

As Reported by the House Civil Justice Committee

135th General Assembly

Regular Session

2023-2024

Sub. S. B. No. 206

Senator Hackett

**Cosponsors: Senators Brenner, Antonio, Chavez, Cirino, Craig, DeMora,
Gavarone, Hicks-Hudson, Landis, O'Brien, Reineke, Rulli, Schaffer, Schuring,
Smith, Wilkin**

A BILL

To amend sections 155.34, 1311.04, 1311.71, 1
1311.72, 1311.73, 1311.75, 1311.76, 1311.77, 2
4561.01, 5301.25, 5322.03, 5322.06, 5721.06, 3
5721.32, 5721.33, 5721.35, and 5721.37 and to 4
enact sections 1311.721, 4561.26, and 4561.27 of 5
the Revised Code to establish a process by which 6
an abandoned or derelict aircraft may be sold, 7
to modify the law governing mechanics' liens, to 8
make changes to the law regarding self-service 9
storage facilities, to modify the rules 10
governing the priority of liens after a property 11
tax certificate sale, and to increase the term 12
of the standard oil and gas lease for state 13
land. 14

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

Section 1. That sections 155.34, 1311.04, 1311.71, 15
1311.72, 1311.73, 1311.75, 1311.76, 1311.77, 4561.01, 5301.25, 16
5322.03, 5322.06, 5721.06, 5721.32, 5721.33, 5721.35, and 17

5721.37 be amended and sections 1311.721, 4561.26, and 4561.27 18
of the Revised Code be enacted to read as follows: 19

Sec. 155.34. (A) Not later than one hundred twenty days 20
after ~~the effective date of this amendment~~ September 30, 2021, 21
the oil and gas land management commission shall adopt rules in 22
accordance with Chapter 119. of the Revised Code establishing 23
both of the following: 24

(1) A standard lease form that shall be used by a state 25
agency for leases entered into under this chapter ~~that~~, is 26
consistent with the practices of the oil and natural gas 27
industries, and that contains all of the following: 28

(a) A prohibition against the use of the surface of the 29
parcel of land for oil and gas development unless the state 30
agency, in its sole discretion, chooses to negotiate and execute 31
a written surface use agreement established under this section; 32

(b) A one-eighth gross landowner royalty; 33

(c) A primary term of ~~three~~ five years; 34

(d) An option for the lessee to extend the primary term of 35
the lease for an additional three years by tendering to the 36
state agency the same bonus paid when first entering into the 37
lease. 38

(2) Any other procedures necessary to implement sections 39
155.30 to 155.36 of the Revised Code. 40

(B) Not later than one hundred ~~and~~ twenty days after ~~the~~ 41
~~effective date of this amendment~~ September 30, 2021, the 42
commission shall establish a standard surface use agreement that 43
a state agency shall use to authorize the use of the surface of 44
a leased parcel of land. 45

(C) Section 121.95 of the Revised Code does not apply to 46
rules adopted under this section and the commission is not 47
subject to any requirements of that section. 48

Sec. 1311.04. (A) (1) Prior to the performance of any labor 49
or work or the furnishing of any materials for an improvement on 50
real property which may give rise to a mechanics' lien under 51
sections 1311.01 to 1311.22 of the Revised Code, the owner, part 52
owner, or lessee who contracts for the labor, work, or materials 53
shall record in the office of the county recorder for each 54
county in which the real property to be improved is located a 55
notice of commencement in substantially the form specified in 56
division (B) of this section. 57

(2) Only one notice of commencement is required to be 58
filed for a single improvement and if more than one notice of 59
commencement is filed for a single improvement, all notices 60
filed after the original notice shall be deemed to be amendments 61
to the original notice. If an owner, part owner, or lessee 62
contracts with additional original contractors, lenders, or 63
sureties not identified in the original notice of commencement 64
filed for the improvement, the owner, part owner, or lessee 65
shall amend the original notice of commencement to identify the 66
additional original contractors, lenders, and sureties. The date 67
of the filing of the amended notice is the date of the filing of 68
the original notice of commencement. 69

(B) The notice of commencement required under division (A) 70
of this section shall contain, in affidavit form, all of the 71
following information: 72

(1) The legal description of the real property on which 73
the improvement is to be made. For purposes of this division, a 74
description sufficient to describe the real property for the 75

purpose of conveyance, or contained in the instrument by which 76
the owner, part owner, or lessee took title, is a legal 77
description. 78

(2) A brief description of the improvement to be performed 79
on the property containing sufficient specificity to permit lien 80
claimants to identify the improvement; 81

(3) The name, address, and capacity of the owner, part 82
owner, or lessee of the real property contracting for the 83
improvement; 84

(4) The name and address of the fee owner of the real 85
property, if the person contracting for the improvement is a 86
land contract vendee or lessee; 87

(5) The name and address of the owner's, part owner's, or 88
lessee's designee, if any; 89

(6) The name and address of all original contractors, 90
except that if the notice of commencement is recorded for an 91
improvement involving a single- or double-family dwelling and if 92
more than one original contractor is involved, instead of 93
listing each original contractor, the owner shall state that 94
multiple original contractors are involved in the improvement; 95

(7) The date the owner, part owner, or lessee first 96
executed a contract with an original contractor for the 97
improvement; 98

(8) The name and address of all lending institutions which 99
provide financing for the improvements, if any; 100

(9) The name and address of all sureties on any bond which 101
guarantee payment of the original contractor's obligations under 102
the contract for the improvement, if any; 103

(10) The following statement:	104
"To Lien Claimants and Subsequent Purchasers:	105
Take notice that labor or work is about to begin on or	106
materials are about to be furnished for an improvement to the	107
real property described in this instrument. A person having a	108
mechanics' lien may preserve the lien by providing a notice of	109
furnishing to the above-named designee and the above-named	110
designee's original contractor, if any, and by timely recording	111
an affidavit pursuant to section 1311.06 of the Revised Code.	112
A copy of this notice may be obtained upon making a	113
written request by certified mail to the above-named owner, part	114
owner, lessee, designee, or the person with whom you have	115
contracted."	116
(11) The name and address of the person preparing the	117
notice;	118
<u>(12) The following statement:</u>	119
<u>"The expiration date for this notice of commencement is</u>	120
<u>four years from the date of recording unless a different date is</u>	121
<u>specified herein."</u>	122
(12) <u>(13)</u> An affidavit of the owner, part owner, or lessee	123
or the agent of the owner, part owner, or lessee which verifies	124
the notice.	125
(C) If the notice of commencement furnished by or for an	126
owner, part owner, or lessee contains incorrect information, the	127
owner, part owner, or lessee is liable for any loss of lien	128
rights of a lien claimant and any actual expenses incurred by	129
the lien claimant in maintaining lien rights, including	130
attorney's fees, if the loss and expenses incurred are a direct	131

result of the lien claimant's reliance on the incorrect 132
information. 133

Any lien claimant who has included incorrect information 134
in the claimant's affidavit for a lien under section 1311.06 of 135
the Revised Code, as a result of incorrect information contained 136
in the notice of commencement, may file for record an amended 137
affidavit for a lien. The amended affidavit shall contain all of 138
the information required by section 1311.06 of the Revised Code 139
for an original affidavit. The lien claimant shall serve a copy 140
of the amended affidavit on the owner, part owner, or lessee as 141
provided in section 1311.07 of the Revised Code. The lien 142
claimant may file the amended affidavit for record at any time 143
during the time that the lien acquired by the original affidavit 144
continues in effect under section 1311.13 of the Revised Code. 145
In no event shall the amended affidavit extend such time period. 146
The filing of an amended affidavit does not constitute a waiver 147
of the rights granted by this division. 148

(D) Within ten days after the date a subcontractor, 149
material supplier, or laborer serves a written request upon the 150
owner, part owner, or lessee, or designee for a copy of the 151
notice of commencement, the owner, part owner, lessee, or 152
designee shall serve a copy of the notice of commencement to the 153
requesting subcontractor, material supplier, or laborer. 154

(E) Within ten days after the date a subcontractor, 155
material supplier, or laborer serves a written request for a 156
copy of the notice of commencement upon the original contractor 157
who has been provided with a notice of commencement from the 158
owner, part owner, or lessee, or designee and with whom the 159
subcontractor, material supplier, or laborer has a direct 160
contract, the original contractor shall serve a copy of the 161

notice of commencement to the requesting subcontractor, material 162
supplier, or laborer. 163

(F) Within ten days after the date a subcontractor, 164
material supplier, or laborer serves a written request for a 165
copy of the notice of commencement upon the subcontractor who 166
has been provided with a notice of commencement from the owner, 167
part owner, lessee, designee, or original contractor and with 168
whom the subcontractor, material supplier, or laborer has a 169
direct contract, the subcontractor shall serve a copy of the 170
notice of commencement upon the requesting subcontractor, 171
material supplier, or laborer. 172

(G) (1) Except as provided in division (G) (2) of this 173
section, the owner, part owner, lessee, or designee shall post 174
and maintain posted a copy of the notice of commencement in a 175
conspicuous place on the real property described in the notice 176
during the course of the actual physical improvement to the real 177
property. 178

(2) No owner, part owner, lessee, or designee, has to post 179
a copy of the notice of commencement on the real property 180
described in the notice for an improvement that is the subject 181
of a home purchase contract. 182

(H) The owner, part owner, lessee, or designee shall serve 183
a copy of the notice of commencement upon the original 184
contractor. If the owner, part owner, lessee, or designee fails 185
to serve a copy of the notice of commencement upon the original 186
contractor, the owner, part owner, or lessee is liable to the 187
original contractor for all actual expenses incurred by the 188
original contractor in obtaining the information otherwise 189
provided by the notice of commencement. 190

(I) If the owner, part owner, lessee, or designee fails to 191
record the notice of commencement in accordance with this 192
section, the time within which a subcontractor or material 193
supplier may serve a notice of furnishing as required by section 194
1311.05 of the Revised Code is extended until twenty-one days 195
after the notice of commencement has been recorded. A 196
subcontractor or material supplier need not serve a notice of 197
furnishing to preserve lien rights for the period before the 198
notice of commencement is recorded. 199

(J) If the owner, part owner, lessee, or designee fails to 200
serve, upon written request, the notice of commencement in 201
accordance with this section, the time within which a 202
subcontractor or material supplier may serve a notice of 203
furnishing as required by section 1311.05 of the Revised Code is 204
extended until twenty-one days after the notice of commencement 205
actually has been served to the subcontractor or material 206
supplier. The owner, part owner, or lessee who fails to serve 207
the notice pursuant to this section is liable to any 208
subcontractor or material supplier who becomes a lien claimant 209
for all actual expenses incurred by the lien claimant in 210
obtaining the information that would have been contained in the 211
notice. 212

(K) If an owner, part owner, lessee, or designee fails to 213
post or maintain a copy of the notice of commencement as 214
required by division (G) (1) of this section, the owner, part 215
owner, or lessee is liable to a subcontractor, material 216
supplier, or laborer who becomes a lien claimant for all actual 217
expenses incurred by the lien claimant in obtaining the 218
information otherwise provided by the posting. 219

(L) If an original contractor or subcontractor who has 220

been provided with a notice of commencement fails to serve a 221
copy of the notice of commencement to any subcontractor, 222
material supplier, or laborer who requests it, the original 223
contractor or subcontractor who fails to serve the copy of the 224
notice is liable to the subcontractor, material supplier, or 225
laborer who made the request for all costs incurred by the 226
subcontractor, material supplier, or laborer in obtaining the 227
information contained in the notice of commencement, provided 228
that an original contractor or subcontractor who fails to 229
provide the notice upon request is not liable under this 230
division to any subcontractor, material supplier, or laborer 231
with whom the original contractor or subcontractor is not in 232
direct privity of contract. 233

(M) (1) If after the first work, labor, or material has 234
been performed on or furnished to the improvement, the owner, 235
part owner, lessee, or designee fails to serve, record, or post 236
a notice of commencement as required by this section, the 237
original contractor may, in writing, request the owner, part 238
owner, lessee, or designee to serve, record, or post the notice. 239
If an owner, part owner, lessee, or the designee of an owner, 240
part owner, or lessee fails or refuses to serve, record, or post 241
a notice of commencement within ten days of receipt of a 242
request, the owner, part owner, or lessee is liable for the 243
owner's, part owner's, or lessee's failure or refusal and for 244
the designee's failure or refusal, without recourse to the 245
original contractor for all damages, costs, and expenses which 246
result from the filing of a valid mechanics' lien to the extent 247
that the lien, damages, costs, and expenses could have been 248
avoided through proper payment. 249

