

As Passed by the Senate

136th General Assembly

Regular Session

2025-2026

Am. S. B. No. 135

Senator Brenner

Cosponsors: Senators Manning, Cirino, Ingram, Reynolds, Schaffer, Wilkin

To amend sections 2127.38, 2329.01, 2329.151, 1
2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 2
2329.20, 2329.211, 2329.26, 2329.27, 2329.312, 3
2329.52, and 5721.10 of the Revised Code 4
relating to real property foreclosures and 5
estate sales. 6

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

Section 1. That sections 2127.38, 2329.01, 2329.151, 7
2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 8
2329.211, 2329.26, 2329.27, 2329.312, 2329.52, and 5721.10 of 9
the Revised Code be amended to read as follows: 10

Sec. 2127.38. The sale price of real property sold 11
following an action by an executor, administrator, or guardian 12
shall be applied and distributed as follows: 13

~~(A)~~ (A) (1) To discharge the costs and expenses of the 14
sale, including reasonable fees to be fixed by the probate court 15
for services performed by attorneys for the fiduciary in 16
connection with the sale, and compensation, if any, to the 17
fiduciary for services in connection with the sale as the court 18
may fix, which costs, expenses, fees, and compensation shall be 19

paid prior to any liens upon the real property sold and 20
notwithstanding the purchase of the real property by a lien 21
holder; 22

(2) If the estate is insolvent or if, following the 23
application and distribution of the sale proceeds under this 24
section, the real and personal property in the possession or 25
under the control of the executor or administrator of the estate 26
is insufficient to pay the costs, expenses, or fees incurred by 27
the executor or administrator in the course of administering 28
the entire estate, including fees for services performed by 29
attorneys employed by the executor or administrator in relation 30
to the administration of the entire estate, a court may fix 31
which of those costs, expenses, and fees, not to exceed five 32
thousand dollars, in addition to the costs, expenses, fees, and 33
compensation authorized by division (A) (1) of this section, 34
shall be paid prior to any liens placed on or after the 35
effective date of this amendment, upon the real property sold 36
and notwithstanding the purchase of the real property by a lien 37
holder. 38

(B) To the payment of taxes, interest, penalties, and 39
assessments then due against the real property, and to the 40
payment of mortgages and judgments against the ward or deceased 41
person, according to their respective priorities of lien, so far 42
as they operated as a lien on the real property of the deceased 43
at the time of the sale, or on the estate of the ward at the 44
time of the sale, that shall be apportioned and determined by 45
the court, or on reference to a master, or otherwise; 46

(C) (1) In the case of an executor or administrator, the 47
remaining proceeds of sale shall be applied as follows: 48

(a) To the payment of legacies with which the real 49

property of the deceased was charged, if the action is to sell 50
real property to pay legacies; 51

(b) To discharge the claims and debts of the estate in the 52
order provided by law. 53

(2) Whether the executor or administrator was appointed in 54
this state or elsewhere, the surplus of the proceeds of sale 55
shall be considered for all purposes as real property, and be 56
disposed of accordingly. 57

Sec. 2329.01. (A) Lands and tenements, including vested 58
legal interests therein, permanent leasehold estates renewable 59
forever, and goods and chattels, not exempt by law, shall be 60
subject to the payment of debts, and liable to be taken on 61
execution and sold as provided in sections 2329.02 to 2329.61 of 62
the Revised Code. 63

(B) As used in sections 2329.02 to 2329.61 of the Revised 64
Code: 65

(1) "Commercial property" means any property that is not 66
residential property. 67

(2) "Private selling officer" means a resident of this 68
state licensed as both an auctioneer under Chapter 4707. of the 69
Revised Code and as a real estate broker or real estate 70
salesperson under Chapter 4735. of the Revised Code. 71

(3) "Residential mortgage loan" and "residential property" 72
have the same meanings as in section 2308.01 of the Revised 73
Code. 74

(4) "Judgment debtor" includes any individual, 75
corporation, business trust, estate, trust, partnership, or 76
association. 77

(5) "Sale date" means the day on which an auction for real estate concludes. 78
79

(6) "Start date" means the first day an auction for real estate is open for bidding to the public. 80
81

Sec. 2329.151. Except as provided in sections 2329.152 to 82
2329.154 of the Revised Code, all public auctions of goods, 83
chattels, or lands levied upon by execution shall be conducted 84
personally by one of the following: 85

(A) An officer of the court; 86

(B) For the public auction of goods and chattels, a 87
resident of this state licensed as an auctioneer under Chapter 88
4707. of the Revised Code; 89

~~(C)~~(C) (1) For the public auction of lands, a private 90
selling officer who is not controlled by, or under common 91
control with, any of the following: 92

