

As Introduced

136th General Assembly

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H. B. No. 458

Representative Lorenz

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

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

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

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

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

(1) "Commercial property" means any property that is not 18
residential property. 19

(2) "Private selling officer" means a resident of this 20

state licensed as both an auctioneer under Chapter 4707. of the 21
Revised Code and as a real estate broker or real estate 22
salesperson under Chapter 4735. of the Revised Code. 23

(3) "Residential mortgage loan" and "residential property" 24
have the same meanings as in section 2308.01 of the Revised 25
Code. 26

(4) "Judgment debtor" includes any individual, 27
corporation, business trust, estate, trust, partnership, or 28
association. 29

(5) "Sale date" means the day on which an auction for real 30
estate concludes. 31

(6) "Start date" means the first day an auction for real 32
estate is open for bidding to the public. 33

Sec. 2329.151. Except as provided in sections 2329.152 to 34
2329.154 of the Revised Code, all public auctions of goods, 35
chattels, or lands levied upon by execution shall be conducted 36
personally by one of the following: 37

(A) An officer of the court; 38

(B) For the public auction of goods and chattels, a 39
resident of this state licensed as an auctioneer under Chapter 40
4707. of the Revised Code; 41

~~(C)~~ (C) (1) For the public auction of lands, a private 42
selling officer who is not controlled by, or under common 43
control with, any of the following: 44

(a) The mortgagee or mortgage servicer of the property 45
being auctioned; 46

(b) A subsidiary of a mortgagee or mortgage servicer of 47

the property being auctioned; 48

(c) A law firm providing legal services in relation to the 49
property being auctioned. 50

(2) Nothing in this section shall be construed to prohibit 51
a mortgagee or mortgage servicer from engaging in a regular 52
course of business with an independent private selling officer. 53

Sec. 2329.152. (A) In every action demanding the judicial 54
or execution sale of real estate in which the debtor has failed 55
to plead or otherwise defend as provided by the Rules of Civil 56
Procedure, the judgment creditor may elect that the real estate 57
be sold at a public auction by a private selling officer. If the 58
judgment creditor elects to have the real estate sold by the 59
private selling officer, the judgment creditor shall file with 60
the clerk of the court a praecipe directing the issuance of an 61
order of sale to the private selling officer. A judgment 62
creditor may specify multiple private selling officers in the 63
praecipe, any of which may conduct the sale. 64

In every other action demanding the judicial or execution 65
sale of real estate, the county sheriff shall sell the real 66
estate at a public auction, unless the judgment creditor files a 67
motion with the court for an order authorizing a specified 68
private selling officer to sell the real estate at a public 69
auction. If the court authorizes a private selling officer to 70
sell the real estate, the judgment creditor may seek to have the 71
property sold by the private selling officer authorized by the 72
court or by the county sheriff. If the judgment creditor elects 73
to have the property sold by the private selling officer 74
authorized by the court, the judgment creditor shall file with 75
the clerk of the court a praecipe requesting the issuance of an 76
order of ~~appraisal to the sheriff and an order of sale to the~~ 77

private selling officer authorized by the court. ~~Upon~~ 78

Upon the filing of ~~that~~ the praecipe, the clerk of the 79
court shall immediately issue ~~both of the following:~~ 80

~~(1) An order of appraisal to the sheriff, who shall obtain 81
an appraisal of the real estate in conformity with sections 82
2329.17 and 2329.18 of the Revised Code;~~ 83

~~(2) An~~ an order of sale to the private selling officer, 84
who, ~~after the return or determination of the appraisal,~~ shall 85
advertise and sell the real estate in conformity with applicable 86
provisions of sections 2329.01 to 2329.61 of the Revised Code_ 87
using the appraised value established under section 2329.17 of 88
the Revised Code. 89

Within ten days after the issuance of an order of sale to 90
a private selling officer, any lienholder who is a party to the 91
action may file a motion with the court objecting to the use of 92
the private selling officer. If such motion is filed within ten 93
days after the issuance of the order of sale and the court 94
determines there is good and reasonable cause, as defined in 95
this division, the court may order that the sale be reset, 96
republished, and conducted by either the county sheriff or 97
another private selling officer. 98

As used in this division, "good and reasonable cause" 99
means that the lienholder is more likely to have its lien 100
satisfied, in whole or in part, if the sale is conducted by the 101
county sheriff or another private selling officer. 102

(B) (1) As used in this division: 103

(a) "Business day" means a calendar day that is not a 104
Saturday or Sunday or a legal holiday as defined in section 1.14 105
of the Revised Code. 106

