgment was rendered, under the seal of said court, 443
upon the order of any person in whose favor such judgment was 444
rendered or upon the order of any person claiming under ~~him~~ a 445
person in whose favor such judgment was rendered, and shall be 446
delivered to the party so ordering the same; and the fee therefor 447
shall be taxed in the costs of the action. 448

(C) When any such certificate is delivered to the clerk of 449
the court of common pleas of any county in this state, the same 450
shall be filed by such clerk, and ~~he~~ the clerk shall docket and 451
index it under the names of the judgment creditors and the 452
judgment debtors in a judgment docket, which shall show as to each 453
judgment all of the matters set forth in such certificate as 454
required by this section. The fee for such filing, docketing, and 455
indexing shall be taxed as increased costs of such judgment upon 456
such judgment docket and shall be included in the lien of the 457
judgment. 458

(D) When the clerk of any court, other than that rendering 459
the judgment, in whose office any such certificate is filed, has 460
docketed and indexed the same, ~~he~~ the clerk shall indorse upon 461
such certificate the fact of such filing with the date thereof and 462
the volume and page of the docket entry of such certificate and 463
shall return the same so indorsed to the clerk of the court in 464
which the judgment was rendered, who shall note upon the original 465
docket the fact of the filing of said certificate, showing the 466
county in which the same was filed and the date of such filing. 467
When such certificate is filed, docketed, and indexed in the 468
office of the clerk of the court which rendered the judgment, such 469
clerk shall likewise indorse the certificate and make like 470
notation upon the original docket. 471

Each such judgment shall be deemed to have been rendered in 472
the county in which is kept the journal of the court rendering the 473
same, in which journal such judgment is entered. 474

(E) Certificates or certified copies of judgments or decrees 475
of any courts of general jurisdiction, including district courts 476
of the United States, within this state, may be filed, registered, 477
noted, and memorials thereof entered, in the office of the 478
recorder of any county in which is situated land registered under 479
sections 5309.02 to 5309.98, inclusive, and 5310.01 to 5310.21, 480
inclusive, of the Revised Code, for the purpose of making such 481
judgments liens upon such registered land. 482

(F) Notwithstanding any other provision of the Revised Code, 483
any judgment issued in a court of record may be transferred to any 484
other court of record. Any proceedings for collection may be had 485
on such judgment the same as if it had been issued by the 486
transferee court. 487

(G) When a clerk files a judgment of foreclosure in a 488
residential mortgage foreclosure action, the clerk shall provide 489
notice of that filing to the judgment debtor, the judgment 490
creditor, and any lienholder who has appeared in the action. The 491
notice shall include information with respect to the requirements 492
of section 2308.05 of the Revised Code and the consequences of a 493
failure to comply with that section. 494

Sec. 2329.09. (A) The writ of execution against the property 495
of a judgment debtor issuing from a court of record shall command 496
the officer to whom it is directed to levy on the goods and 497
chattels of the debtor. If no goods or chattels can be found, the 498
officer shall levy on the lands and tenements of the debtor. If 499
the court rendering the judgment or decree so orders, real estate 500
may be sold under execution as follows: one third cash on the day 501
of sale, one third in one year, one third in two years thereafter, 502
with interest on deferred payments, to be secured by mortgage on 503
the premises so sold. An execution on a judgment rendered against 504
a partnership firm by its firm name shall operate only on the 505

partnership property. The exact amount of the debt, damages, and 506
costs, for which the judgment is entered, shall be indorsed on the 507
execution. 508

(B) On any order of sale that the clerk delivers to the 509
officer making the sale in a residential mortgage foreclosure 510
action, the clerk shall include a notation that sets forth all of 511
the clerk's costs with respect to that foreclosure action and 512
sale. The clerk shall deliver a copy of the order of sale to the 513
attorney for the lienholder who filed for the writ of execution. 514

(C) Within fourteen days after receiving an order of sale 515
from the clerk, the officer making that sale shall set the date of 516
the sale. 517

Sec. 2329.191. (A) As used in this section, "title insurance 518
company" has the same meaning as in section 3953.01 of the Revised 519
Code. 520