(a) The mortgagee or mortgage servicer of the property 93
being auctioned; 94

(b) A subsidiary of a mortgagee or mortgage servicer of 95
the property being auctioned; 96

(c) A law firm providing legal services in relation to the 97
property being auctioned. 98

(2) Nothing in this section shall be construed to prohibit 99
a mortgagee or mortgage servicer from engaging in a regular 100
course of business with an independent private selling officer. 101

Sec. 2329.152. (A) In every action demanding the judicial 102
or execution sale of real estate in which the debtor has failed 103
to plead or otherwise defend as provided by the Rules of Civil 104

Procedure, the judgment creditor may elect that the real estate 105
be sold at a public auction by a private selling officer. If the 106
judgment creditor elects to have the real estate sold by the 107
private selling officer, the judgment creditor shall file with 108
the clerk of the court a praecipe directing the issuance of an 109
order of sale to the private selling officer. A judgment 110
creditor may specify multiple private selling officers in the 111
praecipe, any of which may conduct the sale. 112

In every other action demanding the judicial or execution 113
sale of real estate, the county sheriff shall sell the real 114
estate at a public auction, unless the judgment creditor files a 115
motion with the court for an order authorizing a specified 116
private selling officer to sell the real estate at a public 117
auction. If the court authorizes a private selling officer to 118
sell the real estate, the judgment creditor may seek to have the 119
property sold by the private selling officer authorized by the 120
court or by the county sheriff. If the judgment creditor elects 121
to have the property sold by the private selling officer 122
authorized by the court, the judgment creditor shall file with 123
the clerk of the court a praecipe requesting the issuance of an 124
order of ~~appraisal to the sheriff and an order of sale to the~~ 125
private selling officer authorized by the court. ~~Upon~~ 126

Upon the filing of ~~that~~ the praecipe, the clerk of the 127
court shall immediately issue ~~both of the following:~~ 128

~~(1) An order of appraisal to the sheriff, who shall obtain~~ 129
~~an appraisal of the real estate in conformity with sections~~ 130
~~2329.17 and 2329.18 of the Revised Code;~~ 131

~~(2) An an order of sale to the private selling officer,~~ 132
~~who, after the return or determination of the appraisal, shall~~ 133
advertise and sell the real estate in conformity with applicable 134

provisions of sections 2329.01 to 2329.61 of the Revised Code_ 135
using the appraised value established under section 2329.17 of 136
the Revised Code. 137

Within ten days after the issuance of an order of sale to 138
a private selling officer, any lienholder who is a party to the 139
action may file a motion with the court objecting to the use of 140
the private selling officer. If such motion is filed within ten 141
days after the issuance of the order of sale and the court 142
determines there is good and reasonable cause, as defined in 143
this division, the court may order that the sale be reset, 144
republished, and conducted by either the county sheriff or 145
another private selling officer. 146

As used in this division, "good and reasonable cause" 147
means that the lienholder is more likely to have its lien 148
satisfied, in whole or in part, if the sale is conducted by the 149
county sheriff or another private selling officer. 150

(B) (1) As used in this division: 151

(a) "Business day" means a calendar day that is not a 152
Saturday or Sunday or a legal holiday as defined in section 1.14 153
of the Revised Code. 154

(b) "Remote bid" means a bid submitted in writing via 155
facsimile, electronic mail, or overnight delivery or courier. 156

(2) If the sale of the real estate is conducted at a 157
physical location and not online, then each judgment creditor 158
and lienholder who was a party to the action may submit a remote 159
bid to the sheriff or the private selling officer. Each sheriff 160
and private selling officer shall establish and maintain a 161
facsimile number or an electronic mail address for use by 162
judgment creditors and lienholders in submitting remote bids. 163

Each remote bid shall be of a fixed maximum amount and shall be 164
delivered to the sheriff or private selling officer on or before 165
four-thirty p.m. on the business day immediately preceding the 166
~~date of the sale~~ date. 167

(3) Before the sale, the sheriff or the private selling 168
officer shall confirm receipt of the remote bid by sending 169
notice of such receipt via facsimile or electronic mail to the 170
judgment creditor or lienholder who submitted the remote bid. 171
During the sale, the sheriff or the private selling officer 172
shall place the remote bid on behalf of the judgment creditor or 173
lienholder who submitted the remote bid. After the sale, the 174
sheriff or the private selling officer shall provide notice of 175
the results of the sale not later than the close of business on 176
the day of the sale to all judgment creditors and lienholders 177
who submitted remote bids. Such notice shall be sent via 178
facsimile or electronic mail to the judgment creditor or 179
lienholder or by posting the results of the sale on a public web 180
site. 181

(4) If a sheriff or private selling officer fails to place 182
a remote bid on behalf of a judgment creditor or lienholder to 183
the prejudice of the judgment creditor or lienholder, then, upon 184
the filing of a motion to vacate the sale within ten business 185
days after the sale date, the sale shall be vacated. 186

