

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 138

Representatives Foley, Blessing

**Cosponsors: Representatives Domenick, Skindell, Hagan, R., McGregor, J.,
Ujvagi, Budish, Lundy, Stebelton, Raussen, Yuko, DeGeeter, Collier, Combs,
Letson, Luckie, Harwood, Strahorn, Stewart, D., Driehaus, White, Garrison,
Miller, Bolon, Brady, Boyd, Seitz**

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A B I L L

To amend sections 323.25, 323.28, 2303.11, 2323.07, 1
2327.01, 2327.02, 2329.17, 2329.18, 2329.19, 2
2329.26, 2329.27, 2329.31, 2329.36, 5309.64, 3
5721.18, 5721.19, and 5723.01 and to enact section 4
2329.271 of the Revised Code to require purchasers 5
of real property at a judicial sale to provide 6
certain identifying information, to allow 7
municipal corporations to conduct inspections of 8
property subject to a writ of execution, to 9
require judicial sales to be confirmed within 10
thirty days of sale, to require officers who sell 11
real property at a judicial sale to file a deed 12
within fourteen days of confirmation, to authorize 13
courts and county boards of revision to transfer 14
certain tax delinquent lands subject to judicial 15
foreclosure without appraisal or sale, to permit a 16
summary property description to be read at a 17
judicial sale, and to offer property that did not 18
sell at a judicial sale to a political subdivision 19
before forfeiture to the state. 20

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

Section 1. That sections 323.25, 323.28, 2303.11, 2323.07, 21
2327.01, 2327.02, 2329.17, 2329.18, 2329.19, 2329.26, 2329.27, 22
2329.31, 2329.36, 5309.64, 5721.18, 5721.19, and 5723.01 be 23
amended and section 2329.271 of the Revised Code be enacted to 24
read as follows: 25

Sec. 323.25. When taxes charged against an entry on the tax 26
duplicate, or any part of such taxes, are not paid within sixty 27
days after delivery of the delinquent land duplicate to the county 28
treasurer as prescribed by section 5721.011 of the Revised Code, 29
the county treasurer shall enforce the lien for such taxes by 30
civil action in the treasurer's official capacity as treasurer, 31
for the sale of such premises or transfer of such premises to an 32
electing subdivision pursuant to section 323.28 of the Revised 33
Code, in the court of common pleas of the county, in a municipal 34
court with jurisdiction, or in the county board of revision 35
pursuant to section 323.66 of the Revised Code in the same way 36
mortgage liens are enforced. After the civil action has been 37
instituted, but before the filing of an entry of confirmation of 38
sale or transfer pursuant to the action, any person entitled to 39
redeem the land may do so by tendering to the county treasurer an 40
amount sufficient, as determined by the court or board of 41
revision, to pay the taxes, assessments, penalties, interest, and 42
charges then due and unpaid, and the costs incurred in the civil 43
action, and by demonstrating that the property is in compliance 44
with all applicable zoning regulations, land use restrictions, and 45
building, health, and safety codes. 46

If the delinquent land duplicate lists minerals or rights to 47
minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 48
of the Revised Code, the county treasurer may enforce the lien for 49

taxes against such minerals or rights to minerals by civil action, 50
in the treasurer's official capacity as treasurer, in the manner 51
prescribed by this section, or proceed as provided under section 52
5721.46 of the Revised Code. 53

If service by publication is necessary, such publication 54
shall be made once a week for three consecutive weeks instead of 55
as provided by the Rules of Civil Procedure, and the service shall 56
be complete at the expiration of three weeks after the date of the 57
first publication. If the prosecuting attorney determines that 58
service upon a defendant may be obtained ultimately only by 59
publication, the prosecuting attorney may cause service to be made 60
simultaneously by certified mail, return receipt requested, 61
ordinary mail, and publication. The county treasurer shall not 62
enforce the lien for taxes against real property to which any of 63
the following applies: 64

(A) The real property is the subject of an application for 65
exemption from taxation under section 5715.27 of the Revised Code 66
and does not appear on the delinquent land duplicate; 67

(B) The real property is the subject of a valid delinquent 68
tax contract under section 323.31 of the Revised Code for which 69
the county treasurer has not made certification to the county 70
auditor that the delinquent tax contract has become void in 71
accordance with that section; 72

(C) A tax certificate respecting that property has been sold 73
under section 5721.32 or 5721.33 of the Revised Code; provided, 74
however, that nothing in this division shall prohibit the county 75
treasurer or the county prosecuting attorney from enforcing the 76
lien of the state and its political subdivisions for taxes against 77
a certificate parcel with respect to any or all of such taxes that 78
at the time of enforcement of such lien are not the subject of a 79
tax certificate. 80

Upon application of the plaintiff, the court shall advance 81
such cause on the docket, so that it may be first heard. 82

Sec. 323.28. (A) A finding shall be entered in a proceeding 83
under section 323.25 of the Revised Code for taxes, assessments, 84
penalties, interest, and charges due and payable at the time the 85
deed of real property sold or transferred under this section is 86
transferred to the purchaser, plus the cost of the proceeding. For 87
purposes of determining such amount, the county treasurer may 88
estimate the amount of taxes, assessments, interest, penalties, 89
and costs that will be payable at the time the deed of the 90
property is transferred to the purchaser. 91

The court of common pleas, a municipal court with 92
jurisdiction, or the county board of revision pursuant to section 93
323.66 of the Revised Code shall order such premises to be 94
transferred pursuant to division (E) of this section or shall 95
order such premises to be sold for payment of the finding, but for 96
not less than either of the following, unless the county treasurer 97
applies for an appraisal: 98

(1) The total amount of such finding; 99

(2) The fair market value of the premises, as determined by 100
the county auditor, plus the cost of the proceeding. 101

If the county treasurer applies for an appraisal, the 102
premises shall be appraised in the manner provided by section 103
2329.17 of the Revised Code, and shall be sold for at least 104
two-thirds of the appraised value. 105

