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Representative Dever

Cosponsors: Representatives Becker, Boccieri, Hambley, Perales, Sprague, Terhar, Leland, Anielski, Antonio, Arndt, Baker, Blessing, Brown, Buchy, Burkley, Celebrezze, Conditt, Craig, Dovilla, Duffey, Fedor, Ginter, Green, Grossman, Henne, Lepore-Hagan, Manning, McClain, McColley, O'Brien, M., O'Brien, S., Patterson, Reece, Reineke, Retherford, Ryan, Scherer, Schuring, Sheehy, Slaby, Slesnick, Smith, K., Strahorn, Sweeney, Young

A BILL

To amend sections 301.28, 323.47, 1303.38, 2303.26, 1
2327.01, 2327.02, 2327.04, 2329.01, 2329.151, 2
2329.17, 2329.18, 2329.19, 2329.20, 2329.21, 3
2329.26, 2329.271, 2329.28, 2329.30, 2329.31, 4
2329.33, 2329.34, 2329.39, 2329.45, 2329.52, 5
2329.56, 2909.07, 5302.01, 5721.371, and 5721.39 6
and to enact sections 2308.01, 2308.02, 2308.03, 7
2308.04, 2329.028, 2329.071, 2329.152, 2329.153, 8
2329.154, 2329.211, 2329.311, 2329.312, 5302.31, 9
5721.372, and 5721.373 of the Revised Code to 10
establish expedited actions to foreclose 11
mortgages on vacant and abandoned residential 12
properties, to permit private selling officers 13
to conduct judicial and execution sales of real 14
property, to state the intent of the General 15
Assembly regarding mortgage foreclosure actions, 16
to revise the Commercial Paper Law relating to 17
lost instruments, and to make other changes 18
relative to foreclosure actions. 19

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

Section 1. That sections 301.28, 323.47, 1303.38, 2303.26, 20
2327.01, 2327.02, 2327.04, 2329.01, 2329.151, 2329.17, 2329.18, 21
2329.19, 2329.20, 2329.21, 2329.26, 2329.271, 2329.28, 2329.30, 22
2329.31, 2329.33, 2329.34, 2329.39, 2329.45, 2329.52, 2329.56, 23
2909.07, 5302.01, 5721.371, and 5721.39 be amended and sections 24
2308.01, 2308.02, 2308.03, 2308.04, 2329.028, 2329.071, 25
2329.152, 2329.153, 2329.154, 2329.211, 2329.311, 2329.312, 26
5302.31, 5721.372, and 5721.373 of the Revised Code be enacted 27
to read as follows: 28

Sec. 301.28. (A) As used in this section: 29

(1) "Financial transaction device" includes a credit card, 30
debit card, charge card, or prepaid or stored value card, or 31
automated clearinghouse network credit, debit, or e-check entry 32
that includes, but is not limited to, accounts receivable and 33
internet-initiated, point of purchase, and telephone-initiated 34
applications or any other device or method for making an 35
electronic payment or transfer of funds. 36

(2) "County expenses" includes fees, costs, taxes, 37
assessments, fines, penalties, payments, or any other expense a 38
person owes or otherwise pays to a county office under the 39
authority of a county official, other than dog registration and 40
kennel fees required to be paid under Chapter 955. of the 41
Revised Code. "County expenses" includes payment to a county 42
office of money confiscated during the commitment of an 43
individual to a county jail, of bail, of money for a prisoner's 44
inmate account, and of money for goods and services obtained by 45
or for the use of an individual incarcerated by a county 46

sheriff. "County expenses" includes online credit card payments 47
made through the official public sheriff sale web site pursuant 48
to section 2329.153 of the Revised Code. 49

(3) "County official" includes the county auditor, county 50
treasurer, county engineer, county recorder, county prosecuting 51
attorney, county sheriff, county coroner, county park district 52
and board of county commissioners, the clerk of the probate 53
court, the clerk of the juvenile court, the clerks of court for 54
all divisions of the courts of common pleas, and the clerk of 55
the court of common pleas, the clerk of a county-operated 56
municipal court, and the clerk of a county court. 57

The term "county expenses" includes county expenses owed 58
to the board of health of the general health district or a 59
combined health district in the county. If the board of county 60
commissioners authorizes county expenses to be paid by financial 61
transaction devices under this section, then the board of health 62
and the general health district and the combined health district 63
may accept payments by financial transaction devices under this 64
section as if the board were a "county official" and the 65
district were a county office. However, in the case of a general 66
health district formed by unification of general health 67
districts under section 3709.10 of the Revised Code, this 68
entitlement applies only if all the boards of county 69
commissioners of all counties in the district have authorized 70
payments to be accepted by financial transaction devices. 71

The term "county expenses" also includes fees for services 72
and the receipt of gifts to the county law library resources 73
fund authorized by rules adopted by the county law library 74
resources board under division (D) of section 307.51 of the 75
Revised Code. If the board of county commissioners authorizes 76

county expenses to be paid by financial transaction devices 77
under this section, then the county law library resources board 78
may accept payments by financial transaction devices under this 79
section as if the board were a "county official." 80

(B) Notwithstanding any other section of the Revised Code 81
and except as provided in division (D) of this section, a board 82
of county commissioners may adopt a resolution authorizing the 83
acceptance of payments by financial transaction devices for 84
county expenses. The resolution shall include the following: 85

(1) A specification of those county officials who, and of 86
the county offices under those county officials that, are 87
authorized to accept payments by financial transaction devices; 88

(2) A list of county expenses that may be paid for through 89
the use of a financial transaction device; 90

(3) Specific identification of financial transaction 91
devices that the board authorizes as acceptable means of payment 92
for county expenses. Uniform acceptance of financial transaction 93
devices among different types of county expenses is not 94
required. 95

(4) The amount, if any, authorized as a surcharge or 96
convenience fee under division (E) of this section for persons 97
using a financial transaction device. Uniform application of 98
surcharges or convenience fees among different types of county 99
expenses is not required. 100

(5) A specific provision as provided in division (G) of 101
this section requiring the payment of a penalty if a payment 102
made by means of a financial transaction device is returned or 103
dishonored for any reason. 104

The board's resolution shall also designate the county 105

treasurer as an administrative agent to solicit proposals, 106
within guidelines established by the board in the resolution and 107
in compliance with the procedures provided in division (C) of 108
this section, from financial institutions, issuers of financial 109
transaction devices, and processors of financial transaction 110
devices, to make recommendations about those proposals to the 111
board, and to assist county offices in implementing the county's 112
financial transaction devices program. The county treasurer may 113
decline this responsibility within thirty days after receiving a 114
copy of the board's resolution by notifying the board in writing 115
within that period. If the treasurer so notifies the board, the 116
board shall perform the duties of the administrative agent. 117

If the county treasurer is the administrative agent and 118
fails to administer the county financial transaction devices 119
program in accordance with the guidelines in the board's 120
resolution, the board shall notify the treasurer in writing of 121
the board's findings, explain the failures, and give the 122
treasurer six months to correct the failures. If the treasurer 123
fails to make the appropriate corrections within that six-month 124
period, the board may pass a resolution declaring the board to 125
be the administrative agent. The board may later rescind that 126
resolution at its discretion. 127

(C) The county shall follow the procedures provided in 128
this division whenever it plans to contract with financial 129
institutions, issuers of financial transaction devices, or 130
processors of financial transaction devices for the purposes of 131
this section. The administrative agent shall request proposals 132
from at least three financial institutions, issuers of financial 133
transaction devices, or processors of financial transaction 134
devices, as appropriate in accordance with the resolution 135
adopted under division (B) of this section. Prior to sending any 136

financial institution, issuer, or processor a copy of any such 137
request, the county shall advertise its intent to request 138
proposals in a newspaper of general circulation in the county 139
once a week for two consecutive weeks or as provided in section 140
7.16 of the Revised Code. The notice shall state that the county 141
intends to request proposals; specify the purpose of the 142
request; indicate the date, which shall be at least ten days 143
after the second publication, on which the request for proposals 144
will be mailed to financial institutions, issuers, or 145
processors; and require that any financial institution, issuer, 146
or processor, whichever is appropriate, interested in receiving 147
the request for proposals submit written notice of this interest 148
to the county not later than noon of the day on which the 149
request for proposals will be mailed. 150

Upon receiving the proposals, the administrative agent 151
shall review them and make a recommendation to the board of 152
county commissioners on which proposals to accept. The board of 153
county commissioners shall consider the agent's recommendation 154
and review all proposals submitted, and then may choose to 155
contract with any or all of the entities submitting proposals, 156
as appropriate. The board shall provide any financial 157
institution, issuer, or processor that submitted a proposal, but 158
with which the board does not enter into a contract, notice that 159
its proposal is rejected. The notice shall state the reasons for 160
the rejection, indicate whose proposals were accepted, and 161
provide a copy of the terms and conditions of the successful 162
bids. 163

(D) A board of county commissioners adopting a resolution 164
under this section shall send a copy of the resolution to each 165
county official in the county who is authorized by the 166
resolution to accept payments by financial transaction devices. 167

After receiving the resolution and before accepting payments by 168
financial transaction devices, a county official shall provide 169
written notification to the board of county commissioners of the 170
official's intent to implement the resolution within the 171
official's office. Each county office subject to the board's 172
resolution adopted under division (B) of this section may use 173
only the financial institutions, issuers of financial 174
transaction devices, and processors of financial transaction 175
devices with which the board of county commissioners contracts, 176
and each such office is subject to the terms of those contracts. 177

If a county office under the authority of a county 178
official is directly responsible for collecting one or more 179
county expenses and the county official determines not to accept 180
payments by financial transaction devices for one or more of 181
those expenses, the office shall not be required to accept 182
payments by financial transaction devices, notwithstanding the 183
adoption of a resolution by the board of county commissioners 184
under this section. 185

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

resolution of the board of county commissioners adopted under 199
division (B) of this section, a county office shall notify the 200
board in writing within thirty days after March 30, 1999, that 201
it accepted financial transaction devices prior to January 1, 202
1998, or, in the case of the office of a clerk of the court of 203
common pleas, the clerk has accepted or will accept such devices 204
on or before July 1, 1999. Each such notification shall explain 205
how processing costs associated with financial transaction 206
devices are being paid and shall indicate whether surcharge or 207
convenience fees are being passed on to consumers. 208

(E) A board of county commissioners may establish a 209
surcharge or convenience fee that may be imposed upon a person 210
making payment by a financial transaction device. The surcharge 211
or convenience fee shall not be imposed unless authorized or 212
otherwise permitted by the rules prescribed by an agreement 213
governing the use and acceptance of the financial transaction 214
device. 215

If a surcharge or convenience fee is imposed, every county 216
office accepting payment by a financial transaction device, 217
regardless of whether that office is subject to a resolution 218
adopted by a board of county commissioners, shall clearly post a 219
notice in that office and shall notify each person making a 220
payment by such a device about the surcharge or fee. Notice to 221
each person making a payment shall be provided regardless of the 222
medium used to make the payment and in a manner appropriate to 223
that medium. Each notice shall include all of the following: 224

(1) A statement that there is a surcharge or convenience 225
fee for using a financial transaction device; 226

(2) The total amount of the charge or fee expressed in 227
dollars and cents for each transaction, or the rate of the 228