(2) Nothing in this division shall be interpreted as to 250
either of the following: 251

(a) Relieving an original contractor from the duty to pay	252
the original contractor's subcontractors, material suppliers,	253
and laborers for labor or work performed or materials furnished	254
pursuant to a contract directly with the original contractor;	255
(b) Obligating an owner, part owner, or lessee to pay for	256
work or labor performed or materials furnished by	257
subcontractors, material suppliers, or laborers pursuant to	258
direct contracts with the original contractor.	259
(N) (1) If the owner, part owner, or lessee fails to record	260
a notice of commencement or an amended notice, any person	261
holding a mortgage on the real property to be improved may	262
record a notice of commencement or an amended notice on behalf	263
of the owner, part owner, or lessee. If the owner, part owner,	264
or lessee fails to record a notice of commencement or an amended	265
notice within the later of ten days after the performance of any	266
labor or work or the furnishing of any material for an	267
improvement on real property which gives rise to a mechanics'	268
lien under sections 1311.01 to 1311.22 of the Revised Code or	269
three days after service of a demand to record the notice or	270
amended notice by the original contractor, the original	271
contractor may record a notice of commencement or an amended	272
notice on behalf of the owner, part owner, or lessee.	273
(2) If the original contractor or a mortgage holder has	274
recorded a notice of commencement or an amended notice on behalf	275
of the owner, part owner, or lessee, the owner, part owner, or	276
lessee is liable to the original contractor or mortgage holder	277
for all costs and expenses incurred in obtaining the information	278
contained in the notice of commencement or an amended notice and	279
all costs incurred in the preparation and recording of the	280
notice of commencement or an amended notice.	281

(3) Unless required to file the notice of commencement or 282
an amended notice on behalf of the owner, part owner, or lessee, 283
the party filing a written notice of commencement or amended 284
notice on behalf of the owner, part owner, or lessee is not 285
liable to the owner, part owner, or lessee for any errors 286
contained in the notice of commencement or amended notice. 287

(4) If a mortgage holder or an original contractor records 288
a notice of commencement or amended notice on behalf of an 289
owner, part owner, or lessee, such fact must be included on the 290
notice or amended notice. 291

(O) This section does not apply to a home construction 292
contract as defined in section 1311.011 of the Revised Code, 293
except that when a lending institution as defined in division 294
(A) (3) of section 1311.011 of the Revised Code requires that a 295
notice of commencement be recorded as part of the financing for 296
a home construction contract, which is secured in whole or in 297
part by a mortgage on real estate upon which the improvements 298
are to be constructed, the owner, part owner, or lessee may file 299
a notice of commencement pursuant to this section by recording 300
the notice of commencement in the county recorder's office of 301
the county where the owner, part owner, or lessee's property is 302
located. If the property is located in more than one county, the 303
owner, part owner, or lessee shall record the notice of 304
commencement in the county recorders' office of each county in 305
which the property is located. 306

If the owner, part owner, or lessee files a notice of 307
commencement pursuant to this division, the attachment, 308
continuance, and priority provisions of section 1311.13 of the 309
Revised Code apply to that improvement, but the notice of 310
furnishing requirements specified in section 1311.05 of the 311

Revised Code do not apply to that improvement. 312

(P) The county recorder of the county where a notice of 313
commencement is filed for record shall endorse the date and hour 314
of its filing and cause it to be recorded as mechanics' liens 315
are recorded, and collect the same fees for recording the notice 316
of commencement as are provided in section 317.32 of the Revised 317
Code. The recorder shall index the real property described in 318
the notice of commencement and shall index the names of all 319
owners, part owners, lessees, and land contract vendees in the 320
direct index and the names of all original contractors in the 321
reverse index as provided for in section 317.18 of the Revised 322
Code. 323

(Q) Notwithstanding this section, if the owner, part 324
owner, or lessee is a telephone company, an electric light 325
company, a gas company, a water works company, all as defined in 326
section 4905.03 of the Revised Code, or a subsidiary or 327
affiliate thereof, the owner, part owner, or lessee may, but is 328
not required to, record a notice of commencement pursuant to 329
division (A) of this section, and is not required to serve, 330
post, and provide copies of a notice of commencement pursuant to 331
divisions (D), (G), and (H) of this section unless such owner, 332
part owner, or lessee elects to record the notice of 333
commencement. If the owner, part owner, or lessee elects to 334
record the notice of commencement and the improvement extends 335
beyond one parcel of real property or one county, the owner, 336
part owner, or lessee may, in lieu of using the legal 337
description required in division (B)(1) of this section, use a 338
description which reasonably describes the real property on 339
which the improvement is to be made. Any description used other 340
than the description specified in division (B)(1) of this 341
section shall refer to the township and county in which the 342

improvement is located, the name and route number of any local, 343
state, or federal highway near the improvement, if any, the post 344
office address of the real property, if any, and the name by 345
which the owner, part owner, or lessee refers to the 346
improvement. 347

If an owner, part owner, or lessee elects not to record, 348
serve, post, or provide copies of a notice of commencement 349
pursuant to divisions (A), (D), (G)(1), and (H) of this section, 350
the owner, part owner, or lessee is subject to all applicable 351
liabilities pursuant to divisions (C), (H), (J), (K), (M), and 352
(N) of this section. 353

(R) If an owner, part owner, lessee, or designee fails to 354
record a notice of commencement in accordance with this section, 355
no subcontractor or material supplier who performs labor or work 356
upon or furnishes material in furtherance of that improvement 357
has to serve a notice of furnishing in accordance with section 358
1311.05 of the Revised Code in order to preserve the 359
subcontractor's or material supplier's lien rights. 360

(S) A notice of commencement filed as provided herein 361
expires ~~six~~four years after its filing date unless the notice 362
of commencement or amendments made to the notice of commencement 363
specify otherwise. 364

(T)(1) An owner, part owner, or lessee of real property 365
who contracts for an improvement, or that person's agent may, 366
upon completion of the improvement, submit an affidavit to the 367
office of the county recorder for each county in which the real 368
property that was improved is located stating all of the 369
following: 370

(a) The name, address, and capacity of the owner, part 371

<u>owner, or lessee, or the agent of the owner, part owner, or</u>	372
<u>lessee of the real property;</u>	373
<u>(b) The recording reference for the previously filed</u>	374
<u>notice of commencement;</u>	375
<u>(c) That the improvement is complete.</u>	376
<u>(2) Upon receipt of an affidavit described in division (T)</u>	377
<u>(1) of this section, the county recorder of the county where the</u>	378
<u>affidavit is submitted shall indicate in the official records</u>	379
<u>that the notice of commencement has expired.</u>	380
<u>(3) The owner, part owner, or lessee of the real property</u>	381
<u>who contracted for the improvement shall serve a copy of the</u>	382
<u>recorded affidavit submitted pursuant to division (T) (1) of this</u>	383
<u>section, by regular mail, upon the original contractor as well</u>	384
<u>as any subcontractor or lower tier project participant that</u>	385
<u>served a notice of furnishing pursuant to section 1311.05 of the</u>	386
<u>Revised Code.</u>	387
<u>(4) Service, lack of service, or a deficiency in service</u>	388
<u>of the recorded affidavit under division (T) (3) of this section</u>	389
<u>does not:</u>	390
<u>(a) Affect the expiration of the notice of commencement;</u>	391
<u>(b) Extend the rights of any party seeking to file an</u>	392
<u>affidavit of mechanic's lien;</u>	393
<u>(c) Affect any time periods or other rights, requirements,</u>	394
<u>or limitations that are set forth in this chapter.</u>	395
<u>(U) The expiration of a notice of commencement pursuant to</u>	396
<u>division (S) or (T) (2) of this section does not affect the</u>	397
<u>attachment, continuance, or priority of any lien under sections</u>	398
<u>1311.13, 1311.14, and 1311.15 of the Revised Code.</u>	399

Sec. 1311.71. As used in sections 1311.71 to 1311.80 of 400
the Revised Code: 401

(A) "Aircraft" has the same meaning as in section 4561.01 402
of the Revised Code and includes any part or equipment of the 403
aircraft. "Aircraft" includes an abandoned aircraft, unless 404
otherwise specified. 405

(B) "Abandoned aircraft" means an aircraft to which both 406
of the following apply: 407

(1) It is located on the premises of a public-use airport. 408

(2) The owner or operator has not paid any tie-down, 409
hangar, rent, or storage costs for use of the premises for at 410
least ninety consecutive days. 411

(C) "Director" means the director or other chief executive 412
officer of a public-use airport. "Director" includes the 413
director's or chief's designee. 414

(D) "Labor" means to repair, service, ~~store,~~ or maintain 415
an aircraft. 416

~~(C)~~ (E) "Materials" means all products and substances, 417
including gasoline, oil, lubricants, accessories, parts, and 418
equipment, that are furnished for an aircraft. 419

(F) "Public-use airport" has the same meaning as in 420
section 4563.30 of the Revised Code. 421

(G) "Stores" means to keep an aircraft on real property 422
owned by a person that is not the owner of the aircraft. 423
"Stores" includes any necessary transportation of the aircraft 424
to an appropriate location for its storage. 425

Sec. 1311.72. (A) Except as provided in division (B) of 426

this section, any person who performs labor upon, stores, or 427
furnishes materials for an aircraft has a lien upon the aircraft 428
to secure payment for the labor, storage, and materials. Except 429
as provided in division (B) of this section, any person who owns 430
or operates an airport or repair shop and whose employee 431
performs labor upon, stores, or furnishes materials for an 432
aircraft has a lien upon the aircraft to secure payment for the 433
labor, storage, and materials. 434

(B) ~~No~~ Unless the aircraft is an abandoned aircraft, no 435
person shall have a lien pursuant to division (A) of this 436
section if the person has possession of the aircraft or if the 437
cost of the storage, the labor performed, or the materials 438
furnished for the aircraft is greater than or equal to one 439
thousand dollars and the owner of the aircraft has not requested 440
or consented to the performance of the storage, labor, or 441
furnishing of the materials. 442

(C) A lien that arises under this section is valid against 443
any person except a purchaser or encumbrancer who in good faith, 444
without notice, and for value acquired rights prior to the 445
recording of an affidavit for lien pursuant to section 1311.73 446
of the Revised Code. 447

Sec. 1311.721. (A) Before perfecting a lien that arises 448
under section 1311.72 of the Revised Code for an abandoned 449
aircraft, the director of a public-use airport shall search the 450
appropriate records of the airport and contact both of the 451
following entities to determine the name and address of the last 452
registered owner: 453

(1) The federal aviation administration's aircraft 454
registration branch; 455

<u>(2) The office of aviation.</u>	456
<u>(B) (1) Within twenty business days after receipt of the information obtained under division (A) of this section, the director shall send notice to the owner of the abandoned aircraft that was identified in accordance with division (A) of this section that includes all of the following information:</u>	457 458 459 460 461
<u>(a) A description of the abandoned aircraft that includes its federal aviation administration n-number, manufacturer name, model designation, and serial number;</u>	462 463 464
<u>(b) The location of the abandoned aircraft on the airport premises;</u>	465 466
<u>(c) The amount of any fees and charges for the use of the airport by the abandoned aircraft that have accrued;</u>	467 468
<u>(d) That the airport may seek to perfect a lien in accordance with section 1311.73 of the Revised Code if, within thirty calendar days after the date of receipt of such notice or notification that delivery was not possible, the owner does not remove the abandoned aircraft from the airport and pay all accrued fees and charges.</u>	469 470 471 472 473 474
<u>(2) The notice described in division (B) (1) of this section may be sent by any of the following methods:</u>	475 476
<u>(a) Certified or express mail with return receipt requested;</u>	477 478
<u>(b) Certified mail with electronic tracking;</u>	479
<u>(c) A commercial carrier service utilizing any form of delivery requiring a signed receipt;</u>	480 481
<u>(d) Personal service.</u>	482