(b) "Remote bid" means a bid submitted in writing via 107
facsimile, electronic mail, or overnight delivery or courier. 108

(2) If the sale of the real estate is conducted at a 109
physical location and not online, then each judgment creditor 110
and lienholder who was a party to the action may submit a remote 111
bid to the sheriff or the private selling officer. Each sheriff 112
and private selling officer shall establish and maintain a 113
facsimile number or an electronic mail address for use by 114
judgment creditors and lienholders in submitting remote bids. 115
Each remote bid shall be of a fixed maximum amount and shall be 116
delivered to the sheriff or private selling officer on or before 117
four-thirty p.m. on the business day immediately preceding the 118
~~date of the sale~~ date. 119

(3) Before the sale, the sheriff or the private selling 120
officer shall confirm receipt of the remote bid by sending 121
notice of such receipt via facsimile or electronic mail to the 122
judgment creditor or lienholder who submitted the remote bid. 123
During the sale, the sheriff or the private selling officer 124
shall place the remote bid on behalf of the judgment creditor or 125
lienholder who submitted the remote bid. After the sale, the 126
sheriff or the private selling officer shall provide notice of 127
the results of the sale not later than the close of business on 128
the day of the sale to all judgment creditors and lienholders 129
who submitted remote bids. Such notice shall be sent via 130
facsimile or electronic mail to the judgment creditor or 131
lienholder or by posting the results of the sale on a public web 132
site. 133

(4) If a sheriff or private selling officer fails to place 134
a remote bid on behalf of a judgment creditor or lienholder to 135
the prejudice of the judgment creditor or lienholder, then, upon 136

the filing of a motion to vacate the sale within ten business 137
days after the sale date, the sale shall be vacated. 138

(C) (1) A judgment creditor that obtains a court order 139
authorizing a specified private selling officer to sell the real 140
estate at a public auction pursuant to division (A) of this 141
section may instruct the private selling officer to postpone the 142
sale of the real estate one or more times, provided, however 143
that all rescheduled sale dates shall be within one hundred 144
eighty days of the initial sale date. Upon receiving this 145
instruction, the private selling officer shall postpone the sale 146
of the real estate by announcing that the sale is postponed. If 147
the sale is at a physical location, this announcement shall be 148
made at the sale and shall include the date, time, and place of 149
the rescheduled sale of the real estate. If the sale is online, 150
this announcement shall be made on the auction web site and 151
shall include the date of the rescheduled sale of real estate. 152
Each such announcement shall be deemed to meet the notice 153
requirement in section 2329.26 of the Revised Code. 154

(2) If the judgment creditor does not wish to postpone the 155
sale of the real estate, the judgment creditor may instruct the 156
private selling officer to cancel the sale of the real estate. 157
Upon receiving this instruction, the private selling officer 158
shall cancel the sale of the real estate by announcing that the 159
sale is canceled. If the sale is at a physical location, this 160
announcement shall be made at the sale. If the sale is online, 161
this announcement shall be made on the auction web site and 162
shall remain posted there until at least the end of the ~~seven-~~ 163
~~calendar-day-three-calendar-day~~ bidding period described in 164
division (E) (1) (a) of this ~~section 2329.152 of the Revised Code.~~ 165

(3) If the sale of the real estate is postponed or 166

canceled as described in divisions (C)(1) and (2) of this 167
section, all bids made on the real estate prior to the 168
postponement or cancellation of the sale shall be void. 169

(D)(1) If the judgment creditor obtains a court order to 170
have the real estate sold by a private selling officer, then: 171

(a) ~~The~~ Except as otherwise provided in division (B)(5) of 172
section 2329.17 of the Revised Code, the cost of the appraisal 173
~~appraisals~~ required by ~~that~~ section 2329.17 of the Revised Code 174
shall be taxed as costs in the case. 175

(b) The cost of the advertisement in a newspaper of 176
general circulation as required by section 2329.26 of the 177
Revised Code shall be taxed as costs in the case. 178

(c) The fee charged by the private selling officer and all 179
costs incurred by the private selling officer other than the 180
costs described in divisions (D)(1)(a) and (b) of this section 181
shall be taxed as costs in the case up to an amount equal to one 182
and one-half per cent of the sale price of the real estate. To 183
the extent the fees and costs described in division (D)(1)(c) of 184
this section exceed one and one-half per cent of the sale price 185
of the real estate, they shall not be included in the amount 186
necessary to redeem real estate under section 2329.33 of the 187
Revised Code or in the calculation of any deficiency judgment 188
under section 2329.08 of the Revised Code ~~but rather~~. Rather, 189
the fees and costs shall be paid by the buyer of the property, 190
the judgment creditor, or from the judgment creditor's portion 191
of the proceeds of the sale in an amount not exceeding ten per 192
cent of the sale price of the real estate. 193