(C) (1) A judgment creditor that obtains a court order 187
authorizing a specified private selling officer to sell the real 188
estate at a public auction pursuant to division (A) of this 189
section may instruct the private selling officer to postpone the 190
sale of the real estate one or more times, provided, however 191
that all rescheduled sale dates shall be within one hundred 192
eighty days of the initial sale date. Upon receiving this 193

instruction, the private selling officer shall postpone the sale 194
of the real estate by announcing that the sale is postponed. If 195
the sale is at a physical location, this announcement shall be 196
made at the sale and shall include the date, time, and place of 197
the rescheduled sale of the real estate. If the sale is online, 198
this announcement shall be made on the auction web site and 199
shall include the date of the rescheduled sale of real estate. 200
Each such announcement shall be deemed to meet the notice 201
requirement in section 2329.26 of the Revised Code. 202

(2) If the judgment creditor does not wish to postpone the 203
sale of the real estate, the judgment creditor may instruct the 204
private selling officer to cancel the sale of the real estate. 205
Upon receiving this instruction, the private selling officer 206
shall cancel the sale of the real estate by announcing that the 207
sale is canceled. If the sale is at a physical location, this 208
announcement shall be made at the sale. If the sale is online, 209
this announcement shall be made on the auction web site and 210
shall remain posted there until at least the end of the ~~seven-~~ 211
~~calendar-day~~ three-calendar-day bidding period described in 212
division (E) (1) (a) of this ~~section 2329.152 of the Revised Code.~~ 213

(3) If the sale of the real estate is postponed or 214
canceled as described in divisions (C) (1) and (2) of this 215
section, all bids made on the real estate prior to the 216
postponement or cancellation of the sale shall be void. 217

(D) (1) If the judgment creditor obtains a court order to 218
have the real estate sold by a private selling officer, then: 219

(a) ~~The~~ Except as otherwise provided in division (B) (5) of 220
section 2329.17 of the Revised Code, the cost of the appraisal- 221
appraisals required by that ~~section 2329.17 of the Revised Code-~~ 222
shall be taxed as costs in the case. 223

(b) The cost of the advertisement in a newspaper of 224
general circulation as required by section 2329.26 of the 225
Revised Code shall be taxed as costs in the case. 226

(c) The fee charged by the private selling officer and all 227
costs incurred by the private selling officer other than the 228
costs described in divisions (D) (1) (a) and (b) of this section 229
shall be taxed as costs in the case up to an amount equal to one 230
and one-half per cent of the sale price of the real estate. To 231
the extent the fees and costs described in division (D) (1) (c) of 232
this section exceed one and one-half per cent of the sale price 233
of the real estate, they shall not be included in the amount 234
necessary to redeem real estate under section 2329.33 of the 235
Revised Code or in the calculation of any deficiency judgment 236
under section 2329.08 of the Revised Code ~~but rather.~~ Rather, 237
the fees and costs shall be paid by the buyer of the property, 238
the judgment creditor, or from the judgment creditor's portion 239
of the proceeds of the sale in an amount not exceeding ten per 240
cent of the sale price of the real estate. 241

(2) The private selling officer shall file with the court 242
that issued the order of sale an itemized report of all 243
appraisal, publication, marketing, and other expenses of a sale 244
conducted under this section and all fees charged by the private 245
selling officer for marketing the real estate or conducting the 246
sale of the real estate, including the fee charged by the title 247
agent or title insurance company for administrative services, if 248
applicable, and title, escrow, and closing services. Each filing 249
of such itemized report shall be deemed to meet the writ of 250
execution requirement in section 2329.28 of the Revised Code. 251

(E) (1) The private selling officer who conducts a sale 252
under this section ~~may shall do any all~~ of the following: 253

(a) Market the real estate and conduct the public auction 254
of the real estate online or at any physical location in the 255
county in which the real estate is situated. If the auction 256
occurs online, the auction shall be open for bidding for a 257
minimum of ~~seven~~three calendar days, counted by excluding the 258
day the auction is first open for bidding and, notwithstanding 259
section 1.14 of the Revised Code, including all subsequent days. 260
The online auction shall be conducted in a manner so that all 261
bids are publicly displayed upon entry by the bidder throughout 262
the bidding period described in division (E) (1) (a) of this 263
section. 264

~~(b) Hire a title insurance agent licensed under Chapter~~ 265
~~3953. of the Revised Code or title insurance company authorized~~ 266
~~to do business under that chapter to assist the private selling~~ 267
~~officer in performing administrative services;~~ 268

~~(e)~~ Execute to the purchaser, or to the purchaser's legal 269
representatives, a deed of conveyance of the real estate sold; 270

