

I_135_2613-1

135th General Assembly
Regular Session
2023-2024

Sub. H. B. No. 632

A BILL

To amend sections 2329.01, 2329.151, 2329.152, 1
2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 2
2329.211, 2329.26, 2329.27, 2329.312, and 3
2329.52 of the Revised Code relating to real 4
property foreclosures. 5

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

Section 1. That sections 2329.01, 2329.151, 2329.152, 6
2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 2329.211, 2329.26, 7
2329.27, 2329.312, and 2329.52 of the Revised Code be amended to 8
read as follows: 9

Sec. 2329.01. (A) Lands and tenements, including vested 10
legal interests therein, permanent leasehold estates renewable 11
forever, and goods and chattels, not exempt by law, shall be 12
subject to the payment of debts, and liable to be taken on 13
execution and sold as provided in sections 2329.02 to 2329.61 of 14
the Revised Code. 15

(B) As used in sections 2329.02 to 2329.61 of the Revised 16
Code: 17



mpycxgqans4kzb4y5hwnki

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

(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.

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

(4) "Sale date" means the day on which an auction for real estate concludes.

(5) "Start date" means the first day an auction for real estate is open for bidding to the public.

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

(A) An officer of the court;

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

~~(C)~~ (1) For the public auction of lands, a private selling officer who is not affiliated with or employed by either of the following:

(a) A mortgagee or mortgage servicer;

(b) A subsidiary of a mortgagee or mortgage servicer.

(2) As used in division (C)(1) of this section,

"affiliated with" a mortgagee or mortgage servicer means a 45
person that, directly or indirectly, through one or more 46
intermediaries, controls, is controlled by, or is under common 47
control with, the specified mortgagee or mortgage servicer. 48

(3) Nothing in this section shall be construed to prohibit 49
a mortgagee or mortgage servicer from engaging in a regular 50
course of business with an independent private selling officer. 51

Sec. 2329.152. (A) In every action demanding the judicial 52
or execution sale of real estate in which the debtor has failed 53
to plead or otherwise defend as provided by the Rules of Civil 54
Procedure, the judgment creditor may elect that the real estate 55
be sold at a public auction by a private selling officer. If the 56
judgment creditor elects to have the real estate sold by the 57
private selling officer, the judgment creditor shall file with 58
the clerk of the court a praecipe directing the issuance of an 59
order of sale to the private selling officer. A judgment 60
creditor may specify multiple private selling officers in the 61
praecipe, any of which may conduct the sale. 62

In every other action demanding the judicial or execution 63
sale of real estate, the county sheriff shall sell the real 64
estate at a public auction, unless the judgment creditor files a 65
motion with the court for an order authorizing a specified 66
private selling officer to sell the real estate at a public 67
auction. If the court authorizes a private selling officer to 68
sell the real estate, the judgment creditor may seek to have the 69
property sold by the private selling officer authorized by the 70
court or by the county sheriff. If the judgment creditor elects 71
to have the property sold by the private selling officer 72
authorized by the court, the judgment creditor shall file with 73
the clerk of the court a praecipe requesting the issuance of an 74

order of ~~appraisal to the sheriff and an order of sale~~ to the 75
private selling officer authorized by the court. ~~Upon~~ 76

Upon the filing of ~~that the~~ praecipe, the clerk of the 77
court shall immediately issue ~~both of the following:~~ 78

~~(1) An order of appraisal to the sheriff, who shall obtain~~ 79
~~an appraisal of the real estate in conformity with sections~~ 80
~~2329.17 and 2329.18 of the Revised Code;~~ 81

~~(2) An~~ an order of sale to the private selling officer, 82
who, ~~after the return or determination of the appraisal,~~ shall 83
advertise and sell the real estate in conformity with applicable 84
provisions of sections 2329.01 to 2329.61 of the Revised Code_ 85
using the appraised value established under section 2329.17 of 86
the Revised Code. 87

Within ten days after the issuance of an order of sale to 88
a private selling officer, any lienholder who is a party to the 89
action may file a motion with the court objecting to the use of 90
the private selling officer. If such motion is filed within ten 91
days after the issuance of the order of sale and the court 92
determines there is good and reasonable cause, as defined in 93
this division, the court may order that the sale be reset, 94
republished, and conducted by the county sheriff. 95

As used in this division, "good and reasonable cause" 96
means that the lienholder is more likely to have its lien 97
satisfied, in whole or in part, if the sale is conducted by the 98
county sheriff. 99

(B) (1) As used in this division: 100

(a) "Business day" means a calendar day that is not a 101
Saturday or Sunday or a legal holiday as defined in section 1.14 102
of the Revised Code. 103

(b) "Remote bid" means a bid submitted in writing via 104
facsimile, electronic mail, or overnight delivery or courier. 105