(2) The private selling officer shall file with the court 194
that issued the order of sale an itemized report of all 195

appraisal, publication, marketing, and other expenses of a sale 196
conducted under this section and all fees charged by the private 197
selling officer for marketing the real estate or conducting the 198
sale of the real estate, including the fee charged by the title 199
agent or title insurance company for administrative services, if 200
applicable, and title, escrow, and closing services. Each filing 201
of such itemized report shall be deemed to meet the writ of 202
execution requirement in section 2329.28 of the Revised Code. 203

(E) (1) The private selling officer who conducts a sale 204
under this section ~~may~~ shall do ~~any~~ all of the following: 205

(a) Market the real estate and conduct the public auction 206
of the real estate online or at any physical location in the 207
county in which the real estate is situated. If the auction 208
occurs online, the auction shall be open for bidding for a 209
minimum of ~~seven~~ three calendar days, counted by excluding the 210
day the auction is first open for bidding and, notwithstanding 211
section 1.14 of the Revised Code, including all subsequent days. 212
The online auction shall be conducted in a manner so that all 213
bids are publicly displayed upon entry by the bidder throughout 214
the bidding period described in division (E) (1) (a) of this 215
section. 216

(b) ~~Hire a title insurance agent licensed under Chapter~~ 217
~~3953. of the Revised Code or title insurance company authorized~~ 218
~~to do business under that chapter to assist the private selling~~ 219
~~officer in performing administrative services;~~ 220

~~(c)~~ Execute to the purchaser, or to the purchaser's legal 221
representatives, a deed of conveyance of the real estate sold; 222

~~(d)~~ (c) Record on behalf of the purchaser the deed 223
conveying title to the real estate sold, notwithstanding that 224

the deed may not actually have been delivered to the purchaser 225
prior to its recording. 226

(2) A private selling officer who conducts a sale under 227
this section may hire a title insurance agent licensed under 228
Chapter 3953. of the Revised Code or title insurance company 229
authorized to do business under that chapter to assist the 230
private selling officer in performing administrative services. 231

(3) By placing a bid at a sale conducted pursuant to this 232
section, a purchaser appoints the private selling officer who 233
conducts the sale as agent of the purchaser for the sole purpose 234
of accepting delivery of the deed. 235

~~(3)~~ (4) The private selling officer who conducts the sale 236
shall hire a title insurance agent licensed under Chapter 3953. 237
of the Revised Code or title insurance company authorized to do 238
business under that chapter to perform title, escrow, and 239
closing services related to the sale of the real estate. 240

(F) The fee charged by the title agent or title insurance 241
company for services provided under divisions ~~(E) (1) (b) and (3)~~ 242
(E) (2) and (4) ~~—~~of this section shall be taxed as costs in the 243
case provided they are reasonable. Fees less than or equal to 244
five hundred dollars are presumed to be reasonable. Fees 245
exceeding five hundred dollars shall be paid only if authorized 246
by a court order. 247

Sec. 2329.153. (A) Not later than ninety days after ~~the~~ 248
~~effective date of this section~~ September 28, 2016, the 249
department of administrative services shall solicit competitive 250
sealed proposals for the creation, operation, and maintenance of 251
the official public sheriff sale web site and an integrated 252
auction management system. The official public sheriff sale web 253

site and integrated auction management system shall be a single 254
statewide system for use by all county sheriffs in accordance 255
with the requirements of this section. 256

(B) The official public sheriff sale web site shall meet 257
the following minimum requirements: 258

(1) The web site shall have a domain name relevant to the 259
judicial sale of real property. 260

(2) The web site shall be limited to the judicial sale of 261
real property located in this state. 262

(3) The web site shall not charge a fee for members of the 263
public to view properties for sale. 264

(4) The web site shall allow each county sheriff to add 265
text, images, or graphics to the web site for the purpose of 266
identifying the county or sheriff conducting the sale. 267

(5) The web site shall include industry-standard features 268
and functionality, including user guides, online financial 269
transaction device payments, anti-snipe functionality, watch 270
lists, electronic mail notifications, maximum bid limits, 271
automatic incremental bidding, and search and map features that 272
allow users to search by county, zip code, address, parcel 273
number, appraised value, party name, case number, and other 274
variables relevant to the judicial sale of real property. As 275
used in this section, "financial transaction device" has the 276
same meaning as in section 301.28 of the Revised Code. 277

