

Sub. H.B. 390
L-131-1899-2

Topic: Real property foreclosures

_____ moved to amend as follows:

- In line 3 of the title, after "181.22," insert "301.28,;" 1
- after "305.42," insert "323.47,;" after "323.73," insert "1303.38, 2
- 2303.26, 2327.01, 2327.02, 2327.04, 2329.01, 2329.151, 2329.17, 3
- 2329.18, 2329.19, 2329.20, 2329.21, 2329.26, 2329.271, 2329.28, 4
- 2329.30, 2329.31, 2329.33, 2329.34, 2329.39, 2329.45, 2329.52, 5
- 2329.56, 2909.07," 6

- In line 6 of the title, after "5145.162," insert "5302.01,;" 7
- after "5537.02," insert "5721.371, 5721.39," 8

- In line 8 of the title, after "122.076," insert ", 2308.01, 9
- 2308.02, 2308.03, 2308.04, 2329.071, 2329.152, 2329.153, 2329.154, 10
- 2329.211, 2329.311, 2329.312,;" delete "and" 11

- In line 9 of the title, after "4141.251," insert "5302.31, 12
- 5721.372, and 5721.373" 13

- In line 29 of the title, delete "and" and insert a semicolon 14

- In line 35 of the title, after "cases" insert "; and makes 15
- changes relating to real property foreclosures" 16

- In line 37, after "181.22," insert "301.28," 17

- In line 38, after "305.42," insert "323.47,;" after "323.73," 18
- insert "1303.38, 2303.26, 2327.01, 2327.02, 2327.04, 2329.01, 19

2329.151, 2329.17, 2329.18, 2329.19, 2329.20, 2329.21, 2329.26, 20
 2329.271, 2329.28, 2329.30, 2329.31, 2329.33, 2329.34, 2329.39, 21
 2329.45, 2329.52, 2329.56, 2909.07," 22

In line 40, after "5145.162," insert "5302.01,"; after 23
 "5537.02," insert "5721.371, 5721.39," 24

In line 42, after "122.076," insert "2308.01, 2308.02, 25
 2308.03, 2308.04, 2329.071, 2329.152, 2329.153, 2329.154, 26
 2329.211, 2329.311, 2329.312,"; delete "and"; after "4141.251" 27
 insert ", 5302.31, 5721.372, and 5721.373" 28

Between lines 2430 and 2431, insert: 29

"**Sec. 301.28.** (A) As used in this section: 30

(1) "Financial transaction device" includes a credit card, 31
 debit card, charge card, or prepaid or stored value card, or 32
 automated clearinghouse network credit, debit, or e-check entry 33
 that includes, but is not limited to, accounts receivable and 34
 internet-initiated, point of purchase, and telephone-initiated 35
 applications or any other device or method for making an 36
 electronic payment or transfer of funds. 37

(2) "County expenses" includes fees, costs, taxes, 38
 assessments, fines, penalties, payments, or any other expense a 39
 person owes or otherwise pays to a county office under the 40
 authority of a county official, other than dog registration and 41
 kennel fees required to be paid under Chapter 955. of the Revised 42
 Code. "County expenses" includes payment to a county office of 43
 money confiscated during the commitment of an individual to a 44
 county jail, of bail, of money for a prisoner's inmate account, 45
 and of money for goods and services obtained by or for the use of 46
 an individual incarcerated by a county sheriff. "County expenses" 47
includes online financial transaction device payments made through 48

the official public sheriff sale web site pursuant to section 49
2329.153 of the Revised Code. 50

(3) "County official" includes the county auditor, county 51
 treasurer, county engineer, county recorder, county prosecuting 52
 attorney, county sheriff, county coroner, county park district and 53
 board of county commissioners, the clerk of the probate court, the 54
 clerk of the juvenile court, the clerks of court for all divisions 55
 of the courts of common pleas, and the clerk of the court of 56
 common pleas, the clerk of a county-operated municipal court, and 57
 the clerk of a county court. 58

The term "county expenses" includes county expenses owed to 59
 the board of health of the general health district or a combined 60
 health district in the county. If the board of county 61
 commissioners authorizes county expenses to be paid by financial 62
 transaction devices under this section, then the board of health 63
 and the general health district and the combined health district 64
 may accept payments by financial transaction devices under this 65
 section as if the board were a "county official" and the district 66
 were a county office. However, in the case of a general health 67
 district formed by unification of general health districts under 68
 section 3709.10 of the Revised Code, this entitlement applies only 69
 if all the boards of county commissioners of all counties in the 70
 district have authorized payments to be accepted by financial 71
 transaction devices. 72

The term "county expenses" also includes fees for services 73
 and the receipt of gifts to the county law library resources fund 74
 authorized by rules adopted by the county law library resources 75
 board under division (D) of section 307.51 of the Revised Code. If 76
 the board of county commissioners authorizes county expenses to be 77
 paid by financial transaction devices under this section, then the 78
 county law library resources board may accept payments by 79

financial transaction devices under this section as if the board
were a "county official."

(B) Notwithstanding any other section of the Revised Code and
except as provided in division (D) of this section, a board of
county commissioners may adopt a resolution authorizing the
acceptance of payments by financial transaction devices for county
expenses. The resolution shall include the following:

(1) A specification of those county officials who, and of the
county offices under those county officials that, are authorized
to accept payments by financial transaction devices;

(2) A list of county expenses that may be paid for through
the use of a financial transaction device;

(3) Specific identification of financial transaction devices
that the board authorizes as acceptable means of payment for
county expenses. Uniform acceptance of financial transaction
devices among different types of county expenses is not required.

(4) The amount, if any, authorized as a surcharge or
convenience fee under division (E) of this section for persons
using a financial transaction device. Uniform application of
surcharges or convenience fees among different types of county
expenses is not required.

(5) A specific provision as provided in division (G) of this
section requiring the payment of a penalty if a payment made by
means of a financial transaction device is returned or dishonored
for any reason.

The board's resolution shall also designate the county
treasurer as an administrative agent to solicit proposals, within
guidelines established by the board in the resolution and in
compliance with the procedures provided in division (C) of this

section, from financial institutions, issuers of financial
transaction devices, and processors of financial transaction
devices, to make recommendations about those proposals to the
board, and to assist county offices in implementing the county's
financial transaction devices program. The county treasurer may
decline this responsibility within thirty days after receiving a
copy of the board's resolution by notifying the board in writing
within that period. If the treasurer so notifies the board, the
board shall perform the duties of the administrative agent.

If the county treasurer is the administrative agent and fails
to administer the county financial transaction devices program in
accordance with the guidelines in the board's resolution, the
board shall notify the treasurer in writing of the board's
findings, explain the failures, and give the treasurer six months
to correct the failures. If the treasurer fails to make the
appropriate corrections within that six-month period, the board
may pass a resolution declaring the board to be the administrative
agent. The board may later rescind that resolution at its
discretion.

(C) The county shall follow the procedures provided in this
division whenever it plans to contract with financial
institutions, issuers of financial transaction devices, or
processors of financial transaction devices for the purposes of
this section. The administrative agent shall request proposals
from at least three financial institutions, issuers of financial
transaction devices, or processors of financial transaction
devices, as appropriate in accordance with the resolution adopted
under division (B) of this section. Prior to sending any financial
institution, issuer, or processor a copy of any such request, the
county shall advertise its intent to request proposals in a
newspaper of general circulation in the county once a week for two

consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall state that the county intends to request proposals; specify the purpose of the request; indicate the date, which shall be at least ten days after the second publication, on which the request for proposals will be mailed to financial institutions, issuers, or processors; and require that any financial institution, issuer, or processor, whichever is appropriate, interested in receiving the request for proposals submit written notice of this interest to the county not later than noon of the day on which the request for proposals will be mailed.

Upon receiving the proposals, the administrative agent shall review them and make a recommendation to the board of county commissioners on which proposals to accept. The board of county commissioners shall consider the agent's recommendation and review all proposals submitted, and then may choose to contract with any or all of the entities submitting proposals, as appropriate. The board shall provide any financial institution, issuer, or processor that submitted a proposal, but with which the board does not enter into a contract, notice that its proposal is rejected. The notice shall state the reasons for the rejection, indicate whose proposals were accepted, and provide a copy of the terms and conditions of the successful bids.

(D) A board of county commissioners adopting a resolution under this section shall send a copy of the resolution to each county official in the county who is authorized by the resolution to accept payments by financial transaction devices. After receiving the resolution and before accepting payments by financial transaction devices, a county official shall provide written notification to the board of county commissioners of the official's intent to implement the resolution within the

official's office. Each county office subject to the board's 171
resolution adopted under division (B) of this section may use only 172
the financial institutions, issuers of financial transaction 173
devices, and processors of financial transaction devices with 174
which the board of county commissioners contracts, and each such 175
office is subject to the terms of those contracts. 176

If a county office under the authority of a county official 177
is directly responsible for collecting one or more county expenses 178
and the county official determines not to accept payments by 179
financial transaction devices for one or more of those expenses, 180
the office shall not be required to accept payments by financial 181
transaction devices, notwithstanding the adoption of a resolution 182
by the board of county commissioners under this section. 183

Any office of a clerk of the court of common pleas that 184
accepts financial transaction devices on or before July 1, 1999, 185
and any other county office that accepted such devices before 186
January 1, 1998, may continue to accept such devices without being 187
subject to any resolution passed by the board of county 188
commissioners under division (B) of this section, or any other 189
oversight by the board of the office's financial transaction 190
devices program. Any such office may use surcharges or convenience 191
fees in any manner the county official in charge of the office 192
determines to be appropriate, and, if the county treasurer 193
consents, may appoint the county treasurer to be the office's 194
administrative agent for purposes of accepting financial 195
transaction devices. In order not to be subject to the resolution 196
of the board of county commissioners adopted under division (B) of 197
this section, a county office shall notify the board in writing 198
within thirty days after March 30, 1999, that it accepted 199
financial transaction devices prior to January 1, 1998, or, in the 200
case of the office of a clerk of the court of common pleas, the 201

clerk has accepted or will accept such devices on or before July 1, 1999. Each such notification shall explain how processing costs associated with financial transaction devices are being paid and shall indicate whether surcharge or convenience fees are being passed on to consumers.

(E) A board of county commissioners may establish a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device. The surcharge or convenience fee shall not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction device.

If a surcharge or convenience fee is imposed, every county office accepting payment by a financial transaction device, regardless of whether that office is subject to a resolution adopted by a board of county commissioners, shall clearly post a notice in that office and shall notify each person making a payment by such a device about the surcharge or fee. Notice to each person making a payment shall be provided regardless of the medium used to make the payment and in a manner appropriate to that medium. Each notice shall include all of the following:

(1) A statement that there is a surcharge or convenience fee for using a financial transaction device;

(2) The total amount of the charge or fee expressed in dollars and cents for each transaction, or the rate of the charge or fee expressed as a percentage of the total amount of the transaction, whichever is applicable;

(3) A clear statement that the surcharge or convenience fee is nonrefundable.

(F) If a person elects to make a payment to the county by a financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee shall be considered voluntary and the surcharge or fee is not refundable.

(G) If a person makes payment by financial transaction device and the payment is returned or dishonored for any reason, the person is liable to the county for payment of a penalty over and above the amount of the expense due. The board of county commissioners shall determine the amount of the penalty, which may be either a fee not to exceed twenty dollars or payment of the amount necessary to reimburse the county for banking charges, legal fees, or other expenses incurred by the county in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.

(H) No person making any payment by financial transaction device to a county office shall be relieved from liability for the underlying obligation except to the extent that the county realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device issuer or other guarantor of payment in the transaction, the underlying obligation shall survive and the county shall retain all remedies for enforcement that would have applied if the transaction had not occurred.

(I) A county official or employee who accepts a financial transaction device payment in accordance with this section and any applicable state or local policies or rules is immune from personal liability for the final collection of such payments."

