

As Introduced

**129th General Assembly
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H. B. No. 621

Representative Patmon

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A B I L L

To enact section 2323.08 of the Revised Code to 1
require a mortgagee who is a plaintiff in a 2
mortgage foreclosure action to keep the condition 3
of certain real property in accordance with 4
requirements of the state building and fire codes, 5
and any applicable local codes, for the period of 6
time between the judgment of foreclosure and the 7
recording of the deed of the property. 8

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

Section 1. That section 2323.08 of the Revised Code be 9
enacted to read as follows: 10

Sec. 2323.08. (A)(1) "Assistant state fire marshal" has the 11
same meaning as "assistant fire marshal," as defined in section 12
3737.01 of the Revised Code. 13

(2) "Fire safety inspector" has the same meaning as in 14
section 3737.01 of the Revised Code. 15

(3) "State inspector" means the superintendent of labor, an 16
inspector employed by the division of labor within the department 17
of commerce, the state fire marshal, an assistant state fire 18
marshal, or a certified fire safety inspector. 19

(4) "Local inspector" means an individual who has the authority in a municipal corporation, township, or county, as applicable, to enforce any of the following: 20
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(a) Local zoning codes; 23

(b) State and local building codes; 24

(c) Safety regulations; 25

(d) Health regulations. 26

(B) Except as provided in division (F) of this section, if a mortgagee is a plaintiff in a mortgage foreclosure action and if the mortgagee obtains a judgment of foreclosure pursuant to section 2323.07 of the Revised Code, the mortgagee or a designee of the mortgagee shall periodically monitor the real property that is the subject of the mortgage to determine whether the real property is the type of real property described in division (I) of this section. If the mortgagee or the mortgagee's designee determines that the real property is that type of real property, the mortgagee shall bring an action against the mortgagor of the real property in the court of common pleas of the county in which the real property is located to obtain possession of the real property for purposes of complying with division (D) of this section. If the mortgagee is successful in that action, the mortgagee shall be a mortgagee in possession of the real property. Nothing in this section shall be construed as extinguishing the right of redemption of the mortgagor under section 2329.33 of the Revised Code. 27
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(C) If a state or local inspector determines that the real property is the type of real property described in division (I) of this section, and if the state or local inspector determines that a mortgagee described in division (B) of this section has not pursued an action described in that division, the state or local inspector may bring an action in a court of competent jurisdiction 45
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to require the mortgagee to bring an action described under 51
division (B) of this section. 52

(D) Upon becoming a mortgagee in possession as described in 53
division (B) of this section, the mortgagee in possession shall 54
keep the condition of the real property in accordance with the 55
requirements of the state residential or nonresidential building 56
codes adopted pursuant to section 3781.10 of the Revised Code 57
applicable to that real property, the state fire code adopted 58
pursuant to section 3737.82 of the Revised Code, the local zoning 59
code applicable to the real property, any local building code 60
applicable to the real property, or any other similar safety or 61
health regulation applicable to the real property, and shall 62
remedy any violations with respect to those codes or regulations, 63
until ownership of the real property has been transferred and the 64
deed for the real property has been duly recorded pursuant to 65
section 2329.36 of the Revised Code. 66

(E) A mortgagee described in division (B) of this section 67
shall have the right to peaceably enter the real property to which 68
division (I) of this section applies, or to cause others to 69
peaceably enter the real property, for the limited purpose of 70
inspections, repairs, and maintenance as required by this section 71
or as ordered by a court. If the real property is occupied by a 72
tenant, the mortgagee must provide notice to the tenant seven days 73
in advance of the entry, unless emergency repairs are required, in 74
which case reasonable notice shall be provided to the tenant. 75

A mortgagee that complies with division (D) of this section 76
shall recover any costs incurred as a result of keeping the 77
condition of the real property in accordance with the requirements 78
of the applicable state residential or nonresidential building 79
code, the state fire code, the applicable local building code, the 80
applicable local zoning code, or the health and safety 81
regulations, from the sale of the property in accordance with 82

section 2329.21 of the Revised Code. If the mortgagor exercises 83
the mortgagor's right of redemption under section 2329.33 of the 84
Revised Code, the mortgagee may bring an action in a court of 85
competent jurisdiction to recover those costs. The authority 86
provided by this division shall be in addition to, and shall not 87
diminish or reduce, any rights of the parties described under 88
existing law against the mortgagor of property for failure to 89
maintain the real property. 90

(F)(1) If a municipal corporation or other governmental 91
entity holds a mortgage subordinate to one or more mortgages on 92
the real property specified in division (I) of this section, the 93
municipal corporation or other governmental entity shall not be 94
subject to division (B) of this section. 95

(2) If the mortgagor of the real property commences a 96
proceeding in bankruptcy court prior to the completion of the sale 97
of the real property under execution or order of sale required by 98
Chapter 2329. of the Revised Code, the duties created by this 99
section shall be suspended during the pendency of the bankruptcy 100
proceeding, or until an order has been entered in that proceeding 101
lifting or removing the automatic stay of the foreclosure sale. 102

(3) A mortgagee shall be relieved of the mortgagee's 103
responsibilities under this section for the period that a receiver 104
of the real property is serving. 105

(G) Nothing in this section shall diminish in any way the 106
obligations pursuant to any state or local law of the mortgagor of 107
the real property specified in division (I) of this section, or a 108
receiver of rents and profits appointed in an action to foreclose 109
a mortgage, to maintain the real property prior to the recording 110
of the deed pursuant to a foreclosure sale. 111

(H) This section shall not preempt, reduce, or limit any 112
rights or obligations imposed by any local laws with respect to 113

real property maintenance and the locality's ability to enforce 114
those laws. 115

(I) This section applies to real property that is vacant, or 116
becomes vacant after the issuance of a judgment of foreclosure 117
pursuant to section 2323.07 of the Revised Code, or is abandoned 118
by the mortgagor but occupied by a tenant. 119

Section 2. The General Assembly declares its intent in 120
enacting section 2323.08 of the Revised Code pursuant to this act 121
to respond to the issues raised in *Hausman v. City of Dayton*, 73 122
Ohio St.3d 671 (1995). 123