

As Introduced

132nd General Assembly

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H. B. No. 669

Representatives Hughes, Miller

A BILL

To amend section 3767.41 of the Revised Code to add 1
the accumulation of garbage and debris to the 2
conditions that may constitute a public 3
nuisance. 4

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

Section 1. That section 3767.41 of the Revised Code be 5
amended to read as follows: 6

Sec. 3767.41. (A) As used in this section: 7

(1) "Building" means, except as otherwise provided in this 8
division, any building or structure that is used or intended to 9
be used for residential purposes. "Building" includes, but is 10
not limited to, a building or structure in which any floor is 11
used for retail stores, shops, salesrooms, markets, or similar 12
commercial uses, or for offices, banks, civic administration 13
activities, professional services, or similar business or civic 14
uses, and in which the other floors are used, or designed and 15
intended to be used, for residential purposes. "Building" does 16
not include any building or structure that is occupied by its 17
owner and that contains three or fewer residential units. 18

(2) (a) "Public nuisance" means a building that is a menace 19

to the public health, welfare, or safety; that is structurally 20
unsafe, unsanitary, or not provided with adequate safe egress; 21
that constitutes a fire hazard, is otherwise dangerous to human 22
life, or is otherwise no longer fit and habitable; or that, in 23
relation to its existing use, constitutes a hazard to the public 24
health, welfare, or safety by reason of inadequate maintenance, 25
dilapidation, obsolescence, accumulation of garbage or debris 26
either inside the building or in the yard adjacent to the 27
building, or abandonment. 28

(b) "Public nuisance" as it applies to subsidized housing 29
means subsidized housing that fails to meet the following 30
standards as specified in the federal rules governing each 31
standard: 32

(i) Each building on the site is structurally sound, 33
secure, habitable, and in good repair, as defined in 24 C.F.R. 34
5.703(b); 35

(ii) Each building's domestic water, electrical system, 36
elevators, emergency power, fire protection, HVAC, and sanitary 37
system is free of health and safety hazards, functionally 38
adequate, operable, and in good repair, as defined in 24 C.F.R. 39
5.703(c); 40

(iii) Each dwelling unit within the building is 41
structurally sound, habitable, and in good repair, and all areas 42
and aspects of the dwelling unit are free of health and safety 43
hazards, functionally adequate, operable, and in good repair, as 44
defined in 24 C.F.R. 5.703(d) (1); 45

(iv) Where applicable, the dwelling unit has hot and cold 46
running water, including an adequate source of potable water, as 47
defined in 24 C.F.R. 5.703(d) (2); 48

(v) If the dwelling unit includes its own sanitary facility, it is in proper operating condition, usable in privacy, and adequate for personal hygiene, and the disposal of human waste, as defined in 24 C.F.R. 5.703(d) (3);

(vi) The common areas are structurally sound, secure, and functionally adequate for the purposes intended. The basement, garage, carport, restrooms, closets, utility, mechanical, community rooms, daycare, halls, corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas are free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, smoke detectors, stairs, walls, and windows, to the extent applicable, are free of health and safety hazards, operable, and in good repair, as defined in 24 C.F.R. 5.703(e);

(vii) All areas and components of the housing are free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint, as defined in 24 C.F.R. 5.703(f).

(3) "Abate" or "abatement" in connection with any building means the removal or correction of any conditions that constitute a public nuisance and the making of any other improvements that are needed to effect a rehabilitation of the building that is consistent with maintaining safe and habitable conditions over its remaining useful life. "Abatement" does not include the closing or boarding up of any building that is found to be a public nuisance.

(4) "Interested party" means any owner, mortgagee,

lienholder, tenant, or person that possesses an interest of 79
record in any property that becomes subject to the jurisdiction 80
of a court pursuant to this section, and any applicant for the 81
appointment of a receiver pursuant to this section. 82

(5) "Neighbor" means any owner of property, including, but 83
not limited to, any person who is purchasing property by land 84
installment contract or under a duly executed purchase contract, 85
that is located within five hundred feet of any property that 86
becomes subject to the jurisdiction of a court pursuant to this 87
section, and any occupant of a building that is so located. 88

(6) "Tenant" has the same meaning as in section 5321.01 of 89
the Revised Code. 90