Between lines 2499 and 2500, insert:

"Sec. 323.47. (A) If land held by tenants in common is sold 260
upon proceedings in partition, or taken by the election of any of 261
the parties to such proceedings, or real estate is sold by 262
administrators, executors, guardians, or trustees, the court shall 263
order that the taxes, penalties, and assessments then due and 264
payable, and interest on those taxes, penalties, and assessments, 265
that are or will be a lien on such land or real estate ~~at the time~~ 266
~~the deed is transferred following~~ as of the date of the sale or 267
election, be discharged out of the proceeds of such sale or 268
election, but only to the extent of those proceeds. For purposes 269
of determining such amount, the county treasurer ~~shall~~ may 270
estimate the amount of taxes, assessments, interest, and penalties 271
that will be payable ~~at as of the time the deed of the property is~~ 272
~~transferred to~~ date of the purchaser sale or election. If the 273
county treasurer's estimate exceeds the amount of taxes, 274
assessments, interest, and penalties actually payable ~~when the~~ 275
~~deed is transferred to the purchaser, the officer who conducted~~ 276
~~the sale shall~~ as of that date, the plaintiff in the action 277
resulting in a sale or election, may request that the county 278
treasurer refund that excess to holders of the purchaser the 279
difference between the estimate and the amount actually payable 280
next lien interests according to the confirmation of sale or 281
election or, if all liens are satisfied, that the treasurer remit 282
that excess to the court for distribution. If the amount of taxes, 283
assessments, interest, and penalties actually payable ~~when the~~ 284
~~deed is transferred to the purchaser~~ at the time of the sale or 285
election exceeds the county treasurer's estimate, or the proceeds 286
are insufficient to satisfy that estimate, the officer who 287
conducted the sale shall certify the amount of the excess to the 288
treasurer, who shall enter that amount on the real and public 289
utility property tax duplicate opposite the property; the amount 290

of the excess shall be payable at the next succeeding date 291
 prescribed for payment of taxes in section 323.12 of the Revised 292
 Code. 293

If the plaintiff in an action that results in a sale or 294
 election in accordance with this division is the land's or real 295
 estate's purchaser or electing party, the officer who conducted 296
 the sale shall not deduct the taxes, assessments, interest, and 297
 penalties, the lien for which attaches before the date of sale or 298
 election but that are not yet determined, assessed, and levied 299
 from the proceeds of the sale or election, unless such deduction 300
 is approved by that purchaser or electing party. The officer shall 301
 certify any such amount not paid from the proceeds to the county 302
 treasurer, who shall enter that amount on the real and public 303
 utility property tax duplicate opposite the property; this amount 304
 shall be payable at the next succeeding date prescribed for 305
 payment of taxes in section 323.12 of the Revised Code. 306

Taxes, assessments, interest, and penalties that are not paid 307
 on the date of that sale or election, including any amount that 308
 becomes due and payable after the date of the sale or election or 309
 that remains unpaid because proceeds of a sale or election are 310
 insufficient to pay those amounts, continue to be a lien on the 311
 property as provided under section 323.11 of the Revised Code. 312

(B)(1) Except as provided in division (B)(3) of this section, 313
 if real estate is sold at judicial sale, the court shall order 314
 that the total of the following amounts shall be discharged out of 315
 the proceeds of the sale but only to the extent of such proceeds: 316

(a) Taxes ~~and~~, assessments, interest, and penalties, the lien 317
 for which attaches before the ~~confirmation date~~ date of sale but that 318
 are not yet determined, assessed, and levied for the year ~~in which~~ 319
~~confirmation occurs~~ that includes the date of sale, apportioned 320

pro rata to the part of that year that precedes ~~confirmation, and~~ 321
~~any penalties and interest on those taxes and assessments~~ the date 322
of sale; 323

(b) All other taxes, assessments, penalties, and interest the 324
lien for which attached for a prior tax year but that have not 325
been paid on or before the date of ~~confirmation~~ sale. 326

(2) ~~Upon the request of the officer who conducted the sale,~~ 327
~~the~~ The county treasurer shall may estimate the amount in division 328
(B)(1)(a) of this section before the confirmation of sale or an 329
amended entry confirming the sale is filed. If the county 330
treasurer's estimate exceeds ~~that~~ the amount in division (B)(1)(a) 331
of this section, the ~~officer who conducted the sale shall~~ 332
plaintiff may request that the county treasurer refund that excess 333
to holders of the purchaser ~~the difference between the estimate~~ 334
~~and the actual amount~~ next lien interests according to the 335
confirmation of sale or, if all liens are satisfied, that the 336
treasurer remit that excess to the court for distribution. If the 337
actual amount exceeds the county treasurer's estimate, the officer 338
shall certify the amount of the excess to the treasurer, who shall 339
enter that amount on the real and public utility property tax 340
duplicate opposite the property; the amount of the excess shall be 341
payable at the next succeeding date prescribed for payment of 342
taxes in section 323.12 of the Revised Code. 343

If the plaintiff in an action that results in a sale in 344
accordance with division (B) of this section is the real estate's 345
purchaser, the officer who conducted the sale shall not deduct the 346
taxes, assessments, interest, and penalties, the lien for which 347
attaches before the date of sale but that are not yet determined, 348
assessed, and levied from the proceeds of the sale or election, 349
unless such deduction is approved by that purchaser. The officer 350
shall certify any such amount not paid from the proceeds to the 351

county treasurer, who shall enter that amount on the real and 352
public utility property tax duplicate opposite the property; this 353
amount shall be payable at the next succeeding date prescribed for 354
payment of taxes in section 323.12 of the Revised Code. 355

Taxes, assessments, interest, and penalties that are not paid 356
on the date of that sale, including any amount that becomes due 357
and payable after the date of the sale, continue to be a lien on 358
the property as provided under section 323.11 of the Revised Code. 359

(3) The amounts described in division (B)(1) of this section 360
shall not be discharged out of the proceeds of a judicial sale, 361
but shall instead be deemed to be satisfied and extinguished upon 362
confirmation of sale, if both of the following conditions apply: 363

(a) The real estate is sold pursuant to a foreclosure 364
proceeding other than a tax foreclosure proceeding initiated by 365
the county treasurer under section 323.25, sections 323.65 to 366
323.79, or Chapter 5721. of the Revised Code. 367

(b) A county land reutilization corporation organized under 368
Chapter 1724. of the Revised Code is both the purchaser of the 369
real estate and the judgment creditor or assignee of all rights, 370
title, and interest in the judgment arising from the foreclosure 371
proceeding." 372

Between lines 2651 and 2652, insert: 373

"**Sec. 1303.38.** (A) A person not in possession of an 374
instrument is entitled to enforce the instrument if all of the 375
following apply: 376

(1) The person seeking to enforce the instrument was ~~in~~ 377
entitled to enforce the instrument when loss of possession 378
occurred or has directly or indirectly acquired ownership of the 379

instrument ~~and~~ from a person who was entitled to enforce ~~it~~ the 380
instrument when loss of possession occurred. 381

(2) The loss of possession was not the result of a transfer 382
 by the person or a lawful seizure. 383

(3) The person cannot reasonably obtain ~~possession~~ 384
possession of the instrument because the instrument was destroyed, 385
 its whereabouts cannot be determined, or it is in the wrongful 386
 possession of an unknown person or a person that cannot be found 387
 or is not amenable to service of process. 388

(B) A person seeking enforcement of an instrument under 389
 division (A) of this section must prove the terms of the 390
 instrument and the person's right to enforce the instrument. If 391
 that proof is made, divisions (A) and (B) of section 1303.36 of 392
 the Revised Code applies to the case as if the person seeking 393
 enforcement had produced the instrument. The court may not enter 394
 judgment in favor of the person seeking enforcement unless it 395
 finds that the person required to pay the instrument is adequately 396
 protected against loss that might occur by reason of a claim by 397
 another person to enforce the instrument. Adequate protection for 398
 the person required to pay the instrument may be provided by any 399
 reasonable means. 400

Sec. 2303.26. The clerk of the court of common pleas shall 401
 exercise the powers conferred and perform the duties enjoined upon 402
~~him~~ the clerk by statute and by the common law; and in the 403
 performance of ~~his~~ official duties ~~he~~ the clerk shall be under the 404
 direction of ~~his~~ the court. The clerk shall not restrict, 405
prohibit, or otherwise modify the rights of parties to seek 406
service on party defendants allowed by the Rules of Civil 407
Procedure, either singularly or concurrently. 408

<u>Sec. 2308.01. As used in this chapter:</u>	409
<u>(A) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code.</u>	410 411
<u>(B) "Mobile home" has the same meaning as in section 4501.01 of the Revised Code.</u>	412 413
<u>(C) "Residential condominium unit" means a "residential unit" as defined in section 5311.01 of the Revised Code.</u>	414 415
<u>(D) "Residential mortgage loan" means a loan or agreement to extend credit, including the renewal, refinancing, or modification of such a loan or agreement, that is made to a person and that is primarily secured by a mortgage, deed of trust, or other lien upon any interest in residential property or any certification of stock or other evidence of ownership in, and a proprietary lease from, a corporation or partnership formed for the purpose of cooperative ownership of residential property.</u>	416 417 418 419 420 421 422 423
<u>(E) "Residential property" means real property located within this state consisting of land and a structure on that land containing four or fewer dwelling units, each of which is intended for occupancy by a separate household. "Residential property" includes a residential condominium unit, notwithstanding the number of units in the structure, but includes a manufactured or mobile home only if it is taxed as real property.</u>	424 425 426 427 428 429 430
<u>Sec. 2308.02. (A) A mortgagee who files a foreclosure action on a residential property may file a motion with the court to proceed in an expedited manner under this section on the basis that the property is vacant and abandoned. In order to proceed in an expedited manner, upon the filing of such motion, the mortgagee must be a person entitled to enforce the instrument secured by the</u>	431 432 433 434 435 436

mortgage under division (A)(1) or (2) of section 1303.31 of the Revised Code or a person with the right to enforce the obligation secured by the mortgage pursuant to law outside of Chapter 1303. of the Revised Code.

437
438
439
440

(B) If a motion to proceed in an expedited manner is filed before the last answer period has expired, the court shall decide the motion not later than twenty-one days, or within the time consistent with the local rules, after the last answer period has expired. If a motion to proceed in an expedited manner is filed after the last answer period has expired, the court shall decide the motion not later than twenty-one days, or within the time consistent with local rules, after the motion is filed.

441
442
443
444
445
446
447
448

(C) In deciding the motion to proceed in an expedited manner, the court shall deem the property to be vacant and abandoned if all of the following apply:

449
450
451

(1) The court finds by a preponderance of the evidence that the residential mortgage loan is in monetary default.

452
453

(2) The court finds by a preponderance of the evidence that the mortgagee is a person entitled to enforce the instrument secured by the mortgage under division (A)(1) or (2) of section 1303.31 of the Revised Code or a person with the right to enforce the obligation secured by the mortgage pursuant to law outside of Chapter 1303. of the Revised Code.

454
455
456
457
458
459

(3) The court finds by clear and convincing evidence that at least three of the following factors are true:

460
461

(a) Gas, electric, sewer, or water utility services to the property have been disconnected.

462
463

(b) Windows or entrances to the property are boarded up or closed off, or multiple window panes are broken and unrepaired.