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| charge or fee expressed as a percentage of the total amount of | 229 |
| the transaction, whichever is applicable; | 230 |
| (3) A clear statement that the surcharge or convenience | 231 |
| fee is nonrefundable. | 232 |
| (F) If a person elects to make a payment to the county by | 233 |
| a financial transaction device and a surcharge or convenience | 234 |
| fee is imposed, the payment of the surcharge or fee shall be | 235 |
| considered voluntary and the surcharge or fee is not refundable. | 236 |
| (G) If a person makes payment by financial transaction | 237 |
| device and the payment is returned or dishonored for any reason, | 238 |
| the person is liable to the county for payment of a penalty over | 239 |
| and above the amount of the expense due. The board of county | 240 |
| commissioners shall determine the amount of the penalty, which | 241 |
| may be either a fee not to exceed twenty dollars or payment of | 242 |
| the amount necessary to reimburse the county for banking | 243 |
| charges, legal fees, or other expenses incurred by the county in | 244 |
| collecting the returned or dishonored payment. The remedies and | 245 |
| procedures provided in this section are in addition to any other | 246 |
| available civil or criminal remedies provided by law. | 247 |
| (H) No person making any payment by financial transaction | 248 |
| device to a county office shall be relieved from liability for | 249 |
| the underlying obligation except to the extent that the county | 250 |
| realizes final payment of the underlying obligation in cash or | 251 |
| its equivalent. If final payment is not made by the financial | 252 |
| transaction device issuer or other guarantor of payment in the | 253 |
| transaction, the underlying obligation shall survive and the | 254 |
| county shall retain all remedies for enforcement that would have | 255 |
| applied if the transaction had not occurred. | 256 |
| (I) A county official or employee who accepts a financial | 257 |

transaction device payment in accordance with this section and 258
any applicable state or local policies or rules is immune from 259
personal liability for the final collection of such payments. 260

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

satisfy that estimate, the officer who conducted the sale shall 289
certify the amount of the excess to the treasurer, who shall 290
enter that amount on the real and public utility property tax 291
duplicate opposite the property; the amount of the excess shall 292
be payable at the next succeeding date prescribed for payment of 293
taxes in section 323.12 of the Revised Code. 294

If the plaintiff in an action that results in a sale or 295
election in accordance with this division is the land's or real 296
estate's purchaser or electing party, the officer who conducted 297
the sale shall not deduct the taxes, assessments, interest, and 298
penalties, the lien for which attaches before the date of sale 299
or election but that are not yet determined, assessed, and 300
levied from the proceeds of the sale or election, unless such 301
deduction is approved by that purchaser or electing party. The 302
officer shall certify any such amount not paid from the proceeds 303
to the county treasurer, who shall enter that amount on the real 304
and public utility property tax duplicate opposite the property; 305
this amount shall be payable at the next succeeding date 306
prescribed for payment of taxes in section 323.12 of the Revised 307
Code. 308

Taxes, assessments, interest, and penalties that are not 309
paid on the date of that sale or election, including any amount 310
that becomes due and payable after the date of the sale or 311
election or that remains unpaid because proceeds of a sale or 312
election are insufficient to pay those amounts, continue to be a 313
lien on the property as provided under section 323.11 of the 314
Revised Code. 315

(B) (1) Except as provided in division (B) (3) of this 316
section, if real estate is sold at judicial sale, the court 317
shall order that the total of the following amounts shall be 318

discharged out of the proceeds of the sale but only to the 319
extent of such proceeds: 320

(a) ~~Taxes and, assessments, interest, and penalties, the~~ 321
lien for which attaches before the ~~confirmation date~~ of sale but 322
that are not yet determined, assessed, and levied for the year 323
~~in which confirmation occurs that includes the date of sale,~~ 324
apportioned pro rata to the part of that year that precedes 325
~~confirmation, and any penalties and interest on those taxes and~~ 326
~~assessments the date of sale;~~ 327

(b) All other taxes, assessments, penalties, and interest 328
the lien for which attached for a prior tax year but that have 329
not been paid on or before the date of ~~confirmation sale~~. 330

(2) ~~Upon the request of the officer who conducted the~~ 331
~~sale, the~~ The county treasurer shall may estimate the amount in 332
division (B) (1) (a) of this section before the confirmation of 333
sale or an amended entry confirming the sale is filed. If the 334
county treasurer's estimate exceeds ~~that the amount in division~~ 335
(B) (1) (a) of this section, the ~~officer who conducted the sale~~ 336
~~shall plaintiff may request that the county treasurer refund~~ 337
that excess to holders of the purchaser the difference between 338
the estimate and the actual amount next lien interests according 339
to the confirmation of sale or, if all liens are satisfied, that 340
the treasurer remit that excess to the court for distribution. 341
If the actual amount exceeds the county treasurer's estimate, 342
the officer shall certify the amount of the excess to the 343
treasurer, who shall enter that amount on the real and public 344
utility property tax duplicate opposite the property; the amount 345
of the excess shall be payable at the next succeeding date 346
prescribed for payment of taxes in section 323.12 of the Revised 347
Code. 348

If the plaintiff in an action that results in a sale in accordance with division (B) of this section is the real estate's purchaser, the officer who conducted the sale shall not deduct the taxes, assessments, interest, and penalties, the lien for which attaches before the date of sale but that are not yet determined, assessed, and levied from the proceeds of the sale or election, unless such deduction is approved by that purchaser. The officer shall certify any such amount not paid from the proceeds to the county treasurer, who shall enter that amount on the real and public utility property tax duplicate opposite the property; this amount shall be payable at the next succeeding date prescribed for payment of taxes in section 323.12 of the Revised Code. 349
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Taxes, assessments, interest, and penalties that are not paid on the date of that sale, including any amount that becomes due and payable after the date of the sale, continue to be a lien on the property as provided under section 323.11 of the Revised Code. 362
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(3) The amounts described in division (B)(1) of this section shall not be discharged out of the proceeds of a judicial sale, but shall instead be deemed to be satisfied and extinguished upon confirmation of sale, if both of the following conditions apply: 367
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(a) The real estate is sold pursuant to a foreclosure proceeding other than a tax foreclosure proceeding initiated by the county treasurer under section 323.25, sections 323.65 to 323.79, or Chapter 5721. of the Revised Code. 372
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(b) A county land reutilization corporation organized under Chapter 1724. of the Revised Code is both the purchaser of the real estate and the judgment creditor or assignee of all 376
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rights, title, and interest in the judgment arising from the 379
foreclosure proceeding. 380

Sec. 1303.38. (A) A person not in possession of an 381
instrument is entitled to enforce the instrument if all of the 382
following apply: 383

(1) The person seeking to enforce the instrument was ~~in-~~ 384
entitled to enforce the instrument when loss of possession 385
occurred or has directly or indirectly acquired ownership of the 386
instrument and from a person who was entitled to enforce it the 387
instrument when loss of possession occurred. 388

(2) The loss of possession was not the result of a 389
transfer by the person or a lawful seizure. 390

(3) The person cannot reasonably obtain ~~possession~~ 391
possession of the instrument because the instrument was 392
destroyed, its whereabouts cannot be determined, or it is in the 393
wrongful possession of an unknown person or a person that cannot 394
be found or is not amenable to service of process. 395

(B) A person seeking enforcement of an instrument under 396
division (A) of this section must prove the terms of the 397
instrument and the person's right to enforce the instrument. If 398
that proof is made, divisions (A) and (B) of section 1303.36 of 399
the Revised Code applies to the case as if the person seeking 400
enforcement had produced the instrument. The court may not enter 401
judgment in favor of the person seeking enforcement unless it 402
finds that the person required to pay the instrument is 403
adequately protected against loss that might occur by reason of 404
a claim by another person to enforce the instrument. Adequate 405
protection for the person required to pay the instrument may be 406
provided by any reasonable means. 407

Sec. 2303.26. The clerk of the court of common pleas shall 408
exercise the powers conferred and perform the duties enjoined 409
upon ~~him~~ the clerk by statute and by the common law; and in the 410
performance of ~~his official~~ duties ~~he~~ the clerk shall be under 411
the direction of ~~his~~ the court. The clerk shall not restrict, 412
prohibit, or otherwise modify the rights of parties to seek 413
service on party defendants allowed by the Rules of Civil 414
Procedure, either singularly or concurrently. 415

Sec. 2308.01. As used in this chapter: 416

(A) "Manufactured home" has the same meaning as in section 417
3781.06 of the Revised Code. 418

(B) "Mobile home" has the same meaning as in section 419
4501.01 of the Revised Code. 420

(C) "Residential condominium unit" means a "residential 421
unit" as defined in section 5311.01 of the Revised Code. 422

(D) "Residential mortgage loan" means a loan or agreement 423
to extend credit, including the renewal, refinancing, or 424
modification of such a loan or agreement, that is made to a 425
person and that is primarily secured by a mortgage, deed of 426
trust, or other lien upon any interest in residential property 427
or any certification of stock or other evidence of ownership in, 428
and a proprietary lease from, a corporation or partnership 429
formed for the purpose of cooperative ownership of residential 430
property. 431

(E) "Residential property" means real property located 432
within this state consisting of land and a structure on that 433
land containing four or fewer dwelling units, each of which is 434
intended for occupancy by a separate household. "Residential 435
property" includes a residential condominium unit, 436

notwithstanding the number of units in the structure, but 437
includes a manufactured or mobile home only if it is taxed as 438
real property. 439

Sec. 2308.02. (A) A mortgagee who files a foreclosure 440
action on a residential property may file a motion with the 441
court to proceed in an expedited manner under this section on 442
the basis that the property is vacant and abandoned. In order to 443
proceed in an expedited manner, upon commencement of the 444
foreclosure action, the mortgagee must be a person entitled to 445
enforce the instrument secured by the mortgage under division 446
(A)(1) or (2) of section 1303.31 of the Revised Code or a person 447
with the right to enforce the obligation secured by the mortgage 448
pursuant to law outside of Chapter 1303. of the Revised Code. 449

(B) If a motion to proceed in an expedited manner is filed 450
before the last answer period has expired, the court shall 451
decide the motion not later than twenty-one days, or within the 452
time consistent with the local rules, after the last answer 453
period has expired. If a motion to proceed in an expedited 454
manner is filed after the last answer period has expired, the 455
court shall decide the motion not later than twenty-one days, or 456
within the time consistent with local rules, after the motion is 457
filed. 458

(C) In deciding the motion to proceed in an expedited 459
manner, the court shall deem the property to be vacant and 460
abandoned if all of the following apply: 461

(1) The court finds by a preponderance of the evidence 462
that the residential mortgage loan is in monetary default. 463

(2) The court finds by a preponderance of the evidence 464
that the mortgagee is a person entitled to enforce the 465

instrument secured by the mortgage under division (A) (1) or (2) 466
of section 1303.31 of the Revised Code or a person with the 467
right to enforce the obligation secured by the mortgage pursuant 468
to law outside of Chapter 1303. of the Revised Code. 469

(3) The court finds by clear and convincing evidence that 470
at least three of the following factors are true: 471

(a) Gas, electric, sewer, or water utility services to the 472
property have been disconnected. 473

(b) Windows or entrances to the property are boarded up or 474
closed off, or multiple window panes are broken and unrepaired. 475

(c) Doors on the property are smashed through, broken off, 476
unhinged, or continuously unlocked. 477

(d) Junk, litter, trash, debris, or hazardous, noxious, or 478
unhealthy substances or materials have accumulated on the 479
property. 480

(e) Furnishings, window treatments, or personal items are 481
absent from the structure on the land. 482

(f) The property is the object of vandalism, loitering, or 483
criminal conduct, or there has been physical destruction or 484
deterioration of the property. 485

(g) A mortgagor has made a written statement expressing 486
the intention of all mortgagors to abandon the property. 487

(h) Neither an owner nor a tenant appears to be residing 488
in the property at the time of an inspection of the property by 489
the appropriate official of a county, municipal corporation, or 490
township in which the property is located or by the mortgagee. 491

(i) The appropriate official of a county, municipal 492

corporation, or township in which the property is located 493
provides a written statement or statements indicating that the 494
structure on the land is vacant and abandoned. 495