(7) "Subsidized housing" means a property consisting of 91
more than four dwelling units that, in whole or in part, 92
receives project-based assistance pursuant to a contract under 93
any of the following federal housing programs: 94

(a) The new construction or substantial rehabilitation 95
program under section 8(b)(2) of the "United States Housing Act 96
of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(b) 97
(2) as that program was in effect immediately before the first 98
day of October, 1983; 99

(b) The moderate rehabilitation program under section 8(e) 100
(2) of the "United States Housing Act of 1937," Pub. L. No. 75- 101
412, 50 Stat. 888, 42 U.S.C. 1437f(e)(2); 102

(c) The loan management assistance program under section 8 103
of the "United States Housing Act of 1937," Pub. L. No. 75-412, 104
50 Stat. 888, 42 U.S.C. 1437f; 105

(d) The rent supplement program under section 101 of the 106
"Housing and Urban Development Act of 1965," Pub. L. No. 89-174, 107

79 Stat. 667, 12 U.S.C. 1701s;	108
(e) Section 8 of the "United States Housing Act of 1937,"	109
Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f, following	110
conversion from assistance under section 101 of the "Housing and	111
Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat.	112
667, 12 U.S.C. 1701s;	113
(f) The program of supportive housing for the elderly	114
under section 202 of the "Housing Act of 1959," Pub. L. No. 86-	115
372, 73 Stat. 654, 12 U.S.C. 1701q;	116
(g) The program of supportive housing for persons with	117
disabilities under section 811 of the "National Affordable	118
Housing Act of 1990," Pub. L. No. 101-625, 104 Stat. 4313, 42	119
U.S.C. 8013;	120
(h) The rental assistance program under section 521 of the	121
"United States Housing Act of 1949," Pub. L. No. 90-448, 82	122
Stat. 551, as amended by Pub. L. No. 93-383, 88 Stat. 696, 42	123
U.S.C. 1490a.	124
(8) "Project-based assistance" means the assistance is	125
attached to the property and provides rental assistance only on	126
behalf of tenants who reside in that property.	127
(9) "Landlord" has the same meaning as in section 5321.01	128
of the Revised Code.	129
(B) (1) (a) In any civil action to enforce any local	130
building, housing, air pollution, sanitation, health, fire,	131
zoning, or safety code, ordinance, resolution, or regulation	132
applicable to buildings, that is commenced in a court of common	133
pleas, municipal court, housing or environmental division of a	134
municipal court, or county court, or in any civil action for	135
abatement commenced in a court of common pleas, municipal court,	136

housing or environmental division of a municipal court, or 137
county court, by a municipal corporation or township in which 138
the building involved is located, by any neighbor, tenant, or by 139
a nonprofit corporation that is duly organized and has as one of 140
its goals the improvement of housing conditions in the county or 141
municipal corporation in which the building involved is located, 142
if a building is alleged to be a public nuisance, the municipal 143
corporation, township, neighbor, tenant, or nonprofit 144
corporation may apply in its complaint for an injunction or 145
other order as described in division (C) (1) of this section, or 146
for the relief described in division (C) (2) of this section, 147
including, if necessary, the appointment of a receiver as 148
described in divisions (C) (2) and (3) of this section, or for 149
both such an injunction or other order and such relief. The 150
municipal corporation, township, neighbor, tenant, or nonprofit 151
corporation commencing the action is not liable for the costs, 152
expenses, and fees of any receiver appointed pursuant to 153
divisions (C) (2) and (3) of this section. 154

(b) Prior to commencing a civil action for abatement when 155
the property alleged to be a public nuisance is subsidized 156
housing, the municipal corporation, township, neighbor, tenant, 157
or nonprofit corporation commencing the action shall provide the 158
landlord of that property with written notice that specifies one 159
or more defective conditions that constitute a public nuisance 160
as that term applies to subsidized housing and states that if 161
the landlord fails to remedy the condition within sixty days of 162
the service of the notice, a claim pursuant to this section may 163
be brought on the basis that the property constitutes a public 164
nuisance in subsidized housing. Any party authorized to bring an 165
action against the landlord shall make reasonable attempts to 166
serve the notice in the manner prescribed in the Rules of Civil 167

Procedure to the landlord or the landlord's agent for the 168
property at the property's management office, or at the place 169
where the tenants normally pay or send rent. If the landlord is 170
not the owner of record, the party bringing the action shall 171
make a reasonable attempt to serve the owner. If the owner does 172
not receive service the person bringing the action shall certify 173
the attempts to serve the owner. 174