(2) If the sale of the real estate is conducted at a 106
physical location and not online, then each judgment creditor 107
and lienholder who was a party to the action may submit a remote 108
bid to the sheriff or the private selling officer. Each sheriff 109
and private selling officer shall establish and maintain a 110
facsimile number or an electronic mail address for use by 111
judgment creditors and lienholders in submitting remote bids. 112
Each remote bid shall be of a fixed maximum amount and shall be 113
delivered to the sheriff or private selling officer on or before 114
four-thirty p.m. on the business day immediately preceding the 115
~~date of the sale~~ date. 116

(3) Before the sale, the sheriff or the private selling 117
officer shall confirm receipt of the remote bid by sending 118
notice of such receipt via facsimile or electronic mail to the 119
judgment creditor or lienholder who submitted the remote bid. 120
During the sale, the sheriff or the private selling officer 121
shall place the remote bid on behalf of the judgment creditor or 122
lienholder who submitted the remote bid. After the sale, the 123
sheriff or the private selling officer shall provide notice of 124
the results of the sale not later than the close of business on 125
the day of the sale to all judgment creditors and lienholders 126
who submitted remote bids. Such notice shall be sent via 127
facsimile or electronic mail to the judgment creditor or 128
lienholder or by posting the results of the sale on a public web 129
site. 130

(4) If a sheriff or private selling officer fails to place 131
a remote bid on behalf of a judgment creditor or lienholder to 132
the prejudice of the judgment creditor or lienholder, then, upon 133

the filing of a motion to vacate the sale within ten business 134
days after the sale date, the sale shall be vacated. 135

(C) (1) A judgment creditor that obtains a court order 136
authorizing a specified private selling officer to sell the real 137
estate at a public auction pursuant to division (A) of this 138
section may instruct the private selling officer to postpone the 139
sale of the real estate one or more times, provided, however 140
that all rescheduled sale dates shall be within one hundred 141
eighty days of the initial sale date. Upon receiving this 142
instruction, the private selling officer shall postpone the sale 143
of the real estate by announcing that the sale is postponed. If 144
the sale is at a physical location, this announcement shall be 145
made at the sale and shall include the date, time, and place of 146
the rescheduled sale of the real estate. If the sale is online, 147
this announcement shall be made on the auction web site and 148
shall include the date of the rescheduled sale of real estate. 149
Each such announcement shall be deemed to meet the notice 150
requirement in section 2329.26 of the Revised Code. 151

(2) If the judgment creditor does not wish to postpone the 152
sale of the real estate, the judgment creditor may instruct the 153
private selling officer to cancel the sale of the real estate. 154
Upon receiving this instruction, the private selling officer 155
shall cancel the sale of the real estate by announcing that the 156
sale is canceled. If the sale is at a physical location, this 157
announcement shall be made at the sale. If the sale is online, 158
this announcement shall be made on the auction web site and 159
shall remain posted there until at least the end of the ~~seven-~~ 160
~~calendar-day-three-calendar-day~~ bidding period described in 161
division (E) (1) (a) of this ~~section 2329.152 of the Revised Code.~~ 162

(3) If the sale of the real estate is postponed or 163

164 canceled as described in divisions (C) (1) and (2) of this
165 section, all bids made on the real estate prior to the
166 postponement or cancellation of the sale shall be void.

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

169 (a) ~~The~~ Except as otherwise provided in division (B) (5) of
170 section 2329.17 of the Revised Code, the cost of the appraisal
171 appraisals required by that section 2329.17 of the Revised Code
172 shall be taxed as costs in the case.

173 (b) The cost of the advertisement in a newspaper of
174 general circulation as required by section 2329.26 of the
175 Revised Code, not to exceed fifty dollars, shall be taxed as
176 costs in the case.

177 (c) The fee charged by the private selling officer and all
178 costs incurred by the private selling officer other than the
179 costs described in divisions (D) (1) (a) and (b) of this section
180 shall be taxed as costs in the case up to an amount equal to one
181 and one-half per cent of the sale price of the real estate. To
182 the extent the fees and costs described in division (D) (1) (c) of
183 this section exceed one and one-half per cent of the sale price
184 of the real estate, they shall not be included in the amount
185 necessary to redeem real estate under section 2329.33 of the
186 Revised Code or in the calculation of any deficiency judgment
187 under section 2329.08 of the Revised Code ~~but rather.~~ Rather,
188 the fees and costs shall be paid by the buyer of the property,
189 the judgment creditor, or from the judgment creditor's portion
190 of the proceeds of the sale in an amount not exceeding ten per
191 cent of the sale price of the real estate.