(C) The director may proceed in accordance with section 1311.73 of the Revised Code if the owner of the abandoned aircraft does not pay the accrued fees and charges in full and does not remove the abandoned aircraft within thirty days of the acknowledged receipt, or notification that the delivery was not possible, of a notice sent in accordance with division (B) of this section. 483
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(D) Failure of the owner to receive a notice of removal does not invalidate a lien perfected under section 1311.73 of the Revised Code if the director complies with division (B) of this section. 490
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Sec. 1311.73. ~~(A)~~ (A) (1) To perfect a lien that arises under section 1311.72 of the Revised Code, the person claiming the lien shall make and file for record with the United States federal aviation administration an affidavit verified under oath that includes all of the following information: 494
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(a) The amount owed to the lien claimant for the labor, storage, or materials,~~a;~~ 499
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(b) A description of the aircraft that reasonably identifies it including the manufacturer, model, serial number, and registration number of the aircraft,~~the;~~ 501
502
503

(c) The name of the person for whom the labor was performed, the storage was provided, or the materials were furnished, the~~if applicable;~~ 504
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(d) The name of the owner of the aircraft, if known,~~the;~~ 507

(e) The name and address of the lien claimant,~~the;~~ 508

(f) The date that the lien claimant or his~~the~~ lien claimant's employee last performed any labor upon, stored, or 509
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furnished any materials for the aircraft, ~~the~~ or if the storage 511
is ongoing; 512

(g) The date that the lien claimant surrendered possession 513
of the aircraft, if ~~he~~ the lien claimant surrendered it, ~~and the;~~ 514

(h) The name and address of the person who prepared the 515
affidavit. 516

(2) The omission or inaccuracy of any address in the 517
affidavit does not invalidate the affidavit. The lien claimant 518
may verify the affidavit before any person authorized to 519
administer oaths, including an agent for the owner, the lien 520
claimant, or any other interested party. An agent of the lien 521
claimant may sign the affidavit for the lien claimant, provided 522
that the agent states ~~his~~ the agent's capacity with respect to 523
the lien claimant. A lien claimant is considered to have filed 524
for record with the United States federal aviation 525
administration an affidavit upon receipt of the affidavit by the 526
United States federal aviation administration as evidenced by a 527
certified mail return receipt. 528

(B) The affidavit may be in the following form: 529

"Affidavit for ~~Artisan's~~ Lien on Aircraft 530

State of Ohio, 531

County of _____, ss: _____, 532

_____ of _____ 533

whose address is _____, 534

being first duly sworn, says that ~~he~~ such lien claimant or 535

~~his~~ such lien claimant's employee performed labor, repairs, 536

services, or maintenance upon, provided storage, or furnished 537

~~storage,~~ materials, products, substances, accessories, parts, or 538

equipment for a certain aircraft or part or equipment of a 539
certain aircraft at the request of _____, whose 540
address is _____, and of which 541
_____ is the titled owner. 542

The owner's address is _____ 543

The aircraft upon which labor, repairs, services, or 544
maintenance were performed, or storage was provided, or 545
materials, products, substances, accessories, parts, or 546
equipment were furnished is identified as follows: 547

Manufacturer: _____ 548

Model: _____ 549

Serial number _____ 550

Registration number _____ 551

The last date that labor, repairs, services, or 552
maintenance were performed upon, or storage was provided, or 553
materials, products, substances, accessories, parts, or 554
equipment were furnished for the aircraft herein identified, 555
including any part or equipment of that aircraft, was 556
_____ , _____ , or alternatively, 557
storage is still ongoing as of the following date: 558
_____ , _____ 559

The lien claimant states there is justly and truly due, 560
over and above all legal setoffs, the sum of _____ dollars, 561
for which the lien claimant claims a lien on the aircraft 562
identified herein. 563

The lien claimant states that ~~he~~the lien claimant is (is 564
not) currently in possession of the aircraft. (The lien claimant 565
states that ~~he~~the lien claimant surrendered possession of the 566

aircraft on the _____ day of _____, _____)	567
_____	568
Lien claimant	569
_____	570
Capacity with respect to lien	571
claimant	572
Sworn to before me and subscribed in my presence this	573
_____ day of _____, _____	574
_____	575
Notary public	576
This instrument was prepared by _____	577
whose address is _____"	578
(C) A lien claimant shall file the affidavit within one of	579
the following periods:	580
(1) Ninety days after the date on which he <u>the lien</u>	581
<u>claimant</u> or his <u>the lien claimant's</u> employee last performed labor	582
upon or furnished materials for the aircraft that is subject to	583
the lien, if he <u>the lien claimant</u> or his <u>the lien claimant's</u>	584
employee is in possession of the aircraft at the time of filing;	585
(2) Ninety days after the date on which he <u>the lien</u>	586
<u>claimant</u> or his <u>the lien claimant's</u> employee surrendered	587
possession of the aircraft that is subject to the lien;	588
(3) <u>Ninety days after the date by which the owner of an</u>	589
<u>abandoned aircraft that is subject to the lien was required to</u>	590
<u>remove the aircraft from the lien claimant's property in</u>	591
<u>accordance with section 1311.721 of the Revised Code.</u>	592

(D) Any lien claimant who files an affidavit may file a copy of the affidavit in the office of the county recorder in the county in which the labor was performed upon or the materials were furnished for the aircraft or where the aircraft was stored. The lien claimant shall pay to the county recorder the fee for recording an affidavit as determined under section 317.32 of the Revised Code.

Sec. 1311.75. (A) A lien claimant who perfects a lien in accordance with section 1311.73 of the Revised Code has priority over all other liens, claims, or encumbrances, except wage and salary claims of workers who have no ownership interests in the business of the lien claimant and amounts that are owed by the lien claimant to the aircraft owner and that are subject to setoff against the amounts due for the labor, storage, and materials that are the basis for the lien.

(B) If more than one lien is perfected by more than one lien claimant in accordance with section 1311.73 of the Revised Code on the same aircraft, liens shall be ranked in priority in the order of earliest filing with the United States federal aviation administration, except as provided in division (A) of this section.

Sec. 1311.76. (A) A lien claimant may enforce a lien that arises under section 1311.72 of the Revised Code by bringing an action to recover the monetary amount secured by the lien in a court having jurisdiction in the county in which either of the following occurred:

(1) The storage took place, the labor that is the basis of the lien was performed, or the materials that are the basis of the lien were furnished ~~or in the;~~

(2) The county in which the lien claimant's primary place of business is located, if it is located within this state. 622
623

(B) If a lien claimant obtains a judgment or order of a court having jurisdiction enforcing a lien that arises under section 1311.72 of the Revised Code, the lien claimant shall send a certified copy of the judgment or order to the United States federal aviation administration. 624
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(C) A lien that arises under section 1311.72 of the Revised Code remains in effect for six years after the date an affidavit is filed pursuant to section 1311.73 of the Revised Code, or until one of the following occurs within that six-year period: 629
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631
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(1) The lien claimant receives full payment of the amount due ~~him~~the lien claimant as stated in the affidavit filed pursuant to section 1311.73 of the Revised Code or in the judgment or order granted pursuant to this section by a court having jurisdiction; 634
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(2) The lien claimant accepts less than the full amount secured by the lien pursuant to a written agreement with the owner of the aircraft that is subject to the lien; 639
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(3) The owner files a bond in accordance with section 1311.77 of the Revised Code; 642
643

(4) A final judgment is entered by a court having jurisdiction in an action releasing the lien against the aircraft. 644
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(D) Within thirty days after a lien has been satisfied or released in accordance with division (C) of this section, the lien claimant shall cause the lien to be released by notifying the United States federal aviation administration, and by 647
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notifying the county recorder in whose office the copy of the affidavit or court judgment or order was filed, if the lien claimant filed any of those documents with the county recorder.

Sec. 1311.77. The owner of an aircraft that is subject to a lien that is perfected pursuant to section 1311.73 of the Revised Code may release ~~his~~the owner's aircraft from the lien by filing with a court having jurisdiction in the county in which the labor that is the basis of the lien was performed, in which the aircraft was stored, or in which the materials that are the basis of the lien were furnished, a bond, payable to the lien claimant, for the full amount owed to the lien claimant as stated in an affidavit filed pursuant to section 1311.73 of the Revised Code for the labor or materials, and conditioned for the payment of any judgment that may be recovered on the lien, with costs.

All bonds filed pursuant to this section shall be executed by a corporate surety licensed by the state and authorized to execute surety bonds in this state pursuant to Chapter 3929. of the Revised Code.

Sec. 4561.01. As used in sections 4561.01 to ~~4561.25~~4561.27 of the Revised Code:

(A) "Aviation" means transportation by aircraft; operation of aircraft; the establishment, operation, maintenance, repair, and improvement of airports, landing fields, and other air navigation facilities; and all other activities connected therewith or incidental thereto.

(B) "Aircraft" means any ~~contrivance~~manned device used or ~~designed~~intended for navigation or flight in the air, ~~excepting a parachute or other contrivance for such navigation used~~

~~primarily as safety equipment. "Aircraft" does not include an~~ 680
~~ultralight vehicle as defined by 14 C.F.R. part 103.~~ 681

(C) "Airport" means any location either on land or water 682
which is used for the landing and taking off of aircraft. 683

(D) "Landing field" means any location either on land or 684
water of such size and nature as to permit the landing or taking 685
off of aircraft with safety, and used for that purpose but not 686
equipped to provide for the shelter, supply, or care of 687
aircraft. 688

(E) "Air navigation facility" means any facility used, 689
available for use, or designed for use in aid of navigation of 690
aircraft, including airports, landing fields, facilities for the 691
servicing of aircraft or for the comfort and accommodation of 692
air travelers, and any structures, mechanisms, lights, beacons, 693
marks, communicating systems, or other instrumentalities or 694
devices used or useful as an aid to the safe taking off, 695
navigation, and landing of aircraft, or to the safe and 696
efficient operation or maintenance of an airport or landing 697
field, and any combination of such facilities. 698

(F) "Air navigation hazard" means any structure, object of 699
natural growth, or use of land, that obstructs the air space 700
required for the flight of aircraft in landing or taking off at 701
any airport or landing field, or that otherwise is hazardous to 702
such landing or taking off. 703

(G) "Air navigation," "navigation of aircraft," or 704
"navigate aircraft" means the operation of aircraft in the air 705
space over this state. 706

(H) "Airperson" means any individual who, as the person in 707
command, or as pilot, mechanic, or member of the crew, engages 708

in the navigation of aircraft. 709

(I) "Airway" means a route in the air space over and above 710
the lands or waters of this state, designated by the Ohio 711
aviation board as a route suitable for the navigation of 712
aircraft. 713

(J) "Person" means any individual, firm, partnership, 714
corporation, company, association, joint stock association, or 715
body politic, and includes any trustee, receiver, assignee, or 716
other similar representative thereof. 717

(K) "Government agency" means a state agency, state 718
institution of higher education, regional port authority, or any 719
other political subdivision of the state, or the federal 720
government or other states. 721

Sec. 4561.26. (A) As used in sections 4561.26 and 4561.27 722
of the Revised Code: 723

(1) "Derelict aircraft" means an aircraft that meets all 724
of the following conditions: 725

(a) It is located on the premises of a public-use airport. 726

(b) It is not in a flyable condition. 727

(c) It does not comply with the United States federal 728
aviation administration regulations that would allow it to be 729
operated or flown. 730

(d) It does not have a written repair plan approved and 731
signed by either a federal aviation administration certified 732
airframe and power plant mechanic or a person otherwise 733
authorized to perform maintenance on the aircraft in accordance 734
with the federal aviation administration regulations. 735

(e) The owner or operator of the aircraft has not paid any tie-down, hangar, rent, or storage costs for use of the premises for at least ninety consecutive days. 736
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(2) "Director" means the director or other chief executive officer of a public-use airport. "Director" includes the director's or chief's designee. 739
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(3) "Public-use airport" has the same meaning as in section 4563.30 of the Revised Code. 742
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(B) The director of a public-use airport may dispose of any derelict aircraft located on the premises of that airport in accordance with the procedures established in this section and in section 4561.27 of the Revised Code. 744
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(C) Before disposing of a derelict aircraft, the director shall search the appropriate records of the airport and contact both of the following entities to determine the name and address of the last registered owner and any person having a legal or equitable interest in the derelict aircraft: 748
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(1) The federal aviation administration's aircraft registration branch; 753
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(2) The office of aviation. 755