Notwithstanding the minimum sales price provisions of 106
divisions (A)(1) and (2) of this section to the contrary, a parcel 107
sold pursuant to this section shall not be sold for less than the 108
amount described in division (A)(1) of this section if the highest 109
bidder is the owner of record of the parcel immediately prior to 110

the judgment of foreclosure or a member of the following class of 111
parties connected to that owner: a member of that owner's 112
immediate family, a person with a power of attorney appointed by 113
that owner who subsequently transfers the parcel to the owner, a 114
sole proprietorship owned by that owner or a member of ~~his~~ the 115
owner's immediate family, or partnership, trust, business trust, 116
corporation, or association in which the owner or a member of ~~his~~ 117
the owner's immediate family owns or controls directly or 118
indirectly more than fifty per cent. If a parcel sells for less 119
than the amount described in division (A)(1) of this section, the 120
officer conducting the sale shall require the buyer to complete an 121
affidavit stating that the buyer is not the owner of record 122
immediately prior to the judgment of foreclosure or a member of 123
the specified class of parties connected to that owner, and the 124
affidavit shall become part of the court records of the 125
proceeding. If the county auditor discovers within three years 126
after the date of the sale that a parcel was sold to that owner or 127
a member of the specified class of parties connected to that owner 128
for a price less than the amount so described, and if the parcel 129
is still owned by that owner or a member of the specified class of 130
parties connected to that owner, the auditor within thirty days 131
after such discovery shall add the difference between that amount 132
and the sale price to the amount of taxes that then stand charged 133
against the parcel and is payable at the next succeeding date for 134
payment of real property taxes. As used in this paragraph, 135
"immediate family" means a spouse who resides in the same 136
household and children. 137

(B) From the proceeds of the sale the costs shall be first 138
paid, next the amount found due for taxes, then the amount of any 139
taxes accruing after the entry of the finding and before the deed 140
of the property is transferred to the purchaser following the 141
sale, all of which taxes shall be deemed satisfied, though the 142
amount applicable to them is deficient, and any balance shall be 143

distributed according to section 5721.20 of the Revised Code. No 144
statute of limitations shall apply to such action. Upon sale, all 145
liens for taxes due at the time the deed of the property is 146
transferred to the purchaser following the sale, and liens 147
subordinate to liens for taxes, shall be deemed satisfied and 148
discharged unless otherwise provided by the order of sale. 149

(C) If the county treasurer's estimate of the amount of the 150
finding under division (A) of this section exceeds the amount of 151
taxes, assessments, interest, penalties, and costs actually 152
payable when the deed is transferred to the purchaser, the officer 153
who conducted the sale shall refund to the purchaser the 154
difference between the estimate and the amount actually payable. 155
If the amount of taxes, assessments, interest, penalties, and 156
costs actually payable when the deed is transferred to the 157
purchaser exceeds the county treasurer's estimate, the officer 158
shall certify the amount of the excess to the treasurer, who shall 159
enter that amount on the real and public utility property tax 160
duplicate opposite the property; the amount of the excess shall be 161
payable at the next succeeding date prescribed for payment of 162
taxes in section 323.12 of the Revised Code. 163

(D) Premises ordered to be sold under this section but 164
remaining unsold for want of bidders after being offered for sale 165
on two separate occasions, not less than two weeks apart, shall be 166
forfeited to the state and disposed of pursuant to Chapter 5723. 167
of the Revised Code. 168

(E) Notwithstanding section 5722.03 of the Revised Code, if 169
the complaint alleges that the property is delinquent vacant land 170
as defined in section 5721.01 of the Revised Code, abandoned lands 171
as defined in section 323.65 of the Revised Code, or lands 172
described in division (E) of section 5722.01 of the Revised Code, 173
and the value of the taxes, assessments, penalties, interest and 174
all other charges and costs of the action exceed the auditor's 175

fair market value of the parcel, then the court or board of 176
revision having jurisdiction over the matter on motion of the 177
plaintiff, or on the court or board's own motion, shall, upon any 178
adjudication of foreclosure, order, without appraisal and without 179
sale, the fee simple title of the property to be transferred to 180
and vested in an electing subdivision as defined in division (A) 181
of section 5722.01 of the Revised Code. For purposes of 182
determining whether the taxes, assessments, penalties, interest 183
and all other charges and costs of the action exceed the actual 184
fair market value of the parcel, the auditor's most current 185
valuation shall be rebuttably presumed to be, and constitute prima 186
facie evidence of, the fair market value thereof. In such case, 187
the filing for journalization of a decree of foreclosure ordering 188
such direct transfer without appraisal or sale shall constitute 189
confirmation of such transfer and thereby terminate any further 190
statutory or common law right of redemption. 191

(F) Whenever the officer charged to conduct the sale offers 192
any parcel for sale, the officer first shall read aloud a complete 193
legal description, or in the alternative, may read aloud only a 194
summary description and a parcel number if the county has adopted 195
a permanent parcel number system and if the advertising notice 196
published prior to the sale includes a complete legal description 197
or indicates where the complete legal description may be obtained. 198

Sec. 2303.11. All writs and orders for provisional remedies, 199
and process of every kind, shall be issued by the clerk of the 200
court of common pleas, or directly by an order or local rule of a 201
court, or by a county board of revision pursuant to section 323.66 202
of the Revised Code; but before they are issued a praecipe shall 203
be filed with the clerk demanding the same. 204

Sec. 2323.07. When a mortgage is foreclosed or a specific 205
lien enforced, a sale of the property, or a transfer of property 206

pursuant to sections 323.28, 323.65 to 323.78, and 5721.19 of the 207
Revised Code, shall be ordered by the court or county board of 208
revision having jurisdiction. 209

When the real property to be sold is in one or more tracts, 210
the court may order the officer who makes the sale to subdivide, 211
appraise, and sell them in parcels, or sell any one of the tracts 212
as a whole. 213

When the mortgaged property is situated in more than one 214
county, the court may order the sheriff or master of each county 215
to make sale of the property in ~~his~~ the sheriff's or master's 216
county, or may direct one officer to sell the whole. When it 217
consists of a single tract, the court may direct that it be sold 218
as one tract or in separate parcels, and shall direct whether 219
appraisers shall be selected for each county or one set for all; 220
and whether publication of the sale shall be made in all the 221
counties, or in one county only. 222

Sec. 2327.01. An execution is a process of a court, issued by 223
its clerk, or the court itself, or the county board of revision 224
having jurisdiction, and directed to the sheriff of the county. 225
Executions may be issued to the sheriffs of different counties at 226
the same time. 227

Sec. 2327.02. Executions are of three kinds: 228

(A) Against the property of the judgment debtor, including 229
orders of sale or orders to transfer property pursuant to sections 230
323.28, 323.65 to 323.78, and 5721.19 of the Revised Code; 231

(B) Against the person of the judgment debtor; 232

(C) For the delivery of the possession of real property, 233
including real property sold under orders of sale or orders to 234
transfer property pursuant to sections 323.28, 323.65 to 323.78, 235
and 5721.19 of the Revised Code. 236

The writ must contain a specific description of the property, 237
and a command to the sheriff to deliver it to the person entitled 238
thereto. It also may require such sheriff to make the damages 239
recovered for withholding the possession and costs, or costs 240
alone, out of the property of the person who so withholds it. 241

In the case of foreclosures of real property including 242
foreclosures for taxes, mortgages, judgment liens and other valid 243
liens, the description of the property, the order of sale, order 244
to transfer, and any deed or deed forms may be prepared, adopted 245
and otherwise approved in advance by the court or county board of 246
revision having jurisdiction, directly commanding the sheriff to 247
sell, convey, or deliver possession of said property as commanded 248
in such order. In such cases, the clerk shall journalize the order 249
and deliver such writ or order to the sheriff for execution. 250