~~(d)~~(c) Record on behalf of the purchaser the deed 271
conveying title to the real estate sold, notwithstanding that 272
the deed may not actually have been delivered to the purchaser 273
prior to its recording. 274

(2) A private selling officer who conducts a sale under 275
this section may hire a title insurance agent licensed under 276
Chapter 3953. of the Revised Code or title insurance company 277
authorized to do business under that chapter to assist the 278
private selling officer in performing administrative services. 279

(3) By placing a bid at a sale conducted pursuant to this 280
section, a purchaser appoints the private selling officer who 281
conducts the sale as agent of the purchaser for the sole purpose 282

of accepting delivery of the deed.	283
(3) (4) The private selling officer who conducts the sale	284
shall hire a title insurance agent licensed under Chapter 3953.	285
of the Revised Code or title insurance company authorized to do	286
business under that chapter to perform title, escrow, and	287
closing services related to the sale of the real estate.	288
(F) The fee charged by the title agent or title insurance	289
company for services provided under divisions (E)(1)(b) and (3)	290
<u>(E)(2)</u> and <u>(4)</u> of this section shall be taxed as costs in the	291
case provided they are reasonable. Fees less than or equal to	292
five hundred dollars are presumed to be reasonable. Fees	293
exceeding five hundred dollars shall be paid only if authorized	294
by a court order.	295
Sec. 2329.153. (A) Not later than ninety days after the	296
effective date of this section <u>September 28, 2016</u> , the	297
department of administrative services shall solicit competitive	298
sealed proposals for the creation, operation, and maintenance of	299
the official public sheriff sale web site and an integrated	300
auction management system. The official public sheriff sale web	301
site and integrated auction management system shall be a single	302
statewide system for use by all county sheriffs in accordance	303
with the requirements of this section.	304
(B) The official public sheriff sale web site shall meet	305
the following minimum requirements:	306
(1) The web site shall have a domain name relevant to the	307
judicial sale of real property.	308
(2) The web site shall be limited to the judicial sale of	309
real property located in this state.	310
(3) The web site shall not charge a fee for members of the	311

public to view properties for sale. 312

(4) The web site shall allow each county sheriff to add 313
text, images, or graphics to the web site for the purpose of 314
identifying the county or sheriff conducting the sale. 315

(5) The web site shall include industry-standard features 316
and functionality, including user guides, online financial 317
transaction device payments, anti-snipe functionality, watch 318
lists, electronic mail notifications, maximum bid limits, 319
automatic incremental bidding, and search and map features that 320
allow users to search by county, zip code, address, parcel 321
number, appraised value, party name, case number, and other 322
variables relevant to the judicial sale of real property. As 323
used in this section, "financial transaction device" has the 324
same meaning as in section 301.28 of the Revised Code. 325

(6) The web site shall include features that allow for the 326
cancellation of sales as required by law or court order and the 327
postponement of sales in accordance with divisions (E) (2) and 328
(3) of this section. 329

(7) The web site shall provide a secure payment processing 330
system that accepts online payments for property sold via the 331
web site and, in an efficient and cost-effective manner, 332
transfers those payments to the appropriate county official or 333
account. 334

(8) The web site shall include the ability for an attorney 335
or law firm to enter a bid in a representative capacity. 336

(9) The web site shall be integrated with the auction 337
management system described in division (C) of this section. 338

(C) The auction management system shall meet the following 339
minimum requirements: 340

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

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

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

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

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

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

(D) The license fee for the creation, operation, and maintenance of the official public sheriff sale web site and integrated auction management system shall be determined using a per-transaction license fee model or a per-use license fee model. The addition of a property to the official public sheriff sale web site or the auction management system shall each be deemed a transaction for purposes of determining the license fee. The license fee applicable to each judicial sale of real

property shall be taxed as costs in the case. No additional 370
license fees shall be assessed to the county sheriff. 371

(E) (1) Not later than one year after ~~the effective date of~~ 372
~~this section~~ September 28, 2016, in all cases in which the 373
sheriff is ordered to conduct a judicial sale of real property, 374
the following shall occur: 375

(a) For residential property, the sale may be conducted on 376
the official public sheriff sale web site for a five-year period 377
beginning on the date the online system is fully operational. 378
After this five-year period sales shall be conducted on the 379
official public sheriff sale web site. 380

(b) For commercial property, the sale may be conducted on 381
the official public sheriff sale web site. 382

All sales conducted on the official public sheriff sale 383
web site shall be open for bidding for at least ~~seven~~ three 384
days. 385