(D) (1) Within twenty business days after receipt of the information obtained under division (C) of this section, the director shall send notice to the owner and any person having a legal or equitable interest in the derelict aircraft that was identified in accordance with division (C) of this section, that includes all of the following information: 756
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(a) A description of the derelict aircraft that includes its federal aviation administration n-number, manufacturer name, 762
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<u>model designation, and serial number;</u>	764
<u>(b) The location of the derelict aircraft on the airport premises;</u>	765 766
<u>(c) The amount of any fees and charges for the use of the airport by the derelict aircraft that have accrued;</u>	767 768
<u>(d) That the airport may remove, sell, scrap, or otherwise dispose of the derelict aircraft in accordance with section 4561.27 of the Revised Code if, within thirty calendar days after the date of receipt of such notice or notification that delivery was not possible, the owner does not remove the derelict aircraft from the airport and pay all accrued fees and charges.</u>	769 770 771 772 773 774 775
<u>(2) The notice described in division (D)(1) of this section may be sent by any of the following methods:</u>	776 777
<u>(a) Certified or express mail with return receipt requested;</u>	778 779
<u>(b) Certified mail with electronic tracking;</u>	780
<u>(c) A commercial carrier service utilizing any form of delivery requiring a signed receipt;</u>	781 782
<u>(d) Personal service.</u>	783
<u>(3) In addition to the notice sent to the owner and any person having a legal or equitable interest in the derelict aircraft, the director shall do both of the following:</u>	784 785 786
<u>(a) File a copy of the notice with the federal aviation administration's aircraft registration branch;</u>	787 788
<u>(b) Post a copy of the notice on the public-use airport's web site.</u>	789 790

(E) The director may proceed in accordance with section 4561.27 of the Revised Code if the owner or any other person identified under division (C) of this section as having a legal or equitable interest in the derelict aircraft does not pay the accrued fees and charges in full and remove the derelict aircraft within thirty days of the acknowledged receipt of or notification that the delivery was not possible of a notice sent in accordance with division (D) of this section. 791
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Sec. 4561.27. (A) If a derelict aircraft remains on the property of the public-use airport longer than the thirty-day period specified in division (E) of section 4561.26 of the Revised Code, the director may do one of the following: 799
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(1) Sell the derelict aircraft at public auction; 803

(2) Dispose of the derelict aircraft through an aircraft salvage or scrap metal dealer. 804
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(B) (1) If the director elects to sell the derelict aircraft at public auction, the director shall give notice of the date, time, and place of the sale not less than ten calendar days prior to the date of the sale in a written publication of general circulation in the county where the airport is located. The director may provide written notice of the intended sale to any person known to have an interest in purchasing the derelict aircraft. 806
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(2) If the director elects to dispose of the derelict aircraft through an aircraft salvage or scrap metal dealer, the director may negotiate with the dealer for the price to be received or paid by the director, as the circumstances warrant. All information pertaining to the establishment of the price and justification for the price shall be prepared and maintained by 814
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the director, and the negotiated price shall be considered a 820
commercially reasonable price. 821

(C) (1) If the sale price or the negotiated price under 822
division (B) (1) or (2) of this section is less than the accrued 823
fees and charges against the derelict aircraft or the director 824
is required to pay the aircraft salvage or scrap metal dealer 825
for its services, the prior owner of the derelict aircraft is 826
liable to the airport for both of the following: 827

(a) Any remaining fees and charges; 828

(b) Any costs paid to an aircraft salvage or scrap metal 829
dealer. 830

All fees, charges, and costs are recoverable against the 831
prior owner of the derelict aircraft by any remedies otherwise 832
provided by law. 833

(2) If the sale price or the negotiated price under 834
division (B) (1) or (2) of this section is more than the accrued 835
fees and charges against the aircraft, the director shall pay 836
the excess proceeds to the following individuals, as applicable: 837

(a) Any other known lienholders, according to the priority 838
of the liens; 839

(b) The owner of the aircraft, if the owner can be 840
determined and located; 841

(c) The director of commerce, to be deposited as unclaimed 842
funds into the unclaimed funds trust fund created under section 843
169.05 of the Revised Code, if the owner cannot be determined or 844
located. 845

(D) A purchaser or recipient in good faith of a derelict 846
aircraft sold or obtained under this section takes the derelict 847

aircraft free and clear of the rights or liens of any other 848
person holding any legal or equitable interest to the derelict 849
aircraft, regardless of whether that interest is recorded. The 850
purchaser or recipient shall notify the appropriate federal 851
aviation administration office and the office of aviation of the 852
change in the registered owner of the derelict aircraft. 853

Sec. 5301.25. (A) All deeds, land contracts referred to in 854
division ~~(A) (21)~~ (A) (20) of section 317.08 of the Revised Code, 855
and instruments of writing properly executed for the conveyance 856
or encumbrance of lands, tenements, or hereditaments, other than 857
as provided in division (C) of this section and section 5301.23 858
of the Revised Code, shall be recorded in the office of the 859
county recorder of the county in which the premises are 860
situated. Until so recorded or filed for record, they are 861
fraudulent insofar as they relate to a subsequent bona fide 862
purchaser having, at the time of purchase, no knowledge of the 863
existence of that former deed, land contract, or instrument. 864

(B) Whenever a survey is made of lands that are being 865
conveyed, the county auditor shall require that the name of the 866
person who made the survey appear in the deed. The name shall 867
either be printed, typewritten, stamped, or signed in a legible 868
manner. An instrument is in compliance with this division if it 869
contains a statement in the following form: 870

"A survey of this property was made by _____" 871

(Name) 872

This division does not apply to any court decree, order, 873
judgment, or writ, to any instrument executed or acknowledged 874
outside of this state, or to any instrument executed within this 875
state prior to September 20, 1965. 876

(C) All tax certificates sold pursuant to section 5721.32 877
or 5721.33 of the Revised Code, or memoranda thereof, may be 878
recorded in the office of the county recorder of the county in 879
which the premises are situated, as provided in division ~~(B)~~ (D) 880
of section 5721.35 of the Revised Code; provided, however, that 881
the ~~first and superior~~ lien of the state and its taxing 882
districts conveyed to the holder of the tax certificate, as 883
provided in ~~division (A) of~~ section 5721.35 of the Revised Code, 884
shall in no way be diminished or adversely affected if the tax 885
certificate evidencing the conveyance of such ~~first and superior~~ 886
lien, or memorandum thereof, is not recorded as provided in this 887
section. 888

Sec. 5322.03. ~~An~~ The owner of a self-service storage 889
facility may enforce the owner's lien created by division (A) of 890
section 5322.02 of the Revised Code for a claim that has become 891
~~due may be enforced, or remove and dispose of personal property~~ 892
stored at the self-service storage facility pursuant to a rental 893
agreement that has been terminated or is expired, only as 894
follows: 895

(A) The following persons shall be notified in accordance 896
with divisions (B) and (C) of this section: 897

(1) All persons whom the owner has actual knowledge of and 898
who claim an interest in the personal property; 899

(2) All persons holding liens on any motor vehicle or 900
watercraft amongst the property; 901

(3) All persons who have filed security agreements in the 902
name of the occupant evidencing a security interest in the 903
personal property with either the secretary of state or the 904
county recorder of the county in which the self-service storage 905

facility is located or the Ohio county of the last known address 906
of the occupant. 907

(B) (1) Except as otherwise provided in division (B) (2) of 908
this section, the notice shall be delivered in person, sent by 909
certified mail or sent by first-class mail or private delivery 910
service with a certificate or verification of mailing to the 911
last known address of each person who is required to be notified 912
by division (A) of this section; 913

(2) (a) The notice may be sent by electronic mail to the 914
occupant only if both of the following apply: 915

(i) The occupant agreed to receive the notice via 916
electronic mail and provided an electronic mail address to the 917
owner in the original agreement or in a subsequent amendment to 918
the agreement. 919

(ii) The owner sends the notice via electronic mail in 920
such a way as to establish, with a response or return receipt, 921
that the message was delivered to the occupant's electronic mail 922
address. 923

(b) If it cannot be established in accordance with 924
division (B) (2) (a) of this section that the notice was 925
delivered, the owner shall use another method of delivery 926
authorized by division (B) (1) of this section. 927

(C) The notice shall include all of the following: 928

(1) The name and last known address of the occupant who 929
rented the storage space in which the personal property was 930
stored; 931

(2) The reason for the notice, including either or both of 932
the following, as applicable: 933

(a) An itemized statement of the owner's claim showing the 934
sum due at the time of the notice and the date when the sum 935
became due; 936

(b) The date on which the rental agreement for the storage 937
space expired or was terminated. 938

(3) A brief and general description of the personal 939
property subject to the lien or stored pursuant to the 940
terminated or expired rental agreement. The description shall be 941
reasonably adequate to permit the person notified to identify it 942
except that any container including, but not limited to, a 943
trunk, valise, or box that is locked, fastened, sealed, or tied 944
in a manner that deters immediate access to its contents and 945
that has not been opened by the owner prior to the date on which 946
the notice is given may be described as such without describing 947
its contents. 948

(4) A notice of denial of access to the personal property, 949
if a denial of access is permitted under the terms of the rental 950
agreement, which notice provides the name, street address, and 951
telephone number of the person whom the person notified may 952
contact to pay the claim, if any, and to either obtain the 953
personal property or, at the owner's sole discretion, enter into 954
a rental agreement for the storage of the personal property; 955

(5) A demand for payment of the claim or removal of the 956
personal property, as applicable, within a specified time not 957
less than ten days after delivery of the notice; 958

(6) A conspicuous statement that, unless the claim is paid 959
or the personal property is removed within that time, the 960
personal property will be advertised for sale and will be sold 961
by auction and that, if no person purchases the personal 962

property at the auction, the personal property may be sold at a 963
private sale or destroyed; 964

(7) The street or internet address of the place at which 965
the sale will be held, if the sale will be held at a place other 966
than the self-service storage facility in which the personal 967
property was stored. 968

(D) (1) Any notice given pursuant to this section that is 969
sent by first-class mail or private delivery service with a 970
certificate or verification of mailing shall be deemed delivered 971
when it is deposited with the United States postal service or 972
private delivery service and properly addressed with proper 973
postage prepaid. 974

(2) Any notice given pursuant to this section that is sent 975
by electronic mail to an occupant shall be deemed delivered when 976
the owner receives a response or return receipt. 977

(E) The sale of the personal property shall conform to the 978
terms of the notice as provided for in this section. 979

(F) The sale of the personal property may be held at the 980
self-service storage facility or, if the street or internet 981
address of the place was included in the notice as required by 982
division (C) (7) of this section, on the internet or at the 983
nearest suitable place to the self-service storage facility at 984
which the personal property is stored. 985

(G) After the expiration of the time given in the notice, 986
an advertisement of the sale shall be published once a week for 987
two consecutive weeks in a newspaper of general circulation in 988
the county in which the self-service storage facility is located 989
or any other commercially reasonable manner. The manner of 990
advertisement shall be deemed commercially reasonable if at 991

least three independent bidders register for, view, or attend 992
the sale. The advertisement shall include all of the following: 993

(1) A brief and general description of the personal 994
property as required by division (C)(3) of this section, except 995
that the description shall describe the contents of any trunk, 996
valise, or box that is locked, fastened, sealed, or tied in a 997
manner that deters immediate access to its contents, if the 998
trunk, valise, or box is opened by the owner prior to the date 999
on which the advertisement of sale is published; 1000

(2) The name and last known address of the occupant who 1001
rented the storage space in which the personal property was 1002
stored; 1003

(3) The street address of the self-service storage 1004
facility; 1005

(4) The time, place, and manner of the sale. 1006

The sale shall take place at least fifteen days after the 1007
first publication. 1008

(H) (1) Any person who has a security interest in, or who 1009
holds a lien against, a motor vehicle or watercraft respecting 1010
which the owner of a self-service storage facility seeks to 1011
enforce the lien created by division (A) of section 5322.02 of 1012
the Revised Code may pay the amount necessary to satisfy the 1013
lien ~~created by division (A) of section 5322.02 of the Revised~~ 1014
~~Code~~ and the reasonable expenses incurred under this section. 1015
That person, upon payment of the amount necessary to satisfy the 1016
lien plus expenses, may enter into a new rental agreement for 1017
the storage of the motor vehicle or watercraft. Any person who 1018
presents proof of a security interest in or lien on a motor 1019
vehicle or watercraft or a court order authorizing the person to 1020

take possession of a motor vehicle or watercraft may immediately 1021
remove the motor vehicle or watercraft from the self-service 1022
storage facility without satisfying the lien or expenses of the 1023
owner. 1024