(B) In every action demanding the judicial sale of 521
residential real estate consisting of one to four single-family 522
units, the party seeking that judicial sale shall file with the 523
clerk of the court of common pleas ~~within fourteen days after~~ 524
~~filing the pleadings requesting relief together with the complaint~~ 525
a preliminary judicial report on a form that is approved by the 526
department of insurance that is prepared and issued by a duly 527
licensed title insurance agent on behalf of a licensed title 528
insurance company or by a title insurance company that is 529
authorized by the department of insurance to transact business in 530
this state. The preliminary judicial report shall be effective 531
within thirty days prior to the filing of the complaint or other 532
pleading requesting a judicial sale and shall include at least all 533
of the following: 534

(1) A legal description of each parcel of real estate to be 535
sold at the judicial sale; 536

(2) The street address of the real estate or, if there is no street address, the name of the street or road upon which the real estate fronts together with the names of the streets or roads immediately to the north and south or east and west of the real estate; (537-541)

(3) The county treasurer's permanent parcel number or other tax identification number of the real estate; (542-543)

(4) The name of the owners of record of the real estate to be sold; (544-545)

(5) A reference to the volume and page or instrument number of the recording by which the owners acquired title to the real estate; (546-548)

(6) A description of the record title to the real estate; however, easements, restrictions, setback lines, declarations, conditions, covenants, reservations, and rights-of-way that were filed for record prior to the lien being foreclosed are not required to be included; (549-553)

(7) The name and address of each lienholder and the name and address of each lienholder's attorney, if any, as shown on the recorded lien of the lienholder. (554-556)

Prior to submitting any order or judgment entry to a court that would order the sale of the residential real estate, the party submitting the order or judgment entry shall file with the clerk of the court of common pleas a final judicial report that updates the state of the record title to that real estate from the effective date of the preliminary judicial report through the date of lis pendens and includes a copy of the court's docket for the case. The cost of the title examination necessary for the preparation of both the preliminary judicial report and the final judicial report together with the premiums for those reports computed as required by the department of insurance, based on the (557-566)

fair market value of the real estate, or in the case of a 568
foreclosure, the principal balance of the mortgage or other lien 569
being foreclosed on or any other additional amount as may be 570
ordered by the court shall be taxed as costs in the case. 571

(C) In every action demanding the judicial sale of 572
residential real estate consisting of more than four single-family 573
units or of commercial real estate, the party seeking that 574
judicial sale shall file with the clerk of the court of common 575
pleas ~~within fourteen days after filing the pleadings requesting~~ 576
~~relief~~ together with the complaint either a preliminary judicial 577
report or a commitment for an owner's fee policy of title 578
insurance on the form approved by the department of insurance that 579
is prepared and issued by a duly licensed title insurance agent on 580
behalf of a licensed title insurance company. Division (B) of this 581
section applies if the party seeking the judicial sale files a 582
preliminary judicial report. If the party seeking the judicial 583
sale files a commitment for an owner's fee policy of title 584
insurance, the commitment shall have an effective date within 585
fourteen days prior to the filing of the complaint or other 586
pleading requesting a judicial sale and shall contain at least all 587
of the information required in divisions (B)(1) to (7) of this 588
section. The commitment shall cover each parcel of real estate to 589
be sold, shall include the amount of the successful bid at the 590
judicial sale, shall show the purchaser at the judicial sale as 591
the proposed insured, and shall not expire until thirty days after 592
the recordation of the deed by the officer who makes the sale to 593
that purchaser. After the officer's return of the order of sale 594
and prior to the confirmation of the sale, the party requesting 595
the order of sale shall cause an invoice for the cost of the title 596
insurance policy, commitment cost related expenses, and 597
cancellation fees, if any, to be filed with the clerk of the court 598
of common pleas. The amount of the invoice shall be taxed as costs 599
in the case. The purchaser at the judicial sale may, by paying the 600

premium for the title insurance policy, obtain the issuance of 601
title insurance in accordance with the commitment. 602