464
465

(c) Doors on the property are smashed through, broken off, unhinged, or continuously unlocked. 466
467

(d) Junk, litter, trash, debris, or hazardous, noxious, or unhealthy substances or materials have accumulated on the property. 468
469
470

(e) Furnishings, window treatments, or personal items are absent from the structure on the land. 471
472

(f) The property is the object of vandalism, loitering, or criminal conduct, or there has been physical destruction or deterioration of the property. 473
474
475

(g) A mortgagor has made a written statement expressing the intention of all mortgagors to abandon the property. 476
477

(h) Neither an owner nor a tenant appears to be residing in the property at the time of an inspection of the property by the appropriate official of a county, municipal corporation, or township in which the property is located or by the mortgagee. 478
479
480
481

(i) The appropriate official of a county, municipal corporation, or township in which the property is located provides a written statement or statements indicating that the structure on the land is vacant and abandoned. 482
483
484
485

(j) The property is sealed because, immediately prior to being sealed, it was considered by the appropriate official of a county, municipal corporation, or township in which the property is located to be open, vacant, or vandalized. 486
487
488
489

(k) Other reasonable indicia of abandonment exist. 490

(4) No mortgagor or other defendant has filed an answer or objection setting forth a defense or objection that, if proven, would preclude the entry of a final judgment and decree of 491
492
493

<u>foreclosure.</u>	494
<u>(5) No mortgagor or other defendant has filed a written statement with the court indicating that the property is not vacant and abandoned.</u>	495 496 497
<u>(6)(a) If a government official has not verified the real property is vacant and abandoned pursuant to division (C)(3)(h), (i), or (j) of this section, but the court makes a preliminary finding that the residential real property is vacant and abandoned pursuant to division (C) of this section, then within seven days of the preliminary finding, the court shall order the appropriate official of a county, municipal corporation, or township in which the property is located to verify the property is vacant and abandoned.</u>	498 499 500 501 502 503 504 505 506
<u>(b) Any court costs assessed in connection with the inspection conducted pursuant to division (C)(6)(a) of this section shall not be more than fifty dollars.</u>	507 508 509
<u>(D) If the court decides after an oral hearing that the property is vacant and abandoned and that the mortgagee who filed the motion to proceed in an expedited manner is entitled to judgment, the court shall enter a final judgment and decree of foreclosure and order the property to be sold in accordance with division (E) of this section. If the court does not decide that the property is vacant and abandoned, the seventy-five-day deadline established in division (E) of this section shall not apply to the sale of the property.</u>	510 511 512 513 514 515 516 517 518
<u>(E) If the court decides that the property is vacant and abandoned and enters a final judgment and decree of foreclosure under division (D) of this section, the property shall be offered for sale not later than seventy-five days after the issuance of the order of sale. The sale of the property shall be conducted in</u>	519 520 521 522 523

accordance with the requirements in Chapter 2329. of the Revised 524
Code, including possible postponement of the sale pursuant to 525
division (C) of section 2329.152 of the Revised Code. 526

(F) Nothing in this section shall supersede or limit other 527
procedures adopted by the court to resolve the residential 528
mortgage loan foreclosure action, including foreclosure mediation. 529

Sec. 2308.03. (A) Except as otherwise provided in division 530
(B) of this section, if a residential property is found to be 531
vacant and abandoned under section 2308.02 of the Revised Code, a 532
mortgagee on the residential property may enter that property to 533
secure and protect it from damage. 534

(B) A mortgagee that has not filed a residential mortgage 535
loan foreclosure action on a property for which the mortgagee 536
holds a mortgage may enter and secure that property only if the 537
mortgage contract or other documents provide for such an entry. 538

(C) The equitable and statutory rights to redemption of a 539
mortgage on a property found to be vacant and abandoned pursuant 540
to section 2308.02 of the Revised Code expire upon the 541
confirmation of sale of the property. 542

Sec. 2308.04. (A) A person is guilty of criminal mischief in 543
violation of division (A)(1) of section 2909.07 of the Revised 544
Code if all of the following apply: 545

(1) The person knowingly and with purpose to diminish the 546
value or enjoyment of the residential real property moves, 547
defaces, damages, destroys, or otherwise improperly tampers with 548
the person's own residential real property. 549

(2) The residential real property is subject to a mortgage. 550

(3) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that residential real property. 551
552
553

(B) As used in this section, "pending" includes the time between the filing of the foreclosure action and confirmation of sale. 554
555
556

Sec. 2327.01. (A) As used in this chapter, "private selling officer" has the same meaning as in section 2329.01 of the Revised Code. 557
558
559

(B)(1) An execution is a process of a court, issued by its clerk, the court itself, or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code, and directed to the sheriff of the county. Executions 560
561
562
563

(2) An execution includes a process of a court, issued by its clerk or the court itself, and directed to a private selling officer authorized in accordance with section 2329.151, 2329.152, or 5721.39 of the Revised Code. 564
565
566
567

(3) Executions may be issued to the sheriffs of different counties or different private selling officers at the same time. 568
569

Sec. 2327.02. (A) Executions are of three kinds: 570

(1) Against the property of the judgment debtor, including orders of sale or orders to transfer property pursuant to sections 323.28, 323.65 to 323.78, and 5721.19 of the Revised Code; 571
572
573

(2) Against the person of the judgment debtor; 574

(3) For the delivery of the possession of real property, including real property sold under orders of sale or transferred under orders to transfer property pursuant to sections 323.28, 575
576
577

323.65 to 323.78, and 5721.19 of the Revised Code.

578

(B) The writ shall contain a specific description of the property, and a command to the sheriff or private selling officer to deliver it to the person entitled to the property. It also may require the sheriff to make the damages recovered for withholding the possession and costs, or costs alone, out of the property of the person who so withholds it.

579

580

581

582

583

584

(C) In the case of foreclosures of real property, including foreclosures for taxes, mortgages, judgment liens, and other valid liens, the description of the property, the order of sale, order to transfer, and any deed or deed forms may be prepared, adopted, and otherwise approved in advance by the court having jurisdiction or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code, directly commanding the sheriff or the private selling officer to sell, convey, or deliver possession of the property as commanded in that order. In those cases, the clerk shall journalize the order and deliver that writ or order to the sheriff or private selling officer for execution. If the property is sold under an order of sale or transferred under an order to transfer, the officer who conducted the sale or made the transfer of the property shall collect the recording fee and any associated costs to cover the recording from the purchaser or transferee at the time of the sale or transfer and, following confirmation of the sale or transfer and the payment of the balance due on the purchase price of the property, shall execute and record the deed conveying title to the property to the purchaser or transferee. For purposes of recording that deed, by placement of a bid or making a statement of interest by any party ultimately awarded the property, the purchaser or transferee thereby appoints the officer who makes the sale or is charged with executing and delivering the deed as agent for that purchaser or

585

586

587

588

589

590

591

592

593

594

595

596

597

598

599

600

601

602

603

604

605

606

607

608

transferee for the sole purpose of accepting delivery of the deed. 609

Sec. 2327.04. When, in the exercise of its authority, a court 610
orders the deposit or delivery of money or other thing, and the 611
order is disobeyed, besides punishing the disobedience as for a 612
contempt, the court may make an order requiring the sheriff or 613
private selling officer to take the money or thing and deposit or 614
deliver it in conformity with the court's direction. 615

Sec. 2329.01. (A) Lands and tenements, including vested legal 616
interests therein, permanent leasehold estates renewable forever, 617
and goods and chattels, not exempt by law, shall be subject to the 618
payment of debts, and liable to be taken on execution and sold as 619
provided in sections 2329.02 to 2329.61, inclusive, of the Revised 620
Code. 621

(B) As used in sections 2329.02 to 2329.61 of the Revised 622
Code: 623

(1) "Commercial property" means any property that is not 624
residential property. 625

(2) "Private selling officer" means a resident of this state 626
licensed as both an auctioneer under Chapter 4707. of the Revised 627
Code and as a real estate broker or real estate salesperson under 628
Chapter 4735. of the Revised Code. 629

(3) "Residential mortgage loan" and "residential property" 630
have the same meanings as in section 2308.01 of the Revised Code. 631

Sec. 2329.071. (A) If a decree of foreclosure has been 632
entered with respect to residential real property but the property 633
has not been sold or a sale of the property is not underway, then, 634
beginning twelve months after the entry of the decree of 635

foreclosure, either of the following may occur: 636

(1) The local political subdivision may request, by motion or resolution, or by other means, that the county prosecuting attorney file a motion with the court for the sale of the property. 637
638
639
640

(2) Upon receiving such a request, or upon the prosecuting attorney's own motion, the prosecuting attorney of the county in which the action was filed may file a motion with the court for authorization to sell the property in the same manner as if the prosecuting attorney were the attorney for the party in whose favor the decree of foreclosure and order of sale was entered. 641
642
643
644
645
646

(B)(1) The prosecuting attorney, pursuant to division (A) of this section, shall serve a copy of the motion on all parties who entered an appearance in the foreclosure action in accordance with the Rules of Civil Procedure. 647
648
649
650

(2) The court shall decide the motion described in division (A) of this section not sooner than thirty days after the date of the filing of the motion. Unless the court finds good cause as to why the property should not be sold, the court shall grant the motion and order the prosecuting attorney to issue a praecipe for order of sale and sell the property at the next available public auction with no set minimum bid and in accordance with the terms of the order of sale and applicable provisions of the Revised Code. 651
652
653
654
655
656
657
658
659

(C) The judgment creditor in the foreclosure action has the right to redeem the property within fourteen days after the sale by paying the purchase price. The judgment creditor shall pay the purchase price to the clerk of the court in which the judgment was rendered or the order of sale was made. Upon timely payment, the court shall proceed as described in section 2329.31 of the Revised 660
661
662
663
664
665

Code, with the judgment creditor considered the successful 666
purchaser at sale. 667

Sec. 2329.151. All Except as provided in sections 2329.152 to 668
2329.154 of the Revised Code, all public auctions of goods, 669
 chattels, or lands levied upon by execution shall be conducted 670
 personally by ~~an~~ one of the following: 671

(A) An officer of the court ~~or by an auctioneer licensed~~ 672
~~under Chapter 4707. of the Revised Code;~~ 673

(B) For the public auction of goods and chattels, a resident 674
of this state licensed as an auctioneer under Chapter 4707. of the 675
Revised Code; 676

(C) For the public auction of lands, a private selling 677
officer. 678

Sec. 2329.152. (A) In every action demanding the judicial or 679
execution sale of real estate, the county sheriff shall sell the 680
real estate at a public auction, unless the judgment creditor 681
files a motion with the court for an order authorizing a specified 682
private selling officer to sell the real estate at a public 683
auction. If the court authorizes a private selling officer to sell 684
the real estate, the judgment creditor may seek to have the 685
property sold by the private selling officer authorized by the 686
court or by the county sheriff. If the judgment creditor elects to 687
have the property sold by the private selling officer authorized 688
by the court, the judgment creditor shall file with the clerk of 689
the court a praecipe requesting the issuance of an order of 690
appraisal to the sheriff and an order of sale to the private 691
selling officer authorized by the court. Upon the filing of that 692
praecipe, the clerk of the court shall immediately issue both of 693

the following:

694

(1) An order of appraisal to the sheriff, who shall obtain an appraisal of the real estate in conformity with sections 2329.17 and 2329.18 of the Revised Code;

695

696

697

(2) An order of sale to the private selling officer, who, after the return or determination of the appraisal, shall advertise and sell the real estate in conformity with applicable provisions of sections 2329.01 to 2329.61 of the Revised Code.

698

699

700

701

(B)(1) As used in this division:

702

(a) "Business day" means a calendar day that is not a Saturday or Sunday or a legal holiday as defined in section 1.14 of the Revised Code.

703

704

705

(b) "Remote bid" means a bid submitted in writing via facsimile, electronic mail, or overnight delivery or courier.

706

707

(2) If the sale of the real estate is conducted at a physical location and not online, then each judgment creditor and lienholder who was a party to the action may submit a remote bid to the sheriff or the private selling officer. Each sheriff and private selling officer shall establish and maintain a facsimile number or an electronic mail address for use by judgment creditors and lienholders in submitting remote bids. Each remote bid shall be of a fixed maximum amount and shall be delivered to the sheriff or private selling officer on or before four-thirty p.m. on the business day immediately preceding the date of the sale.