(6) The web site shall include features that allow for the 278
cancellation of sales as required by law or court order and the 279
postponement of sales in accordance with divisions (E) (2) and 280
(3) of this section. 281

(7) The web site shall provide a secure payment processing 282
system that accepts online payments for property sold via the 283
web site and, in an efficient and cost-effective manner, 284
transfers those payments to the appropriate county official or 285
account. 286

(8) The web site shall include the ability for an attorney 287
or law firm to enter a bid in a representative capacity. 288

(9) The web site shall be integrated with the auction 289
management system described in division (C) of this section. 290

(C) The auction management system shall meet the following 291
minimum requirements: 292

(1) The auction management system shall have a role-based 293
workflow engine to assist in conducting sales on the web site, 294
capturing data, complying with all relevant laws, and managing 295
administrative processes related to the judicial sale of real 296
property in a timely, secure, and accurate manner. 297

(2) The auction management system shall record the data 298
necessary to meet the reporting requirements of section 2329.312 299
of the Revised Code. 300

(3) The auction management system shall be able to 301
generate documents required by the court ordering the sale or 302
related to the judicial sale of real property. 303

(4) The auction management system shall be able to record 304
fees, costs, deposits, and other money items with the objective 305
of ensuring an accurate accounting of moneys received and 306
disbursed in each judicial sale of real property. 307

(5) The auction management system shall be integrated with 308
the web site described in division (B) of this section. 309

(6) The auction management system shall conduct the sale 310
in a manner so that all bids are publicly displayed upon entry 311
by the bidder throughout the bidding period described in 312
division (E) (1) of this section. 313

(D) The license fee for the creation, operation, and 314
maintenance of the official public sheriff sale web site and 315
integrated auction management system shall be determined using a 316
per-transaction license fee model or a per-use license fee 317
model. The addition of a property to the official public sheriff 318
sale web site or the auction management system shall each be 319
deemed a transaction for purposes of determining the license 320
fee. The license fee applicable to each judicial sale of real 321
property shall be taxed as costs in the case. No additional 322
license fees shall be assessed to the county sheriff. 323

(E) (1) Not later than one year after ~~the effective date of~~ 324
~~this section~~ September 28, 2016, in all cases in which the 325
sheriff is ordered to conduct a judicial sale of real property, 326
the following shall occur: 327

(a) For residential property, the sale may be conducted on 328
the official public sheriff sale web site for a five-year period 329
beginning on the date the online system is fully operational. 330
After this five-year period sales shall be conducted on the 331
official public sheriff sale web site. 332

(b) For commercial property, the sale may be conducted on 333
the official public sheriff sale web site. 334

All sales conducted on the official public sheriff sale 335
web site shall be open for bidding for at least ~~seven~~ three 336
days. 337

(2) If the sale of the real property is to be conducted on 338

the official public sheriff sale web site, the judgment creditor 339
may instruct the sheriff to postpone the sale of the real 340
property one time for up to one hundred eighty days after the 341
initial sale date. Upon receiving such instruction for 342
postponement, the sheriff shall postpone the sale of the 343
property by announcing on the official public sheriff sale web 344
site that the sale is postponed and giving notice of the 345
rescheduled sale date. This announcement shall be deemed to meet 346
the notice requirement of section 2329.26 of the Revised Code. 347

(3) If the judgment creditor does not wish to postpone the 348
sale of the real property, the judgment creditor may instruct 349
the sheriff to cancel the sale of the property. Upon receiving 350
this instruction, the sheriff shall cancel the sale of the 351
property by announcing on the official public sheriff sale web 352
site that the sale is canceled. This announcement shall remain 353
posted on the official public sheriff sale web site until at 354
least the end of the ~~seven-day~~ three-day bidding period 355
described in division (E) (1) of this section. 356

(4) If the sale of the real property is postponed or 357
canceled according to divisions (E) (2) and (3) of this section, 358
all bids made on the real property prior to the postponement or 359
cancellation of the sale shall be void. 360

(F) Pursuant to their authority in section 9.482 of the 361
Revised Code, counties may elect to enter into a shared services 362
agreement relating to the judicial sale of real property on the 363
official public sheriff sale web site. The shared services 364
agreement may seek to improve efficiency and reduce costs in the 365
judicial sale of real property by consolidating administrative 366
functions and processes. 367