Sec. 2329.17. (A) When execution is levied upon lands and 251
tenements, the officer who makes the levy shall call an inquest of 252
three disinterested freeholders, residents of the county where the 253
lands taken in execution are situated, and administer to them an 254
oath impartially to appraise the property so levied upon, upon 255
actual view. They forthwith shall return to such officer, under 256
their hands, an estimate of the real value of the property in 257
money. 258

(B) The municipal corporation or township in which the real 259
property is situated may inspect any structures located on lands 260
subject to a writ of execution. 261

Sec. 2329.18. When an officer receives the return provided 262
for in division (A) of section 2329.17 of the Revised Code, he the 263
officer forthwith shall deposit a copy of it with the clerk of the 264
court from which the writ issued, and immediately advertise and 265
sell such real estate in conformity with sections 2329.01 to 266

2329.61, ~~inclusive~~, of the Revised Code. 267

Sec. 2329.19. Upon the return of the estimate provided for in 268
division (A) of section 2329.17 of the Revised Code, if it appears 269
by the inquisition that two thirds of the appraised value of the 270
lands and tenements levied upon is sufficient to satisfy the 271
execution, with costs, the judgment on which the execution issued 272
shall not operate as a lien on the residue of the debtor's estate 273
to the prejudice of any other judgment creditor. 274

Sec. 2329.26. (A) Lands and tenements taken in execution 275
shall not be sold until ~~both~~ all of the following occur: 276

(1)(a) Except as otherwise provided in division (A)(1)(b) of 277
this section, the judgment creditor who seeks the sale of the 278
lands and tenements or the judgment creditor's attorney does both 279
of the following: 280

(i) Causes a written notice of the date, time, and place of 281
the sale to be served in accordance with divisions (A) and (B) of 282
Civil Rule 5 upon the judgment debtor and upon each other party to 283
the action in which the judgment giving rise to the execution was 284
rendered; 285

(ii) At least seven calendar days prior to the date of the 286
sale, files with the clerk of the court that rendered the judgment 287
giving rise to the execution a copy of the written notice 288
described in division (A)(1)(a)(i) of this section with proof of 289
service endorsed on the copy in the form described in division (D) 290
of Civil Rule 5. 291

(b) Service of the written notice described in division 292
(A)(1)(a)(i) of this section is not required to be made upon any 293
party who is in default for failure to appear in the action in 294
which the judgment giving rise to the execution was rendered. 295

(2) The officer taking the lands and tenements gives public 296

notice of the date, time, and place of the sale for at least 297
thirty days before the day of sale by advertisement in a newspaper 298
published in and of general circulation in the county. The court 299
ordering the sale may designate in the order of sale the newspaper 300
in which this public notice shall be published, and this public 301
notice is subject to division (A) of section 2329.27 of the 302
Revised Code. 303

(3) The officer taking the lands and tenements shall collect 304
the purchaser's information required by section 2329.271 of the 305
Revised Code. 306

(B) A sale of lands and tenements taken in execution may be 307
set aside in accordance with division (B) of section 2329.27 of 308
the Revised Code. 309

Sec. 2329.27. (A) When the public notice required by division 310
(A)(2) of section 2329.26 of the Revised Code is made in a 311
newspaper published weekly, it is sufficient to insert it for 312
three consecutive weeks. If both a daily and weekly edition of the 313
paper are published and the circulation of the daily in the county 314
exceeds that of the weekly in the county, or if the lands and 315
tenements taken in execution are situated in a city, both a daily 316
and weekly edition of the paper are published, and the circulation 317
of the daily in that city exceeds the circulation of the weekly in 318
that city, it is sufficient to publish the public notice in the 319
daily once a week for three consecutive weeks before the day of 320
sale, each insertion to be on the same day of the week. The 321
expense of that publication in a daily shall not exceed the cost 322
of publishing it in a weekly. 323

(B)(1) Subject to divisions (B)(2) and (3) of this section, 324
all sales of lands and tenements taken in execution that are made 325
without compliance with the written notice requirements of 326
division (A)(1)(a) of section 2329.26 of the Revised Code ~~and~~ the 327

public notice requirements of division (A)(2) of that section, the 328
purchaser information requirements of section 2329.271 of the 329
Revised Code, and division (A) of this section shall be set aside, 330
on motion by any interested party, by the court to which the 331
execution is returnable. 332

(2) Proof of service endorsed upon a copy of the written 333
notice required by division (A)(1)(a) of section 2329.26 of the 334
Revised Code shall be conclusive evidence of the service of the 335
written notice in compliance with the requirements of that 336
division, unless a party files a motion to set aside the sale of 337
the lands and tenements pursuant to division (B)(1) of this 338
section and establishes by a preponderance of the evidence that 339
the proof of service is fraudulent. 340

(3) If the court to which the execution is returnable enters 341
its order confirming the sale of the lands and tenements, the 342
order shall have both of the following effects: 343

(a) The order shall be deemed to constitute a judicial 344
finding as follows: 345

(i) That the sale of the lands and tenements complied with 346
the written notice requirements of division (A)(1)(a) of section 347
2329.26 of the Revised Code and the public notice requirements of 348
division (A)(2) of that section and division (A) of this section, 349
or that compliance of that nature did not occur but the failure to 350
give a written notice to a party entitled to notice under division 351
(A)(1)(a) of section 2329.26 of the Revised Code has not 352
prejudiced that party; 353

(ii) That all parties entitled to notice under division 354
(A)(1)(a) of section 2329.26 of the Revised Code received adequate 355
notice of the date, time, and place of the sale of the lands and 356
tenements; 357

(iii) That the purchaser has submitted the contact 358

information required by section 2329.271 of the Revised Code. 359

(b) The order bars the filing of any further motions to set 360
aside the sale of the lands and tenements. 361

Sec. 2329.271. (A)(1) The purchaser of lands and tenements 362
taken in execution shall submit to the officer who makes the sale 363
the following information: 364

(a) The name of the purchaser; 365

(b) The address of the purchaser which shall not be a post 366
office box but shall be the primary residence of the purchaser, 367
purchasing entity, or designated agent; 368

(c) The telephone number of the purchaser; 369

(d) A statement indicating whether the purchaser will occupy 370
the lands and tenements. 371

(2) If the purchaser of lands and tenements taken in 372
execution is a corporation, partnership, association, estate, 373
trust, or other business organization, the information required by 374
division (A)(1) of this section shall be the contact information 375
for a person with an ownership interest in the real property who 376
resides in the county where the land is located. If no person with 377
an ownership interest resides in the county, the purchasing entity 378
shall comply with division (A)(1) of this section by providing the 379
information for a person who resides in the county that the entity 380
has designated to be responsible for the property. 381