708

709

710

711

712

713

714

715

716

717

(3) Before the sale, the sheriff or the private selling officer shall confirm receipt of the remote bid by sending notice of such receipt via facsimile or electronic mail to the judgment creditor or lienholder who submitted the remote bid. During the sale, the sheriff or the private selling officer shall place the

718

719

720

721

722

remote bid on behalf of the judgment creditor or lienholder who 723
submitted the remote bid. After the sale, the sheriff or the 724
private selling officer shall provide notice of the results of the 725
sale not later than the close of business on the day of the sale 726
to all judgment creditors and lienholders who submitted remote 727
bids. Such notice shall be sent via facsimile or electronic mail 728
to the judgment creditor or lienholder or by posting the results 729
of the sale on a public web site. 730

(4) If a sheriff or private selling officer fails to place a 731
remote bid on behalf of a judgment creditor or lienholder to the 732
prejudice of the judgment creditor or lienholder, then, upon the 733
filing of a motion to vacate the sale within ten business days 734
after the sale date, the sale shall be vacated. 735

(C)(1) A judgment creditor that obtains a court order 736
authorizing a specified private selling officer to sell the real 737
estate at a public auction pursuant to division (A) of this 738
section may instruct the private selling officer to postpone the 739
sale of the real estate one or more times, provided, however that 740
all rescheduled sale dates shall be within one hundred eighty days 741
of the initial sale date. Upon receiving this instruction, the 742
private selling officer shall postpone the sale of the real estate 743
by announcing that the sale is postponed. If the sale is at a 744
physical location, this announcement shall be made at the sale and 745
shall include the date, time, and place of the rescheduled sale of 746
the real estate. If the sale is online, this announcement shall be 747
made on the auction web site and shall include the date of the 748
rescheduled sale of real estate. Each such announcement shall be 749
deemed to meet the notice requirement in section 2329.26 of the 750
Revised Code. 751

(2) If the judgment creditor does not wish to postpone the 752

sale of the real estate, the judgment creditor may instruct the 753
private selling officer to cancel the sale of the real estate. 754
Upon receiving this instruction, the private selling officer shall 755
cancel the sale of the real estate by announcing that the sale is 756
canceled. If the sale is at a physical location, this announcement 757
shall be made at the sale. If the sale is online, this 758
announcement shall be made on the auction web site and shall 759
remain posted there until at least the end of the seven-day 760
bidding period described in division (E)(1)(a) of section 2329.152 761
of the Revised Code. 762

(3) If the sale of the real estate is postponed or canceled 763
as described in divisions (C)(1) and (2) of this section, all bids 764
made on the real estate prior to the postponement or cancellation 765
of the sale shall be void. 766

(D)(1) If the judgment creditor obtains a court order to have 767
the real estate sold by a private selling officer, then: 768

(a) The cost of the appraisal required by section 2329.17 of 769
the Revised Code shall be taxed as costs in the case. 770

(b) The cost of the advertisement required by section 2329.26 771
of the Revised Code shall be taxed as costs in the case. 772

(c) The fee charged by the private selling officer and all 773
costs incurred by the private selling officer other than the costs 774
described in divisions (D)(1)(a) and (b) of this section shall be 775
taxed as costs in the case up to an amount equal to one and 776
one-half per cent of the sale price of the real estate. To the 777
extent the fees and costs described in division (D)(1)(c) of this 778
section exceed one and one-half per cent of the sale price of the 779
real estate, they shall not be included in the amount necessary to 780
redeem real estate under section 2329.33 of the Revised Code or in 781
the calculation of any deficiency judgment under section 2329.08 782

of the Revised Code but rather shall be paid by the judgment 783
creditor or from the judgment creditor's portion of the proceeds 784
of the sale. 785

(2) The private selling officer shall file with the court 786
that issued the order of sale an itemized report of all appraisal, 787
publication, marketing, and other expenses of a sale conducted 788
under this section and all fees charged by the private selling 789
officer for marketing the real estate or conducting the sale of 790
the real estate, including the fee charged by the title agent or 791
title insurance company for administrative services, if 792
applicable, and title, escrow, and closing services. 793

(E)(1) The private selling officer who conducts a sale under 794
this section may do any of the following: 795

(a) Market the real estate and conduct the public auction of 796
the real estate online or at any physical location in the county 797
in which the real estate is situated. If the auction occurs 798
online, the auction shall be open for bidding for a minimum of 799
seven days. 800

(b) Hire a title insurance agent licensed under Chapter 3953. 801
of the Revised Code or title insurance company authorized to do 802
business under that chapter to assist the private selling officer 803
in performing administrative services; 804

(c) Execute to the purchaser, or to the purchaser's legal 805
representatives, a deed of conveyance of the real estate sold; 806

(d) Record on behalf of the purchaser the deed conveying 807
title to the real estate sold, notwithstanding that the deed may 808
not actually have been delivered to the purchaser prior to its 809
recording. 810

(2) By placing a bid at a sale conducted pursuant to this 811

section, a purchaser appoints the private selling officer who 812
conducts the sale as agent of the purchaser for the sole purpose 813
of accepting delivery of the deed. 814

(3) The private selling officer who conducts the sale shall 815
hire a title insurance agent licensed under Chapter 3953. of the 816
Revised Code or title insurance company authorized to do business 817
under that chapter to perform title, escrow, and closing services 818
related to the sale of the real estate. 819

(F) The fee charged by the title agent or title insurance 820
company for services provided under divisions (E)(1)(b) and (3) of 821
this section shall be taxed as costs in the case provided they are 822
reasonable. Fees less than or equal to five hundred dollars are 823
presumed to be reasonable. Fees exceeding five hundred dollars 824
shall be paid only if authorized by a court order. 825

Sec. 2329.153. (A) Not later than ninety days after the 826
effective date of this section, the department of administrative 827
services shall solicit competitive sealed proposals for the 828
creation, operation, and maintenance of the official public 829
sheriff sale web site and an integrated auction management system. 830
The official public sheriff sale web site and integrated auction 831
management system shall be a single statewide system for use by 832
all county sheriffs in accordance with the requirements of this 833
section. 834

(B) The official public sheriff sale web site shall meet the 835
following minimum requirements: 836

(1) The web site shall have a domain name relevant to the 837
judicial sale of real property. 838

(2) The web site shall be limited to the judicial sale of 839
real property located in this state. 840

(3) The web site shall not charge a fee for members of the public to view properties for sale. 841
842

(4) The web site shall allow each county sheriff to add text, images, or graphics to the web site for the purpose of identifying the county or sheriff conducting the sale. 843
844
845

(5) The web site shall include industry-standard features and functionality, including user guides, online financial transaction device payments, anti-snipe functionality, watch lists, electronic mail notifications, maximum bid limits, automatic incremental bidding, and search and map features that allow users to search by county, zip code, address, parcel number, appraised value, party name, case number, and other variables relevant to the judicial sale of real property. As used in this section, "financial transaction device" has the same meaning as in section 301.28 of the Revised Code. 846
847
848
849
850
851
852
853
854
855

(6) The web site shall include features that allow for the cancellation of sales as required by law or court order and the postponement of sales in accordance with divisions (E)(2) and (3) of this section. 856
857
858
859

(7) The web site shall provide a secure payment processing system that accepts online payments for property sold via the web site and, in an efficient and cost effective manner, transfers those payments to the appropriate county official or account. 860
861
862
863

(8) The web site shall include the ability for an attorney or law firm to enter a bid in a representative capacity. 864
865

(9) The web site shall be integrated with the auction management system described in division (C) of this section. 866
867

(C) The auction management system shall meet the following minimum requirements: 868
869

(1) The auction management system shall have a role-based workflow engine to assist in conducting sales on the web site, capturing data, complying with all relevant laws, and managing administrative processes related to the judicial sale of real property in a timely, secure, and accurate manner. 870
871
872
873
874

(2) The auction management system shall record the data necessary to meet the reporting requirements of section 2329.312 of the Revised Code. 875
876
877

(3) The auction management system shall be able to generate documents required by the court ordering the sale or related to the judicial sale of real property. 878
879
880

(4) The auction management system shall be able to record fees, costs, deposits, and other money items with the objective of ensuring an accurate accounting of moneys received and disbursed in each judicial sale of real property. 881
882
883
884

(5) The auction management system shall be integrated with the web site described in division (B) of this section. 885
886

(D) The license fee for the creation, operation, and maintenance of the official public sheriff sale web site and integrated auction management system shall be determined using a per-transaction license fee model or a per-use license fee model. The addition of a property to the official public sheriff sale web site or the auction management system shall each be deemed a transaction for purposes of determining the license fee. The license fee applicable to each judicial sale of real property shall be taxed as costs in the case. No additional license fees shall be assessed to the county sheriff. 887
888
889
890
891
892
893
894
895
896

(E)(1) Not later than one year after the effective date of this section, in all cases in which the sheriff is ordered to 897
898

conduct a judicial sale of real property, the following shall occur:

899
900

(a) For residential property, the sale may be conducted on the official public sheriff sale web site for a five-year period beginning on the date the online system is fully operational. After this five-year period sales shall be conducted on the official public sheriff sale web site.

901
902
903
904
905

(b) For commercial property, the sale may be conducted on the official public sheriff sale web site.

906
907

All sales conducted on the official public sheriff sale web site shall be open for bidding for at least seven days.

908
909

(2) If the sale of the real property is to be conducted on the official public sheriff sale web site, the judgment creditor may instruct the sheriff to postpone the sale of the real property one time for up to one hundred eighty days after the initial sale date. Upon receiving such instruction for postponement, the sheriff shall postpone the sale of the property by announcing on the official public sheriff sale web site that the sale is postponed and giving notice of the rescheduled sale date. This announcement shall be deemed to meet the notice requirement of section 2329.26 of the Revised Code.

910
911
912
913
914
915
916
917
918
919

(3) If the judgment creditor does not wish to postpone the sale of the real property, the judgment creditor may instruct the sheriff to cancel the sale of the property. Upon receiving this instruction, the sheriff shall cancel the sale of the property by announcing on the official public sheriff sale web site that the sale is canceled. This announcement shall remain posted on the official public sheriff sale web site until at least the end of the seven-day bidding period described in division (E)(1) of this section.

920
921
922
923
924
925
926
927
928

(4) If the sale of the real property is postponed or canceled according to divisions (E)(2) and (3) of this section, all bids made on the real property prior to the postponement or cancellation of the sale shall be void. 929
930
931
932

(F) Pursuant to their authority in section 9.482 of the Revised Code, counties may elect to enter into a shared services agreement relating to the judicial sale of real property on the official public sheriff sale web site. The shared services agreement may seek to improve efficiency and reduce costs in the judicial sale of real property by consolidating administrative functions and processes. 933
934
935
936
937
938
939

Sec. 2329.154. (A) If property is sold online, the sheriff or private selling officer shall require persons seeking to bid to register online with the web site as a condition of being authorized to bid. The registration form shall include information relevant to the objective of enabling the sheriff or private selling officer to identify the bidder, contact the bidder, and complete the sale of the property. 940
941
942
943
944
945
946

(B) If an attorney or a law firm that represents the plaintiff or a party to the action bids on property in a representative capacity, the attorney or law firm shall register as the representative of the plaintiff or party, either as an individual or entity. 947
948
949
950
951

(C)(1) If the person registering to bid is an individual, the information required by division (A) of this section shall include the individual's name, mailing address, which shall not be a post office box address, electronic mail address, telephone number, and, if applicable, financial transaction device information. 952
953
954
955
956

(2) If the person registering to bid is an entity, the 957

information required by division (A) of this section shall include 958
the entity's legal name, trade name if different from its legal 959
name, state and date of formation, active status with the office 960
of the secretary of state, mailing address, telephone number, 961
financial transaction device information if applicable, the name 962
of an individual contact person for the entity, and the contact 963
person's title, mailing address, which shall not be a post office 964
box address, electronic mail address, and telephone number. 965

(D) The registration form on the web site shall require the 966
person registering to bid to state, to the best of the person's 967
knowledge and belief, that the information provided by the person 968
is true, correct, and complete under penalties of perjury. 969

(E) The electronic mail address, telephone number, and, if 970
applicable, financial transaction device information required in 971
division (C) of this section are confidential and not public 972
records for purposes of section 149.43 of the Revised Code. 973

(F) As used in this section, "financial transaction device" 974
has the same meaning as in section 301.28 of the Revised Code. 975