Sec. 2329.17. (A) When execution is levied upon ~~lands and~~ 368

~~tenements~~ real property, the sheriff of the county where the 369
property taken in execution is situated ~~shall call an inquest of~~ 370
acquire appraisals from three disinterested freeholders, who are 371
residents of, and real property owners in, the county where the 372
~~lands~~ property taken in execution ~~are~~ is situated, who shall 373
appraise the property so levied upon, upon actual view. 374

(B) If the property to be appraised is residential 375
property, all of the ~~freeholders~~ following apply: 376

(1) Each appraisal shall be exterior-only. 377

(2) Each appraisal shall be conducted by an individual who 378
is licensed under either Chapter 4735. or 4763. of the Revised 379
Code and is not the sheriff, the private selling officer, or a 380
person affiliated with the sheriff or private selling officer. 381

(3) The cost of the appraisals shall not exceed an amount 382
that the sheriff determines is reasonable and customary for such 383
services. 384

(4) (a) The individuals ~~selected by the sheriff to conduct~~ 385
the appraisal shall return to the sheriff an estimate of the 386
value of the property ~~in money within twenty-one fourteen~~ 387
calendar days ~~of~~ after the issuance of the order of appraisal by 388
the clerk of the court. 389

(b) If the court has ordered or the clerk of the court has 390
~~issued an order for a private selling officer to advertise and~~ 391
~~sell the appraised~~ is responsible for the sale of the property, 392
the ~~freeholders~~ individuals selected by the sheriff shall also 393
deliver ~~a~~ an electronic copy of ~~their~~ the individuals' appraisal 394
to the private selling officer contemporaneously with ~~their~~ the 395
individuals' delivery of ~~their~~ the individuals' appraisal to the 396
sheriff. 397

~~(C)~~ (5) If the ~~freeholders~~ individuals selected by the 398
sheriff under ~~division (B) of this section~~ do not deliver ~~their~~ 399
~~appraisal~~ the appraisals within ~~twenty-one~~ fourteen calendar 400
days ~~of~~ after the issuance of the order of appraisal by the 401
clerk of the court ~~as required by division (B) of this section,~~ 402
then ~~all both~~ of the following ~~shall occur~~ apply: 403

~~(1)~~ (a) The cost of the ~~appraisal~~ appraisals by the 404
~~freeholders~~ individuals shall not be ~~payable~~ paid to the 405
~~freeholders~~ individuals or taxed as costs in the case. 406

~~(2)~~ (b) The appraised value of the property shall be the 407
most recent appraised value of the property as shown on the 408
records of the county auditor, unless, for good cause shown, the 409
court authorizes a separate appraisal of the property. 410

~~(3)~~ The advertisement and sale of the property shall 411
~~proceed immediately in accordance with the order of~~ 412
~~advertisement and sale issued by the clerk of the court.~~ 413

~~If a separate appraisal of the property is obtained, the~~ 414
~~cost of the appraisal shall be included as an expense of the~~ 415
~~sale pursuant to division (D) of section 2329.152 of the Revised~~ 416
~~Code.~~ 417

~~(D)~~ (C) If the property to be appraised is commercial 418
property, the freeholders selected by the sheriff shall return 419
to the sheriff an estimate of the value of the property in money 420
in accordance with the timing or other requirements, if any, 421
that may be established for the sale. 422

~~(E)~~ (D) The advertisement and sale of real property 423
described in this section shall proceed immediately in 424
accordance with the order of advertisement and sale issued by 425
the clerk of the court. 426

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

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

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

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

Sec. 2329.20. Except as otherwise provided in this section
or sections 2329.51 and 2329.52 of the Revised Code, no tract of
land shall be sold for less than two-thirds the amount of the

appraised value as ~~determined~~established pursuant to section 457
2329.17 of the Revised Code. In all cases in which a junior 458
mortgage or other junior lien is sought to be enforced against 459
real estate by an order, judgment, or decree of court, subject 460
to a prior lien thereon, and such prior lien, and the claims or 461
obligations secured thereby, are unaffected by such order, 462
judgment, or decree, the court making such order, judgment, or 463
decree, may determine the minimum amount for which such real 464
estate may be sold. In such a case, the minimum amount shall be 465
not less than two-thirds of the difference between the appraised 466
value of the real estate as ~~determined~~established in that 467
section, and the amount remaining unpaid on the claims or 468
obligations secured by such prior lien. 469

Sec. 2329.211. (A) (1) In every action demanding the 470
judicial or execution sale of residential property, if the 471
judgment creditor is the purchaser at the sale, the purchaser 472
shall not be required to make a sale deposit. All other 473
purchasers shall make a sale deposit as follows: 474