(2) If the sale of the real property is to be conducted on 386
the official public sheriff sale web site, the judgment creditor 387
may instruct the sheriff to postpone the sale of the real 388
property one time for up to one hundred eighty days after the 389
initial sale date. Upon receiving such instruction for 390
postponement, the sheriff shall postpone the sale of the 391
property by announcing on the official public sheriff sale web 392
site that the sale is postponed and giving notice of the 393
rescheduled sale date. This announcement shall be deemed to meet 394
the notice requirement of section 2329.26 of the Revised Code. 395

(3) If the judgment creditor does not wish to postpone the 396
sale of the real property, the judgment creditor may instruct 397
the sheriff to cancel the sale of the property. Upon receiving 398

this instruction, the sheriff shall cancel the sale of the 399
property by announcing on the official public sheriff sale web 400
site that the sale is canceled. This announcement shall remain 401
posted on the official public sheriff sale web site until at 402
least the end of the ~~seven-day~~ three-day bidding period 403
described in division (E) (1) of this section. 404

(4) If the sale of the real property is postponed or 405
canceled according to divisions (E) (2) and (3) of this section, 406
all bids made on the real property prior to the postponement or 407
cancellation of the sale shall be void. 408

(F) Pursuant to their authority in section 9.482 of the 409
Revised Code, counties may elect to enter into a shared services 410
agreement relating to the judicial sale of real property on the 411
official public sheriff sale web site. The shared services 412
agreement may seek to improve efficiency and reduce costs in the 413
judicial sale of real property by consolidating administrative 414
functions and processes. 415

Sec. 2329.17. (A) When execution is levied upon ~~lands and~~ 416
~~tenements~~ real property, the sheriff of the county where the 417
property taken in execution is situated shall ~~call an inquest of~~ 418
acquire appraisals from three disinterested freeholders, who are 419
residents of, and real property owners in, the county where the 420
~~lands~~ property taken in execution ~~are~~ is situated, who shall 421
appraise the property so levied upon, upon actual view. 422

(B) If the property to be appraised is residential 423
property, all of the ~~freeholders~~ following apply: 424

(1) Each appraisal shall be exterior-only. 425

(2) Each appraisal shall be conducted by an individual who 426
is licensed under either Chapter 4735. or 4763. of the Revised 427

Code and is not the sheriff, the private selling officer, or a 428
person affiliated with the sheriff or private selling officer. 429

(3) The cost of the appraisals shall not exceed an amount 430
that the sheriff determines is reasonable and customary for such 431
services. 432

(4) (a) The individuals selected by the sheriff to conduct 433
the appraisal shall return to the sheriff an estimate of the 434
value of the property in money within ~~twenty-one~~ fourteen 435
calendar days ~~of~~ after the issuance of the order of appraisal by 436
the clerk of the court. 437

(b) If the court has ordered or the clerk of the court has 438
issued an order for a private selling officer to advertise and 439
sell the appraised is responsible for the sale of the property, 440
the ~~freeholders~~ individuals selected by the sheriff shall also 441
deliver a an electronic copy of ~~their~~ the individuals' appraisal 442
to the private selling officer contemporaneously with ~~their~~ the 443
individuals' delivery of ~~their~~ the individuals' appraisal to the 444
sheriff. 445

~~(C)~~ (5) If the ~~freeholders~~ individuals selected by the 446
sheriff under ~~division (B)~~ of this section do not deliver ~~their~~ 447
~~appraisal~~ the appraisals within ~~twenty-one~~ fourteen calendar 448
days ~~of~~ after the issuance of the order of appraisal by the 449
clerk of the court ~~as required by division (B) of this section,~~ 450
then ~~all~~ both of the following ~~shall occur~~ apply: 451

~~(1)~~ (a) The cost of the ~~appraisal~~ appraisals by the 452
~~freeholders~~ individuals shall not be ~~payable~~ paid to the 453
~~freeholders~~ individuals or taxed as costs in the case. 454

~~(2)~~ (b) The appraised value of the property shall be the 455
most recent appraised value of the property as shown on the 456

records of the county auditor, unless, for good cause shown, the court authorizes a separate appraisal of the property.

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

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

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

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

(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. 486

(B) If the court has ordered or the clerk of the court has 487
issued an order for a private selling officer to advertise and 488
sell the real estate ~~for which the appraised value has been~~ 489
~~determined pursuant to section 2329.17 of the Revised Code,~~ the 490
private selling officer shall immediately advertise and sell the 491
real estate in conformity with sections 2329.01 to 2329.61 of 492
the Revised Code. 493

Sec. 2329.19. ~~Upon the determination of the appraised~~ 494
~~value pursuant to section 2329.17 of the Revised Code, if~~ If it 495
appears that two-thirds of the appraised value, as established 496
pursuant to section 2329.17 of the Revised Code, of the ~~lands~~ 497
~~and tenements~~ real property levied upon is sufficient to satisfy 498
the execution, with costs, the judgment on which the execution 499
issued shall not operate as a lien on the residue of the 500
debtor's estate to the prejudice of any other judgment creditor. 501