(B) The information required by division (A) of this section 382
shall be part of the sheriff's record of proceedings and shall be 383
part of the record of the court of common pleas. The information 384
is a public record and open to public inspection. 385

Sec. 2329.31. Upon the return of any writ of execution for 386
the satisfaction of which lands and tenements have been sold, on 387

careful examination of the proceedings of the officer making the sale, if the court of common pleas finds that the sale was made, in all respects, in conformity with sections 2329.01 to 2329.61~~7~~inclusive, of the Revised Code, it shall, within thirty days of the return of the writ, direct the clerk of the court of common pleas to make an entry on the journal that the court is satisfied of the legality of such sale, and that the officer make to the purchaser a deed for the lands and tenements. Nothing in this section prevents the court of common pleas from staying the confirmation of the sale to permit a property owner time to redeem the property or for any other reason that it determines is appropriate. In such instances, the sale shall be confirmed within thirty days after the termination of any stay of confirmation.

Sec. 2329.36. (A) An officer, including a master commissioner and a special master, who sells real property, on confirmation of the sale, must make to the purchaser a deed, containing the names of the parties to the judgment, the names of the owners of the property sold, a reference to the volume and page of the recording of the next preceding recorded instrument by or through which the owners claim title, the date and amount of the judgment, the substance of the execution or order on which the property was sold, the substance of the officer's return thereon, and the order of confirmation. The deed shall be executed, acknowledged, and recorded as other deeds.

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

(C) The officer who sells the real property and makes the deed under division (A) of this section shall record the deed, or for registered land file the documents required by section 5309.64

of the Revised Code, with the county recorder within fourteen days 419
of the date the officer makes the deed. The officer shall charge 420
the purchaser a fee to cover the actual costs of recording the 421
deed or filing the documents. 422

Sec. 5309.64. (A) Whenever registered land is sold to satisfy 423
any judgment, decree, or order of a court, or the title is 424
transferred or affected by a decree or judgment of a court, the 425
purchaser, or the person in whose favor such decree was rendered, 426
on filing with the county recorder a certificate that the terms of 427
sale have been complied with and a certified copy of the order of 428
sale and return thereof and confirmation, or a certified copy of 429
the decree of the court transferring or affecting the title, as 430
the case may be, is entitled to have the property transferred to 431
~~him~~ the purchaser or person in whose favor the decree was rendered 432
and ~~his~~ the title registered accordingly and a new certificate of 433
title issued therefor. 434

(B) Where registered land is sold by the sheriff under order 435
of a court, the sheriff shall file with the county recorder a 436
certificate that the terms of sale have been complied with and a 437
certified copy of the order of sale and return thereof and 438
confirmation. The purchaser is thereafter entitled to have the 439
property transferred to the purchaser and the title registered 440
accordingly and a new certificate of title issued therefor. 441

Sec. 5721.18. The county prosecuting attorney, upon the 442
delivery to the prosecuting attorney by the county auditor of a 443
delinquent land or delinquent vacant land tax certificate, or of a 444
master list of delinquent or delinquent vacant tracts, shall 445
institute a foreclosure proceeding under this section in the name 446
of the county treasurer to foreclose the lien of the state, in any 447
court or county board of revision with jurisdiction, unless the 448
taxes, assessments, charges, penalties, and interest are paid 449

prior to the time a complaint is filed, or unless a foreclosure or 450
foreclosure and forfeiture action has been or will be instituted 451
under section 323.25 or 5721.14 of the Revised Code. If the 452
delinquent land or delinquent vacant land tax certificate or the 453
master list of delinquent or delinquent vacant tracts lists 454
minerals or rights to minerals listed pursuant to sections 455
5713.04, 5713.05, and 5713.06 of the Revised Code, the county 456
prosecuting attorney may institute a foreclosure proceeding in the 457
name of the county treasurer, in any court with jurisdiction, to 458
foreclose the lien of the state against such minerals or rights to 459
minerals, unless the taxes, assessments, charges, penalties, and 460
interest are paid prior to the time the complaint is filed, or 461
unless a foreclosure or foreclosure and forfeiture action has been 462
or will be instituted under section 323.25 or 5721.14 of the 463
Revised Code. 464

The prosecuting attorney shall prosecute the proceeding to 465
final judgment and satisfaction. Within ten days after obtaining a 466
judgment, the prosecuting attorney shall notify the treasurer in 467
writing that judgment has been rendered. If there is a copy of a 468
written delinquent tax contract attached to the certificate or an 469
asterisk next to an entry on the master list, or if a copy of a 470
delinquent tax contract is received from the auditor prior to the 471
commencement of the proceeding under this section, the prosecuting 472
attorney shall not institute the proceeding under this section, 473
unless the prosecuting attorney receives a certification of the 474
treasurer that the delinquent tax contract has become void. 475

(A) This division applies to all foreclosure proceedings not 476
instituted and prosecuted under section 323.25 of the Revised Code 477
or division (B) or (C) of this section. The foreclosure 478
proceedings shall be instituted and prosecuted in the same manner 479
as is provided by law for the foreclosure of mortgages on land, 480
except that, if service by publication is necessary, such 481

publication shall be made once a week for three consecutive weeks 482
instead of as provided by the Rules of Civil Procedure, and the 483
service shall be complete at the expiration of three weeks after 484
the date of the first publication. In any proceeding prosecuted 485
under this section, if the prosecuting attorney determines that 486
service upon a defendant may be obtained ultimately only by 487
publication, the prosecuting attorney may cause service to be made 488
simultaneously by certified mail, return receipt requested, 489
ordinary mail, and publication. 490

In any county that has adopted a permanent parcel number 491
system, the parcel may be described in the notice by parcel number 492
only, instead of also with a complete legal description, if the 493
prosecuting attorney determines that the publication of the 494
complete legal description is not necessary to provide reasonable 495
notice of the foreclosure proceeding to the interested parties. If 496
the complete legal description is not published, the notice shall 497
indicate where the complete legal description may be obtained. 498

It is sufficient, having been made a proper party to the 499
foreclosure proceeding, for the treasurer to allege in the 500
treasurer's complaint that the certificate or master list has been 501
duly filed by the auditor, that the amount of money appearing to 502
be due and unpaid is due and unpaid, and that there is a lien 503
against the property described in the certificate or master list, 504
without setting forth in the complaint any other or special matter 505
relating to the foreclosure proceeding. The prayer of the 506
complaint shall be that the court or county board of revision with 507
jurisdiction issue an order that the property be sold or conveyed 508
by the sheriff, or if the action is in the municipal court by the 509
bailiff, in the manner provided in section 5721.19 of the Revised 510
Code. 511