(c) Prior to commencing a civil action for abatement in 175
nonsubsidized housing, where the property is alleged to be a 176
public nuisance due to the accumulation of garbage or debris, 177
the accumulation must exist for at least thirty days after the 178
first code enforcement action targeted to the garbage and 179
debris. 180

(2) (a) In a civil action described in division (B) (1) of 181
this section, a copy of the complaint and a notice of the date 182
and time of a hearing on the complaint shall be served upon the 183
owner of the building and all other interested parties in 184
accordance with the Rules of Civil Procedure. If certified mail 185
service, personal service, or residence service of the complaint 186
and notice is refused or certified mail service of the complaint 187
and notice is not claimed, and if the municipal corporation, 188
township, neighbor, tenant, or nonprofit corporation commencing 189
the action makes a written request for ordinary mail service of 190
the complaint and notice, or uses publication service, in 191
accordance with the Rules of Civil Procedure, then a copy of the 192
complaint and notice shall be posted in a conspicuous place on 193
the building. 194

(b) The judge in a civil action described in division (B) 195
(1) of this section shall conduct a hearing at least twenty- 196
eight days after the owner of the building and the other 197

interested parties have been served with a copy of the complaint 198
and the notice of the date and time of the hearing in accordance 199
with division (B) (2) (a) of this section. 200

(c) In considering whether subsidized housing is a public 201
nuisance, the judge shall construe the standards set forth in 202
division (A) (2) (b) of this section in a manner consistent with 203
department of housing and urban development and judicial 204
interpretations of those standards. The judge shall deem that 205
the property is not a public nuisance if during the twelve 206
months prior to the service of the notice that division (B) (1) 207
(b) of this section requires, the department of housing and 208
urban development's real estate assessment center issued a score 209
of seventy-five or higher out of a possible one hundred points 210
pursuant to its regulations governing the physical condition of 211
multifamily properties pursuant to 24 C.F.R. part 200, subpart 212
P, and since the most recent inspection, there has been no 213
significant change in the property's conditions that would 214
create a serious threat to the health, safety, or welfare of the 215
property's tenants. 216

(C) (1) If the judge in a civil action described in 217
division (B) (1) of this section finds at the hearing required by 218
division (B) (2) of this section that the building involved is a 219
public nuisance, if the judge additionally determines that the 220
owner of the building previously has not been afforded a 221
reasonable opportunity to abate the public nuisance or has been 222
afforded such an opportunity and has not refused or failed to 223
abate the public nuisance, and if the complaint of the municipal 224
corporation, township, neighbor, tenant, or nonprofit 225
corporation commencing the action requested the issuance of an 226
injunction as described in this division, then the judge may 227
issue an injunction requiring the owner of the building to abate 228

the public nuisance or issue any other order that the judge 229
considers necessary or appropriate to cause the abatement of the 230
public nuisance. If an injunction is issued pursuant to this 231
division, the owner of the building involved shall be given no 232
more than thirty days from the date of the entry of the judge's 233
order to comply with the injunction, unless the judge, for good 234
cause shown, extends the time for compliance. 235

(2) If the judge in a civil action described in division 236
(B) (1) of this section finds at the hearing required by division 237
(B) (2) of this section that the building involved is a public 238
nuisance, if the judge additionally determines that the owner of 239
the building previously has been afforded a reasonable 240
opportunity to abate the public nuisance and has refused or 241
failed to do so, and if the complaint of the municipal 242
corporation, township, neighbor, tenant, or nonprofit 243
corporation commencing the action requested relief as described 244
in this division, then the judge shall offer any mortgagee, 245
lienholder, or other interested party associated with the 246
property on which the building is located, in the order of the 247
priority of interest in title, the opportunity to undertake the 248
work and to furnish the materials necessary to abate the public 249
nuisance. Prior to selecting any interested party, the judge 250
shall require the interested party to demonstrate the ability to 251
promptly undertake the work and furnish the materials required, 252
to provide the judge with a viable financial and construction 253
plan for the rehabilitation of the building as described in 254
division (D) of this section, and to post security for the 255
performance of the work and the furnishing of the materials. 256

If the judge determines, at the hearing, that no 257
interested party is willing or able to undertake the work and to 258
furnish the materials necessary to abate the public nuisance, or 259

if the judge determines, at any time after the hearing, that any party who is undertaking corrective work pursuant to this division cannot or will not proceed, or has not proceeded with due diligence, the judge may appoint a receiver pursuant to division (C) (3) of this section to take possession and control of the building.