Sec. 2329.17. (A) When execution is levied upon lands and 976
 tenements, the ~~officer who makes the levy~~ sheriff shall call an 977
 inquest of three disinterested freeholders, who are residents of, 978
and real property owners in, the county where the lands taken in 979
 execution are situated, ~~and administer to them an oath impartially~~ 980
~~to~~ who shall appraise the property so levied upon, upon actual 981
 view. ~~They forthwith shall return to such officer, under their~~ 982
~~hands, an estimate of the real value of the property in money.~~ 983

(B) If the property to be appraised is residential property, 984
the freeholders selected by the sheriff shall return to the 985
sheriff an estimate of the value of the property in money within 986

twenty-one calendar days of the issuance of the order of appraisal 987
by the clerk of the court. If the court has ordered or the clerk 988
of the court has issued an order for a private selling officer to 989
advertise and sell the appraised property, the freeholders 990
selected by the sheriff shall also deliver a copy of their 991
appraisal to the private selling officer contemporaneously with 992
their delivery of their appraisal to the sheriff. 993

(C) If the freeholders selected by the sheriff under division 994
(B) of this section do not deliver their appraisal within 995
twenty-one calendar days of the issuance of the order of appraisal 996
by the clerk of the court as required by division (B) of this 997
section, then all of the following shall occur: 998

(1) The cost of the appraisal by the freeholders shall not be 999
payable to the freeholders or taxed as costs in the case. 1000

(2) The appraised value of the property shall be the fair 1001
market value of the property as shown on the records of the county 1002
auditor, unless, for good cause shown, the court authorizes a 1003
separate appraisal of the property. 1004

(3) The advertisement and sale of the property shall proceed 1005
immediately in accordance with the order of advertisement and sale 1006
issued by the clerk of the court. 1007

If a separate appraisal of the property is obtained, the cost 1008
of the appraisal shall be included as an expense of the sale 1009
pursuant to division (D) of section 2329.152 of the Revised Code. 1010

(D) If the property to be appraised is commercial property, 1011
the freeholders selected by the sheriff shall return to the 1012
sheriff an estimate of the value of the property in money in 1013
accordance with the timing or other requirements, if any, that may 1014
be established for the sale. 1015

(E) The municipal corporation or township in which the real 1016
property is situated may inspect prior to the judicial sale any 1017
structures located on lands subject to a writ of execution. 1018

Sec. 2329.18. ~~When an officer receives the return provided~~ 1019
~~for in division (A) of~~ (A) If a court has ordered or the clerk of 1020
a court has issued an order for the sheriff to advertise and sell 1021
the real estate for which the appraised value has been determined 1022
pursuant to section 2329.17 of the Revised Code, the officer 1023
~~forthwith~~ sheriff shall deposit a copy of ~~it~~ the appraisal with 1024
the clerk of the court from which the writ was issued, and 1025
immediately advertise and sell such real estate in conformity with 1026
sections 2329.01 to 2329.61 of the Revised Code. 1027

(B) If the court has ordered or the clerk of the court has 1028
issued an order for a private selling officer to advertise and 1029
sell the real estate for which the appraised value has been 1030
determined pursuant to section 2329.17 of the Revised Code, the 1031
private selling officer shall immediately advertise and sell the 1032
real estate in conformity with sections 2329.01 to 2329.61 of the 1033
Revised Code. 1034

Sec. 2329.19. Upon the ~~return~~ determination of the ~~estimate~~ 1035
~~provided for in division (A) of~~ appraised value pursuant to 1036
section 2329.17 of the Revised Code, if it appears ~~by the~~ 1037
~~inquisition~~ that two-thirds of the appraised value of the lands 1038
and tenements levied upon is sufficient to satisfy the execution, 1039
with costs, the judgment on which the execution issued shall not 1040
operate as a lien on the residue of the debtor's estate to the 1041
prejudice of any other judgment creditor. 1042

Sec. 2329.20. ~~No~~ Except as otherwise provided in this section 1043

~~or sections 2329.51 and 2329.52 of the Revised Code, no tract of~~ 1044
~~land shall be sold for less than two-thirds the amount of the~~ 1045
~~appraised value ~~returned in the inquest required by as determined~~~~ 1046
~~pursuant to section 2329.17 of the Revised Code; ~~except that in,~~~~ 1047
In all cases where in which a junior mortgage or other junior lien 1048
is sought to be enforced against real estate by an order, 1049
judgment, or decree of court, subject to a prior lien thereon, and 1050
such prior lien, and the claims or obligations secured thereby, 1051
are unaffected by such order, judgment, or decree, the court 1052
making such order, judgment, or decree, may determine the minimum 1053
amount for which such real estate may be sold. In such a case, 1054
the minimum amount ~~to~~ shall be not less than two-thirds of the 1055
difference between the appraised value of the real estate 1056
~~appraised as provided determined in such that~~ section, and the 1057
amount remaining unpaid on the claims or obligations secured by 1058
such prior lien. 1059

Sec. 2329.21. If the sum bid by the purchaser for the real 1060
estate sold under section 2329.20 of the Revised Code relating to 1061
the enforcement of junior liens is insufficient to pay the costs 1062
~~and allowance, allowances, and taxes,~~ which the court has 1063
determined prior to such sale should be paid out of the proceeds 1064
thereof, pursuant to the terms of the mortgage or lien sought to 1065
be enforced, then the purchaser, in addition to the amount of ~~his~~ 1066
the purchaser's bid, must pay a sum which, with the amount so bid 1067
will be sufficient to pay the costs ~~and,~~ allowances, and taxes. 1068
The court may fix the amount remaining unpaid on such claims or 1069
obligations for the purpose of the sale, and to that end require 1070
the parties to the suit to furnish to it satisfactory evidence of 1071
such unpaid amount. The advertisement for the sale of real estate 1072
sold under section 2329.20 of the Revised Code shall state that 1073
the purchaser shall be responsible for those costs, allowances, 1074

and taxes that the proceeds of the sale are insufficient to cover. 1075

Sec. 2329.211. (A) In every action demanding the judicial or 1076
execution sale of residential property, if the judgment creditor 1077
is the purchaser at the sale, the purchaser shall not be required 1078
to make a sale deposit. All other purchasers shall make a sale 1079
deposit as follows: 1080

(1) If the appraised value of the residential property is 1081
less than or equal to ten thousand dollars, the deposit shall be 1082
two thousand dollars. 1083

(2) If the appraised value of the residential property is 1084
greater than ten thousand dollars but less than or equal to two 1085
hundred thousand dollars, the deposit shall be five thousand 1086
dollars. 1087

(3) If the appraised value of the residential property is 1088
greater than two hundred thousand dollars, the deposit shall be 1089
ten thousand dollars. 1090

The timing of the deposit and other payment requirements 1091
shall be established by the court or the person conducting the 1092
sale and included in the advertisement of the sale. If the 1093
purchaser fails to meet the timing or other requirements of the 1094
deposit, the sale shall be invalid. 1095

(B) In every action demanding the judicial or execution sale 1096
of commercial property, the purchaser at the sale shall make a 1097
deposit pursuant to the requirements, if any, established for the 1098
sale. 1099

Sec. 2329.26. (A) Lands and tenements taken in execution 1100
shall not be sold until all of the following occur: 1101

(1)(a) Except as otherwise provided in division (A)(1)(b) of 1102

this section, the judgment creditor who seeks the sale of the
lands and tenements or the judgment creditor's attorney does both
of the following:

(i) Causes a written notice ~~of the date, time, and place of~~
~~the sale~~ to be served in accordance with divisions (A) and (B) of
Civil Rule 5 upon the judgment debtor and upon each other party to
the action in which the judgment giving rise to the execution was
rendered~~+~~. Such notice shall include the date, time, and place of
the sale if the sale is to be held at a physical location or the
start date and web site address of the sale if the sale is to be
held online. Such notice shall also include the provisional second
sale date described in division (B) of section 2329.52 of the
Revised Code, if applicable.

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

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

(2) One of the following applies:

(a) The officer taking the lands and tenements gives public
notice of the date, time, and place of the sale once a week for at
least three consecutive weeks before the day of sale if the sale
is to be held at a physical location or the start date of the sale
if the sale is to be conducted online.

Such notice shall be by advertisement in a newspaper of 1132
general circulation in the county. The newspaper shall meet the 1133
requirements of section 7.12 of the Revised Code. The court 1134
ordering the sale may designate in the order of sale the newspaper 1135
in which this public notice shall be published. 1136

The notice shall include all the following information: 1137

(i) The date, time, and place of the sale if the sale is to 1138
be held at a physical location; 1139

(ii) The start date, the minimum duration, and web site 1140
address of the sale if the sale is to be held online; 1141

(iii) The deposit required by section 2329.211 of the Revised 1142
Code; 1143

(iv) That the purchaser shall be responsible for those costs, 1144
allowances, and taxes that the proceeds of the sale are 1145
insufficient to cover; 1146

(v) The provisional second sale date described in division 1147
(B) of section 2329.52 of the Revised Code, if applicable; 1148
provided, however, that no sale shall be invalid, nor shall the 1149
court vacate any sale, if the notice described in division 1150
(A)(1)(a)(i) of this section or the public notice described in 1151
division (A)(2) of this section fails to include the provisional 1152
date for a second sale of the property and the property is sold on 1153
the initial sale date. 1154

(b) If a private selling officer has been ordered to sell the 1155
lands and tenements, the private selling officer shall give the 1156
public notice described in division (A)(2)(a) of this section in 1157
the newspaper designated by the court. If the court has not 1158
designated a newspaper, the private selling officer shall give 1159
this public notice in the newspaper customarily used or designated 1160

by the county sheriff. No sale that otherwise complies with 1161
division (A)(2) of this section shall be invalid. 1162

~~(3)~~(B) The officer taking the lands and tenements shall 1163
 collect the purchaser's information required by section 2329.271 1164
 of the Revised Code. 1165

~~(B)~~(C) A sale of lands and tenements taken in execution may 1166
 be set aside in accordance with division (A) or (B) of section 1167
 2329.27 of the Revised Code. 1168

Sec. 2329.271. (A)(1) Subject to division (A)(2) of this 1169
 section, the purchaser of lands and tenements taken in execution 1170
 shall submit to the officer who makes the sale the following 1171
 information: 1172

(a) The (i) If the purchaser is an individual, the 1173
information shall include the individual's name, mailing address, 1174
and which shall not be a post office box, electronic mail address, 1175
telephone number, and financial transaction device information of 1176
the purchaser; 1177

(ii) If the purchaser is an entity, the information shall 1178
include the entity's legal name, trade name if different from its 1179
legal name, state and date of formation, active status with the 1180
office of the secretary of state, mailing address, telephone 1181
number, financial transaction device information, the name of an 1182
individual contact person for the entity, and the contact person's 1183
title, mailing address, which shall not be a post office box, 1184
electronic mail address, and telephone number. 1185

(b) An attorney or a law firm that represents a purchaser may 1186
submit the information required under division (A)(1)(a) of this 1187
section in a representative capacity, either as an individual or 1188
entity. 1189