(a) If the appraised value of the residential property is 475
less than or equal to ten thousand dollars, the deposit shall be 476
two thousand dollars. 477

(b) If the appraised value of the residential property is 478
greater than ten thousand dollars but less than or equal to two 479
hundred thousand dollars, the deposit shall be five thousand 480
dollars. 481

(c) If the appraised value of the residential property is 482
greater than two hundred thousand dollars, the deposit shall be 483
ten thousand dollars. 484

(2) The timing of the deposit and other payment 485

requirements shall be established by the court or the person 486
conducting the sale and included in the advertisement of the 487
sale. If the purchaser fails to meet the timing or other 488
requirements of the deposit, the sale shall be invalid and the 489
residential property may be brought to sale on ~~the provisional-~~ 490
~~second sale~~ any subsequent start date, if any, described in 491
division (B) of section 2329.52 of the Revised Code, and 492
included in the notice required by division (A)(1)(a)(i) of 493
section 2329.26 of the Revised Code. 494

(3) If the sale is held online, the deposit may be made by 495
a financial transaction device as defined in section 301.28 of 496
the Revised Code. 497

(B) In every action demanding the judicial or execution 498
sale of commercial property, the purchaser at the sale shall 499
make a deposit pursuant to the requirements, if any, established 500
for the sale. 501

Sec. 2329.26. (A) Lands and tenements taken in execution 502
shall not be sold until all of the following occur: 503

(1)(a) Except as otherwise provided in division (A)(1)(b) 504
of this section, the judgment creditor who seeks the sale of the 505
lands and tenements or the judgment creditor's attorney does 506
both of the following: 507

(i) Causes a written notice to be served in accordance 508
with divisions (A) and (B) of Civil Rule 5 upon the judgment 509
debtor and upon each other party to the action in which the 510
judgment giving rise to the execution was rendered. Such notice 511
shall include the start date, time, and place of the sale if the 512
sale is to be held at a physical location or the start date and 513
web site address of the sale if the sale is to be held online. 514

Such notice shall also include ~~the provisional second sale~~ any 515
subsequent start date described in division (B) of section 516
2329.52 of the Revised Code, if applicable. 517

(ii) At least seven calendar days prior to the sale date 518
~~of the sale~~, files with the clerk of the court that rendered the 519
judgment giving rise to the execution a copy of the written 520
notice described in division (A) (1) (a) (i) of this section with 521
proof of service endorsed on the copy in the form described in 522
division (B) of Civil Rule 5. 523

(b) Service of the written notice described in division 524
(A) (1) (a) (i) of this section is not required to be made upon any 525
party who is in default for failure to appear in the action in 526
which the judgment giving rise to the execution was rendered. 527

(2) One of the following applies: 528

(a) The officer taking the lands and tenements gives 529
public notice once a week for at least three consecutive weeks 530
~~before the day of sale if the sale is to be held at a physical~~ 531
~~location or the start date of the sale if the sale is to be~~ 532
~~conducted online~~ date. The last date of publication shall be four 533
or more calendar days prior to the sale date. 534

~~Such~~ Except as otherwise provided in division (C) of this 535
section, the first such notice, occurring at least three weeks 536
before the sale date, shall be by advertisement in the print or 537
digital edition of a newspaper of general circulation in the 538
county. The newspaper shall meet the requirements of section 539
7.12 of the Revised Code. The court ordering the sale may 540
designate in the order of sale the newspaper in which this 541
public notice shall be published. 542

Subsequent notices required by division (A) (2) (a) of this 543

section may be made on the web site of the officer conducting 544
the sale, a web site maintained by the officer for that purpose, 545
or, at the sole discretion of the officer, in a newspaper of 546
general circulation in the county. 547

The ~~notice~~ notices shall include all the following 548
information: 549

(i) The date, time, and place of the sale if the sale is 550
to be held at a physical location; 551

(ii) The start date, the minimum duration, and web site 552
address of the sale if the sale is to be held online; 553

(iii) The deposit required by section 2329.211 of the 554
Revised Code; 555

(iv) That the purchaser shall be responsible for those 556
costs, allowances, and taxes that the proceeds of the sale are 557
insufficient to cover; 558