(3) (a) The judge in a civil action described in division (B) (1) of this section shall not appoint any person as a receiver unless the person first has provided the judge with a viable financial and construction plan for the rehabilitation of the building involved as described in division (D) of this section and has demonstrated the capacity and expertise to perform the required work and to furnish the required materials in a satisfactory manner. An appointed receiver may be a financial institution that possesses an interest of record in the building or the property on which it is located, a nonprofit corporation as described in divisions (B) (1) and (C) (3) (b) of this section, including, but not limited to, a nonprofit corporation that commenced the action described in division (B) (1) of this section, or any other qualified property manager.

(b) To be eligible for appointment as a receiver, no part of the net earnings of a nonprofit corporation shall inure to the benefit of any private shareholder or individual. Membership on the board of trustees of a nonprofit corporation appointed as a receiver does not constitute the holding of a public office or employment within the meaning of sections 731.02 and 731.12 or any other section of the Revised Code and does not constitute a direct or indirect interest in a contract or expenditure of money by any municipal corporation. A member of a board of trustees of a nonprofit corporation appointed as a receiver shall not be disqualified from holding any public office or

employment, and shall not forfeit any public office or 291
employment, by reason of membership on the board of trustees, 292
notwithstanding any law to the contrary. 293

(D) Prior to ordering any work to be undertaken, or the 294
furnishing of any materials, to abate a public nuisance under 295
this section, the judge in a civil action described in division 296
(B) (1) of this section shall review the submitted financial and 297
construction plan for the rehabilitation of the building 298
involved and, if it specifies all of the following, shall 299
approve that plan: 300

(1) The estimated cost of the labor, materials, and any 301
other development costs that are required to abate the public 302
nuisance; 303

(2) The estimated income and expenses of the building and 304
the property on which it is located after the furnishing of the 305
materials and the completion of the repairs and improvements; 306

(3) The terms, conditions, and availability of any 307
financing that is necessary to perform the work and to furnish 308
the materials; 309

(4) If repair and rehabilitation of the building are found 310
not to be feasible, the cost of demolition of the building or of 311
the portions of the building that constitute the public 312
nuisance. 313

(E) Upon the written request of any of the interested 314
parties to have a building, or portions of a building, that 315
constitute a public nuisance demolished because repair and 316
rehabilitation of the building are found not to be feasible, the 317
judge may order the demolition. However, the demolition shall 318
not be ordered unless the requesting interested parties have 319

paid the costs of demolition and, if any, of the receivership, 320
and, if any, all notes, certificates, mortgages, and fees of the 321
receivership. 322

(F) Before proceeding with the duties of receiver, any 323
receiver appointed by the judge in a civil action described in 324
division (B) (1) of this section may be required by the judge to 325
post a bond in an amount fixed by the judge, but not exceeding 326
the value of the building involved as determined by the judge. 327

The judge may empower the receiver to do any or all of the 328
following: 329

(1) Take possession and control of the building and the 330
property on which it is located, operate and manage the building 331
and the property, establish and collect rents and income, lease 332
and rent the building and the property, and evict tenants; 333

(2) Pay all expenses of operating and conserving the 334
building and the property, including, but not limited to, the 335
cost of electricity, gas, water, sewerage, heating fuel, repairs 336
and supplies, custodian services, taxes and assessments, and 337
insurance premiums, and hire and pay reasonable compensation to 338
a managing agent; 339

(3) Pay pre-receivership mortgages or installments of them 340
and other liens; 341

(4) Perform or enter into contracts for the performance of 342
all work and the furnishing of materials necessary to abate, and 343
obtain financing for the abatement of, the public nuisance; 344