(2) Before any sale of personal property other than a 1025
motor vehicle or watercraft pursuant to this section, any person 1026
who has a legal interest or a security interest in, or who holds 1027
a lien against, any personal property other than a motor vehicle 1028
or watercraft may pay the amount necessary to satisfy the lien 1029
created by division (A) of section 5322.02 of the Revised Code, 1030
if any, and the reasonable expenses incurred under this section 1031
and remove the personal property in which the person has the 1032
interest or against which the person holds the lien. After 1033
removal of all the personal property, including any motor 1034
vehicle or watercraft, from the storage space of the self- 1035
service storage facility by any means under this section, the 1036
owner may enter into a rental agreement with a new occupant for 1037
the storage space, and the owner has no obligation to the prior 1038
occupant of that storage space. 1039

(3) Upon receipt of the payment from a person other than 1040
the occupant, the owner may, at the owner's sole discretion, 1041
enter into a new rental agreement for the storage of the 1042
personal property or, if the person meets the conditions set 1043
forth in division (H)(2) of this section, shall permit the 1044
person to remove the personal property from the self-service 1045
storage facility. 1046

(4) If the occupant pays the amount necessary to satisfy 1047
the lien created by division (A) of section 5322.02 of the 1048
Revised Code and the reasonable expenses incurred under this 1049
section, the occupant shall immediately remove all of the 1050

occupant's personal property from the self-service storage 1051
facility, unless the owner of the self-service storage facility 1052
agrees to enter into a new rental agreement for the storage of 1053
the property. 1054

(I) (1) If property on which there is a lien under division 1055
(A) of section 5322.02 of the Revised Code is not sold at 1056
auction, but is claimed under division (H) of this section and 1057
the owner's lien is satisfied, then all legal or security 1058
interest in, or any other liens held against, the property shall 1059
remain intact. 1060

(2) A purchaser at auction in good faith, except an owner 1061
or an owner's agent, of the personal property sold ~~to satisfy an~~ 1062
~~owner's lien created by division (A) of section 5322.02 of the~~ 1063
~~Revised Code pursuant to this section~~ takes the property free 1064
and clear of any rights of persons against whom the owner's lien 1065
was valid, or any persons who had an interest in, or who held, 1066
any other lien against the property, despite noncompliance by 1067
the owner with the requirements of this section. 1068

(J) The owner may examine any personal property to be sold 1069
pursuant to this section. The examination may include, but is 1070
not limited to, the opening of any trunk, valise, box, or other 1071
container that is locked, fastened, sealed, tied, or otherwise 1072
closed in a manner that deters immediate access to its contents. 1073

(K) (1) If the property upon which division (A) of section 1074
5322.02 of the Revised Code creates a lien or which is stored 1075
pursuant to a terminated or expired rental agreement is a motor 1076
vehicle, trailer, or a watercraft, the owner may, at the owner's 1077
sole discretion, have the motor vehicle, trailer, or watercraft 1078
towed from the premises if any of the following circumstances 1079
applies: 1080

(a) The notice was delivered or sent pursuant to division 1081
(B) of this section to all persons holding a lien on the motor 1082
vehicle, trailer, or watercraft, and thirty days have elapsed 1083
since the notice was delivered or sent. 1084

(b) Rent and other charges related to the property remain 1085
unpaid or unsatisfied by the occupant for sixty days, and no 1086
lien holders have been identified. 1087

(c) The owner is planning to hold or has held a sale for 1088
the personal property that was stored in the self-service 1089
storage space with that motor vehicle, trailer, or watercraft, 1090
in which case the motor vehicle, trailer, or watercraft may, at 1091
the owner's sole discretion, be towed prior to or following the 1092
sale. 1093

(2) The owner shall not be liable for the motor vehicle, 1094
trailer, or watercraft or any damages to the motor vehicle, 1095
trailer, or watercraft once the towing service or storage 1096
facility takes possession of the property. The notice delivered 1097
or sent pursuant to division (B) of this section to all persons 1098
holding a lien on the motor vehicle, trailer, or watercraft 1099
shall include the name of the towing service or storage 1100
facility. The name and the street address of the towing service 1101
or storage facility shall also be made available to the occupant 1102
or any lien holder upon the presentation of a document of title 1103
or another document that confirms an interest in the motor 1104
vehicle, trailer, or watercraft. 1105

As used in this division, "towing service or storage 1106
facility" means any for-hire motor carrier that removes a motor 1107
vehicle, trailer, or watercraft from a self-service storage 1108
facility pursuant to this division and any place to which that 1109
for-hire motor carrier delivers the motor vehicle, trailer, or 1110

watercraft. 1111

(L) The owner may satisfy the owner's lien from the 1112
proceeds of any sale held pursuant to this section, but shall 1113
mail the balance, if any, by certified mail, or by first class 1114
mail or private delivery service with a certificate or 1115
verification of mailing, to the occupant at the occupant's last 1116
known mailing address. If the balance is returned to the owner 1117
after the owner mailed the balance by certified mail, first 1118
class mail, or private delivery service to the occupant or if 1119
the mailing address of the occupant is not known, the owner 1120
shall hold the balance for two years after the date of the sale 1121
for delivery on demand to the occupant or to any other person 1122
who would have been entitled to possession of the personal 1123
property. After the expiration of the two-year period, the 1124
balance shall become unclaimed funds, as defined in division (B) 1125
of section 169.01 of the Revised Code, and shall be disposed of 1126
pursuant to Chapter 169. of the Revised Code. 1127

(M) An owner may buy at any public sale held pursuant to 1128
this section. 1129

(N) The rights provided by this section shall be in 1130
addition to all other rights allowed by law to a creditor 1131
against a debtor. 1132

(O) (1) If the owner complies with the requirements for 1133
sale under this section, the owner's liability to persons who 1134
have an interest in the personal property sold is limited to the 1135
balance of the proceeds of the sale after the owner has 1136
satisfied the owner's lien. 1137

(2) The owner is liable for damages caused by the failure 1138
to comply with the requirements for sale under this section and 1139

is liable for conversion for willful violation of the 1140
requirements for sale under this section. 1141

(P) If no person purchases the personal property at the 1142
auction and if the owner has complied with this section, the 1143
owner may do any of the following: 1144

(1) Advertise and sell the personal property pursuant to 1145
divisions (F) to (O) of this section; 1146

(2) Sell the personal property at a private sale; 1147

(3) Dispose of the personal property in any manner 1148
considered appropriate by the owner including, but not limited 1149
to, destroying the personal property. 1150

Sec. 5322.06. (A) Except as otherwise provided in this 1151
section, if the rental agreement entered into between the owner 1152
and the occupant contains a provision placing a limit on the 1153
value of personal property that may be stored in the occupant's 1154
storage space, that limit is the maximum value of the stored 1155
property, provided that the provision is printed in bold type or 1156
underlined in the rental agreement. 1157

(B) A limit on the value of personal property under 1158
division (A) of this section shall not be less than one thousand 1159
dollars. 1160

(C) The rental agreement may provide that the occupant may 1161
increase the limit on the value of property with the written 1162
permission of the owner. 1163

(D) Nothing in a rental agreement shall limit an 1164
occupant's claim for damages based on the loss or destruction of 1165
personal property stored in the occupant's storage space, when 1166
those damages are the result of ~~negligence~~ willful or wanton 1167

misconduct by, or on behalf of the owner. 1168

Sec. 5721.06. (A) (1) The form of the notice required to be 1169
attached to the published delinquent tax list by division (B) (3) 1170
of section 5721.03 of the Revised Code shall be in substance as 1171
follows: 1172

"DELINQUENT LAND TAX NOTICE 1173

The lands, lots, and parts of lots returned delinquent by 1174
the county treasurer of _____ county, with the 1175
taxes, assessments, interest, and penalties, charged against 1176
them agreeably to law, are contained and described in the 1177
following list: (Here insert the list with the names of the 1178
owners of such respective tracts of land or town lots as 1179
designated on the delinquent tax list. If, prior to seven days 1180
before the publication of the list, a delinquent tax contract 1181
has been entered into under section 323.31 of the Revised Code, 1182
the owner's name may be stricken from the list or designated by 1183
an asterisk shown in the margin next to the owner's name.) 1184

Notice is hereby given that the whole of such several 1185
lands, lots, or parts of lots will be certified for foreclosure 1186
by the county auditor pursuant to law unless the whole of the 1187
delinquent taxes, assessments, interest, and penalties are paid 1188
within one year or unless a tax certificate with respect to the 1189
parcel is sold under section 5721.32 or 5721.33 of the Revised 1190
Code. The names of persons who have entered into a written 1191
delinquent tax contract with the county treasurer to discharge 1192
the delinquency are designated by an asterisk or have been 1193
stricken from the list." 1194

(2) If the county treasurer has certified to the county 1195
auditor that the treasurer intends to offer for sale or assign a 1196

tax certificate with respect to one or more parcels of 1197
delinquent land under section 5721.32 or 5721.33 of the Revised 1198
Code, the form of the notice shall include the following 1199
statement, appended after the second paragraph of the notice 1200
prescribed by division (A) (1) of this section: 1201

"Notice also is hereby given that a tax certificate may be 1202
offered for sale or assigned under section 5721.32 or 5721.33 of 1203
the Revised Code with respect to those parcels shown on this 1204
list. If a tax certificate on a parcel is purchased, the 1205
purchaser of the tax certificate acquires the state's or its 1206
taxing district's ~~first~~ lien against the property, and an 1207
additional interest charge of up to eighteen per cent per annum 1208
shall be assessed against the parcel. In addition, failure by 1209
the owner of the parcel to redeem the tax certificate may result 1210
in foreclosure proceedings against the parcel. No tax 1211
certificate shall be offered for sale if the owner of the parcel 1212
has either discharged the lien by paying to the county treasurer 1213
in cash the amount of delinquent taxes, assessments, penalties, 1214
interest, and charges charged against the property, or has 1215
entered into a valid delinquent tax contract pursuant to section 1216
323.31 of the Revised Code to pay those amounts in 1217
installments." 1218

(B) The form of the notice required to be attached to the 1219
published delinquent vacant land tax list by division (B) (3) of 1220
section 5721.03 of the Revised Code shall be in substance as 1221
follows: 1222

"DELINQUENT VACANT LAND TAX NOTICE 1223

The delinquent vacant lands, returned delinquent by the 1224
county treasurer of _____ county, with the taxes, 1225
assessments, interest, and penalties charged against them 1226

according to law, and remaining delinquent for one year, are 1227
contained and described in the following list: (here insert the 1228
list with the names of the owners of the respective tracts of 1229
land as designated on the delinquent vacant land tax list. If, 1230
prior to seven days before the publication of the list, a 1231
delinquent tax contract has been entered into under section 1232
323.31 of the Revised Code, the owner's name may be stricken 1233
from the list or designated by an asterisk shown in the margin 1234
next to the owner's name.) 1235

Notice is hereby given that these delinquent vacant lands 1236
will be certified for foreclosure or foreclosure and forfeiture 1237
by the county auditor pursuant to law unless the whole of the 1238
delinquent taxes, assessments, interest, and penalties are paid 1239
within twenty-eight days after the final publication of this 1240
notice. The names of persons who have entered into a written 1241
delinquent tax contract with the county treasurer to discharge 1242
the delinquency are designated by an asterisk or have been 1243
stricken from the list." 1244

Sec. 5721.32. (A) The sale of tax certificates by public 1245
auction may be conducted at any time after completion of the 1246
advertising of the sale under section 5721.31 of the Revised 1247
Code, on the date and at the time and place designated in the 1248
advertisements, and may be continued from time to time as the 1249
county treasurer directs. The county treasurer may offer the tax 1250
certificates for sale in blocks of tax certificates, consisting 1251
of any number of tax certificates as determined by the county 1252
treasurer, and may specify a certificate period of not less than 1253
three years and not more than six years. 1254