(v) ~~The~~ Information meeting the requirements of division 559
(A) (2) (a) (i) or (ii) of this section, as applicable to where the 560
sale is to be held, for any subsequent provisional ~~second~~-sale 561
date described in division (B) of section 2329.52 of the Revised 562
Code, if applicable; provided, however, that no sale shall be 563
invalid, nor shall the court vacate any sale, if the notice 564
described in division (A) (1) (a) (i) of this section or the public 565
notice described in division (A) (2) of this section fails to 566
include the provisional sale date for a ~~second~~-subsequent sale 567
of the property and the property is sold on the initial sale 568
date. 569

(vi) The notices required by division (A) (2) of this 570
section need not include a description of the property in metes 571
and bounds. 572

(b) ~~If Except as provided in division (B) of this section,~~ 573
~~if a private selling officer has been ordered to sell the lands~~ 574
~~and tenements, the private selling officer shall give the public~~ 575
~~notice described in division (A) (2) (a) of this section in the~~ 576
~~newspaper designated by the court. If the court has not~~ 577
~~designated a newspaper, the private selling officer shall give~~ 578
~~this public notice in the newspaper customarily used or~~ 579
~~designated by the county sheriff, except that the online notices~~ 580
~~required by that division may be posted to the private selling~~ 581
~~officer's web site, or a web site maintained by the private~~ 582
~~selling officer for those purposes, rather than the sheriff's~~ 583
~~web site, or a web site maintained by the sheriff for those~~ 584
~~purposes.~~ No sale that otherwise complies with division (A) (2) 585
of this section shall be invalid. 586

(B) Any officer taking lands and tenements in execution 587
that are advertised and offered for sale but unsold for want of 588
bidders may advertise any subsequent sale in any method the 589
officer finds suitable, which may include online advertisement 590
instead of print. Any such advertisement of a subsequent sale 591
shall be deemed to meet the notice requirement in division (A) 592
of this section. 593

(C) (1) A sheriff or private selling officer shall not 594
charge or include as an expense of the sale any amount for 595
publishing notice on the sheriff's or private selling officer's 596
web site or a web site maintained by the sheriff or private 597
selling officer for those purposes. 598

(2) If the court ordering the sale designates the 599
newspaper in which the public notice is to be published, and the 600
sheriff or private selling officer is unable to publish notice 601
in that newspaper, then the sheriff or private selling officer 602

may publish notice in another newspaper of general circulation 603
in the county. 604

(3) If the sheriff or private selling officer, despite 605
reasonable efforts, is unable to find a newspaper of general 606
circulation in the county that will publish notice of the sale, 607
subject to division (C) (1) of this section, the sheriff or 608
private selling officer may instead publish notice of the sale 609
on a sheriff's or private selling officer's web site, or a web 610
site maintained by the sheriff or private selling officer for 611
those purposes. 612

(D) The sheriff or private selling officer taking the 613
lands and tenements shall collect the purchaser's information 614
required by section 2329.271 of the Revised Code. 615

~~(C) (E)~~ A sale of lands and tenements taken in execution 616
may be set aside in accordance with ~~division (A) or (B) of~~ 617
section 2329.27 of the Revised Code. 618

Sec. 2329.27. (A) ~~When the public notice required by~~ 619
~~division (A) (2) of section 2329.26 of the Revised Code is made~~ 620
~~in a newspaper published weekly, it is sufficient to insert it~~ 621
~~for three consecutive weeks. If both a daily and weekly edition~~ 622
~~of the paper are published and the circulation of the daily in~~ 623
~~the county exceeds that of the weekly in the county, or if the~~ 624
~~lands and tenements taken in execution are situated in a city,~~ 625
~~both a daily and weekly edition of the paper are published, and~~ 626
~~the circulation of the daily in that city exceeds the~~ 627
~~circulation of the weekly in that city, it is sufficient to~~ 628
~~publish the public notice in the daily once a week for three~~ 629
~~consecutive weeks before the day of sale, each insertion to be~~ 630
~~on the same day of the week. The expense of that publication in~~ 631
~~a daily shall not exceed the cost of publishing it in a weekly.~~ 632

~~(B) (1)~~ Subject Except as provided in division (B) of 633
section 2329.26 of the Revised Code and subject to divisions ~~(B)~~ 634
~~(2)~~ (B) and ~~(3)~~ (C) of this section, all sales of lands and 635
tenements taken in execution that are made without compliance 636
with the written notice requirements of division (A) (1) (a) of 637
section 2329.26 of the Revised Code, the public notice 638
requirements of division (A) (2) of that section, and the notice 639
requirements of section 2329.261 of the Revised Code, the 640
purchaser information requirements of section 2329.271 of the 641
Revised Code, ~~and division (A) of this section~~ shall be set 642
aside, on motion by any interested party, by the court to which 643
the execution is returnable. 644