Sec. 2329.20. Except as otherwise provided in this section 502
or sections 2329.51 and 2329.52 of the Revised Code, no tract of 503
land shall be sold for less than two-thirds the amount of the 504
appraised value as ~~determined~~ established pursuant to section 505
2329.17 of the Revised Code. In all cases in which a junior 506
mortgage or other junior lien is sought to be enforced against 507
real estate by an order, judgment, or decree of court, subject 508
to a prior lien thereon, and such prior lien, and the claims or 509
obligations secured thereby, are unaffected by such order, 510
judgment, or decree, the court making such order, judgment, or 511
decree, may determine the minimum amount for which such real 512
estate may be sold. In such a case, the minimum amount shall be 513
not less than two-thirds of the difference between the appraised 514
value of the real estate as ~~determined~~ established in that 515

section, and the amount remaining unpaid on the claims or 516
obligations secured by such prior lien. 517

Sec. 2329.211. (A) (1) In every action demanding the 518
judicial or execution sale of residential property, if the 519
judgment creditor is the purchaser at the sale, the purchaser 520
shall not be required to make a sale deposit. All other 521
purchasers shall make a sale deposit as follows: 522

(a) If the appraised value of the residential property is 523
less than or equal to ten thousand dollars, the deposit shall be 524
two thousand dollars. 525

(b) If the appraised value of the residential property is 526
greater than ten thousand dollars but less than or equal to two 527
hundred thousand dollars, the deposit shall be five thousand 528
dollars. 529

(c) If the appraised value of the residential property is 530
greater than two hundred thousand dollars, the deposit shall be 531
ten thousand dollars. 532

(2) The timing of the deposit and other payment 533
requirements shall be established by the court or the person 534
conducting the sale and included in the advertisement of the 535
sale. If the purchaser fails to meet the timing or other 536
requirements of the deposit, the sale shall be invalid and the 537
residential property may be brought to sale on ~~the provisional~~ 538
~~second sale~~ any subsequent start date, if any, described in 539
division (B) of section 2329.52 of the Revised Code, and 540
included in the notice required by division (A) (1) (a) (i) of 541
section 2329.26 of the Revised Code. 542

(3) If the sale is held online, the deposit may be made by 543
a financial transaction device as defined in section 301.28 of 544

the Revised Code. 545

(B) In every action demanding the judicial or execution 546
sale of commercial property, the purchaser at the sale shall 547
make a deposit pursuant to the requirements, if any, established 548
for the sale. 549

Sec. 2329.26. (A) Lands and tenements taken in execution 550
shall not be sold until all of the following occur: 551

(1) (a) Except as otherwise provided in division (A) (1) (b) 552
of this section, the judgment creditor who seeks the sale of the 553
lands and tenements or the judgment creditor's attorney does 554
both of the following: 555

(i) Causes a written notice to be served in accordance 556
with divisions (A) and (B) of Civil Rule 5 upon the judgment 557
debtor and upon each other party to the action in which the 558
judgment giving rise to the execution was rendered. Such notice 559
shall include the start date, time, and place of the sale if the 560
sale is to be held at a physical location or the start date and 561
web site address of the sale if the sale is to be held online. 562
Such notice shall also include ~~the provisional second sale~~ any 563
subsequent start date described in division (B) of section 564
2329.52 of the Revised Code, if applicable. 565

(ii) At least seven calendar days prior to the sale date 566
~~of the sale~~, files with the clerk of the court that rendered the 567
judgment giving rise to the execution a copy of the written 568
notice described in division (A) (1) (a) (i) of this section with 569
proof of service endorsed on the copy in the form described in 570
division (B) of Civil Rule 5. 571

(b) Service of the written notice described in division 572
(A) (1) (a) (i) of this section is not required to be made upon any 573

party who is in default for failure to appear in the action in 574
which the judgment giving rise to the execution was rendered. 575

(2) One of the following applies: 576

(a) The officer taking the lands and tenements gives 577
public notice once a week for at least three consecutive weeks 578
~~before the day of sale if the sale is to be held at a physical-~~ 579
~~location or the start date of the sale if the sale is to be-~~ 580
~~conducted online~~date. The last date of publication shall be four 581
or more calendar days prior to the sale date. 582

~~Such~~ Except as otherwise provided in division (C) of this 583
section, the first such notice, occurring at least three weeks 584
before the sale date, shall be by advertisement in a~~the print~~ 585
or digital edition of a newspaper of general circulation in the 586
county. The newspaper shall meet the requirements of section 587
7.12 of the Revised Code. The court ordering the sale may 588
designate in the order of sale the newspaper in which this 589
public notice shall be published. 590