(5) Pursuant to court order, remove and dispose of any 345
personal property abandoned, stored, or otherwise located in or 346
on the building and the property that creates a dangerous or 347
unsafe condition or that constitutes a violation of any local 348

building, housing, air pollution, sanitation, health, fire,	349
zoning, or safety code, ordinance, or regulation;	350
(6) Obtain mortgage insurance for any receiver's mortgage	351
from any agency of the federal government;	352
(7) Enter into any agreement and do those things necessary	353
to maintain and preserve the building and the property and	354
comply with all local building, housing, air pollution,	355
sanitation, health, fire, zoning, or safety codes, ordinances,	356
resolutions, and regulations;	357
(8) Give the custody of the building and the property, and	358
the opportunity to abate the nuisance and operate the property,	359
to its owner or any mortgagee or lienholder of record;	360
(9) Issue notes and secure them by a mortgage bearing	361
interest, and upon terms and conditions, that the judge	362
approves. When sold or transferred by the receiver in return for	363
valuable consideration in money, material, labor, or services,	364
the notes or certificates shall be freely transferable. Any	365
mortgages granted by the receiver shall be superior to any	366
claims of the receiver. Priority among the receiver's mortgages	367
shall be determined by the order in which they are recorded.	368
(G) A receiver appointed pursuant to this section is not	369
personally liable except for misfeasance, malfeasance, or	370
nonfeasance in the performance of the functions of the office of	371
receiver.	372
(H) (1) The judge in a civil action described in division	373
(B) (1) of this section may assess as court costs, the expenses	374
described in division (F) (2) of this section, and may approve	375
receiver's fees to the extent that they are not covered by the	376
income from the property. Subject to that limitation, a receiver	377

appointed pursuant to divisions (C) (2) and (3) of this section 378
is entitled to receive fees in the same manner and to the same 379
extent as receivers appointed in actions to foreclose mortgages. 380

(2) (a) Pursuant to the police powers vested in the state, 381
all expenditures of a mortgagee, lienholder, or other interested 382
party that has been selected pursuant to division (C) (2) of this 383
section to undertake the work and to furnish the materials 384
necessary to abate a public nuisance, and any expenditures in 385
connection with the foreclosure of the lien created by this 386
division, is a first lien upon the building involved and the 387
property on which it is located and is superior to all prior and 388
subsequent liens or other encumbrances associated with the 389
building or the property, including, but not limited to, those 390
for taxes and assessments, upon the occurrence of both of the 391
following: 392

(i) The prior approval of the expenditures by, and the 393
entry of a judgment to that effect by, the judge in the civil 394
action described in division (B) (1) of this section; 395

(ii) The recordation of a certified copy of the judgment 396
entry and a sufficient description of the property on which the 397
building is located with the county recorder in the county in 398
which the property is located within sixty days after the date 399
of the entry of the judgment. 400

(b) Pursuant to the police powers vested in the state, all 401
expenses and other amounts paid in accordance with division (F) 402
of this section by a receiver appointed pursuant to divisions 403
(C) (2) and (3) of this section, the amounts of any notes issued 404
by the receiver in accordance with division (F) of this section, 405
all mortgages granted by the receiver in accordance with that 406
division, the fees of the receiver approved pursuant to division 407

(H) (1) of this section, and any amounts expended in connection 408
with the foreclosure of a mortgage granted by the receiver in 409
accordance with division (F) of this section or with the 410
foreclosure of the lien created by this division, are a first 411
lien upon the building involved and the property on which it is 412
located and are superior to all prior and subsequent liens or 413
other encumbrances associated with the building or the property, 414
including, but not limited to, those for taxes and assessments, 415
upon the occurrence of both of the following: 416

(i) The approval of the expenses, amounts, or fees by, and 417
the entry of a judgment to that effect by, the judge in the 418
civil action described in division (B) (1) of this section; or 419
the approval of the mortgages in accordance with division (F) (9) 420
of this section by, and the entry of a judgment to that effect 421
by, that judge; 422

(ii) The recordation of a certified copy of the judgment 423
entry and a sufficient description of the property on which the 424
building is located, or, in the case of a mortgage, the 425
recordation of the mortgage, a certified copy of the judgment 426
entry, and such a description, with the county recorder of the 427
county in which the property is located within sixty days after 428
the date of the entry of the judgment. 429

(c) Priority among the liens described in divisions (H) (2) 430
(a) and (b) of this section shall be determined as described in 431
division (I) of this section. Additionally, the creation 432
pursuant to this section of a mortgage lien that is prior to or 433
superior to any mortgage of record at the time the mortgage lien 434
is so created, does not disqualify the mortgage of record as a 435
legal investment under Chapter 1107. or any other chapter of the 436
Revised Code. 437