(B) (1) The sale of tax certificates under this section 1255
shall be conducted at a public auction by the county treasurer 1256

or a designee of the county treasurer. 1257

(2) No person shall be permitted to bid without completing 1258
a bidder registration form, in the form prescribed by the tax 1259
commissioner, and without filing the form with the county 1260
treasurer prior to the start of the auction, together with 1261
remittance of a registration fee, in cash, of five hundred 1262
dollars. The bidder registration form shall include a tax 1263
identification number of the registrant. The registration fee is 1264
refundable at the end of bidding on the day of the auction, 1265
unless the registrant is the winning bidder for one or more tax 1266
certificates or one or more blocks of tax certificates, in which 1267
case the fee may be applied toward the deposit required by this 1268
section. 1269

(3) The county treasurer may require a person who wishes 1270
to bid on one or more parcels to submit a letter from a 1271
financial institution stating that the bidder has sufficient 1272
funds available to pay the purchase price of the parcels and a 1273
written authorization for the treasurer to verify such 1274
information with the financial institution. The county treasurer 1275
may require submission of the letter and authorization 1276
sufficiently in advance of the auction to allow for 1277
verification. No person who fails to submit the required letter 1278
and authorization, or whose financial institution fails to 1279
provide the requested verification, shall be permitted to bid. 1280

(C) At the public auction, the county treasurer or the 1281
treasurer's designee or agent shall begin the bidding at 1282
eighteen per cent per year simple interest, and accept lower 1283
bids in even increments of one-fourth of one per cent to the 1284
rate of zero per cent. The county treasurer, designee, or agent 1285
shall award the tax certificate to the person bidding the lowest 1286

certificate rate of interest. The county treasurer shall decide 1287
which person is the winning bidder in the event of a tie for the 1288
lowest bid offered, or if a person contests the lowest bid 1289
offered. The county treasurer's decision is not appealable. 1290

(D) (1) The winning bidder shall pay the county treasurer a 1291
cash deposit of at least ten per cent of the certificate 1292
purchase price not later than the close of business on the day 1293
of the sale. The winning bidder shall pay the balance and the 1294
fee required under division (H) of this section not later than 1295
five business days after the day on which the certificate is 1296
sold. Except as provided under division (D) (2) of this section, 1297
if the winning bidder fails to pay the balance and fee within 1298
the prescribed time, the bidder forfeits the deposit, and the 1299
county treasurer shall retain the tax certificate and may 1300
attempt to sell it at any auction conducted at a later date. 1301

(2) At the request of a winning bidder, the county 1302
treasurer may release the bidder from the bidder's tax 1303
certificate purchase obligation. The county treasurer may retain 1304
all or any portion of the deposit of a bidder granted a release. 1305
After granting a release under this division, the county 1306
treasurer may award the tax certificate to the person that 1307
submitted the second lowest bid at the auction. 1308

(3) The county treasurer shall deposit the deposit 1309
forfeited or retained under division (D) (1) or (2) of this 1310
section in the county treasury to the credit of the tax 1311
certificate administration fund. 1312

(E) Upon receipt of the full payment of the certificate 1313
purchase price from the purchaser, the county treasurer shall 1314
issue the tax certificate and record the tax certificate sale by 1315
entering into a tax certificate register the certificate 1316

purchase price, the certificate rate of interest, the date the 1317
certificate was sold, the certificate period, the name and 1318
address of the certificate holder, and any other information the 1319
county treasurer considers necessary. The county treasurer may 1320
keep the tax certificate register in a hard-copy format or in an 1321
electronic format. The name and address of the certificate 1322
holder may be, upon receipt of instructions from the purchaser, 1323
that of the secured party of the actual purchaser, or an agent 1324
or custodian for the purchaser or secured party. The county 1325
treasurer also shall transfer the tax certificate to the 1326
certificate holder. The county treasurer shall apportion the 1327
part of the proceeds from the sale representing taxes, 1328
penalties, and interest among the several taxing districts in 1329
the same proportion that the amount of taxes levied by each 1330
district against the certificate parcel in the preceding tax 1331
year bears to the taxes levied by all such districts against the 1332
certificate parcel in the preceding tax year, and credit the 1333
part of the proceeds representing assessments and other charges 1334
to the items of assessments and charges in the order in which 1335
those items became due. Upon issuing a tax certificate, the 1336
delinquent taxes that make up the certificate purchase price are 1337
transferred, and the ~~superior~~ lien of the state and its taxing 1338
districts for those delinquent taxes is conveyed intact to the 1339
certificate holder. 1340

(F) If a tax certificate is offered for sale under this 1341
section but is not sold, the county treasurer may sell the 1342
certificate in a negotiated sale authorized under section 1343
5721.33 of the Revised Code, or may strike the corresponding 1344
certificate parcel from the list of parcels selected for tax 1345
certificate sales. The lien for taxes, assessments, charges, 1346
penalties, and interest against a parcel stricken from the list 1347

thereafter may be foreclosed in the manner prescribed by section 1348
323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 1349
of the Revised Code unless, prior to the institution of such 1350
proceedings against the parcel, the county treasurer restores 1351
the parcel to the list of parcels selected for tax certificate 1352
sales. 1353

(G) A certificate holder shall not be liable for damages 1354
arising from a violation of sections 3737.87 to ~~3737.891~~ 3737.89 1355
or Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 1356
6109., or 6111. of the Revised Code, or a rule adopted or order, 1357
permit, license, variance, or plan approval issued under any of 1358
those chapters, that is or was committed by another person in 1359
connection with the parcel for which the tax certificate is 1360
held. 1361

(H) When selling a tax certificate under this section, the 1362
county treasurer shall charge a fee to the purchaser of the 1363
certificate. The county treasurer shall set the fee at a 1364
reasonable amount that covers the treasurer's costs of 1365
administering the sale of the tax certificate. The county 1366
treasurer shall deposit the fee in the county treasury to the 1367
credit of the tax certificate administration fund. 1368

(I) After selling a tax certificate under this section, 1369
the county treasurer shall send written notice to the owner of 1370
the certificate parcel by certified mail or, if the treasurer 1371
has record of an internet identifier of record associated with 1372
the owner, by ordinary mail and by that internet identifier of 1373
record. A mailed notice shall be sent to the owner's last known 1374
tax-mailing address. The notice shall inform the owner that the 1375
tax certificate was sold, shall describe the owner's options to 1376
redeem the parcel, including entering into a redemption payment 1377

plan under division (C) (1) of section 5721.38 of the Revised Code, and shall name the certificate holder and its secured party, if any. However, the county treasurer is not required to send a notice under this division if the treasurer previously has attempted to send a notice to the owner of the parcel at the owner's last known tax-mailing address, and the postal service has returned the notice as undeliverable.

(J) A tax certificate shall not be sold to the owner of the certificate parcel.

Sec. 5721.33. (A) A county treasurer may, in the treasurer's discretion, negotiate the sale or transfer of any number of tax certificates with one or more persons, including a county land reutilization corporation. Terms that may be negotiated include, without limitation, any of the following:

(1) A premium to be added to or discount to be subtracted from the certificate purchase price for the tax certificates;

(2) Different time frames under which the certificate holder may initiate a foreclosure action than are otherwise allowed under sections 5721.30 to 5721.43 of the Revised Code, not to exceed six years after the date the tax certificate was sold or transferred;

(3) The amount to be paid in private attorney's fees related to tax certificate foreclosures, subject to section 5721.371 of the Revised Code;

(4) Any other terms of the sale or transfer that the county treasurer, in the treasurer's discretion, determines appropriate or necessary for the sale or transfer.

(B) The sale or transfer of tax certificates under this section shall be governed by the criteria established by the

county treasurer pursuant to division (E) of this section. 1407

(C) The county treasurer may execute a tax certificate 1408
sale/purchase agreement and other necessary agreements with a 1409
designated purchaser or purchasers to complete a negotiated sale 1410
or transfer of tax certificates. 1411

(D) The tax certificate may be sold at a premium to or 1412
discount from the certificate purchase price. The county 1413
treasurer may establish as one of the terms of the negotiated 1414
sale the portion of the certificate purchase price, plus any 1415
applicable premium or less any applicable discount, that the 1416
purchaser or purchasers shall pay in cash on the date the tax 1417
certificates are sold and the portion, if any, of the 1418
certificate purchase price, plus any applicable premium or less 1419
any applicable discount, that the purchaser or purchasers shall 1420
pay in noncash consideration and the nature of that 1421
consideration. 1422

The county treasurer shall sell such tax certificates at a 1423
certificate purchase price, plus any applicable premium and less 1424
any applicable discount, and at a certificate rate of interest 1425
that, in the treasurer's determination, are in the best 1426
interests of the county. 1427

(E) (1) The county treasurer shall adopt rules governing 1428
the eligibility of persons to purchase tax certificates or to 1429
otherwise participate in a negotiated sale under this section. 1430
The rules may provide for precertification of such persons, 1431
including a requirement for disclosure of income, assets, and 1432
any other financial information the county treasurer determines 1433
appropriate. The rules also may prohibit any person that is 1434
delinquent in the payment of any tax to the county or to the 1435
state, or that is in default in or on any other obligation to 1436

the county or to the state, from purchasing a tax certificate or 1437
otherwise participating in a negotiated sale of tax certificates 1438
under this section. The rules may also authorize the purchase of 1439
certificates by a county land reutilization corporation, and 1440
authorize the county treasurer to receive notes in lieu of cash, 1441
with such notes being payable to the treasurer upon the receipt 1442
or enforcement of such taxes, assessments, charges, costs, 1443
penalties, and interest, and as otherwise further agreed between 1444
the corporation and the treasurer. The eligibility information 1445
required shall include the tax identification number of the 1446
purchaser and may include the tax identification number of the 1447
participant. The county treasurer, upon request, shall provide a 1448
copy of the rules adopted under this section. 1449

(2) Any person that intends to purchase a tax certificate 1450
in a negotiated sale shall submit an affidavit to the county 1451
treasurer that establishes compliance with the applicable 1452
eligibility criteria and includes any other information required 1453
by the treasurer. Any person that fails to submit such an 1454
affidavit is ineligible to purchase a tax certificate. Any 1455
person that knowingly submits a false or misleading affidavit 1456
shall forfeit any tax certificate or certificates purchased by 1457
the person at a sale for which the affidavit was submitted, 1458
shall be liable for payment of the full certificate purchase 1459
price, plus any applicable premium and less any applicable 1460
discount, of the tax certificate or certificates, and shall be 1461
disqualified from participating in any tax certificate sale 1462
conducted in the county during the next five years. 1463

(3) A tax certificate shall not be sold to the owner of 1464
the certificate parcel or to any corporation, partnership, or 1465
association in which such owner has an interest. No person that 1466
purchases a tax certificate in a negotiated sale shall assign or 1467

transfer the tax certificate to the owner of the certificate 1468
parcel or to any corporation, partnership, or association in 1469
which the owner has an interest. Any person that knowingly or 1470
negligently transfers or assigns a tax certificate to the owner 1471
of the certificate parcel or to any corporation, partnership, or 1472
association in which such owner has an interest shall be liable 1473
for payment of the full certificate purchase price, plus any 1474
applicable premium and less any applicable discount, and shall 1475
not be entitled to a refund of any amount paid. Such tax 1476
certificate shall be deemed void and the tax lien sold under the 1477
tax certificate shall revert to the county as if no sale of the 1478
tax certificate had occurred. 1479

(F) The purchaser in a negotiated sale under this section 1480
shall deliver the certificate purchase price or other 1481
consideration, plus any applicable premium and less any 1482
applicable discount and including any noncash consideration, to 1483
the county treasurer not later than the close of business on the 1484
date the tax certificates are delivered to the purchaser. The 1485
certificate purchase price, less any applicable discount, or 1486
portion of the price, that is paid in cash shall be deposited in 1487
the county's general fund to the credit of the account to which 1488
ad valorem real property taxes are credited and further credited 1489
as provided in division (G) of this section. Any applicable 1490
premium that is paid shall be, at the discretion of the county 1491
treasurer, apportioned to and deposited in any authorized county 1492
fund. The purchaser also shall pay on the date the tax 1493
certificates are delivered to the purchaser the fee, if any, 1494
negotiated under division (J) of this section. If the purchaser 1495
fails to pay the certificate purchase price, plus any applicable 1496
premium and less any applicable discount, and any such fee, 1497
within the time periods required by this section, the county 1498

treasurer shall retain the tax certificate and may attempt to 1499
sell it at any auction or negotiated sale conducted at a later 1500
date. 1501

