

As Introduced

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Representatives Stautberg, Ruhl

Cosponsors: Representatives Beck, Becker, Blessing, McClain, McGregor

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A B I L L

To amend sections 2329.151, 2329.17, 2329.18,
2329.19, 2329.20, 2329.271, 2329.28, 2329.34, and
2329.39 and to enact sections 2329.152 and
2329.311 of the Revised Code to permit private
selling officers to conduct judicial sales of real
property.

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

Section 1. That sections 2329.151, 2329.17, 2329.18, 2329.19,
2329.20, 2329.271, 2329.28, 2329.34, and 2329.39 be amended and
sections 2329.152 and 2329.311 of the Revised Code be enacted to
read as follows:

Sec. 2329.151. ~~All~~ Except as provided in section 2329.152 of
the Revised Code, all public auctions of goods, chattels, or lands
levied upon by execution shall be conducted personally by ~~an~~ one
of the following:

(A) An officer of the court ~~or by~~;

(B) For the public auction of goods and chattels, a resident
of this state licensed as an auctioneer under Chapter 4707. of the
Revised Code;

(C) For the public auction of lands, a resident of this state licensed as both an auctioneer licensed under Chapter 4707. of the Revised Code and as a real estate agent under Chapter 4735. of the Revised Code.

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Sec. 2329.152. (A) In every action demanding the judicial or execution sale of real estate, the judgment creditor shall have the right to elect that the real estate be sold at public auction by a specified private selling officer. The judgment creditor shall make this election, after the court grants a decree of foreclosure and order of sale, by filing with the clerk of the court a praecipe requesting the issuance of an order of sale to the private selling officer identified in the praecipe. Upon the filing of that praecipe and the determination of the appraised value of the property pursuant to section 2329.17 of the Revised Code, the clerk of the court shall immediately issue an order of sale to the private selling officer, who shall advertise and sell the real estate in conformity with applicable provisions of sections 2329.01 to 2329.61 of the Revised Code.

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(B) If an auction is held at a physical location within this state, a private selling officer issued an order of sale pursuant to division (A) of this section may accept written or electronically transmitted bids, prior to the public auction, from the judgment creditor or any lienholder who was a party to the action and appeared in the action.

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(C) No private selling officer issued an order of sale pursuant to division (A) of this section shall require the payment of a deposit by a judgment creditor or any lienholder who was a party to the action and appeared in the action.

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(D) A judgment creditor that elects that real estate be sold at public auction by a private selling officer pursuant to division (A) of this section may instruct the private selling

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officer to postpone the sale of the real estate one or more times
for up to one hundred eighty days after the initial date for which
sale is set. Upon receiving such instruction for postponement, the
private selling officer shall postpone the sale by announcing at
the public auction that the sale is postponed and the date, time,
and location of the new sale. If the sale is online, the private
selling officer shall post this announcement on the web site
through which the sale was to be conducted. This announcement
shall serve as notice of the subsequent sale.

(E) The judicial or execution sale of real estate by a
private selling officer under this section is not required to be
held in the county in which the real estate is situated nor at the
courthouse in the county in which the real estate is situated but
rather may be held online or at any physical location within this
state.

(F) If the judgment creditor elects to have the real estate
sold by a private selling officer, the appraisal, publication, and
other expenses of a sale conducted under this section and the fee
charged by the private selling officer shall be paid by the
judgment creditor or from the judgment creditor's portion of the
proceeds of the sale. The private selling officer shall file with
the court that issued the order of sale an itemized report of all
appraisal, publication, and other expenses of a sale conducted
under this section and all fees charged by the private selling
officer for marketing the real estate or conducting the sale of
the real estate. None of these expenses or fees shall be included
in the amount necessary to redeem real estate under section
2329.33 of the Revised Code or in the calculation of any
deficiency judgment under section 2329.08 of the Revised Code.

(G)(1) The private selling officer who conducts a sale under
this section is authorized to do all of the following:

(a) Hire a resident title insurance agent certified under

Chapter 3953. of the Revised Code or resident title insurance 82
company authorized to do business under that chapter to assist the 83
private selling officer in performing administrative services; 84

(b) Execute to the purchaser, or to the purchaser's legal 85
representatives, a deed of conveyance of the real estate sold; 86

(c) Record on behalf of the purchaser the deed conveying 87
title to the real estate sold, notwithstanding that the deed may 88
not actually have been delivered to the purchaser prior to its 89
recording. 90

(2) By placing a bid at a sale conducted pursuant to this 91
section, a purchaser appoints the private selling officer who 92
conducts the sale as agent of the purchaser for the sole purpose 93
of accepting delivery of the deed. 94