(j) The property is sealed because, immediately prior to 496
being sealed, it was considered by the appropriate official of a 497
county, municipal corporation, or township in which the property 498
is located to be open, vacant, or vandalized. 499

(k) Other reasonable indicia of abandonment exist. 500

(4) No mortgagor or other defendant has filed an answer or 501
objection setting forth a defense or objection that, if proven, 502
would preclude the entry of a final judgment and decree of 503
foreclosure. 504

(5) No mortgagor or other defendant has filed a written 505
statement with the court indicating that the property is not 506
vacant and abandoned. 507

(6) (a) If a government official has not verified the real 508
property is vacant and abandoned pursuant to division (C) (3) (h), 509
(i), or (j) of this section, but the court makes a preliminary 510
finding that the residential real property is vacant and 511
abandoned pursuant to division (C) of this section, then within 512
seven days of the preliminary finding, the court shall order the 513
appropriate official of a county, municipal corporation, or 514
township in which the property is located to verify the property 515
is vacant and abandoned. 516

(b) Any court costs assessed in connection with the 517
inspection conducted pursuant to division (C) (6) (a) of this 518
section shall not be more than fifty dollars. 519

(D) If the court decides after an oral hearing that the 520
property is vacant and abandoned and that the mortgagor who 521

filed the motion to proceed in an expedited manner is entitled 522
to judgment, the court shall enter a final judgment and decree 523
of foreclosure and order the property to be sold in accordance 524
with division (E) of this section. If the court does not decide 525
that the property is vacant and abandoned, the seventy-five-day 526
deadline established in division (E) of this section shall not 527
apply to the sale of the property. 528

(E) If the court decides that the property is vacant and 529
abandoned and enters a final judgment and decree of foreclosure 530
under division (D) of this section, the property shall be 531
offered for sale not later than seventy-five days after the 532
issuance of the order of sale. The sale of the property shall be 533
conducted in accordance with the requirements in Chapter 2329. 534
of the Revised Code, including possible postponement of the sale 535
pursuant to division (C) of section 2329.152 of the Revised 536
Code. 537

(F) Nothing in this section shall supersede or limit other 538
procedures adopted by the court to resolve the residential 539
mortgage loan foreclosure action, including foreclosure 540
mediation. 541

Sec. 2308.03. (A) Except as otherwise provided in division 542
(B) of this section, if a residential property is found to be 543
vacant and abandoned under section 2308.02 of the Revised Code, 544
a mortgagee on the residential property may enter that property 545
to secure and protect it from damage. 546

(B) A mortgagee that has not filed a residential mortgage 547
loan foreclosure action on a property for which the mortgagee 548
holds a mortgage may enter and secure that property only if the 549
mortgage contract or other documents provide for such an entry. 550

(C) The equitable and statutory rights to redemption of a mortgage on a property found to be vacant and abandoned pursuant to section 2308.02 of the Revised Code expire upon the confirmation of sale of the property. 551
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Sec. 2308.04. (A) A person is guilty of criminal mischief in violation of division (A) (1) of section 2909.07 of the Revised Code if all of the following apply: 555
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(1) The person knowingly and with purpose to diminish the value or enjoyment of the residential real property moves, defaces, damages, destroys, or otherwise improperly tampers with the person's own residential real property. 558
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(2) The residential real property is subject to a mortgage. 562
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(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. 564
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(B) As used in this section, "pending" includes the time between judgment entry and confirmation of sale. 567
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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. 569
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(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. 572
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(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, 576
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| <u>2329.152, or 5721.39 of the Revised Code.</u> | 579 |
| (3) Executions may be issued to the sheriffs of different counties <u>or different private selling officers</u> at the same time. | 580 581 |
| Sec. 2327.02. (A) Executions are of three kinds: | 582 |
| (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; | 583 584 585 586 |
| (2) Against the person of the judgment debtor; | 587 |
| (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, 323.65 to 323.78, and 5721.19 of the Revised Code. | 588 589 590 591 |
| (B) The writ shall contain a specific description of the property, and a command to the sheriff <u>or private selling officer</u> 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. | 592 593 594 595 596 597 |
| (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 <u>or the private selling officer</u> to sell, convey, or deliver possession of the property as commanded in that order. In those cases, the clerk shall | 598 599 600 601 602 603 604 605 606 607 |

journalize the order and deliver that writ or order to the 608
sheriff or private selling officer for execution. If the 609
property is sold under an order of sale or transferred under an 610
order to transfer, the officer who conducted the sale or made 611
the transfer of the property shall collect the recording fee and 612
any associated costs to cover the recording from the purchaser 613
or transferee at the time of the sale or transfer and, following 614
confirmation of the sale or transfer and the payment of the 615
balance due on the purchase price of the property, shall execute 616
and record the deed conveying title to the property to the 617
purchaser or transferee. For purposes of recording that deed, by 618
placement of a bid or making a statement of interest by any 619
party ultimately awarded the property, the purchaser or 620
transferee thereby appoints the officer who makes the sale or is 621
charged with executing and delivering the deed as agent for that 622
purchaser or transferee for the sole purpose of accepting 623
delivery of the deed. 624

Sec. 2327.04. When, in the exercise of its authority, a 625
court orders the deposit or delivery of money or other thing, 626
and the order is disobeyed, besides punishing the disobedience 627
as for a contempt, the court may make an order requiring the 628
sheriff or private selling officer to take the money or thing 629
and deposit or deliver it in conformity with the court's 630
direction. 631

Sec. 2329.01. (A) Lands and tenements, including vested 632
legal interests therein, permanent leasehold estates renewable 633
forever, and goods and chattels, not exempt by law, shall be 634
subject to the payment of debts, and liable to be taken on 635
execution and sold as provided in sections 2329.02 to 2329.61~~7~~ 636
~~inclusive,~~ of the Revised Code. 637

(B) As used in sections 2329.02 to 2329.61 of the Revised Code: 638
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(1) "Commercial property" means any property that is not residential property. 640
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(2) "Private selling officer" means a resident of this state licensed as both an auctioneer under Chapter 4707. of the Revised Code and as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code. 642
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(3) "Residential mortgage loan" and "residential property" have the same meanings as in section 2308.01 of the Revised Code. 646
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Sec. 2329.028. A judgment creditor in connection with a residential real property foreclosure action shall not make a misleading statement orally or in writing to a mortgagor that would discourage a reasonable person from participating in loss mitigation or foreclosure resolution. 649
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Sec. 2329.071. (A) If a decree of foreclosure has been entered with respect to residential real property but the property has not been sold or a sale of the property is not underway, then, beginning twelve months after the entry of the decree of foreclosure, either of the following may occur: 654
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(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. 659
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(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 663
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prosecuting attorney were the attorney for the party in whose 667
favor the decree of foreclosure and order of sale was entered. 668

(B) (1) The prosecuting attorney, pursuant to division (A) 669
of this section, shall serve a copy of the motion on all parties 670
who entered an appearance in the foreclosure action in 671
accordance with the Rules of Civil Procedure. 672

(2) The court shall decide the motion described in 673
division (A) of this section not sooner than thirty days after 674
the date of the filing of the motion. Unless the court finds 675
good cause as to why the property should not be sold, the court 676
shall grant the motion and order the prosecuting attorney to 677
issue a praecipe for order of sale and sell the property at the 678
next available public auction with no set minimum bid and in 679
accordance with the terms of the order of sale and applicable 680
provisions of the Revised Code. 681

(C) The judgment creditor and mortgagor in the foreclosure 682
action each have the right to redeem the property within 683
fourteen days after the sale by paying the purchase price. The 684
redeeming party shall pay the purchase price to the clerk of the 685
court in which the judgment was rendered or the order of sale 686
was made. Upon timely payment, the court shall proceed as 687
described in section 2329.31 of the Revised Code, with the 688
redeeming party considered the successful purchaser at sale. 689

Sec. 2329.151. All-Except as provided in sections 2329.152 690
to 2329.154 of the Revised Code, all public auctions of goods, 691
chattels, or lands levied upon by execution shall be conducted 692
personally by an-one of the following: 693

(A) An officer of the court-or by an auctioneer licensed- 694
under Chapter 4707. of the Revised Code; 695

(B) For the public auction of goods and chattels, a 696
resident of this state licensed as an auctioneer under Chapter 697
4707. of the Revised Code; 698

(C) For the public auction of lands, a private selling 699
officer. 700

Sec. 2329.152. (A) In every action demanding the judicial 701
or execution sale of real estate, the county sheriff shall sell 702
the real estate at a public auction, unless the judgment 703
creditor files a motion with the court for an order authorizing 704
a specified private selling officer to sell the real estate at a 705
public auction. If the court authorizes a private selling 706
officer to sell the real estate, the judgment creditor may seek 707
to have the property sold by the private selling officer 708
authorized by the court or by the county sheriff. If the 709
judgment creditor elects to have the property sold by the 710
private selling officer authorized by the court, the judgment 711
creditor shall file with the clerk of the court a praecipe 712
requesting the issuance of an order of appraisal to the sheriff 713
and an order of sale to the private selling officer authorized 714
by the court. Upon the filing of that praecipe, the clerk of the 715
court shall immediately issue both of the following: 716

(1) An order of appraisal to the sheriff, who shall obtain 717
an appraisal of the real estate in conformity with sections 718
2329.17 and 2329.18 of the Revised Code; 719

(2) An order of sale to the private selling officer, who, 720
after the return or determination of the appraisal, shall 721
advertise and sell the real estate in conformity with applicable 722
provisions of sections 2329.01 to 2329.61 of the Revised Code. 723

(B) (1) As used in this division: 724

(a) "Business day" means a calendar day that is not a 725
Saturday or Sunday or a legal holiday as defined in section 1.14 726
of the Revised Code. 727

(b) "Remote bid" means a bid submitted in writing via 728
facsimile, electronic mail, or overnight delivery or courier. 729

(2) If the sale of the real estate is conducted at a 730
physical location and not online, then each judgment creditor 731
and lienholder who was a party to the action may submit a remote 732
bid to the sheriff or the private selling officer. Each sheriff 733
and private selling officer shall establish and maintain a 734
facsimile number or an electronic mail address for use by 735
judgment creditors and lienholders in submitting remote bids. 736
Each remote bid shall be of a fixed maximum amount and shall be 737
delivered to the sheriff or private selling officer on or before 738
four-thirty p.m. on the business day immediately preceding the 739
date of the sale. 740

(3) Before the sale, the sheriff or the private selling 741
officer shall confirm receipt of the remote bid by sending 742
notice of such receipt via facsimile or electronic mail to the 743
judgment creditor or lienholder who submitted the remote bid. 744
During the sale, the sheriff or the private selling officer 745
shall place the remote bid on behalf of the judgment creditor or 746
lienholder who submitted the remote bid. After the sale, the 747
sheriff or the private selling officer shall provide notice of 748
the results of the sale not later than the close of business on 749
the day of the sale to all judgment creditors and lienholders 750
who submitted remote bids. Such notice shall be sent via 751
facsimile or electronic mail to the judgment creditor or 752
lienholder or by posting the results of the sale on a public web 753
site. 754

(4) If a sheriff or private selling officer fails to place 755
a remote bid on behalf of a judgment creditor or lienholder to 756
the prejudice of the judgment creditor or lienholder, then, upon 757
the filing of a motion to vacate the sale within ten business 758
days after the sale date, the sale shall be vacated. 759