Subsequent notices required by division (A) (2) (a) of this 591
section may be made on the web site of the officer conducting 592
the sale, a web site maintained by the officer for that purpose, 593
or, at the sole discretion of the officer, in a newspaper of 594
general circulation in the county. 595

The ~~notice~~notices shall include all the following 596
information: 597

(i) The date, time, and place of the sale if the sale is 598
to be held at a physical location; 599

(ii) The start date, the minimum duration, and web site 600
address of the sale if the sale is to be held online; 601

(iii) The deposit required by section 2329.211 of the Revised Code; 602
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(iv) That the purchaser shall be responsible for those costs, allowances, and taxes that the proceeds of the sale are insufficient to cover; 604
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(v) The Information meeting the requirements of division (A) (2) (a) (i) or (ii) of this section, as applicable to where the sale is to be held, for any subsequent provisional ~~second~~ sale date described in division (B) of section 2329.52 of the Revised Code, if applicable; provided, however, that no sale shall be invalid, nor shall the court vacate any sale, if the notice described in division (A) (1) (a) (i) of this section or the public notice described in division (A) (2) of this section fails to include the provisional sale date for a ~~second~~ subsequent sale of the property and the property is sold on the initial sale date. 607
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(vi) The notices required by division (A) (2) of this section need not include a description of the property in metes and bounds. 618
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(b) If Except as provided in division (B) of this section, if a private selling officer has been ordered to sell the lands and tenements, the private selling officer shall give the public notice described in division (A) (2) (a) of this section in the newspaper designated by the court. If the court has not designated a newspaper, the private selling officer shall give this public notice in the newspaper customarily used or designated by the county sheriff, except that the online notices required by that division may be posted to the private selling officer's web site, or a web site maintained by the private selling officer for those purposes, rather than the sheriff's 621
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web site, or a web site maintained by the sheriff for those 632
purposes. No sale that otherwise complies with division (A) (2) 633
of this section shall be invalid. 634

(B) Any officer taking lands and tenements in execution 635
that are advertised and offered for sale but unsold for want of 636
bidders may advertise any subsequent sale in any method the 637
officer finds suitable, which may include online advertisement 638
instead of print. Any such advertisement of a subsequent sale 639
shall be deemed to meet the notice requirement in division (A) 640
of this section. 641

(C) (1) A sheriff or private selling officer shall not 642
charge or include as an expense of the sale any amount for 643
publishing notice on the sheriff's or private selling officer's 644
web site or a web site maintained by the sheriff or private 645
selling officer for those purposes. 646

(2) If the court ordering the sale designates the 647
newspaper in which the public notice is to be published, and the 648
sheriff or private selling officer is unable to publish notice 649
in that newspaper, then the sheriff or private selling officer 650
may publish notice in another newspaper of general circulation 651
in the county. 652

(3) If the sheriff or private selling officer, despite 653
reasonable efforts, is unable to find a newspaper of general 654
circulation in the county that will publish notice of the sale, 655
subject to division (C) (1) of this section, the sheriff or 656
private selling officer may instead publish notice of the sale 657
on a sheriff's or private selling officer's web site, or a web 658
site maintained by the sheriff or private selling officer for 659
those purposes. 660

(D) The sheriff or private selling officer taking the 661
lands and tenements shall collect the purchaser's information 662
required by section 2329.271 of the Revised Code. 663

~~(C)~~ (E) A sale of lands and tenements taken in execution 664
may be set aside in accordance with ~~division (A) or (B) of~~ 665
section 2329.27 of the Revised Code. 666

Sec. 2329.27. ~~(A) When the public notice required by~~ 667
~~division (A) (2) of section 2329.26 of the Revised Code is made~~ 668
~~in a newspaper published weekly, it is sufficient to insert it~~ 669
~~for three consecutive weeks. If both a daily and weekly edition~~ 670
~~of the paper are published and the circulation of the daily in~~ 671
~~the county exceeds that of the weekly in the county, or if the~~ 672
~~lands and tenements taken in execution are situated in a city,~~ 673
~~both a daily and weekly edition of the paper are published, and~~ 674
~~the circulation of the daily in that city exceeds the~~ 675
~~circulation of the weekly in that city, it is sufficient to~~ 676
~~publish the public notice in the daily once a week for three~~ 677
~~consecutive weeks before the day of sale, each insertion to be~~ 678
~~on the same day of the week. The expense of that publication in~~ 679
~~a daily shall not exceed the cost of publishing it in a weekly.~~ 680

~~(B) (1) Subject~~ Except as provided in division (B) of 681
section 2329.26 of the Revised Code and subject to divisions ~~(B)~~ 682
~~(2) (B) and (3) (C)~~ of this section, all sales of lands and 683
tenements taken in execution that are made without compliance 684
with the written notice requirements of division (A) (1) (a) of 685
section 2329.26 of the Revised Code, the public notice 686
requirements of division (A) (2) of that section, and the notice 687
requirements of section 2329.261 of the Revised Code, the 688
purchaser information requirements of section 2329.271 of the 689
Revised Code, ~~and division (A) of this section~~ shall be set 690

aside, on motion by any interested party, by the court to which 691
the execution is returnable. 692