(3) The private selling officer who conducts the sale shall 95
hire a resident title insurance agent certified under Chapter 96
3953. of the Revised Code or resident title insurance company 97
authorized to do business under that chapter to perform title, 98
escrow, and closing services related to the sale of the real 99
estate. 100

(H) As used in this section, "private selling officer" means 101
a resident of this state licensed as both an auctioneer under 102
Chapter 4707. of the Revised Code and as a real estate agent under 103
Chapter 4735. of the Revised Code. 104

Sec. 2329.17. (A) When execution is levied upon lands and 105
tenements, ~~the officer who makes the levy shall call an inquest of~~ 106
~~three disinterested freeholders, residents of the county where the~~ 107
~~lands taken in execution are situated, and administer to them an~~ 108
~~oath impartially to appraise the property so levied upon, upon~~ 109
~~actual view. They forthwith shall return to such officer, under~~ 110
~~their hands, an estimate of the real value of the property in~~ 111

~~money~~ appraised value of the property shall be the fair market 112
value of the property as shown on the records of the county 113
auditor, unless, for good cause shown, the court authorizes a 114
separate appraisal of the property. If a separate appraisal of the 115
property is obtained, the cost of the appraisal shall be included 116
as an expense of the sale pursuant to division (F) of section 117
2329.152 of the Revised Code. 118

(B) The municipal corporation or township in which the real 119
property is situated may inspect prior to the judicial sale any 120
structures located on lands subject to a writ of execution. 121

Sec. 2329.18. ~~When an officer receives the return provided~~ 122
~~for in division (A) of section 2329.17 of the Revised Code, the~~ 123
~~officer forthwith shall deposit a copy of it with the clerk of the~~ 124
~~court from which the writ issued, (A) If a court has ordered the~~ 125
sheriff to advertise and sell the real estate for which the 126
appraised value has been determined pursuant to section 2329.17 of 127
the Revised Code, the sheriff shall immediately advertise and sell 128
the real estate in conformity with sections 2329.01 to 2329.61 of 129
the Revised Code. 130

(B) If the court has ordered a private selling officer to 131
advertise and sell the real estate for which the appraised value 132
has been determined pursuant to section 2329.17 of the Revised 133
Code, the private selling officer shall immediately advertise and 134
sell ~~such~~ the real estate in conformity with sections 2329.01 to 135
2329.61 of the Revised Code. 136

Sec. 2329.19. Upon the ~~return~~ determination of the ~~estimate~~ 137
~~provided for in~~ appraised value pursuant to division (A) of 138
section 2329.17 of the Revised Code, if it appears ~~by the~~ 139
~~inquisition~~ that two-thirds of the appraised value of the lands 140
and tenements levied upon is sufficient to satisfy the execution, 141

with costs, the judgment on which the execution issued shall not 142
operate as a lien on the residue of the debtor's estate to the 143
prejudice of any other judgment creditor. 144

Sec. 2329.20. No tract of land shall be sold for less than 145
two-thirds the amount of the appraised value ~~returned in the~~ 146
~~inquest required by~~ as determined pursuant to section 2329.17 of 147
the Revised Code; ~~except that.~~ However, in all cases where a 148
junior mortgage or other junior lien is sought to be enforced 149
against real estate by an order, judgment, or decree of court, 150
subject to a prior lien thereon, and such prior lien, and the 151
claims or obligations secured thereby, are unaffected by such 152
order, judgment, or decree, the court making such order, judgment, 153
or decree, may determine the minimum amount for which such real 154
estate may be sold, ~~such.~~ In such a case, the minimum amount ~~to~~ 155
shall be not less than two-thirds of the difference between the 156
appraised value of the real estate ~~appraised~~ as ~~provided~~ 157
determined in ~~such that~~ section, and the amount remaining unpaid 158
on the claims or obligations secured by such prior lien. 159

Sec. 2329.271. (A)(1) Subject to division (A)(2) of this 160
section, the purchaser of lands and tenements taken in execution 161
shall submit to the officer who makes the sale the following 162
information: 163

(a) The name, address, and telephone number of the purchaser; 164

(b) If the lands and tenements taken in execution are 165
residential rental property and the residential rental property is 166
purchased by a trust, business trust, estate, partnership, limited 167
partnership, limited liability company, association, corporation, 168
or any other business entity, the name, address, and telephone 169
number of the following with the provision that the purchaser be 170
readily accessible through the identified contact person: 171