192 (2) The private selling officer shall file with the court

that issued the order of sale an itemized report of all 193
appraisal, publication, marketing, and other expenses of a sale 194
conducted under this section and all fees charged by the private 195
selling officer for marketing the real estate or conducting the 196
sale of the real estate, including the fee charged by the title 197
agent or title insurance company for administrative services, if 198
applicable, and title, escrow, and closing services. Each filing 199
of such itemized report shall be deemed to meet the writ of 200
execution requirement in section 2329.28 of the Revised Code. 201

(E) (1) The private selling officer who conducts a sale 202
under this section may do any of the following: 203

(a) Market the real estate and conduct the public auction 204
of the real estate online or at any physical location in the 205
county in which the real estate is situated. If the auction 206
occurs online, the auction shall be open for bidding for a 207
minimum of ~~seven~~three calendar days, counted by excluding the 208
day the auction is first open for bidding and, notwithstanding 209
section 1.14 of the Revised Code, including all subsequent days. 210
The online auction shall be conducted in a manner so that all 211
bids are publicly displayed upon entry by the bidder throughout 212
the bidding period described in division (E) (1) (a) of this 213
section. 214

(b) Hire a title insurance agent licensed under Chapter 215
3953. of the Revised Code or title insurance company authorized 216
to do business under that chapter to assist the private selling 217
officer in performing administrative services; 218

(c) Execute to the purchaser, or to the purchaser's legal 219
representatives, a deed of conveyance of the real estate sold; 220

(d) Record on behalf of the purchaser the deed conveying 221

title to the real estate sold, notwithstanding that the deed may 222
not actually have been delivered to the purchaser prior to its 223
recording. 224

(2) By placing a bid at a sale conducted pursuant to this 225
section, a purchaser appoints the private selling officer who 226
conducts the sale as agent of the purchaser for the sole purpose 227
of accepting delivery of the deed. 228

(3) The private selling officer who conducts the sale 229
shall hire a title insurance agent licensed under Chapter 3953. 230
of the Revised Code or title insurance company authorized to do 231
business under that chapter to perform title, escrow, and 232
closing services related to the sale of the real estate. 233

(F) The fee charged by the title agent or title insurance 234
company for services provided under divisions (E) (1) (b) and (3) 235
of this section shall be taxed as costs in the case provided 236
they are reasonable. Fees less than or equal to five hundred 237
dollars are presumed to be reasonable. Fees exceeding five 238
hundred dollars shall be paid only if authorized by a court 239
order. 240

Sec. 2329.153. (A) Not later than ninety days after ~~the~~ 241
~~effective date of this section~~ September 28, 2016, the 242
department of administrative services shall solicit competitive 243
sealed proposals for the creation, operation, and maintenance of 244
the official public sheriff sale web site and an integrated 245
auction management system. The official public sheriff sale web 246
site and integrated auction management system shall be a single 247
statewide system for use by all county sheriffs in accordance 248
with the requirements of this section. 249

(B) The official public sheriff sale web site shall meet 250

the following minimum requirements:	251
(1) The web site shall have a domain name relevant to the judicial sale of real property.	252 253
(2) The web site shall be limited to the judicial sale of real property located in this state.	254 255
(3) The web site shall not charge a fee for members of the public to view properties for sale.	256 257
(4) The web site shall allow each county sheriff to add text, images, or graphics to the web site for the purpose of identifying the county or sheriff conducting the sale.	258 259 260
(5) The web site shall include industry-standard features and functionality, including user guides, online financial transaction device payments, anti-snipe functionality, watch lists, electronic mail notifications, maximum bid limits, automatic incremental bidding, and search and map features that allow users to search by county, zip code, address, parcel number, appraised value, party name, case number, and other variables relevant to the judicial sale of real property. As used in this section, "financial transaction device" has the same meaning as in section 301.28 of the Revised Code.	261 262 263 264 265 266 267 268 269 270
(6) The web site shall include features that allow for the cancellation of sales as required by law or court order and the postponement of sales in accordance with divisions (E) (2) and (3) of this section.	271 272 273 274
(7) The web site shall provide a secure payment processing system that accepts online payments for property sold via the web site and, in an efficient and cost-effective manner, transfers those payments to the appropriate county official or account.	275 276 277 278 279