(C) (1) A judgment creditor that obtains a court order 760
authorizing a specified private selling officer to sell the real 761
estate at a public auction pursuant to division (A) of this 762
section may instruct the private selling officer to postpone the 763
sale of the real estate one or more times, provided, however 764
that all rescheduled sale dates shall be within one hundred 765
eighty days of the initial sale date. Upon receiving this 766
instruction, the private selling officer shall postpone the sale 767
of the real estate by announcing that the sale is postponed. If 768
the sale is at a physical location, this announcement shall be 769
made at the sale and shall include the date, time, and place of 770
the rescheduled sale of the real estate. If the sale is online, 771
this announcement shall be made on the auction web site and 772
shall include the date of the rescheduled sale of real estate. 773
Each such announcement shall be deemed to meet the notice 774
requirement in section 2329.26 of the Revised Code. 775

(2) If the judgment creditor does not wish to postpone the 776
sale of the real estate, the judgment creditor may instruct the 777
private selling officer to cancel the sale of the real estate. 778
Upon receiving this instruction, the private selling officer 779
shall cancel the sale of the real estate by announcing that the 780
sale is canceled. If the sale is at a physical location, this 781
announcement shall be made at the sale. If the sale is online, 782
this announcement shall be made on the auction web site and 783
shall remain posted there until at least the end of the seven- 784
day bidding period described in division (E) (1) (a) of section 785

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| <u>2329.152 of the Revised Code.</u> | 786 |
| <u>(3) If the sale of the real estate is postponed or</u> | 787 |
| <u>canceled as described in divisions (C) (1) and (2) of this</u> | 788 |
| <u>section, all bids made on the real estate prior to the</u> | 789 |
| <u>postponement or cancellation of the sale shall be void.</u> | 790 |
| <u>(D) (1) If the judgment creditor obtains a court order to</u> | 791 |
| <u>have the real estate sold by a private selling officer, then:</u> | 792 |
| <u>(a) The cost of the appraisal required by section 2329.17</u> | 793 |
| <u>of the Revised Code shall be taxed as costs in the case.</u> | 794 |
| <u>(b) The cost of the advertisement required by section</u> | 795 |
| <u>2329.26 of the Revised Code shall be taxed as costs in the case.</u> | 796 |
| <u>(c) The fee charged by the private selling officer and all</u> | 797 |
| <u>costs incurred by the private selling officer other than the</u> | 798 |
| <u>costs described in divisions (D) (1) (a) and (b) of this section</u> | 799 |
| <u>shall be taxed as costs in the case up to an amount equal to one</u> | 800 |
| <u>and one-half per cent of the sale price of the real estate. To</u> | 801 |
| <u>the extent the fees and costs described in division (D) (1) (c) of</u> | 802 |
| <u>this section exceed one and one-half per cent of the sale price</u> | 803 |
| <u>of the real estate, they shall not be included in the amount</u> | 804 |
| <u>necessary to redeem real estate under section 2329.33 of the</u> | 805 |
| <u>Revised Code or in the calculation of any deficiency judgment</u> | 806 |
| <u>under section 2329.08 of the Revised Code but rather shall be</u> | 807 |
| <u>paid by the judgment creditor or from the judgment creditor's</u> | 808 |
| <u>portion of the proceeds of the sale.</u> | 809 |
| <u>(2) The private selling officer shall file with the court</u> | 810 |
| <u>that issued the order of sale an itemized report of all</u> | 811 |
| <u>appraisal, publication, marketing, and other expenses of a sale</u> | 812 |
| <u>conducted under this section and all fees charged by the private</u> | 813 |
| <u>selling officer for marketing the real estate or conducting the</u> | 814 |

sale of the real estate, including the fee charged by the title agent or title insurance company for administrative services, if applicable, and title, escrow, and closing services. 815
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(E) (1) The private selling officer who conducts a sale under this section may do any of the following: 818
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(a) Market the real estate and conduct the public auction of the real estate online or at any physical location in the county in which the real estate is situated. If the auction occurs online, the auction shall be open for bidding for a minimum of seven days. 820
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(b) 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; 825
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(c) Execute to the purchaser, or to the purchaser's legal representatives, a deed of conveyance of the real estate sold; 829
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(d) Record on behalf of the purchaser the deed conveying title to the real estate sold, notwithstanding that the deed may not actually have been delivered to the purchaser prior to its recording. 831
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(2) 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. 835
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(3) 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 real estate. 839
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(F) The fee charged by the title agent or title insurance 844
company for services provided under divisions (E) (1) (b) and (3) 845
of this section shall be taxed as costs in the case provided 846
they are reasonable. Fees less than or equal to five hundred 847
dollars are presumed to be reasonable. Fees exceeding five 848
hundred dollars shall be paid only if authorized by a court 849
order. 850

Sec. 2329.153. (A) Not later than thirty days after the 851
effective date of this section, the department of administrative 852
services shall solicit competitive sealed proposals for the 853
creation, operation, and maintenance of the official public 854
sheriff sale web site and an integrated auction management 855
system. The official public sheriff sale web site and integrated 856
auction management system shall be a single statewide system for 857
use by all county sheriffs in accordance with the requirements 858
of this section. 859

(B) The official public sheriff sale web site shall meet 860
the following minimum requirements: 861

(1) The web site shall have a domain name relevant to the 862
judicial sale of real property. 863

(2) The web site shall be limited to the judicial sale of 864
real property located in this state. 865

(3) The web site shall not charge a fee for members of the 866
public to view properties for sale. 867

(4) The web site shall allow each county sheriff to add 868
text, images, or graphics to the web site for the purpose of 869
identifying the county or sheriff conducting the sale. 870

(5) The web site shall include industry-standard features 871
and functionality, including user guides, online credit card 872

payments, anti-snipe functionality, watch lists, electronic mail 873
notifications, maximum bid limits, automatic incremental 874
bidding, and search and map features that allow users to search 875
by county, zip code, address, parcel number, appraised value, 876
party name, case number, and other variables relevant to the 877
judicial sale of real property. 878

(6) The web site shall include features that allow for the 879
cancellation of sales as required by law or court order and the 880
postponement of sales in accordance with divisions (E) (2) and 881
(3) of this section. 882

(7) The web site shall provide a secure payment processing 883
system that accepts online payments for property sold via the 884
web site and, in an efficient and cost effective manner, 885
transfers those payments to the appropriate county official or 886
account. 887

(8) The web site shall include the ability for an attorney 888
or law firm to enter a bid in a representative capacity. 889

(9) The web site shall be integrated with the auction 890
management system described in division (C) of this section. 891

(C) The auction management system shall meet the following 892
minimum requirements: 893

(1) The auction management system shall have a role-based 894
workflow engine to assist in conducting sales on the web site, 895
capturing data, complying with all relevant laws, and managing 896
administrative processes related to the judicial sale of real 897
property in a timely, secure, and accurate manner. 898

(2) The auction management system shall record the data 899
necessary to meet the reporting requirements of section 2329.312 900
of the Revised Code. 901

(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. 902
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(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. 905
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(5) The auction management system shall be integrated with the web site described in division (B) of this section. 909
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(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. 911
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(E) (1) Not later than one year after the effective date of this section, in all cases in which the sheriff is ordered to conduct a judicial sale of real property, the following shall occur: 921
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(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. 925
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(b) For commercial property, the sale may be conducted on 930

the official public sheriff sale web site. 931

All sales conducted on the official public sheriff sale 932
web site shall be open for bidding for at least seven days. 933

(2) If the sale of the real property is to be conducted on 934
the official public sheriff sale web site, the judgment creditor 935
may instruct the sheriff to postpone the sale of the real 936
property one time for up to one hundred eighty days after the 937
initial sale date. Upon receiving such instruction for 938
postponement, the sheriff shall postpone the sale of the 939
property by announcing on the official public sheriff sale web 940
site that the sale is postponed and giving notice of the 941
rescheduled sale date. This announcement shall be deemed to meet 942
the notice requirement of section 2329.26 of the Revised Code. 943

(3) If the judgment creditor does not wish to postpone the 944
sale of the real property, the judgment creditor may instruct 945
the sheriff to cancel the sale of the property. Upon receiving 946
this instruction, the sheriff shall cancel the sale of the 947
property by announcing on the official public sheriff sale web 948
site that the sale is canceled. This announcement shall remain 949
posted on the official public sheriff sale web site until at 950
least the end of the seven-day bidding period described in 951
division (E) (1) of this section. 952

(4) If the sale of the real property is postponed or 953
canceled according to divisions (E) (2) and (3) of this section, 954
all bids made on the real property prior to the postponement or 955
cancellation of the sale shall be void. 956

(F) Pursuant to their authority in section 9.482 of the 957
Revised Code, counties may elect to enter into a shared services 958
agreement relating to the judicial sale of real property on the 959

official public sheriff sale web site. The shared services 960
agreement may seek to improve efficiency and reduce costs in the 961
judicial sale of real property by consolidating administrative 962
functions and processes. 963

Sec. 2329.154. (A) If property is sold online, the sheriff 964
or private selling officer shall require persons seeking to bid 965
to register online with the web site as a condition of being 966
authorized to bid. The registration form shall include 967
information relevant to the objective of enabling the sheriff or 968
private selling officer to identify the bidder, contact the 969
bidder, and complete the sale of the property. 970

(B) If an attorney or a law firm that represents the 971
plaintiff or a party to the action bids on property in a 972
representative capacity, the attorney or law firm shall register 973
as the representative of the plaintiff or party, either as an 974
individual or entity. 975

(C) (1) If the person registering to bid is an individual, 976
the information required by division (A) of this section shall 977
include the individual's name, mailing address, which shall not 978
be a post office box address, electronic mail address, telephone 979
number, and, if applicable, credit card information. 980

(2) If the person registering to bid is an entity, the 981
information required by division (A) of this section shall 982
include the entity's legal name, trade name if different from 983
its legal name, state and date of formation, active status with 984
the office of the secretary of state, mailing address, telephone 985
number, credit card information if applicable, the name of an 986
individual contact person for the entity, and the contact 987
person's title, mailing address, which shall not be a post 988
office box address, electronic mail address, and telephone 989

number. 990

(D) The registration form on the web site shall require 991
the person registering to bid to state, to the best of the 992
person's knowledge and belief, that the information provided by 993
the person is true, correct, and complete under penalties of 994
perjury. 995

(E) The electronic mail address, telephone number, and, if 996
applicable, credit card information required in division (C) of 997
this section are confidential and not public records for 998
purposes of section 149.43 of the Revised Code. 999

Sec. 2329.17. (A) When execution is levied upon lands and 1000
tenements, ~~the officer who makes the levy~~ sheriff shall call an 1001
inquest of three disinterested freeholders, who are residents 1002
of, and real property owners in, the county where the lands 1003
taken in execution are situated, ~~and administer to them an oath~~ 1004
~~impartially to who shall~~ appraise the property so levied upon, 1005
upon actual view. ~~They forthwith shall return to such officer,~~ 1006
~~under their hands, an estimate of the real value of the property~~ 1007
~~in money.~~ 1008

(B) If the property to be appraised is residential 1009
property, the freeholders selected by the sheriff shall return 1010
to the sheriff an estimate of the value of the property in money 1011
within twenty-one calendar days of the issuance of the order of 1012
appraisal by the clerk of the court. If the court has ordered or 1013
the clerk of the court has issued an order for a private selling 1014
officer to advertise and sell the appraised property, the 1015
freeholders selected by the sheriff shall also deliver a copy of 1016
their appraisal to the private selling officer contemporaneously 1017
with their delivery of their appraisal to the sheriff. 1018

(C) If the freeholders selected by the sheriff under 1019
division (B) of this section do not deliver their appraisal 1020
within twenty-one calendar days of the issuance of the order of 1021
appraisal by the clerk of the court as required by division (B) 1022
of this section, then all of the following shall occur: 1023

(1) The cost of the appraisal by the freeholders shall not 1024
be payable to the freeholders or taxed as costs in the case. 1025