(G) Upon receipt of the full payment from the purchaser of 1502
the certificate purchase price or other agreed-upon 1503
consideration, plus any applicable premium and less any 1504
applicable discount, and the negotiated fee, if any, the county 1505
treasurer, or a qualified trustee whom the treasurer has engaged 1506
for such purpose, shall issue the tax certificate and record the 1507
tax certificate sale by entering into a tax certificate register 1508
the certificate purchase price, any premium paid or discount 1509
taken, the certificate rate of interest, the date the 1510
certificates were sold, the name and address of the certificate 1511
holder or, in the case of issuance of the tax certificates in a 1512
book-entry system, the name and address of the nominee, and any 1513
other information the county treasurer considers necessary. The 1514
county treasurer may keep the tax certificate register in a 1515
hard-copy format or an electronic format. The name and address 1516
of the certificate holder or nominee may be, upon receipt of 1517
instructions from the purchaser, that of the secured party of 1518
the actual purchaser, or an agent or custodian for the purchaser 1519
or secured party. The county treasurer also shall transfer the 1520
tax certificates to the certificate holder. The county treasurer 1521
shall apportion the part of the cash proceeds from the sale 1522
representing taxes, penalties, and interest among the several 1523
taxing districts in the same proportion that the amount of taxes 1524
levied by each district against the certificate parcels in the 1525
preceding tax year bears to the taxes levied by all such 1526
districts against the certificate parcels in the preceding tax 1527
year, and credit the part of the proceeds representing 1528
assessments and other charges to the items of assessments and 1529

charges in the order in which those items became due. If the 1530
cash proceeds from the sale are not sufficient to fully satisfy 1531
the items of taxes, assessments, penalties, interest, and 1532
charges on the certificate parcels against which tax 1533
certificates were sold, the county treasurer shall credit the 1534
cash proceeds to such items pro rata based upon the proportion 1535
that each item of taxes, assessments, penalties, interest, and 1536
charges bears to the aggregate of all such items, or by any 1537
other method that the county treasurer, in the treasurer's sole 1538
discretion, determines is equitable. Upon issuing the tax 1539
certificates, the delinquent taxes that make up the certificate 1540
purchase price are transferred, and the ~~superior~~ lien of the 1541
state and its taxing districts for those delinquent taxes is 1542
conveyed intact to the certificate holder or holders. 1543

(H) If a tax certificate is offered for sale under this 1544
section but is not sold, the county treasurer may strike the 1545
corresponding certificate parcel from the list of parcels 1546
selected for tax certificate sales. The lien for taxes, 1547
assessments, charges, penalties, and interest against a parcel 1548
stricken from the list thereafter may be foreclosed in the 1549
manner prescribed by section 323.25, 5721.14, or 5721.18 of the 1550
Revised Code unless, prior to the institution of such 1551
proceedings against the parcel, the county treasurer restores 1552
the parcel to the list of parcels selected for tax certificate 1553
sales. 1554

(I) Neither a certificate holder nor its secured party, if 1555
any, shall be liable for damages arising from a violation of 1556
sections 3737.87 to ~~3737.891~~ 3737.89 or Chapter 3704., 3734., 1557
3745., 3746., 3750., 3751., 3752., 6109., or 6111. of the 1558
Revised Code, or a rule adopted or order, permit, license, 1559
variance, or plan approval issued under any of those chapters, 1560

that is or was committed by another person in connection with 1561
the parcel for which the tax certificate is held. 1562

(J) When selling or transferring a tax certificate under 1563
this section, the county treasurer may negotiate with the 1564
purchaser of the certificate for fees paid by the purchaser to 1565
the county treasurer to reimburse the treasurer for any part or 1566
all of the treasurer's costs of preparing for and administering 1567
the sale of the tax certificate and any fees set forth by the 1568
county treasurer in the tax certificate sale/purchase agreement. 1569
Such fees, if any, shall be added to the certificate purchase 1570
price and shall be paid by the purchaser on the date of delivery 1571
of the tax certificate. The county treasurer shall deposit the 1572
fees in the county treasury to the credit of the tax certificate 1573
administration fund. 1574

(K) After selling tax certificates under this section, the 1575
county treasurer shall send written notice to the owner of the 1576
certificate parcel by either certified mail or, if the treasurer 1577
has record of an internet identifier of record associated with 1578
the owner, by ordinary mail and by that internet identifier of 1579
record. A mailed notice shall be sent to the owner's last known 1580
tax-mailing address. The notice shall inform the owner that a 1581
tax certificate with respect to such owner's parcel was sold or 1582
transferred and shall describe the owner's options to redeem the 1583
parcel, including entering into a redemption payment plan under 1584
division (C) (2) of section 5721.38 of the Revised Code. However, 1585
the county treasurer is not required to send a notice under this 1586
division if the treasurer previously has attempted to send a 1587
notice to the owner of the parcel at the owner's last known tax- 1588
mailing address and the postal service has returned the notice 1589
as undeliverable. 1590

Sec. 5721.35. (A) Upon the sale and delivery of a tax 1591
certificate, ~~the tax certificate vests in the~~ certificate holder 1592
holds the first lien previously held by the state and its taxing 1593
districts under section 5721.10 of the Revised Code for the 1594
amount of taxes, assessments, interest, and penalty charged 1595
against a certificate parcel, ~~superior to all other liens and~~ 1596
~~encumbrances upon the parcel described in the tax certificate,~~ 1597
~~in the amount of the certificate redemption price, except liens~~ 1598
~~for delinquent taxes that attached to the certificate parcel~~ 1599
~~prior to the attachment of the lien being conveyed by the sale~~ 1600
~~of such tax certificates~~subject to division (B) of this section. 1601

(B)(1) As used in this division, "eligible lienholder" 1602
means a person that, before the sale of a tax certificate, holds 1603
the lien on the certificate parcel that is immediately 1604
subordinate to the first lien held by the state and its taxing 1605
districts under section 5721.10 of the Revised Code. 1606

(2) If there is no eligible lienholder at the time of a 1607
certificate sale, or if the tax certificate is acquired in a 1608
manner other than through a sale under section 5721.32 or 1609
5721.33 of the Revised Code, the first lien previously held by 1610
the state and its taxing districts immediately vests in the 1611
certificate holder. In all other instances, upon the conclusion 1612
of the sale, the eligible lienholder has the first lien on the 1613
certificate parcel, superior to the lien for taxes, assessments, 1614
interest, and penalties held by the certificate holder and to 1615
all other liens and encumbrances upon the parcel described in 1616
the tax certificate, unless and until both of the following 1617
occur: 1618

(a) Within ninety days after the sale, the certificate 1619
holder sends notice of the certificate sale by certified mail to 1620

the eligible lienholder and offers that lienholder a right of 1621
first refusal to purchase the tax certificate for the amount of 1622
the certificate purchase price. The certificate holder shall 1623
record the notice with the county recorder of the county in 1624
which the certificate parcel is situated. 1625

(b) The eligible lienholder fails to exercise that right 1626
of first refusal and purchase the tax certificate within ninety 1627
days after receiving that notice. 1628

(3) If the eligible lienholder exercises the right of 1629
first refusal described in division (B)(2) of this section, the 1630
tax certificate shall be transferred to that lienholder in 1631
accordance with section 5721.36 of the Revised Code. The 1632
eligible lienholder shall present the endorsed certificate to 1633
the county treasurer of the county where the certificate is 1634
registered within ninety days after the transferor endorses the 1635
certificate. Upon the completion of such transfer, the eligible 1636
lienholder continues to hold the first lien on the certificate 1637
parcel. 1638

If both of the conditions in divisions (B)(2)(a) and (b) 1639
of this section are met, at the end of the ninety-day period 1640
described in division (B)(2)(b) of this section, the certificate 1641
holder has the first lien on the certificate parcel, superior to 1642
the lien held by the eligible lienholder and to all other liens 1643
and encumbrances upon the parcel described in the tax 1644
certificate. 1645

(C) With respect to the priority as among ~~such~~ first liens 1646
of the state and its taxing districts for different years, the 1647
priority shall be determined by the date such first liens of the 1648
state and its taxing districts attached pursuant to section 1649
323.11 of the Revised Code, with first priority to the earliest 1650

attached lien and each immediately subsequent priority based 1651
upon the next earliest attached lien. 1652

~~(B)(1)~~ (D)(1) A certificate holder or the county treasurer 1653
may record the tax certificate or memorandum thereof in the 1654
office of the county recorder of the county in which the 1655
certificate parcel is situated, as a mortgage of land under 1656
division ~~(A)(20)~~ (A)(19) of section 317.08 of the Revised Code. 1657
The county recorder shall index the certificate in the indexes 1658
provided for under section 317.18 of the Revised Code. If the 1659
lien is subsequently canceled, the cancellation also shall be 1660
recorded by the county recorder. 1661

(2) Notwithstanding Chapter 1309., Title LIII, or any 1662
other provision of the Revised Code, a secured party holding a 1663
security interest in a tax certificate or memorandum thereof may 1664
perfect that security interest only by one of the following 1665
methods: 1666

(a) Possession; 1667

(b) Registering the tax certificate with the county 1668
treasurer in the name of the secured party, or its agent or 1669
custodian, as certificate holder; 1670

(c) Recording the name of the secured party in the tax 1671
certificate register in the office of the county treasurer of 1672
the county in which the certificate parcel is situated. 1673

Sec. 5721.37. (A)(1) At any time after one year from the 1674
date shown on the tax certificate as the date the tax 1675
certificate was sold, and not later than the end of the 1676
certificate period, a certificate holder, except for a county 1677
land reutilization corporation, may file with the county 1678
treasurer a request for foreclosure, or a private attorney on 1679

behalf of the certificate holder may file with the county 1680
treasurer a notice of intent to foreclose, on a form prescribed 1681
by the tax commissioner, provided the certificate parcel has not 1682
been redeemed under division (A) or (C) of section 5721.38 of 1683
the Revised Code and at least one certificate respecting the 1684
certificate parcel, held by the certificate holder filing the 1685
request for foreclosure or notice of intent to foreclose and 1686
eligible to be enforced through a foreclosure proceeding, has 1687
not been voided under section 5721.381 of the Revised Code. If 1688
the certificate holder is a county land reutilization 1689
corporation, the corporation may institute a foreclosure action 1690
under the statutes pertaining to the foreclosure of mortgages or 1691
as permitted under sections 323.65 to 323.79 of the Revised Code 1692
at any time after it acquires the tax certificate. 1693

(2) If, before the expiration of the certificate period, 1694
the owner of the property files a petition in bankruptcy, the 1695
county treasurer, upon being notified of the filing of the 1696
petition, shall notify the certificate holder by ordinary first- 1697
class or certified mail or by binary means of the filing of the 1698
petition. It is the obligation of the certificate holder to file 1699
a proof of claim with the bankruptcy court to protect the 1700
holder's interest in the certificate parcel. The last day on 1701
which the certificate holder may file a request for foreclosure 1702
or a notice of intent to foreclose is the later of the 1703
expiration of the certificate period or one hundred eighty days 1704
after the certificate parcel is no longer property of the 1705
bankruptcy estate; however, the certificate period is tolled 1706
while the property owner's bankruptcy case remains open. If the 1707
certificate holder is a county land reutilization corporation, 1708
the corporation may institute a foreclosure action under the 1709
statutes pertaining to the foreclosure of mortgages or as 1710

permitted under sections 323.65 to 323.79 of the Revised Code at 1711
any time after it acquires such tax certificate, subject to any 1712
restrictions under such bankruptcy law or proceeding. 1713

Interest at the certificate rate of interest continues to 1714
accrue during any extension of time required by division (A)(2) 1715
of this section unless otherwise provided under Title 11 of the 1716
United States Code. 1717

(3) If, before the expiration of three years from the date 1718
a tax certificate was sold, the owner of property for which the 1719
certificate was sold applies for an exemption under section 1720
3735.67 or 5715.27 of the Revised Code or under any other 1721
section of the Revised Code under the jurisdiction of the 1722
director of environmental protection, the county treasurer shall 1723
notify the certificate holder by ordinary first-class or 1724
certified mail or by binary means of the filing of the 1725
application. Once a determination has been made on the exemption 1726
application, the county treasurer shall notify the certificate 1727
holder of the determination by ordinary first-class or certified 1728
mail or by binary means. Except with respect to a county land 1729
reutilization corporation, the last day on which the certificate 1730
holder may file a request for foreclosure shall be the later of 1731
three years from the date the certificate was sold or forty-five 1732
days after notice of the determination was provided. 1733

(B) When a request for foreclosure or a notice of intent 1734
to foreclose is filed under this section, the certificate holder 1735
shall submit a payment to the county treasurer equal to the sum 1736
of the following: 1737

(1) The certificate redemption prices of all outstanding 1738
tax certificates that have been sold on the parcel, other than 1739
tax certificates held by the person requesting foreclosure; 1740

(2) Any taxes, assessments, penalties, interest, and charges appearing on the tax duplicate charged against the certificate parcel that is the subject of the foreclosure proceedings and that are not covered by a tax certificate, but such amounts are not payable if the certificate holder is a county land reutilization corporation;

(3) If the foreclosure proceedings are filed by the county prosecuting attorney pursuant to section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, a fee in the amount prescribed by the county prosecuting attorney to cover the prosecuting attorney's legal costs incurred in the foreclosure proceeding.