(8) The web site shall include the ability for an attorney	280
or law firm to enter a bid in a representative capacity.	281
(9) The web site shall be integrated with the auction	282
management system described in division (C) of this section.	283
(C) The auction management system shall meet the following	284
minimum requirements:	285
(1) The auction management system shall have a role-based	286
workflow engine to assist in conducting sales on the web site,	287
capturing data, complying with all relevant laws, and managing	288
administrative processes related to the judicial sale of real	289
property in a timely, secure, and accurate manner.	290
(2) The auction management system shall record the data	291
necessary to meet the reporting requirements of section 2329.312	292
of the Revised Code.	293
(3) The auction management system shall be able to	294
generate documents required by the court ordering the sale or	295
related to the judicial sale of real property.	296
(4) The auction management system shall be able to record	297
fees, costs, deposits, and other money items with the objective	298
of ensuring an accurate accounting of moneys received and	299
disbursed in each judicial sale of real property.	300
(5) The auction management system shall be integrated with	301
the web site described in division (B) of this section.	302
<u>(6) The auction management system shall conduct the sale</u>	303
<u>in a manner so that all bids are publicly displayed upon entry</u>	304
<u>by the bidder throughout the bidding period described in</u>	305
<u>division (E)(1) of this section.</u>	306
(D) The license fee for the creation, operation, and	307

maintenance of the official public sheriff sale web site and 308
integrated auction management system shall be determined using a 309
per-transaction license fee model or a per-use license fee 310
model. The addition of a property to the official public sheriff 311
sale web site or the auction management system shall each be 312
deemed a transaction for purposes of determining the license 313
fee. The license fee applicable to each judicial sale of real 314
property shall be taxed as costs in the case. No additional 315
license fees shall be assessed to the county sheriff. 316

(E) (1) Not later than one year after ~~the effective date of~~ 317
~~this section~~ September 28, 2016, in all cases in which the 318
sheriff is ordered to conduct a judicial sale of real property, 319
the following shall occur: 320

(a) For residential property, the sale may be conducted on 321
the official public sheriff sale web site for a five-year period 322
beginning on the date the online system is fully operational. 323
After this five-year period sales shall be conducted on the 324
official public sheriff sale web site. 325

(b) For commercial property, the sale may be conducted on 326
the official public sheriff sale web site. 327

All sales conducted on the official public sheriff sale 328
web site shall be open for bidding for at least ~~seven~~ three 329
days. 330

(2) If the sale of the real property is to be conducted on 331
the official public sheriff sale web site, the judgment creditor 332
may instruct the sheriff to postpone the sale of the real 333
property one time for up to one hundred eighty days after the 334
initial sale date. Upon receiving such instruction for 335
postponement, the sheriff shall postpone the sale of the 336

property by announcing on the official public sheriff sale web 337
site that the sale is postponed and giving notice of the 338
rescheduled sale date. This announcement shall be deemed to meet 339
the notice requirement of section 2329.26 of the Revised Code. 340

(3) If the judgment creditor does not wish to postpone the 341
sale of the real property, the judgment creditor may instruct 342
the sheriff to cancel the sale of the property. Upon receiving 343
this instruction, the sheriff shall cancel the sale of the 344
property by announcing on the official public sheriff sale web 345
site that the sale is canceled. This announcement shall remain 346
posted on the official public sheriff sale web site until at 347
least the end of the ~~seven-day~~ three-day bidding period 348
described in division (E) (1) of this section. 349

(4) If the sale of the real property is postponed or 350
canceled according to divisions (E) (2) and (3) of this section, 351
all bids made on the real property prior to the postponement or 352
cancellation of the sale shall be void. 353

(F) Pursuant to their authority in section 9.482 of the 354
Revised Code, counties may elect to enter into a shared services 355
agreement relating to the judicial sale of real property on the 356
official public sheriff sale web site. The shared services 357
agreement may seek to improve efficiency and reduce costs in the 358
judicial sale of real property by consolidating administrative 359
functions and processes. 360

Sec. 2329.17. (A) When execution is levied upon ~~lands and~~ 361
~~tenements~~ real property, the sheriff of the county where the 362
property taken in execution is situated shall ~~call an inquest of~~ 363
acquire appraisals from three disinterested freeholders, who are 364
residents of, and real property owners in, the county where the 365
~~lands~~ property taken in execution ~~are~~ is situated, who shall 366

appraise the property so levied upon, upon actual view. 367

(B) If the property to be appraised is residential real 368
property, all of the following apply: 369

(1) Each appraisal shall be exterior-only. 370

(2) Each appraisal shall be conducted by an individual who 371
is licensed under either Chapter 4735. or 4763. of the Revised 372
Code and is not the sheriff, the private selling officer, or a 373
person affiliated with the sheriff or private selling officer. 374

(3) The cost of the appraisals shall not exceed an amount 375
that the sheriff determines is reasonable and customary for such 376
services. 377

(4) (a) The individuals selected to conduct the appraisal 378
shall return to the sheriff an estimate of the value of the 379
property within fourteen calendar days after the clerk of court 380
issues the order of appraisal. 381

(b) If a private selling officer is responsible for the 382
sale of the property, the individuals selected by the sheriff 383
also shall deliver an electronic copy of the individual's 384
appraisal to the private selling officer, as directed by the 385
private selling officer, contemporaneously with the delivery of 386
the individual's appraisal to the sheriff. 387