In the foreclosure proceeding, the treasurer may join in one 512
action any number of lots or lands, but the decree shall be 513

rendered separately, and any proceedings may be severed, in the 514
discretion of the court, for the purpose of trial or appeal, and 515
the court shall make such order for the payment of costs as is 516
considered proper. The certificate or master list filed by the 517
auditor with the prosecuting attorney is prima-facie evidence at 518
the trial of the foreclosure action of the amount and validity of 519
the taxes, assessments, charges, penalties, and interest appearing 520
due and unpaid and of their nonpayment. 521

(B) Foreclosure proceedings constituting an action in rem may 522
be commenced by the filing of a complaint after the end of the 523
second year from the date on which the delinquency was first 524
certified by the auditor. Prior to filing such an action in rem, 525
the prosecuting attorney shall cause a title search to be 526
conducted for the purpose of identifying any lienholders or other 527
persons with interests in the property subject to foreclosure. 528
Following the title search, the action in rem shall be instituted 529
by filing in the office of the clerk of a court with jurisdiction 530
a complaint bearing a caption substantially in the form set forth 531
in division (A) of section 5721.181 of the Revised Code. 532

Any number of parcels may be joined in one action. Each 533
separate parcel included in a complaint shall be given a serial 534
number and shall be separately indexed and docketed by the clerk 535
of the court in a book kept by the clerk for such purpose. A 536
complaint shall contain the permanent parcel number of each parcel 537
included in it, the full street address of the parcel when 538
available, a description of the parcel as set forth in the 539
certificate or master list, the name and address of the last known 540
owner of the parcel if they appear on the general tax list, the 541
name and address of each lienholder and other person with an 542
interest in the parcel identified in the title search relating to 543
the parcel that is required by this division, and the amount of 544
taxes, assessments, charges, penalties, and interest due and 545

unpaid with respect to the parcel. It is sufficient for the 546
treasurer to allege in the complaint that the certificate or 547
master list has been duly filed by the auditor with respect to 548
each parcel listed, that the amount of money with respect to each 549
parcel appearing to be due and unpaid is due and unpaid, and that 550
there is a lien against each parcel, without setting forth any 551
other or special matters. The prayer of the complaint shall be 552
that the court issue an order that the land described in the 553
complaint be sold in the manner provided in section 5721.19 of the 554
Revised Code. 555

(1) Within thirty days after the filing of a complaint, the 556
clerk of the court in which the complaint was filed shall cause a 557
notice of foreclosure substantially in the form of the notice set 558
forth in division (B) of section 5721.181 of the Revised Code to 559
be published once a week for three consecutive weeks in a 560
newspaper of general circulation in the county. In any county that 561
has adopted a permanent parcel number system, the parcel may be 562
described in the notice by parcel number only, instead of also 563
with a complete legal description, if the prosecuting attorney 564
determines that the publication of the complete legal description 565
is not necessary to provide reasonable notice of the foreclosure 566
proceeding to the interested parties. If the complete legal 567
description is not published, the notice shall indicate where the 568
complete legal description may be obtained. 569

After the third publication, the publisher shall file with 570
the clerk of the court an affidavit stating the fact of the 571
publication and including a copy of the notice of foreclosure as 572
published. Service of process for purposes of the action in rem 573
shall be considered as complete on the date of the last 574
publication. 575

Within thirty days after the filing of a complaint and before 576
the final date of publication of the notice of foreclosure, the 577

clerk of the court also shall cause a copy of a notice 578
substantially in the form of the notice set forth in division (C) 579
of section 5721.181 of the Revised Code to be mailed by certified 580
mail, with postage prepaid, to each person named in the complaint 581
as being the last known owner of a parcel included in it, or as 582
being a lienholder or other person with an interest in a parcel 583
included in it. The notice shall be sent to the address of each 584
such person, as set forth in the complaint, and the clerk shall 585
enter the fact of such mailing upon the appearance docket. If the 586
name and address of the last known owner of a parcel included in a 587
complaint is not set forth in it, the auditor shall file an 588
affidavit with the clerk stating that the name and address of the 589
last known owner does not appear on the general tax list. 590

(2)(a) An answer may be filed in an action in rem under this 591
division by any person owning or claiming any right, title, or 592
interest in, or lien upon, any parcel described in the complaint. 593
The answer shall contain the caption and number of the action and 594
the serial number of the parcel concerned. The answer shall set 595
forth the nature and amount of interest claimed in the parcel and 596
any defense or objection to the foreclosure of the lien of the 597
state for delinquent taxes, assessments, charges, penalties, and 598
interest as shown in the complaint. The answer shall be filed in 599
the office of the clerk of the court, and a copy of the answer 600
shall be served on the prosecuting attorney, not later than 601
twenty-eight days after the date of final publication of the 602
notice of foreclosure. If an answer is not filed within such time, 603
a default judgment may be taken as to any parcel included in a 604
complaint as to which no answer has been filed. A default judgment 605
is valid and effective with respect to all persons owning or 606
claiming any right, title, or interest in, or lien upon, any such 607
parcel, notwithstanding that one or more of such persons are 608
minors, incompetents, absentees or nonresidents of the state, or 609
convicts in confinement. 610

(b)(i) A receiver appointed pursuant to divisions (C)(2) and 611
(3) of section 3767.41 of the Revised Code may file an answer 612
pursuant to division (B)(2)(a) of this section, but is not 613
required to do so as a condition of receiving proceeds in a 614
distribution under division (B)(1) of section 5721.17 of the 615
Revised Code. 616

(ii) When a receivership under section 3767.41 of the Revised 617
Code is associated with a parcel, the notice of foreclosure set 618
forth in division (B) of section 5721.181 of the Revised Code and 619
the notice set forth in division (C) of that section shall be 620
modified to reflect the provisions of division (B)(2)(b)(i) of 621
this section. 622

(3) At the trial of an action in rem under this division, the 623
certificate or master list filed by the auditor with the 624
prosecuting attorney shall be prima-facie evidence of the amount 625
and validity of the taxes, assessments, charges, penalties, and 626
interest appearing due and unpaid on the parcel to which the 627
certificate or master list relates and their nonpayment. If an 628
answer is properly filed, the court may, in its discretion, and 629
shall, at the request of the person filing the answer, grant a 630
severance of the proceedings as to any parcel described in such 631
answer for purposes of trial or appeal. 632

(C) In addition to the actions in rem authorized under 633
division (B) of this section and section 5721.14 of the Revised 634
Code, an action in rem may be commenced under this division. An 635
action commenced under this division shall conform to all of the 636
requirements of division (B) of this section except as follows: 637

(1) The prosecuting attorney shall not cause a title search 638
to be conducted for the purpose of identifying any lienholders or 639
other persons with interests in the property subject to 640
foreclosure, except that the prosecuting attorney shall cause a 641
title search to be conducted to identify any receiver's lien. 642

(2) The names and addresses of lienholders and persons with an interest in the parcel shall not be contained in the complaint, and notice shall not be mailed to lienholders and persons with an interest as provided in division (B)(1) of this section, except that the name and address of a receiver under section 3767.41 of the Revised Code shall be contained in the complaint and notice shall be mailed to the receiver.