Sec. 2329.20. ~~No~~ Except as otherwise provided in this section 603
or sections 2329.51 and 2329.52 of the Revised Code, no tract of 604
land shall be sold for less than two thirds of the value returned 605
in the inquest required by section 2329.17 of the Revised Code~~+~~ 606
~~except that in.~~ In all cases where in which a junior mortgage or 607
other junior lien is sought to be enforced against real estate by 608
an order, judgment, or decree of court, subject to a prior lien 609
thereon, and such prior lien, and the claims or obligations 610
secured thereby, are unaffected by such order, judgment, or 611
decree, the court making such order, judgment, or decree, may 612
determine the minimum amount for which such real estate may be 613
sold, such minimum amount to be not less than two thirds of the 614
difference between the value of the real estate appraised as 615
provided in such section, and the amount remaining unpaid on the 616
claims or obligations secured by such prior lien. The price at 617
which a foreclosed residential property sells at a sheriff's 618
auction shall not be used as a basis for establishing the market 619
value of any other property. 620

Sec. 2329.26. (A) Lands and tenements taken in execution 621
shall not be sold until all of the following occur: 622

(1)(a) Except as otherwise provided in division (A)(1)(b) of 623
this section, the judgment creditor who seeks the sale of the 624
lands and tenements or the judgment creditor's attorney does both 625
of the following: 626

(i) Causes a written notice of the date, time, and place of 627
the sale to be served in accordance with divisions (A) and (B) of 628
Civil Rule 5 upon the judgment debtor and upon each other party to 629
the action in which the judgment giving rise to the execution was 630

rendered; 631

(ii) At least seven calendar days prior to the date of the 632
sale, files with the clerk of the court that rendered the judgment 633
giving rise to the execution a copy of the written notice 634
described in division (A)(1)(a)(i) of this section with proof of 635
service endorsed on the copy in the form described in division (D) 636
of Civil Rule 5. 637

(b) Service of the written notice described in division 638
(A)(1)(a)(i) of this section is not required to be made upon any 639
party who is in default for failure to appear in the action in 640
which the judgment giving rise to the execution was rendered. 641

(2) The officer taking the lands and tenements gives public 642
notice of the date, time, and place of the sale. Notice for the 643
first attempt to sell the lands and tenements shall be given for 644
at least three weeks before the day of sale by advertisement in a 645
newspaper published in and of general circulation in the county. 646
The court ordering the sale may designate in the order of sale the 647
newspaper in which this public notice shall be published, and this 648
public notice is subject to division (A) of section 2329.27 of the 649
Revised Code. Notices of subsequent sales of the lands and 650
tenements may be made electronically on a web site the officer 651
maintains. The officer shall set the date for any subsequent sale 652
to be not later than thirty days following the immediate prior 653
attempt to sell. 654

(3) The officer taking the lands and tenements ~~shall collect~~ 655
collects the purchaser's information required by section 2329.271 656
of the Revised Code. 657

(B) The officer making the sale may accept a written bid from 658
a lienholder at any time prior to that sale. The public notice of 659
the sale may include notice of this opportunity to make a written 660
bid prior to the sale. The officer may, at the officer's 661

discretion, open the bidding at the amount of any written bid. 662

(C) If the purchaser at a sale is a lienholder, the officer 663
making the sale shall not charge the purchaser any deposit or 664
other fees prior to the time at which the purchase price is due 665
pursuant to division (B) of section 2329.31 of the Revised Code. 666

(D) If the purchaser at sale plans to assign the right to 667
purchase that property to another party, and that party will pay 668
the balance of the purchase price to the officer making the sale, 669
the assignment of the purchaser's bid may be made at any time 670
prior to the preparation of the deed, and notice of that 671
assignment may be filed with the officer at any time prior to the 672
preparation of the deed. 673

(E) A sale of lands and tenements taken in execution may be 674
set aside in accordance with division (B) of section 2329.27 of 675
the Revised Code. 676

Sec. 2329.31. (A) Upon (1) Except as otherwise provided in 677
division (A)(2) of this section, upon the return of any writ of 678
execution for the satisfaction of which lands and tenements have 679
been sold, on careful examination of the proceedings of the 680
officer making the sale, if the court of common pleas finds that 681
the sale was made, in all respects, in conformity with sections 682
2329.01 to 2329.61 of the Revised Code, it shall, within thirty 683
days of the return of the writ, direct the clerk of the court of 684
common pleas to make an entry on the journal that the court is 685
satisfied of the legality of such sale and that the attorney who 686
filed the writ of execution make to the purchaser a deed for the 687
lands and tenements. ~~Nothing~~ 688