(i) A trustee, in the case of a trust or business trust;	172
(ii) The executor or administrator, in the case of an estate;	173
(iii) A general partner, in the case of a partnership or a limited partnership;	174 175
(iv) A member, manager, or officer, in the case of a limited liability company;	176 177
(v) An associate, in the case of an association;	178
(vi) An officer, in the case of a corporation;	179
(vii) A member, manager, or officer, in the case of any other business entity.	180 181
(c) A statement indicating whether the purchaser will occupy the lands and tenements.	182 183
(2) If the lands and tenements taken in execution are not residential rental property and the purchaser of those lands and tenements is a corporation, partnership, association, estate, trust, or other business organization the only place of business of which is in the county in which the real property is located, the information required by divisions (A)(1)(a) and (c) of this section shall be the contact information for the office of an employee of the purchasing entity that is located in that county and that the purchasing entity has designated to receive notices or inquiries about the property. If the purchasing entity has a place of business outside the county in which the real property is located and the purchasing entity's principal place of business is located in this state, the information required by divisions (A)(1)(a) and (c) of this section shall be the contact information for the office of an employee of the purchasing entity that is located in this state and that the purchasing entity has designated to receive notices or inquiries about the property. If the purchasing entity's principal place of business is not located	184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201

in this state, the information required by divisions (A)(1)(a) and 202
(c) of this section shall be the contact information for a natural 203
person who is employed by the purchasing entity at the purchasing 204
entity's principal place of business outside of this state and 205
whom the purchasing entity has designated to receive notices or 206
inquiries about the property. 207

(B) ~~The~~ If the clerk of the court has ordered the sheriff to 208
advertise and sell the real estate, the information required by 209
division (A) of this section shall be part of the sheriff's record 210
of proceedings and shall be part of the record of the court of 211
common pleas. The information is a public record and open to 212
public inspection. 213

(C) If the clerk of the court has ordered a private selling 214
officer to advertise and sell the real estate, the information 215
required by division (A) of this section shall be part of the 216
record of the court of common pleas. The information is a public 217
record and open to public inspection. 218

Sec. 2329.28. The ~~sheriff~~ levying officer shall indorse on 219
the writ of execution ~~his~~ the officer's proceedings thereon, and 220
the clerk of the court of common pleas, upon the return thereof, 221
immediately shall record all such indorsements at length, in the 222
execution docket, or other docket provided for that purpose. That 223
record shall be a part of the record of the court of common pleas. 224

Sec. 2329.311. (A) All levying officers appointed by a court 225
under this chapter to conduct the judicial or execution sale of 226
residential real estate consisting of one to four single-family 227
units shall submit quarterly reports to the attorney general for 228
the purpose of assessing the extent to which deadlines required by 229
this chapter are met. The reports shall include data on each such 230
sale conducted by the officer. 231

(B) The attorney general shall do all of the following: 232

(1) Establish and maintain a database comprised of the 233
information submitted by levying officers pursuant to division (A) 234
of this section; 235

(2) Make the information included in the database publicly 236
available; 237

(3) Adopt rules for the creation and administration of the 238
database. 239

Sec. 2329.34. Real property may be conveyed by a master 240
commissioner or special master only: 241

(A) When, by an order or a judgment in an action or 242
proceeding, a party is required to convey such property to 243
another, and ~~he~~ the party neglects or refuses to do so, and the 244
master is directed to convey on ~~his~~ the party's failure; 245

(B) When specific real property is sold by a master under an 246
order or judgment of the court appointing ~~him~~ the master. No court 247
shall make or issue an order to a master for the sale of real 248
estate except in response to a motion by a judgment creditor, 249
~~unless~~ which motion shall be granted only if there exists some 250
special reason why the sale should not be made by the sheriff of 251
the county where the decree or order was made, ~~which reason, if or~~ 252
by a private selling officer. If the court finds any such reason 253
to exist, that reason shall be embodied in and made part of the 254
judgment, order, or decree for such sale. 255

Sec. 2329.39. Sale Except as provided in section 2329.152 of 256
the Revised Code, sale of lands or tenements under execution or 257
order of sale must be held in the county in which they are 258
situated and at the courthouse, unless otherwise ordered by the 259
court. Purchase of real or personal property, by the officer 260
making the sale thereof, or by an appraiser of such property, 261

shall be fraudulent and void. 262

Section 2. That existing sections 2329.151, 2329.17, 2329.18, 263
2329.19, 2329.20, 2329.271, 2329.28, 2329.34, and 2329.39 of the 264
Revised Code are hereby repealed. 265