<u>(c)</u> If the lands and tenements taken in execution are	1190
residential rental property and the residential rental property is	1191
purchased by a trust, business trust, estate, partnership, limited	1192
partnership, limited liability company, association, corporation,	1193
or any other business entity, the name, address, and telephone	1194
number of the following with the provision that the purchaser be	1195
readily accessible through the identified contact person:	1196
(i) A trustee, in the case of a trust or business trust;	1197
(ii) The executor or administrator, in the case of an estate;	1198
(iii) A general partner, in the case of a partnership or a	1199
limited partnership;	1200
(iv) A member, manager, or officer, in the case of a limited	1201
liability company;	1202
(v) An associate, in the case of an association;	1203
(vi) An officer, in the case of a corporation;	1204
(vii) A member, manager, or officer, in the case of any other	1205
business entity.	1206
(e) <u>(d)</u> A statement indicating whether the purchaser will	1207
occupy the lands and tenements.	1208
(2) If the lands and tenements taken in execution are not	1209
residential rental property and the purchaser of those lands and	1210
tenements is a corporation, partnership, association, estate,	1211
trust, or other business organization the only place of business	1212
of which is in the county in which the real property is located,	1213
the information required by divisions (A)(1)(a) and (e) <u>(d)</u> of this	1214
section shall be the contact information for the office of an	1215
employee of the purchasing entity that is located in that county	1216
and that the purchasing entity has designated to receive notices	1217

or inquiries about the property. If the purchasing entity has a 1218
 place of business outside the county in which the real property is 1219
 located and the purchasing entity's principal place of business is 1220
 located in this state, the information required by divisions 1221
 (A)(1)(a) and ~~(e)~~(d) of this section shall be the contact 1222
 information for the office of an employee of the purchasing entity 1223
 that is located in this state and that the purchasing entity has 1224
 designated to receive notices or inquiries about the property. If 1225
 the purchasing entity's principal place of business is not located 1226
 in this state, the information required by divisions (A)(1)(a) and 1227
~~(e)~~(d) of this section shall be the contact information for a 1228
 natural person who is employed by the purchasing entity at the 1229
 purchasing entity's principal place of business outside of this 1230
 state and whom the purchasing entity has designated to receive 1231
 notices or inquiries about the property. 1232

(B)(1) The information required by division (A) of this 1233
 section shall be part of ~~the sheriff's record of proceedings and~~ 1234
~~shall be part of~~ the record of the court of common pleas. The If 1235
the court has ordered or the clerk of the court has issued an 1236
order for the sheriff to advertise and sell the lands and 1237
tenements, the information also shall be part of the sheriff's 1238
record of proceedings. Except as provided in division (B)(2) of 1239
this section, the information is a public record and open to 1240
 public inspection. 1241

(2) The electronic mail address, telephone number, and 1242
financial transaction device information required in division 1243
(A)(1) of this section are confidential and not public records for 1244
purposes of section 149.43 of the Revised Code. 1245

(C) As used in this section, "financial transaction device" 1246
has the same meaning as in section 301.28 of the Revised Code. 1247

Sec. 2329.28. The ~~sheriff~~ levying officer shall indorse on 1248
the writ of execution ~~his~~ the officer's proceedings thereon, and 1249
the clerk of the court of common pleas, upon the return thereof, 1250
immediately shall record all such indorsements at length, in the 1251
execution docket, or other docket provided for that purpose. That 1252
record shall be a part of the record of the court of common pleas. 1253

Sec. 2329.30. The court from which an execution or order of 1254
sale issues, upon notice and motion of the officer who makes the 1255
sale or of an interested party, may punish any purchaser of lands 1256
and tenements who fails to pay within thirty days of the 1257
confirmation of the sale the balance due on the purchase price of 1258
the lands and tenements by forfeiting the sale of the lands and 1259
tenements and returning any deposit paid in connection with the 1260
sale of the lands and tenements, by forfeiting any deposit paid in 1261
connection with the sale of the lands and tenements, as for 1262
contempt, or in any other manner the court considers appropriate. 1263
Upon motion, the court may order the return of any remaining 1264
portion of the deposit of the purchaser, less the costs of a 1265
subsequent sale and any other remedy the court considers 1266
appropriate. An order for contempt for failure of the purchaser to 1267
pay voids the confirmation of sale and transfer. 1268

Sec. 2329.31. (A) Upon the return of any writ of execution 1269
for the satisfaction of which lands and tenements have been sold, 1270
on careful examination of the proceedings of the officer making 1271
the sale, if the court of common pleas finds that the sale was 1272
made, in all respects, in conformity with sections 2329.01 to 1273
2329.61 of the Revised Code, it shall, within thirty days of the 1274
return of the writ, direct the clerk of the court of common pleas 1275
to make an entry on the journal that the court is satisfied of the 1276

legality of such sale ~~and that the attorney who filed the writ of~~ 1277
~~execution make to the purchaser a deed for the lands and~~ 1278
~~tenements~~. Nothing in this section prevents the court of common 1279
pleas from staying the confirmation of the sale to permit a 1280
property owner time to redeem the property or for any other reason 1281
that it determines is appropriate. In those instances, the sale 1282
shall be confirmed within thirty days after the termination of any 1283
stay of confirmation. 1284

(B) The officer making the sale shall require the purchaser, 1285
including a lienholder, to pay within thirty days of the 1286
confirmation of the sale the balance due on the purchase price of 1287
the lands and tenements. 1288

(C)(1) The officer making the sale shall record the prepared 1289
deed required by section 2329.36 of the Revised Code within 1290
fourteen days after the confirmation of sale and payment of the 1291
balance due. 1292

(2)(a) If the deed is not prepared and recorded within the 1293
fourteen-day period, the purchaser may file a motion with the 1294
court to proceed with the transfer of title. If the court finds 1295
that a proper sale was made, it shall enter an order transferring 1296
the title of the lands and tenements to the purchaser, ordering 1297
the plaintiff to present a certified copy of the order to the 1298
county recorder for recording, and ordering the county recorder to 1299
record the order in the record of deeds. The order, when filed 1300
with the county recorder, shall have the same effect as a deed 1301
prepared pursuant to section 2329.36 of the Revised Code. 1302

(b) Upon the issuance of the court order described in 1303
division (C)(2)(a) of this section, the plaintiff, or the 1304
plaintiff's attorney, shall present a certified copy of the order 1305
to be recorded in the office of the county recorder. The county 1306

recorder shall record the order in the record of deeds.

1307

(c) The clerk shall issue a copy of the court order to the county auditor to transfer record ownership of the lands and tenements for the purpose of real estate taxes. Real estate taxes coming due after the date of the sale shall not prohibit the auditor from transferring ownership of the lands and tenements on its records or cause the recorder to deny recording. The real estate taxes shall become the responsibility of the new title holder of the lands and tenements. The sheriff shall not require the confirmation of sale to be amended for taxes not due and payable as of the date of the sale.

1308

1309

1310

1311

1312

1313

1314

1315

1316

1317

Sec. 2329.311. In sales of residential properties taken in execution or order of sale that are sold at an auction with no set minimum bid pursuant to division (B) of section 2329.52 of the Revised Code, the judgment creditor and the first lienholder each have the right to redeem the property within fourteen days after the sale by paying the purchase price. The redeeming party shall pay the purchase price to the clerk of the court in which the judgment was rendered or the order of sale was made. Upon timely payment, the court shall proceed as described in section 2329.31 of the Revised Code, with the redeeming party considered the successful purchaser at sale.

1318

1319

1320

1321

1322

1323

1324

1325

1326

1327

1328

Sec. 2329.312. (A) All levying officers appointed or authorized by a court under this chapter to conduct the judicial or execution sale of residential property consisting of one to four single-family units shall submit quarterly reports to the attorney general for the purpose of assessing the extent to which deadlines required by this chapter are met. The reports shall include data on each such sale conducted by the officer.

1329

1330

1331

1332

1333

1334

1335

(B) Starting one year after the effective date of this 1336
section, the attorney general shall do all of the following: 1337

(1) Establish and maintain a database comprised of the 1338
information submitted by levying officers pursuant to division (A) 1339
of this section; 1340

(2) Make the information included in the database publicly 1341
available; 1342

(3) Adopt rules for the creation and administration of the 1343
database. 1344

Sec. 2329.33. ~~In~~ Except as provided in division (C) of 1345
section 2308.03 or any other section of the Revised Code, in sales 1346
of real estate on execution or order of sale, at any time before 1347
the confirmation thereof, the debtor may redeem it from sale by 1348
depositing in the hands of the clerk of the court of common pleas 1349
to which such execution or order is returnable, the amount of the 1350
judgment or decree upon which such lands were sold, with all 1351
costs, including poundage, and interest at the rate of eight per 1352
cent per annum on the purchase money from the day of sale to the 1353
time of such deposit, except where the judgment creditor is the 1354
purchaser, the interest at such rate on the excess above ~~his~~ the 1355
judgment creditor's claim. The court of common pleas thereupon 1356
shall make an order setting aside such sale, and apply the deposit 1357
to the payment of such judgment or decree and costs, and award 1358
such interest to the purchaser, who shall receive from the officer 1359
making the sale the purchase money paid by ~~him~~ the purchaser, and 1360
the interest from the clerk. This section does not take away the 1361
power of the court to set aside such sale for any reason for which 1362
it might have been set aside prior to April 16, 1888. 1363

Sec. 2329.34. Real property may be conveyed by a master 1364
commissioner or special master only: 1365

(A) When, by an order or a judgment in an action or 1366
proceeding, a party is required to convey such property to 1367
another, and ~~he~~ the party neglects or refuses to do so, and the 1368
master is directed to convey on ~~his~~ the party's failure; 1369

(B) When specific real property is sold by a master under an 1370
order or judgment of the court appointing ~~him~~ the master. No court 1371
shall make or issue an order to a master for the sale of real 1372
estate except in response to a motion by a judgment creditor, 1373
~~unless which motion shall be granted only if~~ there exists some 1374
special reason why the sale should not be made by the sheriff of 1375
the county where the decree or order was made, ~~which reason, if or~~ 1376
by a private selling officer. If the court finds any such reason 1377
to exist, that reason shall be embodied in and made part of the 1378
judgment, order, or decree for such sale. 1379

Sec. 2329.39. Sale Except as provided in sections 2329.152 1380
and 2329.153 of the Revised Code, sale of lands or tenements under 1381
execution or order of sale must be held in the county in which 1382
they are situated and at the courthouse, unless otherwise ordered 1383
by the court. Purchase of real or personal property, by the 1384
officer making the sale thereof, or by an appraiser of such 1385
property, shall be fraudulent and void. 1386

Sec. 2329.45. If a judgment in satisfaction of which lands~~7~~ 1387
or tenements are sold~~7~~ is reversed on appeal, such reversal shall 1388
not defeat or affect the title of the purchaser. In such case 1389
restitution ~~must be made by the judgment creditor of~~ in an amount 1390
equal to the money for which such lands or tenements were sold, 1391
with interest from the day of sale, must be made by the judgment 1392

creditor. In ordering restitution, the court shall take into 1393
consideration all persons who lost an interest in the property by 1394
reason of the judgment and sale and the order of the priority of 1395
those interests. 1396

Sec. 2329.52. When (A) Except as otherwise provided in 1397
division (B) of this section, when premises are ordered to be 1398
sold, if said premises, or a part thereof, remain unsold for want 1399
of bidders after having been once appraised, advertised, and 1400
offered for sale, the court from which the order of sale issued 1401
may, on motion of the plaintiff or defendant and from time to time 1402
until said premises are disposed of, order a new appraisalment and 1403
sale or direct the amount for which said premises, or a part 1404
thereof, may be sold. 1405

The court may order that the premises be sold as follows: One 1406
third cash in hand, one third in nine months from the day of sale, 1407
and the remaining one third in eighteen months from the day of 1408
sale, the deferred payments to draw interest at six per cent and 1409
be secured by a mortgage on the premises. 1410

(B) When a residential property is ordered to be sold 1411
pursuant to a residential mortgage loan foreclosure action, and 1412
the sale will be held at a physical location and not online, and 1413
if the property remains unsold after the first auction, then a 1414
second auction shall be held and the property shall be sold to the 1415
highest bidder without regard to the minimum bid requirement in 1416
section 2329.20 of the Revised Code, but subject to section 1417
2329.21 of the Revised Code relating to costs, allowances, and 1418
real estate taxes. This second auction shall be held not earlier 1419
than seven days and not later than thirty days after the first 1420
auction. A residential property that remains unsold after two 1421
auctions may be subsequently offered for sale without regard to 1422

the minimum bid requirement in section 2329.20 of the Revised Code 1423
or disposed of in any other manner pursuant to this chapter or any 1424
other provision of the Revised Code. 1425