(3) With respect to the forms applicable to actions commenced under division (B) of this section and contained in section 5721.181 of the Revised Code:

(a) The notice of foreclosure prescribed by division (B) of section 5721.181 of the Revised Code shall be revised to exclude any reference to the inclusion of the name and address of each lienholder and other person with an interest in the parcel identified in a statutorily required title search relating to the parcel, and to exclude any such names and addresses from the published notice, except that the revised notice shall refer to the inclusion of the name and address of a receiver under section 3767.41 of the Revised Code and the published notice shall include the receiver's name and address. The notice of foreclosure also shall include the following in boldface type:

"If pursuant to the action the parcel is sold, the sale shall not affect or extinguish any lien or encumbrance with respect to the parcel other than a receiver's lien and other than the lien for land taxes, assessments, charges, interest, and penalties for which the lien is foreclosed and in satisfaction of which the property is sold. All other liens and encumbrances with respect to the parcel shall survive the sale."

(b) The notice to the owner, lienholders, and other persons with an interest in a parcel shall be a notice only to the owner and to any receiver under section 3767.41 of the Revised Code, and the last two sentences of the notice shall be omitted.

(4) As used in this division, a "receiver's lien" means the
lien of a receiver appointed pursuant to divisions (C)(2) and (3)
of section 3767.41 of the Revised Code that is acquired pursuant
to division (H)(2)(b) of that section for any unreimbursed
expenses and other amounts paid in accordance with division (F) of
that section by the receiver and for the fees of the receiver
approved pursuant to division (H)(1) of that section.

(D) If the prosecuting attorney determines that an action in
rem under division (B) or (C) of this section is precluded by law,
then foreclosure proceedings shall be filed pursuant to division
(A) of this section, and the complaint in the action in personam
shall set forth the grounds upon which the action in rem is
precluded.

(E) The conveyance by the owner of any parcel against which a
complaint has been filed pursuant to this section at any time
after the date of publication of the parcel on the delinquent tax
list but before the date of a judgment of foreclosure pursuant to
section 5721.19 of the Revised Code shall not nullify the right of
the county to proceed with the foreclosure.

Sec. 5721.19. (A) In its judgment of foreclosure rendered
with respect to actions filed pursuant to section 5721.18 of the
Revised Code, the court or county board of revision with
jurisdiction shall enter a finding with respect to each parcel of
the amount of the taxes, assessments, charges, penalties, and
interest, and the costs incurred in the foreclosure proceeding
instituted against it, which are due and unpaid. The court or the
county board of revision pursuant to section 323.66 of the Revised
Code shall order such premises to be transferred pursuant to
division (I) of this section or may order each parcel to be sold,
without appraisal, for not less than either of the following:

(1) The fair market value of the parcel, as determined by the

county auditor, plus the costs incurred in the foreclosure proceeding; 706
707

(2) The total amount of the finding entered by the court, or 708
county board of revision having jurisdiction, including all taxes, 709
assessments, charges, penalties, and interest payable subsequent 710
to the delivery to the county prosecuting attorney of the 711
delinquent land tax certificate or master list of delinquent 712
tracts and prior to the transfer of the deed of the parcel to the 713
purchaser following confirmation of sale, plus the costs incurred 714
in the foreclosure proceeding. For purposes of determining such 715
amount, the county treasurer may estimate the amount of taxes, 716
assessments, interest, penalties, and costs that will be payable 717
at the time the deed of the property is transferred to the 718
purchaser. 719

Notwithstanding the minimum sales price provisions of 720
divisions (A)(1) and (2) of this section to the contrary, a parcel 721
sold pursuant to this section shall not be sold for less than the 722
amount described in division (A)(2) of this section if the highest 723
bidder is the owner of record of the parcel immediately prior to 724
the judgment of foreclosure or a member of the following class of 725
parties connected to that owner: a member of that owner's 726
immediate family, a person with a power of attorney appointed by 727
that owner who subsequently transfers the parcel to the owner, a 728
sole proprietorship owned by that owner or a member of that 729
owner's immediate family, or a partnership, trust, business trust, 730
corporation, or association in which the owner or a member of the 731
owner's immediate family owns or controls directly or indirectly 732
more than fifty per cent. If a parcel sells for less than the 733
amount described in division (A)(2) of this section, the officer 734
conducting the sale shall require the buyer to complete an 735
affidavit stating that the buyer is not the owner of record 736
immediately prior to the judgment of foreclosure or a member of 737

the specified class of parties connected to that owner, and the 738
affidavit shall become part of the court records of the 739
proceeding. If the county auditor discovers within three years 740
after the date of the sale that a parcel was sold to that owner or 741
a member of the specified class of parties connected to that owner 742
for a price less than the amount so described, and if the parcel 743
is still owned by that owner or a member of the specified class of 744
parties connected to that owner, the auditor within thirty days 745
after such discovery shall add the difference between that amount 746
and the sale price to the amount of taxes that then stand charged 747
against the parcel and is payable at the next succeeding date for 748
payment of real property taxes. As used in this paragraph, 749
"immediate family" means a spouse who resides in the same 750
household and children. 751

(B) Each parcel affected by the court's finding shall be 752
separately sold, unless the court orders any of such parcels to be 753
sold together. 754

Each parcel shall be advertised and sold by the officer to 755
whom the order of sale is directed in the manner provided by law 756
for the sale of real property on execution. The advertisement for 757
sale of each parcel shall be published once a week for three 758
consecutive weeks and shall include the date on which a second 759
sale will be conducted if no bid is accepted at the first sale. 760
Any number of parcels may be included in one advertisement. 761

The notice of the advertisement shall be substantially in the 762
form of the notice set forth in section 5721.191 of the Revised 763
Code. In any county that has adopted a permanent parcel number 764
system, the parcel may be described in the notice by parcel number 765
only, instead of also with a complete legal description, if the 766
prosecuting attorney determines that the publication of the 767
complete legal description is not necessary to provide reasonable 768
notice of the foreclosure sale to potential bidders. If the 769

complete legal description is not published, the notice shall 770
indicate where the complete legal description may be obtained. 771