(C) (1) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, the county treasurer, within five days after receiving a foreclosure request and the payment required under division (B) of this section, shall certify notice to that effect to the county prosecuting attorney and shall provide a copy of the foreclosure request. The county treasurer also shall send notice by ordinary first class or certified mail to all certificate holders other than the certificate holder requesting foreclosure that foreclosure has been requested by a certificate holder and that payment for the tax certificates is forthcoming. Within ninety days of receiving the copy of the foreclosure request, the prosecuting attorney shall commence a foreclosure proceeding in the name of the county treasurer in the manner provided under

section 323.25, sections 323.65 to 323.79, or section 5721.14 or 1772
5721.18 of the Revised Code, to enforce the lien vested in the 1773
certificate holder by the certificate. The prosecuting attorney 1774
shall attach to the complaint the foreclosure request and the 1775
county treasurer's written certification. 1776

(2) With respect to a certificate purchased under section 1777
5721.32, 5721.33, or 5721.42 of the Revised Code, if the 1778
certificate parcel has not been redeemed, at least one 1779
certificate respecting the certificate parcel, held by the 1780
certificate holder filing the notice of intent to foreclose and 1781
eligible to be enforced through a foreclosure proceeding, has 1782
not been voided under section 5721.381 of the Revised Code, a 1783
notice of intent to foreclose has been filed, and the payment 1784
required under division (B) of this section has been made, the 1785
county treasurer shall certify notice to that effect to the 1786
private attorney. The county treasurer also shall send notice by 1787
ordinary first class or certified mail or by binary means to all 1788
certificate holders other than the certificate holder 1789
represented by the attorney that a notice of intent to foreclose 1790
has been filed and that payment for the tax certificates is 1791
forthcoming. After receipt of the treasurer's certification and 1792
not later than one hundred twenty days after the filing of the 1793
intent to foreclose or the number of days specified under the 1794
terms of a negotiated sale under section 5721.33 of the Revised 1795
Code, the private attorney shall commence a foreclosure 1796
proceeding in the name of the certificate holder in the manner 1797
provided under division (F) of this section to enforce the lien 1798
vested in the certificate holder by the certificate. The private 1799
attorney shall attach to the complaint the notice of intent to 1800
foreclose and the county treasurer's written certification. 1801

(D) The county treasurer shall credit the amount received 1802

under division (B) (1) of this section to the tax certificate 1803
redemption fund. The tax certificates respecting the payment 1804
shall be paid as provided in division (D) of section 5721.38 of 1805
the Revised Code. The amount received under division (B) (2) of 1806
this section shall be distributed to the taxing districts to 1807
which the delinquent and unpaid amounts are owed. The county 1808
treasurer shall deposit the fee received under division (B) (3) 1809
of this section in the county treasury to the credit of the 1810
delinquent tax and assessment collection fund. 1811

(E) (1) Except with respect to a county land reutilization 1812
corporation, if the certificate holder does not file with the 1813
county treasurer a request for foreclosure or a notice of intent 1814
to foreclose with respect to a certificate parcel with the 1815
required payment within the certificate period or any extension 1816
of that period pursuant to division (C) (2) of section 5721.38 of 1817
the Revised Code, or within the period provided under division 1818
(A) (2) of this section, and during that time the certificate has 1819
not been voided under section 5721.381 of the Revised Code and 1820
the certificate parcel has not been redeemed or foreclosed upon, 1821
the certificate holder's lien against the parcel is canceled and 1822
the certificate is voided, subject to division (E) (2) of this 1823
section. 1824

(2) In the case of any tax certificate purchased under 1825
section 5721.32 of the Revised Code or under section 5721.42 of 1826
the Revised Code by the holder of a certificate issued under 1827
section 5721.32 of the Revised Code prior to June 24, 2008, the 1828
county treasurer, upon application by the certificate holder, 1829
may sell to the certificate holder a new certificate extending 1830
the three-year period prescribed by division (E) (1) of this 1831
section, as that division existed prior to that date, to six 1832
years after the date shown on the original certificate as the 1833

date it was sold or any extension of that date. 1834

The county treasurer and the certificate holder shall 1835
negotiate the premium, in cash, to be paid for a new certificate 1836
sold under division (E) (2) of this section. If the county 1837
treasurer and certificate holder do not negotiate a mutually 1838
acceptable premium, the county treasurer and certificate holder 1839
may agree to engage a person experienced in the valuation of 1840
financial assets to appraise a fair premium for the new 1841
certificate. The certificate holder has the option to purchase 1842
the new certificate for the fair premium so appraised. Not less 1843
than one-half of the fee of the person so engaged shall be paid 1844
by the certificate holder requesting the new certificate; the 1845
remainder of the fee shall be paid from the proceeds of the sale 1846
of the new certificate. If the certificate holder does not 1847
purchase the new certificate for the premium so appraised, the 1848
certificate holder shall pay the entire fee. The county 1849
treasurer shall credit the remaining proceeds from the sale to 1850
the items of taxes, assessments, penalties, interest, and 1851
charges in the order in which they became due. 1852

A certificate issued under division (E) (2) of this section 1853
vests in the certificate holder and its secured party, if any, 1854
the same rights, interests, privileges, and immunities as are 1855
vested by the original certificate under sections 5721.30 to 1856
5721.43 of the Revised Code. The certificate shall be issued in 1857
the same form as the form prescribed for the original 1858
certificate issued except for any modifications necessary, in 1859
the county treasurer's discretion, to reflect the extension 1860
under this division of the certificate holder's lien to six 1861
years after the date shown on the original certificate as the 1862
date it was sold or any extension of that date. The certificate 1863
holder may record a certificate issued under division (E) (2) of 1864

this section or memorandum thereof as provided in division ~~(B)~~ 1865
(D) of section 5721.35 of the Revised Code, and the county 1866
recorder shall index the certificate and record any subsequent 1867
cancellation of the lien as provided in that section. The sale 1868
of a certificate extending the lien under division (E) (2) of 1869
this section does not impair the right of redemption of the 1870
owner of record of the certificate parcel or of any other person 1871
entitled to redeem the property. 1872

(3) If the holder of a certificate purchased under section 1873
5721.32, 5721.33, or 5721.42 of the Revised Code submits a 1874
notice of intent to foreclose to the county treasurer but fails 1875
to file a foreclosure action in a court of competent 1876
jurisdiction within the time specified in division (C) (2) of 1877
this section, the liens represented by all tax certificates 1878
respecting the certificate parcel held by that certificate 1879
holder, and for which the deadline for filing a notice of intent 1880
to foreclose has passed, are canceled and the certificates 1881
voided, and the certificate holder forfeits the payment of the 1882
amounts described in division (B) (2) of this section. 1883

(F) With respect to tax certificates purchased under 1884
section 5721.32, 5721.33, or 5721.42 of the Revised Code, upon 1885
the delivery to the private attorney by the county treasurer of 1886
the certification provided for under division (C) (2) of this 1887
section, the private attorney shall institute a foreclosure 1888
proceeding under this division in the name of the certificate 1889
holder to enforce the holder's lien, in any court or board of 1890
revision with jurisdiction, unless the certificate redemption 1891
price is paid prior to the time a complaint is filed. The 1892
attorney shall prosecute the proceeding to final judgment and 1893
satisfaction, whether through sale of the property or the 1894
vesting of title and possession in the certificate holder or 1895

other disposition under sections 323.65 to 323.79 of the Revised Code or as may otherwise be provided by law. 1896
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The foreclosure proceedings under this division, except as otherwise provided in this division, shall be instituted and prosecuted in the same manner as is provided by law for the foreclosure of mortgages on land, except that, if service by publication is necessary, such publication shall be made once a week for three consecutive weeks and the service shall be complete at the expiration of three weeks after the date of the first publication. 1898
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Any notice given under this division shall include the name of the owner of the parcel as last set forth in the records of the county recorder, the owner's last known mailing address, the address of the subject parcel if different from that of the owner, and a complete legal description of the subject parcel. In any county that has adopted a permanent parcel number system, such notice may include the permanent parcel number in addition to a complete legal description. 1906
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It is sufficient, having been made a proper party to the foreclosure proceeding, for the certificate holder to allege in such holder's complaint that the tax certificate has been duly purchased by the certificate holder, that the certificate redemption price is due and unpaid, that there is a lien against the property described in the tax certificate, and, if applicable, that the certificate holder desires to invoke the alternative redemption period prescribed in sections 323.65 to 323.79 of the Revised Code, without setting forth in such holder's complaint any other special matter relating to the foreclosure proceeding. The complaint shall pray for an order directing the sheriff, or the bailiff if the complaint is filed 1914
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in municipal court, to offer the property for sale in the manner 1926
provided in section 5721.19 of the Revised Code or otherwise 1927
transferred according to any applicable procedures provided in 1928
sections 323.65 to 323.79 of the Revised Code, unless the 1929
complaint documents that the county auditor has determined that 1930
the true value of the certificate parcel is less than the 1931
certificate purchase price. In that case, the prayer of the 1932
complaint shall request that fee simple title to the property be 1933
transferred to and vested in the certificate holder free and 1934
clear of all subordinate liens. 1935

In the foreclosure proceeding, the certificate holder may 1936
join in one action any number of tax certificates relating to 1937
the same owner. However, the decree for each tax certificate 1938
shall be rendered separately and any proceeding may be severed, 1939
in the discretion of the court or board of revision, for the 1940
purpose of trial or appeal. Except as may otherwise be provided 1941
in sections 323.65 to 323.79 of the Revised Code, upon 1942
confirmation of sale, the court or board of revision shall order 1943
payment of all costs related directly or indirectly to the tax 1944
certificate, including, without limitation, attorney's fees of 1945
the holder's attorney in accordance with section 5721.371 of the 1946
Revised Code. The tax certificate purchased by the certificate 1947
holder is presumptive evidence in all courts and boards of 1948
revision and in all proceedings, including, without limitation, 1949
at the trial of the foreclosure action, of the amount and 1950
validity of the taxes, assessments, charges, penalties by the 1951
court and added to such principal amount, and interest appearing 1952
due and unpaid and of their nonpayment. 1953

(G) If a parcel is sold under this section, the officer 1954
who conducted the sale shall collect the recording fee from the 1955
purchaser at the time of the sale and, following confirmation of 1956

the sale, shall prepare and record the deed conveying the title 1957
to the parcel to the purchaser. 1958

(H) In any foreclosure proceeding instituted pursuant to 1959
this section, the holder of a tax certificate shall be found to 1960
hold the first lien against the certificate parcel only if, with 1961
the request for foreclosure or notice of intent to foreclose, 1962
the certificate holder verifies either that (1) the conditions 1963
described in divisions (B) (2) (a) and (b) of section 5721.35 of 1964
the Revised Code have been met or (2) the certificate holder was 1965
not required to meet those conditions in order to obtain the 1966
first lien against the parcel. 1967

Section 2. That existing sections 155.34, 1311.04, 1968
1311.71, 1311.72, 1311.73, 1311.75, 1311.76, 1311.77, 4561.01, 1969
5301.25, 5322.03, 5322.06, 5721.06, 5721.32, 5721.33, 5721.35, 1970
and 5721.37 of the Revised Code are hereby repealed. 1971

Section 3. The amendment by this act of sections 5301.25, 1972
5721.06, 5721.32, 5721.33, 5721.35, and 5721.37 of the Revised 1973
Code applies to tax certificates sold on or after the effective 1974
date of this section. 1975