(2) In any sale pursuant to a residential mortgage 689
foreclosure action, if the clerk of court receives no written 690
objection to that sale within seven days after the return to the 691
clerk of the writ of execution, on careful examination of the 692

proceedings of the officer making the sale, the court shall deem 693
that the sale is final and shall confirm that sale. The clerk 694
shall make an entry on the journal that the sale is deemed legal. 695

(3) Nothing in this section prevents the court of common 696
pleas from staying the confirmation of the sale to permit a 697
property owner time to redeem the property or for any other reason 698
that it determines is appropriate. In those instances, the sale 699
shall be confirmed within thirty days after the termination of any 700
stay of confirmation. 701

(B) The officer making the sale shall require the purchaser, 702
including a lienholder, to pay within thirty days ~~of~~ after the 703
confirmation of the sale the ~~balance amount~~ due on the purchase 704
price of the lands and tenements unless the court grants the 705
purchaser an extension for good cause. 706

Sec. 2329.33. In sales of real estate on execution or order 707
of sale, at any time before the confirmation thereof or, if a 708
residential foreclosure action, not later than sixty days 709
following the clerk's notice of the filing of the judgment, the 710
debtor may redeem it from sale by depositing in the hands of the 711
clerk of the court of common pleas to which such execution or 712
order is returnable, the amount of the judgment or decree upon 713
which such lands were sold, with all costs, including poundage, 714
and interest at the rate of eight per cent per annum on the 715
purchase money from the day of sale to the time of such deposit, 716
except where the judgment creditor is the purchaser, the interest 717
at such rate on the excess above ~~his~~ the judgment creditor's 718
claim. The court of common pleas thereupon shall make an order 719
setting aside such sale, and apply the deposit to the payment of 720
such judgment or decree and costs, and award such interest to the 721
purchaser, who shall receive from the officer making the sale the 722
purchase money paid by ~~him~~ the purchaser, and the interest from 723

the clerk. This section does not take away the power of the court 724
to set aside such sale for any reason for which it might have been 725
set aside prior to April 16, 1888. 726

Sec. 2329.36. (A) The attorney who files the writ of 727
execution shall, not later than seven days after the ~~filing of~~ 728
clerk files the order of confirmation of sale pursuant to section 729
2329.31 of the Revised Code, make to the purchaser a deed, 730
containing the names of the parties to the judgment, the names of 731
the owners of the property sold, a reference to the volume and 732
page of the recording of the next preceding recorded instrument by 733
or through which the owners claim title, the date and amount of 734
the judgment, the substance of the execution or order on which the 735
property was sold, the substance of the officer's return thereon, 736
and the order of confirmation and deliver the deed to the officer 737
who sold the real property. The deed shall be executed, 738
acknowledged, and recorded as other deeds. The officer or the 739
officer's legal representative may review and approve or reject 740
the deed for form and substance. 741

(B) By placing a bid at a sale conducted pursuant to this 742
chapter, the purchaser appoints the officer who makes the sale as 743
agent of the purchaser for the sole purpose of accepting delivery 744
of the deed described in division (A) of this section. 745

(C)(1) The officer who sells the real property, or the 746
officer's designee, shall record the deed, or for registered land 747
file the documents required by section 5309.64 of the Revised 748
Code, with the county recorder within fourteen ~~business~~ days ~~of~~ 749
after the later of the date the purchaser pays the balance due on 750
the purchase price of the lands and tenements or the date the 751
court confirms the sale. The officer shall charge the purchaser a 752
fee to cover the actual costs of preparing and recording the deed 753
or filing the documents. 754

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

Sec. 2329.52. When (A) Except as otherwise provided in division (B) of this section, when premises are ordered to be sold, if said premises, or a part thereof, remain unsold for want of bidders after having been once appraised, advertised, and offered for sale, the court from which the order of sale issued may, on motion of the plaintiff or defendant and from time to time until said premises are disposed of, order a new appraisal and sale or direct the amount for which said premises, or a part thereof, may be sold.