(2) The appraised value of the property shall be the fair 1026
market value of the property as shown on the records of the 1027
county auditor, unless, for good cause shown, the court 1028
authorizes a separate appraisal of the property. 1029

(3) The advertisement and sale of the property shall 1030
proceed immediately in accordance with the order of 1031
advertisement and sale issued by the clerk of the court. 1032

If a separate appraisal of the property is obtained, the 1033
cost of the appraisal shall be included as an expense of the 1034
sale pursuant to division (D) of section 2329.152 of the Revised 1035
Code. 1036

(D) If the property to be appraised is commercial 1037
property, the freeholders selected by the sheriff shall return 1038
to the sheriff an estimate of the value of the property in money 1039
in accordance with the timing or other requirements, if any, 1040
that may be established for the sale. 1041

(E) The municipal corporation or township in which the 1042
real property is situated may inspect prior to the judicial sale 1043
any structures located on lands subject to a writ of execution. 1044

Sec. 2329.18. ~~When an officer receives the return provided~~ 1045
~~for in division (A) of~~ (A) If a court has ordered or the clerk 1046
of a court has issued an order for the sheriff to advertise and 1047

sell the real estate for which the appraised value has been 1048
determined pursuant to section 2329.17 of the Revised Code, the 1049
~~officer forthwith sheriff~~ shall deposit a copy of ~~it the~~ 1050
appraisal with the clerk of the court from which the writ was 1051
issued, and immediately advertise and sell such real estate in 1052
conformity with sections 2329.01 to 2329.61 of the Revised Code. 1053

(B) If the court has ordered or the clerk of the court has 1054
issued an order for a private selling officer to advertise and 1055
sell the real estate for which the appraised value has been 1056
determined pursuant to section 2329.17 of the Revised Code, the 1057
private selling officer shall immediately advertise and sell the 1058
real estate in conformity with sections 2329.01 to 2329.61 of 1059
the Revised Code. 1060

Sec. 2329.19. Upon the ~~return determination~~ of the 1061
~~estimate provided for in division (A) of appraised value~~ 1062
pursuant to section 2329.17 of the Revised Code, if it appears 1063
~~by the inquisition~~ that two-thirds of the appraised value of the 1064
lands and tenements levied upon is sufficient to satisfy the 1065
execution, with costs, the judgment on which the execution 1066
issued shall not operate as a lien on the residue of the 1067
debtor's estate to the prejudice of any other judgment creditor. 1068

Sec. 2329.20. ~~No~~ Except as otherwise provided in this 1069
section or sections 2329.51 and 2329.52 of the Revised Code, no 1070
tract of land shall be sold for less than two-thirds the amount 1071
of the appraised value returned in the inquest required by as 1072
determined pursuant to section 2329.17 of the Revised Code, 1073
~~except that in~~. In all cases where in which a junior mortgage 1074
or other junior lien is sought to be enforced against real 1075
estate by an order, judgment, or decree of court, subject to a 1076
prior lien thereon, and such prior lien, and the claims or 1077

obligations secured thereby, are unaffected by such order, 1078
judgment, or decree, the court making such order, judgment, or 1079
decree, may determine the minimum amount for which such real 1080
estate may be sold, In such a case, the minimum amount ~~to shall~~ 1081
be not less than two-thirds of the difference between the 1082
appraised value of the real estate ~~appraised as provided~~ 1083
determined in such that section, and the amount remaining unpaid 1084
on the claims or obligations secured by such prior lien. 1085

Sec. 2329.21. If the sum bid by the purchaser for the real 1086
estate sold under section 2329.20 of the Revised Code relating 1087
to the enforcement of junior liens is insufficient to pay the 1088
~~costs and allowance, allowances, and taxes,~~ which the court has 1089
determined prior to such sale should be paid out of the proceeds 1090
thereof, pursuant to the terms of the mortgage or lien sought to 1091
be enforced, then the purchaser, in addition to the amount of 1092
~~his~~ the purchaser's bid, must pay a sum which, with the amount 1093
so bid, will be sufficient to pay the costs ~~and,~~ allowances, 1094
and taxes. The court may fix the amount remaining unpaid on such 1095
claims or obligations for the purpose of the sale, and to that 1096
end require the parties to the suit to furnish to it 1097
satisfactory evidence of such unpaid amount. The advertisement 1098
for the sale of real estate sold under section 2329.20 of the 1099
Revised Code shall state that the purchaser shall be responsible 1100
for those costs, allowances, and taxes that the proceeds of the 1101
sale are insufficient to cover. 1102

Sec. 2329.211. (A) In every action demanding the judicial 1103
or execution sale of residential property, if the judgment 1104
creditor is the purchaser at the sale, the purchaser shall not 1105
be required to make a sale deposit. All other purchasers shall 1106
make a sale deposit as follows: 1107

(1) If the appraised value of the residential property is less than or equal to ten thousand dollars, the deposit shall be two thousand dollars. 1108
1109
1110

(2) If the appraised value of the residential property is greater than ten thousand dollars but less than or equal to two hundred thousand dollars, the deposit shall be five thousand dollars. 1111
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1114

(3) If the appraised value of the residential property is greater than two hundred thousand dollars, the deposit shall be ten thousand dollars. 1115
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The timing of the deposit and other payment requirements shall be established by the court or the person conducting the sale and included in the advertisement of the sale. If the purchaser fails to meet the timing or other requirements of the deposit, the sale shall be invalid. 1118
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(B) In every action demanding the judicial or execution sale of commercial property, the purchaser at the sale shall make a deposit pursuant to the requirements, if any, established for the sale. 1123
1124
1125
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Sec. 2329.26. (A) Lands and tenements taken in execution shall not be sold until all of the following occur: 1127
1128

(1) (a) Except as otherwise provided in division (A) (1) (b) of 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: 1129
1130
1131
1132

(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 1133
1134
1135
1136

execution was rendered~~r~~. Such notice shall include the date, 1137
time, and place of the sale if the sale is to be held at a 1138
physical location or the start date and web site address of the 1139
sale if the sale is to be held online. Such notice shall also 1140
include the provisional second sale date described in division 1141
(B) of section 2329.52 of the Revised Code, if applicable. 1142

(ii) At least seven calendar days prior to the date of the 1143
sale, files with the clerk of the court that rendered the 1144
judgment giving rise to the execution a copy of the written 1145
notice described in division (A) (1) (a) (i) of this section with 1146
proof of service endorsed on the copy in the form described in 1147
division ~~(D)~~ (B) of Civil Rule 5. 1148

(b) Service of the written notice described in division 1149
(A) (1) (a) (i) of this section is not required to be made upon any 1150
party who is in default for failure to appear in the action in 1151
which the judgment giving rise to the execution was rendered. 1152

(2) One of the following applies: 1153

(a) The officer taking the lands and tenements gives 1154
public notice of the date, time, and place of the sale once a 1155
week for at least three consecutive weeks before the day of sale 1156
if the sale is to be held at a physical location or the start 1157
date of the sale if the sale is to be conducted online. 1158

Such notice shall be by advertisement in a newspaper of 1159
general circulation in the county. The newspaper shall meet the 1160
requirements of section 7.12 of the Revised Code. The court 1161
ordering the sale may designate in the order of sale the 1162
newspaper in which this public notice shall be published. The 1163
notice shall include all the following information: 1164

(i) The date, time, and place of the sale if the sale is 1165

to be held at a physical location; 1166

(ii) The start date, the minimum duration, and web site address of the sale if the sale is to be held online; 1167
1168

(iii) The deposit required by section 2329.211 of the Revised Code; 1169
1170

(iv) That the purchaser shall be responsible for those costs, allowances, and taxes that the proceeds of the sale are insufficient to cover; 1171
1172
1173

(v) The provisional second sale date described in division (B) of section 2329.52 of the Revised Code, if applicable; provided, however, that no sale shall be invalid, nor shall the court vacate any sale, if the notice described in division (A) (1) (a) (i) of this section or the public notice described in division (A) (2) of this section fails to include the provisional date for a second sale of the property and the property is sold on the initial sale date. 1174
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(b) If a private selling officer has been ordered to sell the lands and tenements, the private selling officer shall give the public notice described in division (A) (2) (a) of this section in the newspaper designated by the court. If the court has not designated a newspaper, the private selling officer shall give this public notice in the newspaper customarily used or designated by the county sheriff. No sale that otherwise complies with division (A) (2) of this section shall be invalid. 1182
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1189

~~(3)~~ (B) The officer taking the lands and tenements shall collect the purchaser's information required by section 2329.271 of the Revised Code. 1190
1191
1192

~~(B)~~ (C) A sale of lands and tenements taken in execution may be set aside in accordance with division (A) or (B) of 1193
1194

section 2329.27 of the Revised Code. 1195

Sec. 2329.271. (A) (1) Subject to division (A) (2) of this 1196
section, the purchaser of lands and tenements taken in execution 1197
shall submit to the officer who makes the sale the following 1198
information: 1199

(a) ~~The~~ (i) If the purchaser is an individual, the 1200
information shall include the individual's name, mailing 1201
address, and which shall not be a post office box, electronic 1202
mail address, telephone number, and credit card information of 1203
the purchaser; 1204

(ii) If the purchaser is an entity, the information shall 1205
include the entity's legal name, trade name if different from 1206
its legal name, state and date of formation, active status with 1207
the office of the secretary of state, mailing address, telephone 1208
number, credit card information, the name of an individual 1209
contact person for the entity, and the contact person's title, 1210
mailing address, which shall not be a post office box, 1211
electronic mail address, and telephone number. 1212

(b) An attorney or a law firm that represents a purchaser 1213
may submit the information required under division (A) (1) (a) of 1214
this section in a representative capacity, either as an 1215
individual or entity. 1216

(c) If the lands and tenements taken in execution are 1217
residential rental property and the residential rental property 1218
is purchased by a trust, business trust, estate, partnership, 1219
limited partnership, limited liability company, association, 1220
corporation, or any other business entity, the name, address, 1221
and telephone number of the following with the provision that 1222
the purchaser be readily accessible through the identified 1223

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| contact person: | 1224 |
| (i) A trustee, in the case of a trust or business trust; | 1225 |
| (ii) The executor or administrator, in the case of an estate; | 1226 1227 |
| (iii) A general partner, in the case of a partnership or a limited partnership; | 1228 1229 |
| (iv) A member, manager, or officer, in the case of a limited liability company; | 1230 1231 |
| (v) An associate, in the case of an association; | 1232 |
| (vi) An officer, in the case of a corporation; | 1233 |
| (vii) A member, manager, or officer, in the case of any other business entity. | 1234 1235 |
| (e) -(d) A statement indicating whether the purchaser will occupy the lands and tenements. | 1236 1237 |
| (2) If the lands and tenements taken in execution are not residential rental property and the purchaser of those lands and tenements is a corporation, partnership, association, estate, trust, or other business organization the only place of business of which is in the county in which the real property is located, the information required by divisions (A) (1) (a) and (e) -(d) of this section shall be the contact information for the office of an employee of the purchasing entity that is located in that county and that the purchasing entity has designated to receive notices or inquiries about the property. If the purchasing entity has a place of business outside the county in which the real property is located and the purchasing entity's principal place of business is located in this state, the information required by divisions (A) (1) (a) and (e) -(d) of this section | 1238 1239 1240 1241 1242 1243 1244 1245 1246 1247 1248 1249 1250 1251 |

shall be the contact information for the office of an employee 1252
of the purchasing entity that is located in this state and that 1253
the purchasing entity has designated to receive notices or 1254
inquiries about the property. If the purchasing entity's 1255
principal place of business is not located in this state, the 1256
information required by divisions (A) (1) (a) and ~~(e)~~ (d) of this 1257
section shall be the contact information for a natural person 1258
who is employed by the purchasing entity at the purchasing 1259
entity's principal place of business outside of this state and 1260
whom the purchasing entity has designated to receive notices or 1261
inquiries about the property. 1262