(I) (1) If a receiver appointed pursuant to divisions (C) 438
(2) and (3) of this section files with the judge in the civil 439
action described in division (B) (1) of this section a report 440
indicating that the public nuisance has been abated, if the 441
judge confirms that the receiver has abated the public nuisance, 442
and if the receiver or any interested party requests the judge 443
to enter an order directing the receiver to sell the building 444
and the property on which it is located, the judge may enter 445
that order after holding a hearing as described in division (I) 446
(2) of this section and otherwise complying with that division. 447

(2) (a) The receiver or interested party requesting an 448
order as described in division (I) (1) of this section shall 449
cause a notice of the date and time of a hearing on the request 450
to be served on the owner of the building involved and all other 451
interested parties in accordance with division (B) (2) (a) of this 452
section. The judge in the civil action described in division (B) 453
(1) of this section shall conduct the scheduled hearing. At the 454
hearing, if the owner or any interested party objects to the 455
sale of the building and the property, the burden of proof shall 456
be upon the objecting person to establish, by a preponderance of 457
the evidence, that the benefits of not selling the building and 458
the property outweigh the benefits of selling them. If the judge 459
determines that there is no objecting person, or if the judge 460
determines that there is one or more objecting persons but no 461
objecting person has sustained the burden of proof specified in 462
this division, the judge may enter an order directing the 463
receiver to offer the building and the property for sale upon 464
terms and conditions that the judge shall specify. 465

(b) In any sale of subsidized housing that is ordered 466
pursuant to this section, the judge shall specify that the 467
subsidized housing not be conveyed unless that conveyance 468

complies with applicable federal law and applicable program 469
contracts for that housing. Any such conveyance shall be subject 470
to the condition that the purchaser enter into a contract with 471
the department of housing and urban development or the rural 472
housing service of the federal department of agriculture under 473
which the property continues to be subsidized housing and the 474
owner continues to operate that property as subsidized housing 475
unless the secretary of housing and urban development or the 476
administrator of the rural housing service terminates that 477
property's contract prior to or upon the conveyance of the 478
property. 479

(3) If a sale of a building and the property on which it 480
is located is ordered pursuant to divisions (I)(1) and (2) of 481
this section and if the sale occurs in accordance with the terms 482
and conditions specified by the judge in the judge's order of 483
sale, then the receiver shall distribute the proceeds of the 484
sale and the balance of any funds that the receiver may possess, 485
after the payment of the costs of the sale, in the following 486
order of priority and in the described manner: 487

(a) First, in satisfaction of any notes issued by the 488
receiver pursuant to division (F) of this section, in their 489
order of priority; 490

(b) Second, any unreimbursed expenses and other amounts 491
paid in accordance with division (F) of this section by the 492
receiver, and the fees of the receiver approved pursuant to 493
division (H)(1) of this section; 494

(c) Third, all expenditures of a mortgagee, lienholder, or 495
other interested party that has been selected pursuant to 496
division (C)(2) of this section to undertake the work and to 497
furnish the materials necessary to abate a public nuisance, 498

provided that the expenditures were approved as described in 499
division (H) (2) (a) of this section and provided that, if any 500
such interested party subsequently became the receiver, its 501
expenditures shall be paid prior to the expenditures of any of 502
the other interested parties so selected; 503

(d) Fourth, the amount due for delinquent taxes, 504
assessments, charges, penalties, and interest owed to this state 505
or a political subdivision of this state, provided that, if the 506
amount available for distribution pursuant to division (I) (3) (d) 507
of this section is insufficient to pay the entire amount of 508
those taxes, assessments, charges, penalties, and interest, the 509
proceeds and remaining funds shall be paid to each claimant in 510
proportion to the amount of those taxes, assessments, charges, 511
penalties, and interest that each is due. 512

(e) The amount of any pre-receivership mortgages, liens, 513
or other encumbrances, in their order of priority. 514

(4) Following a distribution in accordance with division 515
(I) (3) of this section, the receiver shall request the judge in 516
the civil action described in division (B) (1) of this section to 517
enter an order terminating the receivership. If the judge 518
determines that the sale of the building and the property on 519
which it is located occurred in accordance with the terms and 520
conditions specified by the judge in the judge's order of sale 521
under division (I) (2) of this section and that the receiver 522
distributed the proceeds of the sale and the balance of any 523
funds that the receiver possessed, after the payment of the 524
costs of the sale, in accordance with division (I) (3) of this 525
section, and if the judge approves any final accounting required 526
of the receiver, the judge may terminate the receivership. 527