Sec. 2329.56. When a freeholder, summoned as an appraiser, 1426
 fails to appear at the time and place appointed by the officers 1427
 ordering ~~his~~ the freeholder's appearance and discharge ~~his~~ the 1428
 duty as such, on complaint made to a judge of the county court in 1429
 the district in which such freeholder resides, unless ~~he~~ the 1430
freeholder has a reasonable excuse, ~~he~~ the freeholder shall pay 1431
 fifty ~~cents~~ dollars for each neglect, which shall be collected by 1432
 the judge, and paid into the county treasury for the use of the 1433
 county. 1434

Sec. 2909.07. (A) No person shall: 1435

(1) Without privilege to do so, knowingly move, deface, 1436
 damage, destroy, or otherwise improperly tamper with ~~the~~ either of 1437
the following: 1438

(a) The property of another; 1439

(b) One's own residential real property with the purpose to 1440
decrease the value of or enjoyment of the residential real 1441
property, if both of the following apply: 1442

(i) The residential real property is subject to a mortgage. 1443

(ii) The person has been served with a summons and complaint 1444
in a pending residential mortgage loan foreclosure action relating 1445
to that real property. As used in this division, "pending" 1446
includes the time between judgment entry and confirmation of sale. 1447

(2) With purpose to interfere with the use or enjoyment of 1448
 property of another, employ a tear gas device, stink bomb, smoke 1449

generator, or other device releasing a substance that is harmful 1450
or offensive to persons exposed or that tends to cause public 1451
alarm; 1452

(3) Without privilege to do so, knowingly move, deface, 1453
damage, destroy, or otherwise improperly tamper with a bench mark, 1454
triangulation station, boundary marker, or other survey station, 1455
monument, or marker; 1456

(4) Without privilege to do so, knowingly move, deface, 1457
damage, destroy, or otherwise improperly tamper with any safety 1458
device, the property of another, or the property of the offender 1459
when required or placed for the safety of others, so as to destroy 1460
or diminish its effectiveness or availability for its intended 1461
purpose; 1462

(5) With purpose to interfere with the use or enjoyment of 1463
the property of another, set a fire on the land of another or 1464
place personal property that has been set on fire on the land of 1465
another, which fire or personal property is outside and apart from 1466
any building, other structure, or personal property that is on 1467
that land; 1468

(6) Without privilege to do so, and with intent to impair the 1469
functioning of any computer, computer system, computer network, 1470
computer software, or computer program, knowingly do any of the 1471
following: 1472

(a) In any manner or by any means, including, but not limited 1473
to, computer hacking, alter, damage, destroy, or modify a 1474
computer, computer system, computer network, computer software, or 1475
computer program or data contained in a computer, computer system, 1476
computer network, computer software, or computer program; 1477

(b) Introduce a computer contaminant into a computer, 1478

computer system, computer network, computer software, or computer
program. 1479
1480

(B) As used in this section, "safety device" means any fire
extinguisher, fire hose, or fire axe, or any fire escape,
emergency exit, or emergency escape equipment, or any life line,
life-saving ring, life preserver, or life boat or raft, or any
alarm, light, flare, signal, sign, or notice intended to warn of
danger or emergency, or intended for other safety purposes, or any
guard railing or safety barricade, or any traffic sign or signal,
or any railroad grade crossing sign, signal, or gate, or any first
aid or survival equipment, or any other device, apparatus, or
equipment intended for protecting or preserving the safety of
persons or property. 1481
1482
1483
1484
1485
1486
1487
1488
1489
1490
1491

(C)(1) Whoever violates this section is guilty of criminal
mischief, and shall be punished as provided in division (C)(2) or
(3) of this section. 1492
1493
1494

(2) Except as otherwise provided in this division, criminal
mischief committed in violation of division (A)(1), (2), (3), (4),
or (5) of this section is a misdemeanor of the third degree. 1495
1496
1497
Except as otherwise provided in this division, if the violation of
division (A)(1), (2), (3), (4), or (5) of this section creates a
risk of physical harm to any person, criminal mischief committed
in violation of division (A)(1), (2), (3), (4), or (5) of this
section is a misdemeanor of the first degree. If the property
involved in the violation of division (A)(1), (2), (3), (4), or
(5) of this section is an aircraft, an aircraft engine, propeller,
appliance, spare part, fuel, lubricant, hydraulic fluid, any other
equipment, implement, or material used or intended to be used in
the operation of an aircraft, or any cargo carried or intended to
be carried in an aircraft, criminal mischief committed in 1498
1499
1500
1501
1502
1503
1504
1505
1506
1507
1508

violation of division (A)(1), (2), (3), (4), or (5) of this 1509
section is one of the following: 1510

(a) If the violation creates a risk of physical harm to any 1511
person, except as otherwise provided in division (C)(2)(b) of this 1512
section, criminal mischief committed in violation of division 1513
(A)(1), (2), (3), (4), or (5) of this section is a felony of the 1514
fifth degree. 1515

(b) If the violation creates a substantial risk of physical 1516
harm to any person or if the property involved in a violation of 1517
this section is an occupied aircraft, criminal mischief committed 1518
in violation of division (A)(1), (2), (3), (4), or (5) of this 1519
section is a felony of the fourth degree. 1520

(3) Except as otherwise provided in this division, criminal 1521
mischief committed in violation of division (A)(6) of this section 1522
is a misdemeanor of the first degree. Except as otherwise provided 1523
in this division, if the value of the computer, computer system, 1524
computer network, computer software, computer program, or data 1525
involved in the violation of division (A)(6) of this section or 1526
the loss to the victim resulting from the violation is one 1527
thousand dollars or more and less than ten thousand dollars, or if 1528
the computer, computer system, computer network, computer 1529
software, computer program, or data involved in the violation of 1530
division (A)(6) of this section is used or intended to be used in 1531
the operation of an aircraft and the violation creates a risk of 1532
physical harm to any person, criminal mischief committed in 1533
violation of division (A)(6) of this section is a felony of the 1534
fifth degree. If the value of the computer, computer system, 1535
computer network, computer software, computer program, or data 1536
involved in the violation of division (A)(6) of this section or 1537
the loss to the victim resulting from the violation is ten 1538

thousand dollars or more, or if the computer, computer system,
computer network, computer software, computer program, or data
involved in the violation of division (A)(6) of this section is
used or intended to be used in the operation of an aircraft and
the violation creates a substantial risk of physical harm to any
person or the aircraft in question is an occupied aircraft,
criminal mischief committed in violation of division (A)(6) of
this section is a felony of the fourth degree."

Between lines 3908 and 3909, insert:

"**Sec. 5302.01.** The forms set forth in sections 5302.05,
5302.07, 5302.09, 5302.11, 5302.12, 5302.14, ~~and~~ 5302.17, and
5302.31 of the Revised Code may be used and shall be sufficient
for their respective purposes. They shall be known as "Statutory
Forms" and may be referred to as such. They may be altered as
circumstances require, and the authorization of those forms shall
not prevent the use of other forms. Wherever the phrases defined
in sections 5302.06, 5302.08, 5302.10, and 5302.13 of the Revised
Code are to be incorporated in instruments by reference, the
method of incorporation as indicated in the statutory forms shall
be sufficient, but shall not preclude other methods.

Sec. 5302.31. A deed in substance following the form set
forth in this section, when duly executed in accordance with
Chapter 5301. of the Revised Code, has the force and effect of a
deed in fee simple to the grantee, the grantee's heirs, assigns,
and successors, to the grantee's and the grantee's heirs',
assigns', and successors' own use, with covenants on the part of
the grantor with the grantee, the grantee's heirs, assigns, and
successors, that, at the time of the delivery of that deed, the
grantor was duly appointed, qualified, and acting in the fiduciary

capacity described in that deed, and was duly authorized to make 1568
the sale and conveyance of the premises; and that in all of the 1569
grantor's proceedings in the sale of the premises the grantor has 1570
complied with the requirements of the statutes in such case 1571
provided. 1572

"Private Selling Officer's Deed 1573

Ohio Revised Code § 2329.152 1574

Case No. 1575

I,, a private selling officer as 1576
defined in section 2329.01 of the Revised Code, pursuant to the 1577
Order of Sale entered on, the Confirmation of 1578
Sale entered on, and in consideration of the sum 1579
of \$....., the receipt whereof is hereby 1580
acknowledged, do hereby grant, sell, and convey unto 1581
....., tax mailing address 1582
....., all the rights, title, and interest of 1583
the parties in Court of Common Pleas, County, 1584
Ohio, Case No., vs. 1585
....., and all pleadings therein incorporated 1586
herein by reference in and to the following Lands and Tenements 1587
situated in the County of and State of Ohio, 1588
known and described as follows, to-wit: 1589

(description of land or interest therein) 1590

This deed does not reflect any restrictions, conditions, or 1591
easements of record. 1592

Prior Owner: 1593

Prior Instrument Reference: 1594

Executed this day of 1595

..... 1596

(signature of private selling officer) 1597

Auctioneer License # 1598

Real Estate Broker License #..... 1599

(Execution in accordance with Chapter 5301. of the Revised 1600
Code) " " 1601

Between lines 4025 and 4026, insert: 1602

"**Sec. 5721.371.** (A) Private attorney's fees payable with 1603
 respect to an action under sections 5721.30 to 5721.46 of the 1604
 Revised Code are subject to the following conditions: 1605

~~(A)~~(1) The fees must be reasonable. 1606

~~(B)~~(2) Fees exceeding two thousand five hundred dollars shall 1607
 be paid only if authorized by a court order. 1608

~~(C)~~(B)(1) Fees less than or equal to two thousand five 1609
hundred dollars shall be presumed to be reasonable. 1610

(2) If the private attorney's fees payable are fixed and not 1611
determined on an hourly basis, the court shall not consider or 1612
require evidence of hours expended or hourly rates. 1613

(3) The terms of a sale negotiated under section 5721.33 of 1614
the Revised Code may include the amount to be paid in private 1615
attorney's fees, subject to division ~~(B)~~(A)(2) of this section. 1616

Sec. 5721.372. (A) A private selling officer's fees payable 1617
with respect to an action under sections 5721.30 to 5721.46 of the 1618
Revised Code are subject to both of the following conditions: 1619

(1) The fees must be reasonable. 1620

(2) Fees exceeding five per cent of the sale price of the 1621

property, if such amount is greater than seven hundred fifty 1622
dollars, shall be paid only if authorized by a court order. 1623

(B)(1) Fees less than or equal to seven hundred fifty dollars 1624
shall be presumed to be reasonable. 1625

(2) The terms of a sale negotiated under section 5721.33 of 1626
the Revised Code may include the amount to be paid in private 1627
selling officer's fees, subject to division (A) of this section. 1628

(C) As used in this section, "private selling officer" has 1629
the same meaning as in section 2329.01 of the Revised Code. 1630

Sec. 5721.373. (A) A title agent's or title insurance 1631
company's fees payable with respect to an action under sections 1632
5721.30 to 5721.46 of the Revised Code are subject to the 1633
following conditions: 1634

(1) The fees must be reasonable. 1635

(2) Fees exceeding five hundred dollars shall be paid only if 1636
authorized by a court order. 1637

(B)(1) Fees less than or equal to five hundred dollars shall 1638
be presumed to be reasonable. 1639

(2) The terms of a sale negotiated under section 5721.33 of 1640
the Revised Code may include the amount to be paid in title 1641
agent's or title company's fees, subject to division (A) of this 1642
section. 1643

Sec. 5721.39. (A) In its judgment of foreclosure rendered in 1644
actions filed pursuant to section 5721.37 of the Revised Code, the 1645
court or board of revision shall enter a finding that includes all 1646
of the following with respect to the certificate parcel: 1647

(1) The amount of the sum of the certificate redemption 1648

prices for all the tax certificates sold against the parcel; 1649

(2) Interest on the certificate purchase prices of all 1650
certificates at the rate of eighteen per cent per year for the 1651
period beginning on the day on which the payment was submitted by 1652
the certificate holder under division (B) of section 5721.37 of 1653
the Revised Code; 1654

(3) The amount paid under division (B)(2) of section 5721.37 1655
of the Revised Code, plus interest at the rate of eighteen per 1656
cent per year for the period beginning on the day the certificate 1657
holder filed a request for foreclosure or a notice of intent to 1658
foreclose under division (A) of that section; 1659

(4) Any delinquent taxes on the parcel that are not covered 1660
by a payment under division (B)(2) of section 5721.37 of the 1661
Revised Code; 1662

(5) Fees and costs incurred in the foreclosure proceeding 1663
instituted against the parcel, including, without limitation, the 1664
fees and costs of the prosecuting attorney represented by the fee 1665
paid under division (B)(3) of section 5721.37 of the Revised Code, 1666
plus interest as provided in division (D)(2)(d) of this section, 1667
or the fees and costs of the private attorney representing the 1668
certificate holder, and charges paid or incurred in procuring 1669
title searches and abstracting services relative to the subject 1670
premises. 1671

(B) The court or board of revision may order the certificate 1672
parcel to be sold or otherwise transferred according to law, 1673
without appraisal and as set forth in the prayer of the complaint, 1674
for not less than the amount of its finding, or, in the event that 1675
the true value of the certificate parcel as determined by the 1676
county auditor is less than the certificate redemption price, the 1677
court or board of revision may, as prayed for in the complaint, 1678

issue a decree transferring fee simple title free and clear of all
subordinate liens to the certificate holder or as otherwise
provided in sections 323.65 to 323.79 of the Revised Code. A
decree of the court or board of revision transferring fee simple
title to the certificate holder is forever a bar to all rights of
redemption with respect to the certificate parcel.