(B) (1) The information required by division (A) of this 1263
section shall be part of ~~the sheriff's record of proceedings and~~ 1264
~~shall be part of the~~ record of the court of common pleas. ~~The~~ If 1265
the court has ordered or the clerk of the court has issued an 1266
order for the sheriff to advertise and sell the lands and 1267
tenements, the information also shall be part of the sheriff's 1268
record of proceedings. Except as provided in division (B) (2) of 1269
this section, the information is a public record and open to 1270
public inspection. 1271

(2) The electronic mail address and credit card 1272
information required in division (A) (1) of this section are 1273
confidential and not public records for purposes of section 1274
149.43 of the Revised Code. 1275

Sec. 2329.28. The ~~sheriff~~ levying officer shall indorse on 1276
the writ of execution ~~his~~ the officer's proceedings thereon, and 1277
the clerk of the court of common pleas, upon the return thereof, 1278
immediately shall record all such indorsements at length, in the 1279
execution docket, or other docket provided for that purpose. 1280
That record shall be a part of the record of the court of common 1281

pleas. 1282

Sec. 2329.30. The court from which an execution or order 1283
of sale issues, upon notice and motion of the officer who makes 1284
the sale or of an interested party, may punish any purchaser of 1285
lands and tenements who fails to pay within thirty days of the 1286
confirmation of the sale the balance due on the purchase price 1287
of the lands and tenements by forfeiting the sale of the lands 1288
and tenements and returning any deposit paid in connection with 1289
the sale of the lands and tenements, by forfeiting any deposit 1290
paid in connection with the sale of the lands and tenements, as 1291
for contempt, or in any other manner the court considers 1292
appropriate. Upon motion, the court may order the return of any 1293
remaining portion of the deposit of the purchaser, less the 1294
costs of a subsequent sale and any other remedy the court 1295
considers appropriate. An order for contempt for failure of the 1296
purchaser to pay voids the confirmation of sale and transfer. 1297

Sec. 2329.31. (A) Upon the return of any writ of execution 1298
for the satisfaction of which lands and tenements have been 1299
sold, on careful examination of the proceedings of the officer 1300
making the sale, if the court of common pleas finds that the 1301
sale was made, in all respects, in conformity with sections 1302
2329.01 to 2329.61 of the Revised Code, it shall, within thirty 1303
days of the return of the writ, direct the clerk of the court of 1304
common pleas to make an entry on the journal that the court is 1305
satisfied of the legality of such sale ~~and that the attorney who~~ 1306
~~filed the writ of execution make to the purchaser a deed for the~~ 1307
~~lands and tenements.~~ Nothing in this section prevents the court 1308
of common pleas from staying the confirmation of the sale to 1309
permit a property owner time to redeem the property or for any 1310
other reason that it determines is appropriate. In those 1311
instances, the sale shall be confirmed within thirty days after 1312

the termination of any stay of confirmation. 1313

(B) The officer making the sale shall require the 1314
purchaser, including a lienholder, to pay within thirty days of 1315
the confirmation of the sale the balance due on the purchase 1316
price of the lands and tenements. 1317

(C) (1) The officer making the sale shall record the 1318
prepared deed required by section 2329.36 of the Revised Code 1319
within fourteen days after the confirmation of sale and payment 1320
of the balance due. 1321

(2) (a) If the deed is not prepared and recorded within the 1322
fourteen-day period, the purchaser may file a motion with the 1323
court to proceed with the transfer of title. If the court finds 1324
that a proper sale was made, it shall enter an order 1325
transferring the title of the lands and tenements to the 1326
purchaser, ordering the plaintiff to present a certified copy of 1327
the order to the county recorder for recording, and ordering the 1328
county recorder to record the order in the record of deeds. The 1329
order, when filed with the county recorder, shall have the same 1330
effect as a deed prepared pursuant to section 2329.36 of the 1331
Revised Code. 1332

(b) Upon the issuance of the court order described in 1333
division (C) (2) (a) of this section, the plaintiff, or the 1334
plaintiff's attorney, shall present a certified copy of the 1335
order to be recorded in the office of the county recorder. The 1336
county recorder shall record the order in the record of deeds. 1337

(c) The clerk shall issue a copy of the court order to the 1338
county auditor to transfer record ownership of the lands and 1339
tenements for the purpose of real estate taxes. Real estate 1340
taxes coming due after the date of the sale shall not prohibit 1341

the auditor from transferring ownership of the lands and 1342
tenements on its records or cause the recorder to deny 1343
recording. The real estate taxes shall become the responsibility 1344
of the new title holder of the lands and tenements. The sheriff 1345
shall not require the confirmation of sale to be amended for 1346
taxes not due and payable as of the date of the sale. 1347

Sec. 2329.311. In sales of residential properties taken in 1348
execution or order of sale that are sold at an auction with no 1349
set minimum bid pursuant to division (B) of section 2329.52 of 1350
the Revised Code, the judgment creditor and the first lienholder 1351
each have the right to redeem the property within fourteen days 1352
after the sale by paying the purchase price. The redeeming party 1353
shall pay the purchase price to the clerk of the court in which 1354
the judgment was rendered or the order of sale was made. Upon 1355
timely payment, the court shall proceed as described in section 1356
2329.31 of the Revised Code, with the redeeming party considered 1357
the successful purchaser at sale. 1358

Sec. 2329.312. (A) All levying officers appointed or 1359
authorized by a court under this chapter to conduct the judicial 1360
or execution sale of residential property consisting of one to 1361
four single-family units shall submit quarterly reports to the 1362
attorney general for the purpose of assessing the extent to 1363
which deadlines required by this chapter are met. The reports 1364
shall include data on each such sale conducted by the officer. 1365

(B) The attorney general shall do all of the following: 1366

(1) Establish and maintain a database comprised of the 1367
information submitted by levying officers pursuant to division 1368
(A) of this section; 1369

(2) Make the information included in the database publicly 1370

available; 1371

(3) Adopt rules for the creation and administration of the 1372
database. 1373

Sec. 2329.33. ~~In~~ Except as provided in division (C) of 1374
section 2308.03 or any other section of the Revised Code, in 1375
sales of real estate on execution or order of sale, at any time 1376
before the confirmation thereof, the debtor may redeem it from 1377
sale by depositing in the hands of the clerk of the court of 1378
common pleas to which such execution or order is returnable, the 1379
amount of the judgment or decree upon which such lands were 1380
sold, with all costs, including poundage, and interest at the 1381
rate of eight per cent per annum on the purchase money from the 1382
day of sale to the time of such deposit, except where the 1383
judgment creditor is the purchaser, the interest at such rate on 1384
the excess above ~~his~~ the judgment creditor's claim. The court of 1385
common pleas thereupon shall make an order setting aside such 1386
sale, and apply the deposit to the payment of such judgment or 1387
decree and costs, and award such interest to the purchaser, who 1388
shall receive from the officer making the sale the purchase 1389
money paid by ~~him~~ the purchaser, and the interest from the 1390
clerk. This section does not take away the power of the court to 1391
set aside such sale for any reason for which it might have been 1392
set aside prior to April 16, 1888. 1393

Sec. 2329.34. Real property may be conveyed by a master 1394
commissioner or special master only: 1395

(A) When, by an order or a judgment in an action or 1396
proceeding, a party is required to convey such property to 1397
another, and ~~he~~ the party neglects or refuses to do so, and the 1398
master is directed to convey on ~~his~~ the party's failure; 1399

(B) When specific real property is sold by a master under 1400
an order or judgment of the court appointing ~~him the master~~. No 1401
court shall make or issue an order to a master for the sale of 1402
real estate except in response to a motion by a judgment 1403
creditor, unless which motion shall be granted only if there 1404
exists some special reason why the sale should not be made by 1405
the sheriff of the county where the decree or order was made, ~~7~~ 1406
~~which reason, if or by a private selling officer.~~ If the court 1407
finds any such reason to exist, that reason shall be embodied in 1408
and made part of the judgment, order, or decree for such sale. 1409

Sec. 2329.39. ~~Sale~~ Except as provided in sections 2329.152 1410
and 2329.153 of the Revised Code, sale of lands or tenements 1411
under execution or order of sale must be held in the county in 1412
which they are situated and at the courthouse, unless otherwise 1413
ordered by the court. Purchase of real or personal property, by 1414
the officer making the sale thereof, or by an appraiser of such 1415
property, shall be fraudulent and void. 1416

Sec. 2329.45. If a judgment in satisfaction of which 1417
lands, ~~7~~ or tenements are sold, ~~7~~ is reversed on appeal, such 1418
reversal shall not defeat or affect the title of the purchaser. 1419
In such case restitution ~~must be made by the judgment creditor~~ 1420
~~of~~ in an amount equal to the money for which such lands or 1421
tenements were sold, with interest from the day of sale, must be 1422
made by the judgment creditor. In ordering restitution, the 1423
court shall take into consideration all persons who lost an 1424
interest in the property by reason of the judgment and sale and 1425
the order of the priority of those interests. 1426

Sec. 2329.52. ~~When~~ (A) Except as otherwise provided in 1427
division (B) of this section, when premises are ordered to be 1428
sold, if said premises, or a part thereof, remain unsold for 1429

want of bidders after having been once appraised, advertised, 1430
and offered for sale, the court from which the order of sale 1431
issued may, on motion of the plaintiff or defendant and from 1432
time to time until said premises are disposed of, order a new 1433
appraisement and sale or direct the amount for which said 1434
premises, or a part thereof, may be sold. 1435

The court may order that the premises be sold as follows: 1436
One third cash in hand, one third in nine months from the day of 1437
sale, and the remaining one third in eighteen months from the 1438
day of sale, the deferred payments to draw interest at six per 1439
cent and be secured by a mortgage on the premises. 1440

(B) When a residential property is ordered to be sold 1441
pursuant to a residential mortgage loan foreclosure action, and 1442
the sale will be held at a physical location and not online, and 1443
if the property remains unsold after the first auction, then a 1444
second auction shall be held and the property shall be sold to 1445
the highest bidder without regard to the minimum bid requirement 1446
in section 2329.20 of the Revised Code, but subject to section 1447
2329.21 of the Revised Code relating to costs, allowances, and 1448
real estate taxes. This second auction shall be held not earlier 1449
than seven days and not later than thirty days after the first 1450
auction. A residential property that remains unsold after two 1451
auctions may be subsequently offered for sale without regard to 1452
the minimum bid requirement in section 2329.20 of the Revised 1453
Code or disposed of in any other manner pursuant to this chapter 1454
or any other provision of the Revised Code. 1455

Sec. 2329.56. When a freeholder, summoned as an appraiser, 1456
fails to appear at the time and place appointed by the officers 1457
ordering ~~his~~ the freeholder's appearance and discharge ~~his~~ the 1458
duty as such, on complaint made to a judge of the county court 1459

in the district in which such freeholder resides, unless ~~he~~ the 1460
freeholder has a reasonable excuse, ~~he~~ the freeholder shall pay 1461
fifty ~~cents~~ dollars for each neglect, which shall be collected 1462
by the judge, and paid into the county treasury for the use of 1463
the county. 1464

Sec. 2909.07. (A) No person shall: 1465

(1) Without privilege to do so, knowingly move, deface, 1466
damage, destroy, or otherwise improperly tamper with ~~the~~ either 1467
of the following: 1468

(a) The property of another; 1469

(b) One's own residential real property with the purpose 1470
to decrease the value of or enjoyment of the residential real 1471
property, if both of the following apply: 1472