(C)(1) Whenever the officer charged to conduct the sale 772
offers any parcel for sale the officer first shall read aloud a 773
complete legal description, or in the alternative, may read aloud 774
only a summary description and a parcel number if the county has 775
adopted a permanent parcel number system and if the advertising 776
notice prepared pursuant to this section includes a complete legal 777
description or indicates where the complete legal description may 778
be obtained. Whenever the officer charged to conduct the sale 779
offers any parcel for sale and no bids are made equal to the 780
lesser of the amounts described in divisions (A)(1) and (2) of 781
this section, the officer shall adjourn the sale of the parcel to 782
the second date that was specified in the advertisement of sale. 783
The second date shall be not less than two weeks or more than six 784
weeks from the day on which the parcel was first offered for sale. 785
The second sale shall be held at the same place and commence at 786
the same time as set forth in the advertisement of sale. The 787
officer shall offer any parcel not sold at the first sale. Upon 788
the conclusion of any sale, or if any parcel remains unsold after 789
being offered at two sales, the officer conducting the sale shall 790
report the results to the court. 791

(2)(a) If a parcel remains unsold after being offered at two 792
sales, or if a parcel sells at any sale but the amount of the 793
price is less than the costs incurred in the proceeding instituted 794
against the parcel under section 5721.18 of the Revised Code, then 795
the clerk of the court shall certify to the county auditor the 796
amount of those costs that remains unpaid. At the next semiannual 797
apportionment of real property taxes that occurs following any 798
such certification, the auditor shall reduce the real property 799
taxes that the auditor otherwise would distribute to each taxing 800
district. In making the reductions, the auditor shall subtract 801

from the otherwise distributable real property taxes to a taxing 802
district an amount that shall be determined by multiplying the 803
certified costs by a fraction the numerator of which shall be the 804
amount of the taxes, assessments, charges, penalties, and interest 805
on the parcel owed to that taxing district at the time the parcel 806
first was offered for sale pursuant to this section, and the 807
denominator of which shall be the total of the taxes, assessments, 808
charges, penalties, and interest on the parcel owed to all the 809
taxing districts at that time. The auditor promptly shall pay to 810
the clerk of the court the amounts of the reductions. 811

(b) If reductions occur pursuant to division (C)(2)(a) of 812
this section, and if at a subsequent time a parcel is sold at a 813
foreclosure sale or a forfeiture sale pursuant to Chapter 5723. of 814
the Revised Code, then, notwithstanding other provisions of the 815
Revised Code, except section 5721.17 of the Revised Code, 816
governing the distribution of the proceeds of a foreclosure or 817
forfeiture sale, the proceeds first shall be distributed to 818
reimburse the taxing districts subjected to reductions in their 819
otherwise distributable real property taxes. The distributions 820
shall be based on the same proportions used for purposes of 821
division (C)(2)(a) of this section. 822

(3) The court, in its discretion, may order any parcel not 823
sold pursuant to the original order of sale to be advertised and 824
offered for sale at a subsequent foreclosure sale. For such 825
purpose, the court may direct the parcel to be appraised and fix a 826
minimum price for which it may be sold. 827

(D) Except as otherwise provided in division (B)(1) of 828
section 5721.17 of the Revised Code, upon the confirmation of a 829
sale, the proceeds of the sale shall be applied as follows: 830

(1) The costs incurred in any proceeding filed against the 831
parcel pursuant to section 5721.18 of the Revised Code shall be 832
paid first. 833

(2) Following the payment required by division (D)(1) of this section, the part of the proceeds that is equal to five per cent of the taxes and assessments due shall be deposited in the delinquent tax and assessment collection fund created pursuant to section 321.261 of the Revised Code.

(3) Following the payment required by division (D)(2) of this section, the amount found due for taxes, assessments, charges, penalties, and interest shall be paid, including all taxes, assessments, charges, penalties, and interest payable subsequent to the delivery to the county prosecuting attorney of the delinquent land tax certificate or master list of delinquent tracts and prior to the transfer of the deed of the parcel to the purchaser following confirmation of sale. If the proceeds available for distribution pursuant to division (D)(3) of this section are sufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the portion of the proceeds representing taxes, interest, and penalties shall be paid to each claimant in proportion to the amount of taxes levied by the claimant in the preceding tax year, and the amount representing assessments and other charges shall be paid to each claimant in the order in which they became due. If the proceeds are not sufficient to pay that entire amount, the proportion of the proceeds representing taxes, penalties, and interest shall be paid to each claimant in the same proportion that the amount of taxes levied by the claimant against the parcel in the preceding tax year bears to the taxes levied by all such claimants against the parcel in the preceding tax year, and the proportion of the proceeds representing items of assessments and other charges shall be credited to those items in the order in which they became due.

(E) If the proceeds from the sale of a parcel are insufficient to pay in full the amount of the taxes, assessments, charges, penalties, and interest which are due and unpaid; the

costs incurred in the foreclosure proceeding instituted against it 866
which are due and unpaid; and, if division (B)(1) of section 867
5721.17 of the Revised Code is applicable, any notes issued by a 868
receiver pursuant to division (F) of section 3767.41 of the 869
Revised Code and any receiver's lien as defined in division (C)(4) 870
of section 5721.18 of the Revised Code, the court, pursuant to 871
section 5721.192 of the Revised Code, may enter a deficiency 872
judgment against the owner of record of the parcel for the unpaid 873
amount. If that owner of record is a corporation, the court may 874
enter the deficiency judgment against the stockholder holding a 875
majority of that corporation's stock. 876

If after distribution of proceeds from the sale of the parcel 877
under division (D) of this section the amount of proceeds to be 878
applied to pay the taxes, assessments, charges, penalties, 879
interest, and costs is insufficient to pay them in full, and the 880
court does not enter a deficiency judgment against the owner of 881
record pursuant to this division, the taxes, assessments, charges, 882
penalties, interest, and costs shall be deemed satisfied. 883

(F)(1) Upon confirmation of a sale, a spouse of the party 884
charged with the delinquent taxes or assessments shall thereby be 885
barred of the right of dower in the property sold, though such 886
spouse was not a party to the action. No statute of limitations 887
shall apply to such action. When the land or lots stand charged on 888
the tax duplicate as certified delinquent, it is not necessary to 889
make the state a party to the foreclosure proceeding, but the 890
state shall be deemed a party to such action through and be 891
represented by the county treasurer. 892

(2) Except as otherwise provided in divisions (F)(3) and (G) 893
of this section, unless such land or lots were previously redeemed 894
pursuant to section 5721.25 of the Revised Code, upon the filing 895
of the entry of confirmation of sale, the title to such land or 896
lots shall be incontestable in the purchaser and shall be free and 897

clear of all liens and encumbrances, except a federal tax lien 898
notice of which is properly filed in accordance with section 899
317.09 of the Revised Code prior to the date that a foreclosure 900
proceeding is instituted pursuant to division (B) of section 901
5721.18 of the Revised Code and the easements and covenants of 902
record running with the land or lots that were created prior to 903
the time the taxes or assessments, for the nonpayment of which the 904
land or lots are sold at foreclosure, became due and payable. 905