(5) If the individuals selected by the sheriff under this 388
section do not deliver the appraisals within fourteen calendar 389
days after the clerk of court issues the order of appraisal, 390
then both of the following apply: 391

(a) The cost of the appraisals conducted by the 392
individuals shall not be paid to the individuals or taxed as 393
costs in the case. 394

(b) The appraised value of the property shall be the most 395
recent appraised value of the property as shown on the records 396
of the county auditor unless, for good cause shown, the court 397
authorizes a separate appraisal of the property. 398

~~(B) If the property to be appraised is residential~~ 399
~~property, the freeholders selected by the sheriff shall return~~ 400
~~to the sheriff an estimate of the value of the property in money~~ 401
~~within twenty one calendar days of the issuance of the order of~~ 402
~~appraisal by the clerk of the court.~~ 403

~~If the court has ordered or the clerk of the court has~~ 404
~~issued an order for a private selling officer to advertise and~~ 405
~~sell the appraised property, the freeholders selected by the~~ 406
~~sheriff shall also deliver a copy of their appraisal to the~~ 407
~~private selling officer contemporaneously with their delivery of~~ 408
~~their appraisal to the sheriff.~~ 409

~~(C) If the freeholders selected by the sheriff under~~ 410
~~division (B) of this section do not deliver their appraisal~~ 411
~~within twenty one calendar days of the issuance of the order of~~ 412
~~appraisal by the clerk of the court as required by division (B)~~ 413
~~of this section, then all of the following shall occur:~~ 414

~~(1) The cost of the appraisal by the freeholders shall not~~ 415
~~be payable to the freeholders or taxed as costs in the case.~~ 416

~~(2) The appraised value of the property shall be the most~~ 417
~~recent appraised value of the property as shown on the records~~ 418
~~of the county auditor, unless, for good cause shown, the court~~ 419
~~authorizes a separate appraisal of the property.~~ 420

~~(3) The advertisement and sale of the property shall~~ 421
~~proceed immediately in accordance with the order of~~ 422
~~advertisement and sale issued by the clerk of the court.~~ 423

~~If a separate appraisal of the property is obtained, the cost of the appraisal shall be included as an expense of the sale pursuant to division (D) of section 2329.152 of the Revised Code.~~ 424
425
426
427

~~(D)~~ (C) If the property to be appraised is commercial property, the freeholders selected by the sheriff shall return to the sheriff an estimate of the value of the property in money in accordance with the timing or other requirements, if any, that may be established for the sale. 428
429
430
431
432

~~(E)~~ (D) The advertisement and sale of real property described in this section shall proceed immediately in accordance with the order of advertisement and sale issued by the clerk of the court. 433
434
435
436

(E) The municipal corporation or township in which the real property is situated may inspect prior to the judicial sale any structures located on lands subject to a writ of execution such real property. 437
438
439
440

Sec. 2329.18. (A) If a court has ordered or the clerk of a court has issued an order for the sheriff to advertise and sell the real estate ~~for which the appraised value has been determined pursuant to section 2329.17 of the Revised Code,~~ the sheriff shall ~~deposit a copy of the appraisal with the clerk of the court from which the writ was issued, and~~ immediately advertise and sell ~~such the~~ real estate in conformity with sections 2329.01 to 2329.61 of the Revised Code. 441
442
443
444
445
446
447
448

(B) If the court has ordered or the clerk of the court has issued an order for a private selling officer to advertise and sell the real estate ~~for which the appraised value has been determined pursuant to section 2329.17 of the Revised Code,~~ the 449
450
451
452

private selling officer shall immediately advertise and sell the 453
real estate in conformity with sections 2329.01 to 2329.61 of 454
the Revised Code. 455

Sec. 2329.19. ~~Upon the determination of the appraised~~ 456
~~value pursuant to section 2329.17 of the Revised Code, if~~ If it 457
appears that two-thirds of the appraised value, as established 458
pursuant to section 2329.17 of the Revised Code, of the ~~lands~~ 459
~~and tenements~~ real property levied upon is sufficient to satisfy 460
the execution, with costs, the judgment on which the execution 461
issued shall not operate as a lien on the residue of the 462
debtor's estate to the prejudice of any other judgment creditor. 463

Sec. 2329.20. Except as otherwise provided in this section 464
or sections 2329.51 and 2329.52 of the Revised Code, no tract of 465
land shall be sold for less than two-thirds the amount of the 466
appraised value as ~~determined~~ established pursuant to section 467
2329.17 of the Revised Code. In all cases in which a junior 468
mortgage or other junior lien is sought to be enforced against 469
real estate by an order, judgment, or decree of court, subject 470
to a prior lien thereon, and such prior lien, and the claims or 471
obligations secured thereby, are unaffected by such order, 472
judgment, or decree, the court making such order, judgment, or 473
decree, may determine the minimum amount for which such real 474
estate may be sold. In such a case, the minimum amount shall be 475
not less than two-thirds of the difference between the appraised 476
value of the real estate as ~~determined~~ established in that 477
section, and the amount remaining unpaid on the claims or 478
obligations secured by such prior lien. 479