(i) The residential real property is subject to a 1473
mortgage. 1474

(ii) The person has been served with a summons and 1475
complaint in a pending residential mortgage loan foreclosure 1476
action relating to that real property. As used in this division, 1477
"pending" includes the time between judgment entry and 1478
confirmation of sale. 1479

(2) With purpose to interfere with the use or enjoyment of 1480
property of another, employ a tear gas device, stink bomb, smoke 1481
generator, or other device releasing a substance that is harmful 1482
or offensive to persons exposed or that tends to cause public 1483
alarm; 1484

(3) Without privilege to do so, knowingly move, deface, 1485
damage, destroy, or otherwise improperly tamper with a bench 1486
mark, triangulation station, boundary marker, or other survey 1487

station, monument, or marker; 1488

(4) Without privilege to do so, knowingly move, deface, 1489
damage, destroy, or otherwise improperly tamper with any safety 1490
device, the property of another, or the property of the offender 1491
when required or placed for the safety of others, so as to 1492
destroy or diminish its effectiveness or availability for its 1493
intended purpose; 1494

(5) With purpose to interfere with the use or enjoyment of 1495
the property of another, set a fire on the land of another or 1496
place personal property that has been set on fire on the land of 1497
another, which fire or personal property is outside and apart 1498
from any building, other structure, or personal property that is 1499
on that land; 1500

(6) Without privilege to do so, and with intent to impair 1501
the functioning of any computer, computer system, computer 1502
network, computer software, or computer program, knowingly do 1503
any of the following: 1504

(a) In any manner or by any means, including, but not 1505
limited to, computer hacking, alter, damage, destroy, or modify 1506
a computer, computer system, computer network, computer 1507
software, or computer program or data contained in a computer, 1508
computer system, computer network, computer software, or 1509
computer program; 1510

(b) Introduce a computer contaminant into a computer, 1511
computer system, computer network, computer software, or 1512
computer program. 1513

(B) As used in this section, "safety device" means any 1514
fire extinguisher, fire hose, or fire axe, or any fire escape, 1515
emergency exit, or emergency escape equipment, or any life line, 1516

life-saving ring, life preserver, or life boat or raft, or any 1517
alarm, light, flare, signal, sign, or notice intended to warn of 1518
danger or emergency, or intended for other safety purposes, or 1519
any guard railing or safety barricade, or any traffic sign or 1520
signal, or any railroad grade crossing sign, signal, or gate, or 1521
any first aid or survival equipment, or any other device, 1522
apparatus, or equipment intended for protecting or preserving 1523
the safety of persons or property. 1524

(C) (1) Whoever violates this section is guilty of criminal 1525
mischief, and shall be punished as provided in division (C) (2) 1526
or (3) of this section. 1527

(2) Except as otherwise provided in this division, 1528
criminal mischief committed in violation of division (A) (1), 1529
(2), (3), (4), or (5) of this section is a misdemeanor of the 1530
third degree. Except as otherwise provided in this division, if 1531
the violation of division (A) (1), (2), (3), (4), or (5) of this 1532
section creates a risk of physical harm to any person, criminal 1533
mischief committed in violation of division (A) (1), (2), (3), 1534
(4), or (5) of this section is a misdemeanor of the first 1535
degree. If the property involved in the violation of division 1536
(A) (1), (2), (3), (4), or (5) of this section is an aircraft, an 1537
aircraft engine, propeller, appliance, spare part, fuel, 1538
lubricant, hydraulic fluid, any other equipment, implement, or 1539
material used or intended to be used in the operation of an 1540
aircraft, or any cargo carried or intended to be carried in an 1541
aircraft, criminal mischief committed in violation of division 1542
(A) (1), (2), (3), (4), or (5) of this section is one of the 1543
following: 1544

(a) If the violation creates a risk of physical harm to 1545
any person, except as otherwise provided in division (C) (2) (b) 1546

of this section, criminal mischief committed in violation of 1547
division (A)(1), (2), (3), (4), or (5) of this section is a 1548
felony of the fifth degree. 1549

(b) If the violation creates a substantial risk of 1550
physical harm to any person or if the property involved in a 1551
violation of this section is an occupied aircraft, criminal 1552
mischief committed in violation of division (A)(1), (2), (3), 1553
(4), or (5) of this section is a felony of the fourth degree. 1554

(3) Except as otherwise provided in this division, 1555
criminal mischief committed in violation of division (A)(6) of 1556
this section is a misdemeanor of the first degree. Except as 1557
otherwise provided in this division, if the value of the 1558
computer, computer system, computer network, computer software, 1559
computer program, or data involved in the violation of division 1560
(A)(6) of this section or the loss to the victim resulting from 1561
the violation is one thousand dollars or more and less than ten 1562
thousand dollars, or if the computer, computer system, computer 1563
network, computer software, computer program, or data involved 1564
in the violation of division (A)(6) of this section is used or 1565
intended to be used in the operation of an aircraft and the 1566
violation creates a risk of physical harm to any person, 1567
criminal mischief committed in violation of division (A)(6) of 1568
this section is a felony of the fifth degree. If the value of 1569
the computer, computer system, computer network, computer 1570
software, computer program, or data involved in the violation of 1571
division (A)(6) of this section or the loss to the victim 1572
resulting from the violation is ten thousand dollars or more, or 1573
if the computer, computer system, computer network, computer 1574
software, computer program, or data involved in the violation of 1575
division (A)(6) of this section is used or intended to be used 1576
in the operation of an aircraft and the violation creates a 1577

substantial risk of physical harm to any person or the aircraft 1578
in question is an occupied aircraft, criminal mischief committed 1579
in violation of division (A) (6) of this section is a felony of 1580
the fourth degree. 1581

Sec. 5302.01. The forms set forth in sections 5302.05, 1582
5302.07, 5302.09, 5302.11, 5302.12, 5302.14, ~~and 5302.17,~~ and 1583
5302.31 of the Revised Code may be used and shall be sufficient 1584
for their respective purposes. They shall be known as "Statutory 1585
Forms" and may be referred to as such. They may be altered as 1586
circumstances require, and the authorization of those forms 1587
shall not prevent the use of other forms. Wherever the phrases 1588
defined in sections 5302.06, 5302.08, 5302.10, and 5302.13 of 1589
the Revised Code are to be incorporated in instruments by 1590
reference, the method of incorporation as indicated in the 1591
statutory forms shall be sufficient, but shall not preclude 1592
other methods. 1593

Sec. 5302.31. A deed in substance following the form set 1594
forth in this section, when duly executed in accordance with 1595
Chapter 5301. of the Revised Code, has the force and effect of a 1596
deed in fee simple to the grantee, the grantee's heirs, assigns, 1597
and successors, to the grantee's and the grantee's heirs', 1598
assigns', and successors' own use, with covenants on the part of 1599
the grantor with the grantee, the grantee's heirs, assigns, and 1600
successors, that, at the time of the delivery of that deed, the 1601
grantor was duly appointed, qualified, and acting in the 1602
fiduciary capacity described in that deed, and was duly 1603
authorized to make the sale and conveyance of the premises; and 1604
that in all of the grantor's proceedings in the sale of the 1605
premises the grantor has complied with the requirements of the 1606
statutes in such case provided. 1607

"Private Selling Officer's Deed 1608

Ohio Revised Code § 2329.152 1609

Case No. _____ 1610

I, _____, a private selling officer as 1611

defined in section 2329.01 of the Revised Code, pursuant to the 1612

Order of Sale entered on _____, the Confirmation of 1613

Sale entered on _____, and in consideration of the sum of 1614

\$ _____, the receipt whereof is hereby 1615

acknowledged, do hereby grant, sell, and convey unto 1616

_____, tax mailing address _____, 1617

all the rights, title, and interest of the parties in Court of 1618

Common Pleas, _____ County, Ohio, Case No. 1619

_____, _____ vs. _____, 1620

and all pleadings therein incorporated herein by reference in 1621

and to the following Lands and Tenements situated in the County 1622

of _____ and State of Ohio, known and described as 1623

follows, to-wit: 1624

(description of land or interest therein) 1625

This deed does not reflect any restrictions, conditions, 1626

or easements of record. 1627

Prior Owner: _____ 1628

Prior Instrument Reference: _____ 1629

Executed this _____ day of _____, 1630

_____ 1631

(signature of private selling officer) 1632

Auctioneer License # _____ 1633

Real Estate Broker License # _____ 1634

(Execution in accordance with Chapter 5301. of the Revised Code) " 1635
" 1636

Sec. 5721.371. (A) Private attorney's fees payable with 1637
respect to an action under sections 5721.30 to 5721.46 of the 1638
Revised Code are subject to the following conditions: 1639

~~(A)~~ (1) The fees must be reasonable. 1640

~~(B)~~ (2) Fees exceeding two thousand five hundred dollars 1641
shall be paid only if authorized by a court order. 1642

~~(C)~~ (B) (1) Fees less than or equal to two thousand five 1643
hundred dollars shall be presumed to be reasonable. 1644

(2) If the private attorney's fees payable are fixed and 1645
not determined on an hourly basis, the court shall not consider 1646
or require evidence of hours expended or hourly rates. 1647

(3) The terms of a sale negotiated under section 5721.33 1648
of the Revised Code may include the amount to be paid in private 1649
attorney's fees, subject to division ~~(B)~~ (A) (2) of this section. 1650

Sec. 5721.372. (A) A private selling officer's fees 1651
payable with respect to an action under sections 5721.30 to 1652
5721.46 of the Revised Code are subject to both of the following 1653
conditions: 1654

(1) The fees must be reasonable. 1655

(2) Fees exceeding five per cent of the sale price of the 1656
property, if such amount is greater than seven hundred fifty 1657
dollars, shall be paid only if authorized by a court order. 1658

(B) (1) Fees less than or equal to seven hundred fifty 1659
dollars shall be presumed to be reasonable. 1660

(2) The terms of a sale negotiated under section 5721.33 1661

of the Revised Code may include the amount to be paid in private 1662
selling officer's fees, subject to division (A) of this section. 1663

(C) As used in this section, "private selling officer" has 1664
the same meaning as in section 2329.01 of the Revised Code. 1665

Sec. 5721.373. (A) A title agent's or title insurance 1666
company's fees payable with respect to an action under sections 1667
5721.30 to 5721.46 of the Revised Code are subject to the 1668
following conditions: 1669

(1) The fees must be reasonable. 1670

(2) Fees exceeding five hundred dollars shall be paid only 1671
if authorized by a court order. 1672

(B) (1) Fees less than or equal to five hundred dollars 1673
shall be presumed to be reasonable. 1674

(2) The terms of a sale negotiated under section 5721.33 1675
of the Revised Code may include the amount to be paid in title 1676
agent's or title company's fees, subject to division (A) of this 1677
section. 1678

Sec. 5721.39. (A) In its judgment of foreclosure rendered 1679
in actions filed pursuant to section 5721.37 of the Revised 1680
Code, the court or board of revision shall enter a finding that 1681
includes all of the following with respect to the certificate 1682
parcel: 1683

(1) The amount of the sum of the certificate redemption 1684
prices for all the tax certificates sold against the parcel; 1685

(2) Interest on the certificate purchase prices of all 1686
certificates at the rate of eighteen per cent per year for the 1687
period beginning on the day on which the payment was submitted 1688
by the certificate holder under division (B) of section 5721.37 1689

of the Revised Code; 1690

(3) The amount paid under division (B) (2) of section 1691
5721.37 of the Revised Code, plus interest at the rate of 1692
eighteen per cent per year for the period beginning on the day 1693
the certificate holder filed a request for foreclosure or a 1694
notice of intent to foreclose under division (A) of that 1695
section; 1696

(4) Any delinquent taxes on the parcel that are not 1697
covered by a payment under division (B) (2) of section 5721.37 of 1698
the Revised Code; 1699