~~(2)~~ (B) Proof of service endorsed upon a copy of the 645
written notice required by division (A) (1) (a) of section 2329.26 646
of the Revised Code shall be conclusive evidence of the service 647
of the written notice in compliance with the requirements of 648
that division, unless a party files a motion to set aside the 649
sale of the lands and tenements pursuant to division ~~(B) (1)~~ (A) 650
of this section and establishes by a preponderance of the 651
evidence that the proof of service is fraudulent. 652

~~(3)~~ (C) If the court to which the execution is returnable 653
enters its order confirming the sale of the lands and tenements, 654
the order shall have both of the following effects: 655

~~(a)~~ (1) The order shall be deemed to constitute a judicial 656
finding as follows: 657

~~(i)~~ (a) That the sale of the lands and tenements complied 658
with the written notice requirements of division (A) (1) (a) of 659
section 2329.26 of the Revised Code and the public notice 660
requirements of division (A) (2) of that section, and section 661
2329.261 of the Revised Code, ~~and division (A) of this section,~~ 662

or that compliance of that nature did not occur but the failure 663
to give a written notice to a party entitled to notice under 664
division (A) (1) (a) of section 2329.26 of the Revised Code has 665
not prejudiced that party; 666

~~(ii)~~ (b) That all parties entitled to notice under 667
division (A) (1) (a) of section 2329.26 of the Revised Code 668
received adequate notice of the date, time, and place of the 669
sale of the lands and tenements; 670

~~(iii)~~ (c) That the purchaser has submitted the contact 671
information required by section 2329.271 of the Revised Code. 672

~~(b)~~ (2) The order bars the filing of any further motions 673
to set aside the sale of the lands and tenements. 674

Sec. 2329.312. (A) All levying officers appointed or 675
authorized by a court under this chapter to conduct the judicial 676
or execution sale of residential property consisting of one to 677
four single-family units shall submit quarterly reports to the 678
attorney general. The reports shall include data on each such 679
sale conducted by the officer, including data showing whether or 680
not the deadlines required under division (E) of section 681
~~2308.02, division (B) of section 2329.17,~~ and sections 2329.30 682
and 2329.31 of the Revised Code are met. 683

(B) The attorney general shall make the information 684
included in the reports described in division (A) of this 685
section publicly available. 686

Sec. 2329.52. (A) Except as otherwise provided in division 687
(B) of this section, when premises are ordered to be sold, if 688
said premises, or a part thereof, remain unsold for want of 689
bidders after having been once appraised, advertised, and 690
offered for sale, the court from which the order of sale issued 691

may, on motion of the plaintiff or defendant and from time to 692
time until said premises are disposed of, order a new 693
appraisement and sale or direct the amount for which said 694
premises, or a part thereof, may be sold. 695

The court may order that the premises be sold as follows: 696
One third cash in hand, one third in nine months from the day of 697
sale, and the remaining one third in eighteen months from the 698
day of sale, the deferred payments to draw interest at six per 699
cent and be secured by a mortgage on the premises. 700

(B) (1) When a residential property is ordered to be sold 701
pursuant to a residential mortgage loan foreclosure action, if 702
the property remains unsold after the first auction, then a 703
~~second-subsequent~~ auction shall be held and the property shall 704
be sold to the highest bidder without regard to the minimum bid 705
requirement in section 2329.20 of the Revised Code, but subject 706
to section 2329.21 of the Revised Code relating to costs, 707
allowances, and real estate taxes, or disposed of in any other 708
manner pursuant to this chapter. ~~This second~~ Any subsequent 709
auction shall be held not earlier than ~~seven-three~~ days and not 710
later than thirty days after the ~~first-previous~~ auction sale 711
date. ~~A residential property that remains unsold after two~~ 712
~~auctions may be subsequently offered for sale without regard to~~ 713
~~the minimum bid requirement in section 2329.20 of the Revised~~ 714
~~Code, but subject to section 2329.21 of the Revised Code~~ 715
~~relating to costs, allowances, and real estate taxes, or~~ 716
~~disposed of in any other manner pursuant to this chapter or any~~ 717
~~other provision of the Revised Code.~~ 718

(2) For purposes of division (B) (1) of this section, the 719
first day an online auction is open for bidding shall be 720
considered the start ~~date of the auction.~~ 721

Section 2. That existing sections 2329.01, 2329.151,	722
2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 2329.20,	723
2329.211, 2329.26, 2329.27, 2329.312, and 2329.52 of the Revised	724
Code are hereby repealed.	725