The court may order that the premises be sold as follows: One third cash in hand, one third in nine months from the day of sale, and the remaining one third in eighteen months from the day of sale, the deferred payments to draw interest at six per cent and be secured by a mortgage on the premises.

(B) When a residential property is ordered to be sold pursuant to a residential mortgage foreclosure action, if the property remains unsold after the first auction with a minimum bid of two-thirds of the appraised value as established pursuant to

section 2329.17 of the Revised Code, a second auction shall be 786
held with minimum bid set at two-thirds of the minimum bid 787
established for the first sale. If the property remains unsold 788
after the second auction, a third auction shall be held with a 789
minimum bid in an amount the court establishes at its discretion. 790
A property that remains unsold after three auctions shall be 791
deemed abandoned pursuant to section 2308.06 of the Revised Code 792
and is subject to transfer as provided in that section. 793

Sec. 2909.05. (A) No person shall knowingly cause serious 794
physical harm to an occupied structure or any of its contents. 795

(B)(1) No person shall knowingly cause physical harm to 796
property that is owned or possessed by another, when either of the 797
following applies: 798

(a) The property is used by its owner or possessor in the 799
owner's or possessor's profession, business, trade, or occupation, 800
and the value of the property or the amount of physical harm 801
involved is five hundred dollars or more; 802

(b) Regardless of the value of the property or the amount of 803
damage done, the property or its equivalent is necessary in order 804
for its owner or possessor to engage in the owner's or possessor's 805
profession, business, trade, or occupation. 806

(2) No person shall knowingly cause serious physical harm to 807
property that is owned, leased, or controlled by a governmental 808
entity. A governmental entity includes, but is not limited to, the 809
state or a political subdivision of the state, a school district, 810
the board of trustees of a public library or public university, or 811
any other body corporate and politic responsible for governmental 812
activities only in geographical areas smaller than that of the 813
state. 814

(C) No person, without privilege to do so, shall knowingly 815

cause serious physical harm to any tomb, monument, gravestone, or 816
other similar structure that is used as a memorial for the dead; 817
to any fence, railing, curb, or other property that is used to 818
protect, enclose, or ornament any cemetery; or to a cemetery. 819

(D) No person, without privilege to do so, shall knowingly 820
cause physical harm to a place of burial by breaking and entering 821
into a tomb, crypt, casket, or other structure that is used as a 822
memorial for the dead or as an enclosure for the dead. 823

(E) No person who is an owner of a residential property shall 824
knowingly cause physical harm to that property after the person 825
has been personally served with a summons and complaint in a 826
residential mortgage foreclosure action relating to that property. 827

(F) Whoever violates this section is guilty of vandalism. 828
Except as otherwise provided in this division, vandalism is a 829
felony of the fifth degree that is punishable by a fine of up to 830
two thousand five hundred dollars in addition to the penalties 831
specified for a felony of the fifth degree in sections 2929.11 to 832
2929.18 of the Revised Code. If the value of the property or the 833
amount of physical harm involved is five thousand dollars or more 834
but less than one hundred thousand dollars, vandalism is a felony 835
of the fourth degree. If the value of the property or the amount 836
of physical harm involved is one hundred thousand dollars or more, 837
vandalism is a felony of the third degree. 838

~~(F)~~(G) For purposes of this section: 839

(1) "Cemetery" means any place of burial and includes burial 840
sites that contain American Indian burial objects placed with or 841
containing American Indian human remains. 842

(2) "Residential property" has the same meaning as in section 843
2308.01 of the Revised Code. 844

(3) "Serious physical harm" means physical harm to property 845
that results in loss to the value of the property of five hundred 846