Sec. 2329.211. (A) (1) In every action demanding the 480
judicial or execution sale of residential property, if the 481
judgment creditor is the purchaser at the sale, the purchaser 482

shall not be required to make a sale deposit. All other 483
purchasers shall make a sale deposit as follows: 484

(a) If the appraised value of the residential property is 485
less than or equal to ten thousand dollars, the deposit shall be 486
two thousand dollars. 487

(b) If the appraised value of the residential property is 488
greater than ten thousand dollars but less than or equal to two 489
hundred thousand dollars, the deposit shall be five thousand 490
dollars. 491

(c) If the appraised value of the residential property is 492
greater than two hundred thousand dollars, the deposit shall be 493
ten thousand dollars. 494

(2) The timing of the deposit and other payment 495
requirements shall be established by the court or the person 496
conducting the sale and included in the advertisement of the 497
sale. If the purchaser fails to meet the timing or other 498
requirements of the deposit, the sale shall be invalid and the 499
residential property may be brought to sale on ~~the provisional-~~ 500
~~second sale~~ any subsequent start date, if any, described in 501
division (B) of section 2329.52 of the Revised Code, and 502
included in the notice required by division (A)(1)(a)(i) of 503
section 2329.26 of the Revised Code. 504

(3) If the sale is held online, the deposit may be made by 505
a financial transaction device as defined in section 301.28 of 506
the Revised Code. 507

(B) In every action demanding the judicial or execution 508
sale of commercial property, the purchaser at the sale shall 509
make a deposit pursuant to the requirements, if any, established 510
for the sale. 511

Sec. 2329.26. (A) Lands and tenements taken in execution 512
shall not be sold until all of the following occur: 513

(1) (a) Except as otherwise provided in division (A) (1) (b) 514
of this section, the judgment creditor who seeks the sale of the 515
lands and tenements or the judgment creditor's attorney does 516
both of the following: 517

(i) Causes a written notice to be served in accordance 518
with divisions (A) and (B) of Civil Rule 5 upon the judgment 519
debtor and upon each other party to the action in which the 520
judgment giving rise to the execution was rendered. Such notice 521
shall include the start date, time, and place of the sale if the 522
sale is to be held at a physical location or the start date and 523
web site address of the sale if the sale is to be held online. 524
Such notice shall also include ~~the provisional second sale~~ any 525
subsequent start date described in division (B) of section 526
2329.52 of the Revised Code, if applicable. 527

(ii) At least seven calendar days prior to the sale date 528
~~of the sale~~, files with the clerk of the court that rendered the 529
judgment giving rise to the execution a copy of the written 530
notice described in division (A) (1) (a) (i) of this section with 531
proof of service endorsed on the copy in the form described in 532
division (B) of Civil Rule 5. 533

(b) Service of the written notice described in division 534
(A) (1) (a) (i) of this section is not required to be made upon any 535
party who is in default for failure to appear in the action in 536
which the judgment giving rise to the execution was rendered. 537

(2) One of the following applies: 538

(a) The officer taking the lands and tenements gives 539
public notice once a week for at least three consecutive weeks 540

~~before the day of sale if the sale is to be held at a physical- 541
location or the start date of the sale if the sale is to be 542
conducted online~~date. The last date of publication shall be four 543
or more calendar days prior to the sale date. 544

~~Such~~ Except as otherwise provided in division (C) of this 545
section, the first such notice, occurring at least three weeks 546
before the sale date, shall be by advertisement in a newspaper 547
of general circulation in the county. The newspaper shall meet 548
the requirements of section 7.12 of the Revised Code. The court 549
ordering the sale may designate in the order of sale the 550
newspaper in which this public notice shall be published. 551

Subsequent notices required by division (A) (2) (a) of this 552
section shall be made on the web site of the officer conducting 553
the sale or a web site maintained by the officer for that 554
purpose. 555

The ~~notice~~ notices shall include all the following 556
information: 557

(i) The date, time, and place of the sale if the sale is 558
to be held at a physical location; 559

(ii) The start date, the minimum duration, and web site 560
address of the sale if the sale is to be held online; 561

(iii) The deposit required by section 2329.211 of the 562
Revised Code; 563

(iv) That the purchaser shall be responsible for those 564
costs, allowances, and taxes that the proceeds of the sale are 565
insufficient to cover; 566