(3) When proceedings for foreclosure are instituted under 906
division (C) of section 5721.18 of the Revised Code, unless the 907
land or lots were previously redeemed pursuant to section 5721.25 908
of the Revised Code, upon the filing of the entry of confirmation 909
of sale, the title to such land or lots shall be incontestable in 910
the purchaser and shall be free of any receiver's lien as defined 911
in division (C)(4) of section 5721.18 of the Revised Code and, 912
except as otherwise provided in division (G) of this section, the 913
liens for land taxes, assessments, charges, interest, and 914
penalties for which the lien was foreclosed and in satisfaction of 915
which the property was sold. All other liens and encumbrances with 916
respect to the land or lots shall survive the sale. 917

(4) The title shall not be invalid because of any 918
irregularity, informality, or omission of any proceedings under 919
this chapter, or in any processes of taxation, if such 920
irregularity, informality, or omission does not abrogate the 921
provision for notice to holders of title, lien, or mortgage to, or 922
other interests in, such foreclosed lands or lots, as prescribed 923
in this chapter. 924

(G) If a parcel is sold under this section for the amount 925
described in division (A)(2) of this section, and the county 926
treasurer's estimate exceeds the amount of taxes, assessments, 927
interest, penalties, and costs actually payable when the deed is 928
transferred to the purchaser, the officer who conducted the sale 929

shall refund to the purchaser the difference between the estimate 930
and the amount actually payable. If the amount of taxes, 931
assessments, interest, penalties, and costs actually payable when 932
the deed is transferred to the purchaser exceeds the county 933
treasurer's estimate, the officer shall certify the amount of the 934
excess to the treasurer, who shall enter that amount on the real 935
and public utility property tax duplicate opposite the property; 936
the amount of the excess shall be payable at the next succeeding 937
date prescribed for payment of taxes in section 323.12 of the 938
Revised Code. 939

(H) If a parcel is sold or transferred under this section or 940
sections 323.28 and 323.65 to 323.78 of the Revised Code, or in 941
the case of non-tax public or private foreclosures under Chapters 942
2327. and 2329. of the Revised Code, the officer who conducted the 943
sale or ordered the transfer of the property shall collect the 944
recording fee from the purchaser or transferee at the time of the 945
sale and, following confirmation of the sale or transfer, shall 946
~~prepare~~ execute and record the deed conveying title to the parcel 947
to the purchaser or transferee. For purposes of recording such 948
deed by placement of a bid or making a statement of interest by 949
any party ultimately awarded the parcel, such transferee thereby 950
appoints the officer who makes the sale or is charged with 951
executing and delivering the deed as agent for such transferee for 952
the sole purpose of accepting delivery of the deed. For such 953
purposes, the confirmation of any such sale or order to transfer 954
the parcel without appraisal or sale shall be deemed delivered 955
upon the confirmation of such sale or transfer. 956

(I) Notwithstanding section 5722.03 of the Revised Code, if 957
the complaint alleges that the property is delinquent vacant land 958
as defined in section 5721.01 of the Revised Code, abandoned lands 959
as defined in section 323.65 of the Revised Code, or lands 960
described in division (E) of section 5722.01 of the Revised Code, 961

and the value of the taxes, assessments, penalties, interest and 962
all other charges and costs of the action exceed the auditor's 963
fair market value of the parcel, then the court or board of 964
revision having jurisdiction over the matter on motion of the 965
plaintiff, or on the court or board's own motion, shall, upon any 966
adjudication of foreclosure, order, without appraisal and without 967
sale, the fee simple title of the property to be transferred to 968
and vested in an electing subdivision as defined in division (A) 969
of section 5722.01 of the Revised Code. For purposes of 970
determining whether the taxes, assessments, penalties, interest 971
and all other charges and costs of the action exceed the actual 972
fair market value of the parcel, the auditor's most current 973
valuation shall be rebuttably presumed to be, and constitute prima 974
facie evidence of, the fair market value thereof. In such case, 975
the filing for journalization of a decree of foreclosure ordering 976
such direct transfer without appraisal or sale shall constitute 977
confirmation of such transfer and thereby terminate any further 978
statutory or common law right of redemption. 979

Sec. 5723.01. (A)(1) Every tract of land and town lot, which, 980
pursuant to foreclosure proceedings under section 323.25 or 981
5721.18 of the Revised Code, has been advertised and offered for 982
sale on two separate occasions, not less than two weeks apart, and 983
not sold for want of bidders, shall be forfeited to the state or 984
to a political subdivision pursuant to division (A)(3) of this 985
section. 986

(2) The county prosecuting attorney shall certify to the 987
court that such tract of land or town lot has been twice offered 988
for sale and not sold for want of a bidder. Such forfeiture of 989
lands and town lots shall be effective when the court by entry 990
orders such lands and town lots forfeited to the state or to a 991
political subdivision pursuant to division (A)(3) of this section. 992
A copy of such entry shall be certified to the county auditor and, 993

after the date of the certification, all the right, title, claim, 994
and interest of the former owner is transferred to and vested in 995
the state to be disposed of in compliance with this chapter. 996

(3) After having been notified pursuant to division (A)(2) of 997
this section that the tract of land or town lot has been twice 998
offered for sale and not sold for want of bidder, the court shall 999
notify the political subdivision in which the property is located 1000
and offer to forfeit the property to the political subdivision, or 1001
to an electing subdivision as defined in section 5722.01 of the 1002
Revised Code, upon a petition from the political subdivision. If 1003
the political subdivision does not petition the court within ten 1004
days of the notification by the court, the court shall forfeit the 1005
property to the state. If the political subdivision requests 1006
through a petition to receive the property through forfeiture, the 1007
forfeiture of land and town lots is effective when, by entry, the 1008
court orders such lands and town lots forfeited to the political 1009
subdivision. The court shall certify a copy of the entry to the 1010
county auditor and, after the date of certification, all the 1011
right, title, claim, and interest of the former owner is 1012
transferred and vested in the political subdivision. 1013

(B) Every parcel against which a judgment of foreclosure and 1014
forfeiture is made in accordance with section 5721.16 of the 1015
Revised Code is forfeited to the state on the date the court 1016
enters a finding under that section. After that date, all the 1017
right, title, claim, and interest of the former owner is 1018
transferred to the state to be disposed of in compliance with the 1019
relevant provisions of this chapter. 1020

Section 2. That existing sections 323.25, 323.28, 2303.11, 1021
2323.07, 2327.01, 2327.02, 2329.17, 2329.18, 2329.19, 2329.26, 1022
2329.27, 2329.31, 2329.36, 5309.64, 5721.18, 5721.19, and 5723.01 1023
of the Revised Code are hereby repealed. 1024