(C)(1) The certificate holder may file a motion with the
court for an order authorizing a specified private selling
officer, as defined in section 2329.01 of the Revised Code, to
sell the parcel at a public auction. If the court authorizes a
private selling officer to sell the parcel, then upon the filing
of a praecipe for order of sale with the clerk of the court, the
clerk of the court shall immediately issue an order of sale to the
private selling officer authorized by the court.

(2) The officer to whom the order of sale is directed may
conduct the public auction of the parcel at a physical location in
the county in which the parcel is located or online. If the public
auction occurs online, the auction shall be open for bidding for
seven days. If the parcel is not sold during this initial
seven-day period, a second online auction shall be held not
earlier than three days or later than thirty days after the end of
the first auction. The second online auction shall be open for
bidding for seven days.

(3) A private selling officer who conducts an auction of the
parcel under this section may do any of the following:

(a) Market the parcels for sale and hire a title insurance
agent licensed under Chapter 3953. of the Revised Code or title
insurance company authorized to do business under that chapter to
assist the private selling officer in performing administrative
services;

(b) Execute to the purchaser, or to the purchaser's legal representatives, a deed of conveyance of the parcel sold in conformity with the form set forth in section 5302.31 of the Revised Code; 1709
1710
1711
1712

(c) Record on behalf of the purchaser the deed conveying title to the parcel sold, notwithstanding that the deed may not actually have been delivered to the purchaser prior to its recording. 1713
1714
1715
1716

(4) By placing a bid at a sale conducted pursuant to this section, a purchaser appoints the private selling officer who conducts the sale as agent of the purchaser for the sole purpose of accepting delivery of the deed. 1717
1718
1719
1720

(5) The private selling officer who conducts the sale shall hire a title insurance agent licensed under Chapter 3953. of the Revised Code or title insurance company authorized to do business under that chapter to perform title, escrow, and closing services related to the sale of the parcel. 1721
1722
1723
1724
1725

(6) Except as otherwise provided in sections 323.65 to 323.79 of the Revised Code, and the alternative redemption period thereunder, each certificate parcel shall be advertised and sold by the officer to whom the order of sale is directed in the manner provided by law for the sale of real property on execution. The advertisement for sale of certificate parcels shall be published once a week for three consecutive weeks and shall include the date on which a second sale will be conducted if no bid is accepted at the first sale. Any number of parcels may be included in one advertisement. 1726
1727
1728
1729
1730
1731
1732
1733
1734
1735

Except as otherwise provided in sections 323.65 to 323.79 of the Revised Code, whenever the officer charged to conduct the sale offers a certificate parcel for sale at a physical location and 1736
1737
1738

not online and no bids are made equal to at least the amount of 1739
the finding of the court or board of revision, the officer shall 1740
adjourn the sale of the parcel to the second date that was 1741
specified in the advertisement of sale. The second sale shall be 1742
held at the same place and commence at the same time as set forth 1743
in the advertisement of sale. The officer shall offer any parcel 1744
not sold at the first sale. Upon the conclusion of any sale, or if 1745
any parcel remains unsold after being offered at two sales, the 1746
officer conducting the sale shall report the results to the court 1747
or board of revision. 1748

(D) Upon the confirmation of a sale, the proceeds of the sale 1749
shall be applied as follows: 1750

(1) The fees and costs incurred in the proceeding filed 1751
against the parcel pursuant to section 5721.37 of the Revised Code 1752
shall be paid first, including attorney's fees of the certificate 1753
holder's attorney payable under division (F) of that section, 1754
private selling officer's fees and marketing costs, title agent's 1755
or title company's fees, or the county prosecutor's costs covered 1756
by the fee paid by the certificate holder under division (B)(3) of 1757
that section. 1758

(2) Following the payment required by division (D)(1) of this 1759
section, the certificate holder that filed the notice of intent to 1760
foreclose or request for foreclosure with the county treasurer 1761
shall be paid the sum of the following amounts: 1762

(a) The sum of the amount found due for the certificate 1763
redemption prices of all the tax certificates that are sold 1764
against the parcel; 1765

(b) Any premium paid by the certificate holder at the time of 1766
purchase; 1767

(c) Interest on the amounts paid by the certificate holder 1768

under division (B)(1) of section 5721.37 of the Revised Code at 1769
the rate of eighteen per cent per year beginning on the day on 1770
which the payment was submitted by the certificate holder to the 1771
county treasurer and ending on the day immediately preceding the 1772
day on which the proceeds of the foreclosure sale are paid to the 1773
certificate holder; 1774

(d) Interest on the amounts paid by the certificate holder 1775
under divisions (B)(2) and (3) of section 5721.37 of the Revised 1776
Code at the rate of eighteen per cent per year beginning on the 1777
day on which the payment was submitted by the certificate holder 1778
under divisions (B)(2) and (3) of that section and ending on the 1779
day immediately preceding the day on which the proceeds of the 1780
foreclosure sale are paid to the certificate holder pursuant to 1781
this section, except that such interest shall not accrue for more 1782
than three years if the certificate was sold under section 5721.32 1783
of the Revised Code, or under section 5721.42 of the Revised Code 1784
by the holder of a certificate issued under section 5721.32 of the 1785
Revised Code, or more than six years if the certificate was sold 1786
under section 5721.33 of the Revised Code, or under section 1787
5721.42 of the Revised Code by the holder of a certificate issued 1788
under section 5721.33 of the Revised Code, after the day the 1789
amounts were paid by the certificate holder under divisions (B)(2) 1790
and (3) of section 5721.37 of the Revised Code; 1791

(e) The amounts paid by the certificate holder under 1792
divisions (B)(1), (2), and (3) of section 5721.37 of the Revised 1793
Code. 1794

(3) Following the payment required by division (D)(2) of this 1795
section, any amount due for taxes, installments of assessments, 1796
charges, penalties, and interest not covered by the tax 1797
certificate holder's payment under division (B)(2) of section 1798

5721.37 of the Revised Code shall be paid, including all taxes, 1799
installments of assessments, charges, penalties, and interest 1800
 payable subsequent to the entry of the finding and prior to the 1801
 transfer of the deed of the parcel to the purchaser following 1802
 confirmation of sale. If the proceeds available for distribution 1803
 pursuant to this division are insufficient to pay the entire 1804
 amount of those taxes, installments of assessments, charges, 1805
 penalties, and interest, the proceeds shall be paid to each 1806
 claimant in proportion to the amount of those taxes, installments 1807
of assessments, charges, penalties, and interest that each is due, 1808
 and those taxes, installments of assessments, charges, penalties, 1809
 and interest are deemed satisfied and shall be removed from the 1810
 tax list and duplicate. 1811

(4) Any residue of money from proceeds of the sale shall be 1812
 disposed of as prescribed by section 5721.20 of the Revised Code. 1813

(E) Unless the parcel previously was redeemed pursuant to 1814
 section 5721.25 or 5721.38 of the Revised Code, upon the filing of 1815
 the entry of confirmation of sale, or an order to transfer the 1816
 parcel under sections 323.65 to 323.79 of the Revised Code, the 1817
 title to the parcel is incontestable in the purchaser and is free 1818
 and clear of all liens and encumbrances, except a federal tax 1819
 lien, notice of which lien is properly filed in accordance with 1820
 section 317.09 of the Revised Code prior to the date that a 1821
 foreclosure proceeding is instituted pursuant to section 5721.37 1822
 of the Revised Code, and which lien was foreclosed in accordance 1823
 with 28 U.S.C.A. 2410(c), and except for the easements and 1824
 covenants of record running with the land or lots that were 1825
 created prior to the time the taxes or installments of 1826
 assessments, for the nonpayment of which a tax certificate was 1827
 issued and the parcel sold at foreclosure, became due and payable. 1828

The title shall not be invalid because of any irregularity, 1829

informality, or omission of any proceedings under this chapter or 1830
 in any processes of taxation, if such irregularity, informality, 1831
 or omission does not abrogate the provision for notice to holders 1832
 of title, lien, or mortgage to, or other interests in, such 1833
 foreclosed parcels, as prescribed in this chapter." 1834

In line 5973, after "181.22," insert "301.28,"; after 1835
 "305.42," insert "323.47,"; after "323.73," insert "1303.38, 1836
 2303.26, 2327.01, 2327.02, 2327.04, 2329.01, 2329.151, 2329.17, 1837
 2329.18, 2329.19, 2329.20, 2329.21, 2329.26, 2329.271, 2329.28, 1838
 2329.30, 2329.31, 2329.33, 2329.34, 2329.39, 2329.45, 2329.52, 1839
 2329.56, 2909.07," 1840

In line 5975, after "5145.162," insert "5302.01,"; after 1841
 "5537.02," insert "5721.371, 5721.39," 1842

Between lines 5979 and 5980, insert: 1843

"Section 101.03. (A) The provisions of the Revised Code, 1844
 including Title XXIII, relating to the judicial sale of real 1845
 estate pursuant to a mortgage loan foreclosure action comprise a 1846
 comprehensive regulatory framework intended to operate uniformly 1847
 throughout the state to provide efficient sales procedures for 1848
 foreclosed property, improve the market for such property by 1849
 increasing sale prices, and reduce the number of unoccupied and 1850
 abandoned properties marring the cities of this state. This 1851
 provision does not preempt vacant foreclosed property registration 1852
 ordinances enacted by political subdivisions pursuant to their 1853
 police powers. 1854

(B)(1) A person whose conduct is governed by this act shall 1855
 comply in good faith with the requirements of this act and shall 1856
 act in good faith throughout the foreclosure process. "Good 1857
 faith," as defined in section 1303.201 of the Revised Code, means 1858

honesty in fact and the observance of reasonable commercial	1859
standards of fair dealing.	1860

(2) A judgment creditor in connection with a real property	1861
foreclosure action shall proceed in a commercially reasonable	1862
manner in complying with this act, not in consistent with division	1863
(A)(9) of section 1303.01 of the Revised Code.	1864

Section 101.04. (A) The winning bidder pursuant to division	1865
(A) of section 2329.153 of the Revised Code shall work with	1866
sheriffs and other groups to address issues regarding the official	1867
public sheriff sale web site, including potential cost and	1868
recoupment, details of the implementation of the online system,	1869
and other unresolved concerns.	1870

(B) A sheriff may conduct a dual real property foreclosure	1871
sale on the official public sheriff sale web site and at a	1872
physical location considered appropriate by the sheriff."	1873

The motion was _____ agreed to.