(v) ~~The~~ Information meeting the requirements of division 567
(A) (2) (a) (i) or (ii) of this section, as applicable to where the 568

sale is to be held, for any subsequent provisional ~~second~~-sale 569
date described in division (B) of section 2329.52 of the Revised 570
Code, if applicable; provided, however, that no sale shall be 571
invalid, nor shall the court vacate any sale, if the notice 572
described in division (A) (1) (a) (i) of this section or the public 573
notice described in division (A) (2) of this section fails to 574
include the provisional sale date for a ~~second~~-subsequent sale 575
of the property and the property is sold on the initial sale 576
date. 577

(vi) The notices required by division (A) (2) of this 578
section need not include a description of the property in metes 579
and bounds. 580

(b) ~~If~~ Except as provided in division (B) of this section, 581
if a private selling officer has been ordered to sell the lands 582
and tenements, the private selling officer shall give the public 583
notice described in division (A) (2) (a) of this section ~~in the~~ 584
~~newspaper designated by the court. If the court has not~~ 585
~~designated a newspaper, the private selling officer shall give~~ 586
~~this public notice in the newspaper customarily used or~~ 587
~~designated by the county sheriff, except that the online notices~~ 588
required by that division shall be posted to the private selling 589
officer's web site, or a web site maintained by the private 590
selling officer for those purposes, rather than the sheriff's 591
web site, or a web site maintained by the sheriff for those 592
purposes. No sale that otherwise complies with division (A) (2) 593
of this section shall be invalid. 594

(B) Any officer taking lands and tenements in execution 595
that are advertised and offered for sale but unsold for want of 596
bidders may advertise any subsequent sale in any method the 597
officer finds suitable, which may include online advertisement 598

instead of print. Any such advertisement of a subsequent sale 599
shall be deemed to meet the notice requirement in division (A) 600
of this section. 601

(C)(1) A sheriff or private selling officer shall not 602
charge or include as an expense of the sale any amount for 603
publishing notice on the sheriff's or private selling officer's 604
web site or a web site maintained by the sheriff or private 605
selling officer for those purposes. 606

(2) A sheriff or private selling officer shall not include 607
as an expense of the sale more than fifty dollars to give public 608
notice of the sale in a newspaper of general circulation in the 609
county. 610

(3) If the court ordering the sale designates the 611
newspaper in which the public notice is to be published, and the 612
sheriff or private selling officer is unable to publish notice 613
in that newspaper for fifty dollars or less, then the sheriff or 614
private selling officer may publish notice in another newspaper 615
of general circulation in the county. 616

(4) If the sheriff or private selling officer, despite 617
reasonable efforts, is unable to find a newspaper of general 618
circulation in the county that will publish notice of the sale 619
for fifty dollars or less, subject to division (C)(1) of this 620
section, the sheriff or private selling officer may instead 621
publish notice of the sale on a sheriff's or private selling 622
officer's web site, or a web site maintained by the sheriff or 623
private selling officer for those purposes. 624

(D) The sheriff or private selling officer taking the 625
lands and tenements shall collect the purchaser's information 626
required by section 2329.271 of the Revised Code. 627

~~(C)-(E)~~ A sale of lands and tenements taken in execution 628
may be set aside in accordance with ~~division (A) or (B) of~~ 629
section 2329.27 of the Revised Code. 630

Sec. 2329.27. (A) ~~When the public notice required by~~ 631
~~division (A) (2) of section 2329.26 of the Revised Code is made~~ 632
~~in a newspaper published weekly, it is sufficient to insert it~~ 633
~~for three consecutive weeks. If both a daily and weekly edition~~ 634
~~of the paper are published and the circulation of the daily in~~ 635
~~the county exceeds that of the weekly in the county, or if the~~ 636
~~lands and tenements taken in execution are situated in a city,~~ 637
~~both a daily and weekly edition of the paper are published, and~~ 638
~~the circulation of the daily in that city exceeds the~~ 639
~~circulation of the weekly in that city, it is sufficient to~~ 640
~~publish the public notice in the daily once a week for three~~ 641
~~consecutive weeks before the day of sale, each insertion to be~~ 642
~~on the same day of the week. The expense of that publication in~~ 643
~~a daily shall not exceed the cost of publishing it in a weekly.~~ 644

~~(B) (1) Subject~~ Except as provided in division (B) of 645
section 2329.26 of the Revised Code and subject to divisions ~~(B)~~ 646
~~(2)-(B) and (3)-(C)~~ of this section, all sales of lands and 647
tenements taken in execution that are made without compliance 648
with the written notice requirements of division (A) (1) (a) of 649
section 2329.26 of the Revised Code, the public notice 650
requirements of division (A) (2) of that section, and the notice 651
requirements of section 2329.261 of the Revised Code, the 652
purchaser information requirements of section 2329.271 of the 653
Revised Code, ~~and division (A) of this section~~ shall be set 654
aside, on motion by any interested party, by the court to which 655
the execution is returnable. 656