(J) (1) A receiver appointed pursuant to divisions (C) (2) 528

and (3) of this section may be discharged at any time in the 529
discretion of the judge in the civil action described in 530
division (B) (1) of this section. The receiver shall be 531
discharged by the judge as provided in division (I) (4) of this 532
section, or when all of the following have occurred: 533

(a) The public nuisance has been abated; 534

(b) All costs, expenses, and approved fees of the 535
receivership have been paid; 536

(c) Either all receiver's notes issued and mortgages 537
granted pursuant to this section have been paid, or all the 538
holders of the notes and mortgages request that the receiver be 539
discharged. 540

(2) If a judge in a civil action described in division (B) 541
(1) of this section determines that, and enters of record a 542
declaration that, a public nuisance has been abated by a 543
receiver, and if, within three days after the entry of the 544
declaration, all costs, expenses, and approved fees of the 545
receivership have not been paid in full, then, in addition to 546
the circumstances specified in division (I) of this section for 547
the entry of such an order, the judge may enter an order 548
directing the receiver to sell the building involved and the 549
property on which it is located. Any such order shall be 550
entered, and the sale shall occur, only in compliance with 551
division (I) of this section. 552

(K) The title in any building, and in the property on 553
which it is located, that is sold at a sale ordered under 554
division (I) or (J) (2) of this section shall be incontestable in 555
the purchaser and shall be free and clear of all liens for 556
delinquent taxes, assessments, charges, penalties, and interest 557

owed to this state or any political subdivision of this state, 558
that could not be satisfied from the proceeds of the sale and 559
the remaining funds in the receiver's possession pursuant to the 560
distribution under division (I) (3) of this section. All other 561
liens and encumbrances with respect to the building and the 562
property shall survive the sale, including, but not limited to, 563
a federal tax lien notice properly filed in accordance with 564
section 317.09 of the Revised Code prior to the time of the 565
sale, and the easements and covenants of record running with the 566
property that were created prior to the time of the sale. 567

(L) (1) Nothing in this section shall be construed as a 568
limitation upon the powers granted to a court of common pleas, a 569
municipal court or a housing or environmental division of a 570
municipal court under Chapter 1901. of the Revised Code, or a 571
county court under Chapter 1907. of the Revised Code. 572

(2) The monetary and other limitations specified in 573
Chapters 1901. and 1907. of the Revised Code upon the 574
jurisdiction of municipal and county courts, and of housing or 575
environmental divisions of municipal courts, in civil actions do 576
not operate as limitations upon any of the following: 577

(a) Expenditures of a mortgagee, lienholder, or other 578
interested party that has been selected pursuant to division (C) 579
(2) of this section to undertake the work and to furnish the 580
materials necessary to abate a public nuisance; 581

(b) Any notes issued by a receiver pursuant to division 582
(F) of this section; 583

(c) Any mortgage granted by a receiver in accordance with 584
division (F) of this section; 585

(d) Expenditures in connection with the foreclosure of a 586

mortgage granted by a receiver in accordance with division (F)	587
of this section;	588
(e) The enforcement of an order of a judge entered	589
pursuant to this section;	590
(f) The actions that may be taken pursuant to this section	591
by a receiver or a mortgagee, lienholder, or other interested	592
party that has been selected pursuant to division (C) (2) of this	593
section to undertake the work and to furnish the materials	594
necessary to abate a public nuisance.	595
(3) A judge in a civil action described in division (B) (1)	596
of this section, or the judge's successor in office, has	597
continuing jurisdiction to review the condition of any building	598
that was determined to be a public nuisance pursuant to this	599
section.	600
(4) Nothing in this section shall be construed to limit or	601
prohibit a municipal corporation or township that has filed with	602
the superintendent of insurance a certified copy of an adopted	603
resolution, ordinance, or regulation authorizing the procedures	604
described in divisions (C) and (D) of section 3929.86 of the	605
Revised Code from receiving insurance proceeds under section	606
3929.86 of the Revised Code.	607
Section 2. That existing section 3767.41 of the Revised	608
Code is hereby repealed.	609