(5) Fees and costs incurred in the foreclosure proceeding 1700
instituted against the parcel, including, without limitation, 1701
the fees and costs of the prosecuting attorney represented by 1702
the fee paid under division (B) (3) of section 5721.37 of the 1703
Revised Code, plus interest as provided in division (D) (2) (d) of 1704
this section, or the fees and costs of the private attorney 1705
representing the certificate holder, and charges paid or 1706
incurred in procuring title searches and abstracting services 1707
relative to the subject premises. 1708

(B) The court or board of revision may order the 1709
certificate parcel to be sold or otherwise transferred according 1710
to law, without appraisal and as set forth in the prayer of the 1711
complaint, for not less than the amount of its finding, or, in 1712
the event that the true value of the certificate parcel as 1713
determined by the county auditor is less than the certificate 1714
redemption price, the court or board of revision may, as prayed 1715
for in the complaint, issue a decree transferring fee simple 1716
title free and clear of all subordinate liens to the certificate 1717
holder or as otherwise provided in sections 323.65 to 323.79 of 1718
the Revised Code. A decree of the court or board of revision 1719

transferring fee simple title to the certificate holder is 1720
forever a bar to all rights of redemption with respect to the 1721
certificate parcel. 1722

(C) (1) The certificate holder may file a motion with the 1723
court for an order authorizing a specified private selling 1724
officer, as defined in section 2329.01 of the Revised Code, to 1725
sell the parcel at a public auction. If the court authorizes a 1726
private selling officer to sell the parcel, then upon the filing 1727
of a praecipe for order of sale with the clerk of the court, the 1728
clerk of the court shall immediately issue an order of sale to 1729
the private selling officer authorized by the court. 1730

(2) The officer to whom the order of sale is directed may 1731
conduct the public auction of the parcel at a physical location 1732
in the county in which the parcel is located or online. If the 1733
public auction occurs online, the auction shall be open for 1734
bidding for seven days. If the parcel is not sold during this 1735
initial seven-day period, a second online auction shall be held 1736
not earlier than three days or later than thirty days after the 1737
end of the first auction. The second online auction shall be 1738
open for bidding for seven days. 1739

(3) A private selling officer who conducts an auction of 1740
the parcel under this section may do any of the following: 1741

(a) Market the parcels for sale and hire a title insurance 1742
agent licensed under Chapter 3953. of the Revised Code or title 1743
insurance company authorized to do business under that chapter 1744
to assist the private selling officer in performing 1745
administrative services; 1746

(b) Execute to the purchaser, or to the purchaser's legal 1747
representatives, a deed of conveyance of the parcel sold in 1748

conformity with the form set forth in section 5302.31 of the 1749
Revised Code; 1750

(c) Record on behalf of the purchaser the deed conveying 1751
title to the parcel sold, notwithstanding that the deed may not 1752
actually have been delivered to the purchaser prior to its 1753
recording. 1754

(4) By placing a bid at a sale conducted pursuant to this 1755
section, a purchaser appoints the private selling officer who 1756
conducts the sale as agent of the purchaser for the sole purpose 1757
of accepting delivery of the deed. 1758

(5) The private selling officer who conducts the sale 1759
shall hire a title insurance agent licensed under Chapter 3953. 1760
of the Revised Code or title insurance company authorized to do 1761
business under that chapter to perform title, escrow, and 1762
closing services related to the sale of the parcel. 1763

(6) Except as otherwise provided in sections 323.65 to 1764
323.79 of the Revised Code, and the alternative redemption 1765
period thereunder, each certificate parcel shall be advertised 1766
and sold by the officer to whom the order of sale is directed in 1767
the manner provided by law for the sale of real property on 1768
execution. The advertisement for sale of certificate parcels 1769
shall be published once a week for three consecutive weeks and 1770
shall include the date on which a second sale will be conducted 1771
if no bid is accepted at the first sale. Any number of parcels 1772
may be included in one advertisement. 1773

Except as otherwise provided in sections 323.65 to 323.79 1774
of the Revised Code, whenever the officer charged to conduct the 1775
sale offers a certificate parcel for sale at a physical location 1776
and not online and no bids are made equal to at least the amount 1777

of the finding of the court or board of revision, the officer 1778
shall adjourn the sale of the parcel to the second date that was 1779
specified in the advertisement of sale. The second sale shall be 1780
held at the same place and commence at the same time as set 1781
forth in the advertisement of sale. The officer shall offer any 1782
parcel not sold at the first sale. Upon the conclusion of any 1783
sale, or if any parcel remains unsold after being offered at two 1784
sales, the officer conducting the sale shall report the results 1785
to the court or board of revision. 1786

(D) Upon the confirmation of a sale, the proceeds of the 1787
sale shall be applied as follows: 1788

(1) The fees and costs incurred in the proceeding filed 1789
against the parcel pursuant to section 5721.37 of the Revised 1790
Code shall be paid first, including attorney's fees of the 1791
certificate holder's attorney payable under division (F) of that 1792
section, private selling officer's fees and marketing costs, 1793
title agent's or title company's fees, or the county 1794
prosecutor's costs covered by the fee paid by the certificate 1795
holder under division (B) (3) of that section. 1796

(2) Following the payment required by division (D) (1) of 1797
this section, the certificate holder that filed the notice of 1798
intent to foreclose or request for foreclosure with the county 1799
treasurer shall be paid the sum of the following amounts: 1800

(a) The sum of the amount found due for the certificate 1801
redemption prices of all the tax certificates that are sold 1802
against the parcel; 1803

(b) Any premium paid by the certificate holder at the time 1804
of purchase; 1805

(c) Interest on the amounts paid by the certificate holder 1806

under division (B) (1) of section 5721.37 of the Revised Code at 1807
the rate of eighteen per cent per year beginning on the day on 1808
which the payment was submitted by the certificate holder to the 1809
county treasurer and ending on the day immediately preceding the 1810
day on which the proceeds of the foreclosure sale are paid to 1811
the certificate holder; 1812

(d) Interest on the amounts paid by the certificate holder 1813
under divisions (B) (2) and (3) of section 5721.37 of the Revised 1814
Code at the rate of eighteen per cent per year beginning on the 1815
day on which the payment was submitted by the certificate holder 1816
under divisions (B) (2) and (3) of that section and ending on the 1817
day immediately preceding the day on which the proceeds of the 1818
foreclosure sale are paid to the certificate holder pursuant to 1819
this section, except that such interest shall not accrue for 1820
more than three years if the certificate was sold under section 1821
5721.32 of the Revised Code, or under section 5721.42 of the 1822
Revised Code by the holder of a certificate issued under section 1823
5721.32 of the Revised Code, or more than six years if the 1824
certificate was sold under section 5721.33 of the Revised Code, 1825
or under section 5721.42 of the Revised Code by the holder of a 1826
certificate issued under section 5721.33 of the Revised Code, 1827
after the day the amounts were paid by the certificate holder 1828
under divisions (B) (2) and (3) of section 5721.37 of the Revised 1829
Code; 1830

(e) The amounts paid by the certificate holder under 1831
divisions (B) (1), (2), and (3) of section 5721.37 of the Revised 1832
Code. 1833

(3) Following the payment required by division (D) (2) of 1834
this section, any amount due for taxes, installments of 1835
assessments, charges, penalties, and interest not covered by the 1836

tax certificate holder's payment under division (B) (2) of 1837
section 5721.37 of the Revised Code shall be paid, including all 1838
taxes, installments of assessments, charges, penalties, and 1839
interest payable subsequent to the entry of the finding and 1840
prior to the transfer of the deed of the parcel to the purchaser 1841
following confirmation of sale. If the proceeds available for 1842
distribution pursuant to this division are insufficient to pay 1843
the entire amount of those taxes, installments of assessments, 1844
charges, penalties, and interest, the proceeds shall be paid to 1845
each claimant in proportion to the amount of those taxes, 1846
installments of assessments, charges, penalties, and interest 1847
that each is due, and those taxes, installments of assessments, 1848
charges, penalties, and interest are deemed satisfied and shall 1849
be removed from the tax list and duplicate. 1850

(4) Any residue of money from proceeds of the sale shall 1851
be disposed of as prescribed by section 5721.20 of the Revised 1852
Code. 1853

(E) Unless the parcel previously was redeemed pursuant to 1854
section 5721.25 or 5721.38 of the Revised Code, upon the filing 1855
of the entry of confirmation of sale, or an order to transfer 1856
the parcel under sections 323.65 to 323.79 of the Revised Code, 1857
the title to the parcel is incontestable in the purchaser and is 1858
free and clear of all liens and encumbrances, except a federal 1859
tax lien, notice of which lien is properly filed in accordance 1860
with section 317.09 of the Revised Code prior to the date that a 1861
foreclosure proceeding is instituted pursuant to section 5721.37 1862
of the Revised Code, and which lien was foreclosed in accordance 1863
with 28 U.S.C.A. 2410(c), and except for the easements and 1864
covenants of record running with the land or lots that were 1865
created prior to the time the taxes or installments of 1866
assessments, for the nonpayment of which a tax certificate was 1867

issued and the parcel sold at foreclosure, became due and 1868
payable. 1869

The title shall not be invalid because of any 1870
irregularity, informality, or omission of any proceedings under 1871
this chapter or in any processes of taxation, if such 1872
irregularity, informality, or omission does not abrogate the 1873
provision for notice to holders of title, lien, or mortgage to, 1874
or other interests in, such foreclosed parcels, as prescribed in 1875
this chapter. 1876

Section 2. That existing sections 301.28, 323.47, 1303.38, 1877
2303.26, 2327.01, 2327.02, 2327.04, 2329.01, 2329.151, 2329.17, 1878
2329.18, 2329.19, 2329.20, 2329.21, 2329.26, 2329.271, 2329.28, 1879
2329.30, 2329.31, 2329.33, 2329.34, 2329.39, 2329.45, 2329.52, 1880
2329.56, 2909.07, 5302.01, 5721.371, and 5721.39 of the Revised 1881
Code are hereby repealed. 1882

Section 3. (A) The provisions of the Revised Code, 1883
including Title XXIII, relating to the judicial sale of real 1884
estate pursuant to a mortgage loan foreclosure action comprise a 1885
comprehensive regulatory framework intended to operate uniformly 1886
throughout the state to provide efficient sales procedures for 1887
foreclosed property, improve the market for such property by 1888
increasing sale prices, and reduce the number of unoccupied and 1889
abandoned properties marring the cities of this state. This 1890
provision does not preempt vacant foreclosed property 1891
registration ordinances enacted by political subdivisions 1892
pursuant to their police powers. 1893

(B) (1) A person whose conduct is governed by this act 1894
shall comply in good faith with the requirements of this act and 1895
shall act in good faith throughout the foreclosure process. 1896
"Good faith" means honesty in fact and the observance of 1897

reasonable commercial standards of fair dealing. 1898

(2) A judgment creditor in connection with a real property 1899
foreclosure action shall proceed in a commercially reasonable 1900
manner in complying with this act. 1901

(C) The Ohio Supreme Court case of *Bank of America v.* 1902
Kuchta, 2014-Ohio-2475, shall not apply to foreclosure actions 1903
conducted pursuant to section 2308.02 of the Revised Code 1904
pursuant to a Civil Rule 60(B)(1) motion. 1905

Section 4. (A) The winning bidder pursuant to division (A) 1906
of section 2329.153 of the Revised Code shall work with sheriffs 1907
and other groups to address issues regarding the official public 1908
sheriff sale web site, including potential cost and recoupment, 1909
details of the implementation of the online system, and other 1910
unresolved concerns. 1911

(B) A sheriff may conduct a dual real property foreclosure 1912
sale on the official public sheriff sale web site and at a 1913
physical location considered appropriate by the sheriff. 1914