~~(2)-(B)~~ Proof of service endorsed upon a copy of the 657

written notice required by division (A) (1) (a) of section 2329.26 658
of the Revised Code shall be conclusive evidence of the service 659
of the written notice in compliance with the requirements of 660
that division, unless a party files a motion to set aside the 661
sale of the lands and tenements pursuant to division ~~(B) (1)~~ (A) 662
of this section and establishes by a preponderance of the 663
evidence that the proof of service is fraudulent. 664

~~(3)~~ (C) If the court to which the execution is returnable 665
enters its order confirming the sale of the lands and tenements, 666
the order shall have both of the following effects: 667

~~(a)~~ (1) The order shall be deemed to constitute a judicial 668
finding as follows: 669

~~(i)~~ (a) That the sale of the lands and tenements complied 670
with the written notice requirements of division (A) (1) (a) of 671
section 2329.26 of the Revised Code and the public notice 672
requirements of division (A) (2) of that section, and section 673
2329.261 of the Revised Code, ~~and division (A) of this section,~~ 674
or that compliance of that nature did not occur but the failure 675
to give a written notice to a party entitled to notice under 676
division (A) (1) (a) of section 2329.26 of the Revised Code has 677
not prejudiced that party; 678

~~(ii)~~ (b) That all parties entitled to notice under 679
division (A) (1) (a) of section 2329.26 of the Revised Code 680
received adequate notice of the date, time, and place of the 681
sale of the lands and tenements; 682

~~(iii)~~ (c) That the purchaser has submitted the contact 683
information required by section 2329.271 of the Revised Code. 684

~~(b)~~ (2) The order bars the filing of any further motions 685
to set aside the sale of the lands and tenements. 686

Sec. 2329.312. (A) All levying officers appointed or 687
authorized by a court under this chapter to conduct the judicial 688
or execution sale of residential property consisting of one to 689
four single-family units shall submit quarterly reports to the 690
attorney general. The reports shall include data on each such 691
sale conducted by the officer, including data showing whether or 692
not the deadlines required under division (E) of section 693
~~2308.02, division (B) of section 2329.17,~~ and sections 2329.30 694
and 2329.31 of the Revised Code are met. 695

(B) The attorney general shall make the information 696
included in the reports described in division (A) of this 697
section publicly available. 698

Sec. 2329.52. (A) Except as otherwise provided in division 699
(B) of this section, when premises are ordered to be sold, if 700
said premises, or a part thereof, remain unsold for want of 701
bidders after having been once appraised, advertised, and 702
offered for sale, the court from which the order of sale issued 703
may, on motion of the plaintiff or defendant and from time to 704
time until said premises are disposed of, order a new 705
appraisement and sale or direct the amount for which said 706
premises, or a part thereof, may be sold. 707

The court may order that the premises be sold as follows: 708
One third cash in hand, one third in nine months from the day of 709
sale, and the remaining one third in eighteen months from the 710
day of sale, the deferred payments to draw interest at six per 711
cent and be secured by a mortgage on the premises. 712

(B) (1) When a residential property is ordered to be sold 713
pursuant to a residential mortgage loan foreclosure action, if 714
the property remains unsold after the first auction, then a 715
~~second~~ subsequent auction shall be held and the property shall 716

be sold to the highest bidder without regard to the minimum bid 717
requirement in section 2329.20 of the Revised Code, but subject 718
to section 2329.21 of the Revised Code relating to costs, 719
allowances, and real estate taxes, or disposed of in any other 720
manner pursuant to this chapter or any other provision of the 721
Revised Code. ~~This second~~ Any subsequent auction shall be held 722
not earlier than ~~seven~~ three days and not later than thirty days 723
after the ~~first~~ previous auction sale date. A ~~residential~~ 724
~~property that remains unsold after two auctions may be~~ 725
~~subsequently offered for sale without regard to the minimum bid~~ 726
~~requirement in section 2329.20 of the Revised Code, but subject~~ 727
~~to section 2329.21 of the Revised Code relating to costs,~~ 728
~~allowances, and real estate taxes, or disposed of in any other~~ 729
~~manner pursuant to this chapter or any other provision of the~~ 730
~~Revised Code.~~ 731

(2) For purposes of division (B)(1) of this section, the 732
first day an online auction is open for bidding shall be 733
considered the start date ~~of the auction.~~ 734

Section 2. That existing sections 2329.01, 2329.151, 735
2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 736
2329.211, 2329.26, 2329.27, 2329.312, and 2329.52 of the Revised 737
Code are hereby repealed. 738