dollars or more. 847

Sec. 2941.47. When an indictment is returned or information 848
or complaint filed against a corporation, a summons commanding the 849
sheriff to notify the accused thereof, returnable on the seventh 850
day after its date, shall issue on praecipe of the prosecuting 851
attorney. ~~Such~~ The summons with a copy of the indictment, 852
information, or complaint shall be served and returned in the 853
manner provided for service of summons upon corporations in civil 854
actions. ~~If the service cannot be made in the county where the~~ 855
~~prosecution began, the sheriff may make service in any other~~ 856
~~county of the state, upon the president, secretary,~~ 857
~~superintendent, clerk, treasurer, cashier, managing agent, or~~ 858
~~other chief officer thereof, or by leaving a copy at a general or~~ 859
~~branch office or usual place of doing business of such~~ 860
~~corporation, with the person having charge thereof. Such~~ The 861
corporation shall appear by one of its officers or by counsel on 862
or before the return day of the summons served and answer to the 863
indictment ~~or~~, information, or complaint by motion, demurrer, or 864
plea, and upon failure to make ~~such~~ an appearance and answer, the 865
~~clerk of the court of common pleas~~ shall enter a plea of "not 866
guilty." Upon ~~such~~ an appearance being made or plea entered, the 867
corporation is before the court until the case is finally disposed 868
of. On ~~said~~ the indictment ~~or~~, information, or complaint, no 869
warrant of arrest may issue except for individuals who may be 870
included in ~~such~~ the indictment ~~or~~, information, or complaint. 871

Sec. 5723.01. (A)(1) Every tract of land and town lot, which, 872
pursuant to foreclosure proceedings under section 323.25, sections 873
323.65 to 323.79, or section 5721.18 of the Revised Code, has been 874
advertised and offered for sale on two separate occasions, not 875
less than two weeks apart, and not sold for want of bidders, shall 876
be forfeited to the state or to a political subdivision, school 877

district, or county land reutilization corporation pursuant to 878
division (A)(3) of this section. 879

(2) The county prosecuting attorney shall certify to the 880
court that such tract of land or town lot has been twice offered 881
for sale and not sold for want of a bidder. Such forfeiture of 882
lands and town lots shall be effective when the court by entry 883
orders such lands and town lots forfeited to the state or to a 884
political subdivision, school district, or county land 885
reutilization corporation pursuant to division (A)(3) of this 886
section. A copy of such entry shall be certified to the county 887
auditor and, after the date of the certification, all the right, 888
title, claim, and interest of the former owner is transferred to 889
and vested in the state to be disposed of in compliance with this 890
chapter. 891

(3) After having been notified pursuant to division (A)(2) of 892
this section that the tract of land or town lot has been twice 893
offered for sale and not sold for want of bidders, the court shall 894
notify the political subdivision and school district in which the 895
property is located, and any county land reutilization corporation 896
in the county, and offer to forfeit the property to the political 897
subdivision, school district, or corporation, or to an electing 898
subdivision as defined in section 5722.01 of the Revised Code, 899
upon a petition from the political subdivision, school district, 900
or corporation. If no such petition is filed with the court within 901
ten days after notification by the court, the court shall forfeit 902
the property to the state. If a political subdivision, school 903
district, or corporation requests through a petition to receive 904
the property through forfeiture, the forfeiture of land and town 905
lots is effective when, by entry, the court orders such lands and 906
town lots forfeited to the political subdivision, school district, 907
or corporation. The court shall certify a copy of the entry to the 908
county auditor and, after the date of certification, ~~all the~~ 909

~~right, title, claim, and interest of the former owner is~~ 910
~~transferred to and vested in the political subdivision, school~~ 911
~~district, or corporation~~ the county auditor shall promptly 912
transfer to such political subdivision, school district, or 913
corporation, by auditor's deed, the fee simple title to the 914
property free and clear of all taxes, assessments, charges, 915
penalties, interest, and costs. Any subordinate liens shall be 916
deemed fully and forever satisfied and discharged and the property 917
shall be deemed sold by the state for no consideration. The 918
political subdivision, school district, or corporation shall file 919
the deed for recording. 920

(B) Every parcel against which a judgment of foreclosure and 921
forfeiture is made in accordance with section 5721.16 of the 922
Revised Code is forfeited to the state on the date the court 923
enters a finding under that section. After that date, all the 924
right, title, claim, and interest of the former owner is 925
transferred to the state to be disposed of in compliance with the 926
relevant provisions of this chapter. 927

Section 2. That existing sections 323.47, 2303.20, 2323.07, 928
2329.01, 2329.02, 2329.09, 2329.191, 2329.20, 2329.26, 2329.31, 929
2329.33, 2329.36, 2329.52, 2909.05, 2941.47, and 5723.01 of the 930
Revised Code are hereby repealed. 931