~~(2)~~ (B) Proof of service endorsed upon a copy of the 693
written notice required by division (A) (1) (a) of section 2329.26 694
of the Revised Code shall be conclusive evidence of the service 695
of the written notice in compliance with the requirements of 696
that division, unless a party files a motion to set aside the 697
sale of the lands and tenements pursuant to division ~~(B) (1)~~ (A) 698
of this section and establishes by a preponderance of the 699
evidence that the proof of service is fraudulent. 700

~~(3)~~ (C) If the court to which the execution is returnable 701
enters its order confirming the sale of the lands and tenements, 702
the order shall have both of the following effects: 703

~~(a)~~ (1) The order shall be deemed to constitute a judicial 704
finding as follows: 705

~~(i)~~ (a) That the sale of the lands and tenements complied 706
with the written notice requirements of division (A) (1) (a) of 707
section 2329.26 of the Revised Code and the public notice 708
requirements of division (A) (2) of that section, and section 709
2329.261 of the Revised Code, ~~and division (A) of this section,~~ 710
or that compliance of that nature did not occur but the failure 711
to give a written notice to a party entitled to notice under 712
division (A) (1) (a) of section 2329.26 of the Revised Code has 713
not prejudiced that party; 714

~~(ii)~~ (b) That all parties entitled to notice under 715
division (A) (1) (a) of section 2329.26 of the Revised Code 716
received adequate notice of the date, time, and place of the 717
sale of the lands and tenements; 718

~~(iii)~~ (c) That the purchaser has submitted the contact 719

information required by section 2329.271 of the Revised Code. 720

~~(b)~~ (2) The order bars the filing of any further motions 721
to set aside the sale of the lands and tenements. 722

Sec. 2329.312. (A) All levying officers appointed or 723
authorized by a court under this chapter to conduct the judicial 724
or execution sale of residential property consisting of one to 725
four single-family units shall submit quarterly reports to the 726
attorney general. The reports shall include data on each such 727
sale conducted by the officer, including data showing whether or 728
not the deadlines required under division (E) of section 729
2308.02, ~~division (B) of section 2329.17,~~ and sections 2329.30 730
and 2329.31 of the Revised Code are met. 731

(B) The attorney general shall make the information 732
included in the reports described in division (A) of this 733
section publicly available. 734

Sec. 2329.52. (A) Except as otherwise provided in division 735
(B) of this section, when premises are ordered to be sold, if 736
said premises, or a part thereof, remain unsold for want of 737
bidders after having been once appraised, advertised, and 738
offered for sale, the court from which the order of sale issued 739
may, on motion of the plaintiff or defendant and from time to 740
time until said premises are disposed of, order a new 741
appraisement and sale or direct the amount for which said 742
premises, or a part thereof, may be sold. 743

The court may order that the premises be sold as follows: 744
One third cash in hand, one third in nine months from the day of 745
sale, and the remaining one third in eighteen months from the 746
day of sale, the deferred payments to draw interest at six per 747
cent and be secured by a mortgage on the premises. 748

(B) (1) When a residential property is ordered to be sold 749
pursuant to a residential mortgage loan foreclosure action, if 750
the property remains unsold after the first auction, then a 751
~~second~~ subsequent auction shall be held and the property shall 752
be sold to the highest bidder without regard to the minimum bid 753
requirement in section 2329.20 of the Revised Code, but subject 754
to section 2329.21 of the Revised Code relating to costs, 755
allowances, and real estate taxes, or disposed of in any other 756
manner pursuant to this chapter. ~~This second~~ Any subsequent 757
auction shall be held not earlier than ~~seven~~ three days and not 758
later than thirty days after the ~~first~~ previous auction sale 759
date. ~~A residential property that remains unsold after two~~ 760
~~auctions may be subsequently offered for sale without regard to~~ 761
~~the minimum bid requirement in section 2329.20 of the Revised~~ 762
~~Code, but subject to section 2329.21 of the Revised Code~~ 763
~~relating to costs, allowances, and real estate taxes, or~~ 764
~~disposed of in any other manner pursuant to this chapter or any~~ 765
~~other provision of the Revised Code.~~ 766

(2) For purposes of division (B) (1) of this section, the 767
first day an online auction is open for bidding shall be 768
considered the start date ~~of the auction.~~ 769

Sec. 5721.10. Except as otherwise provided under section 770
2127.38 or 5301.93, or sections 5721.30 to 5721.43 of the 771
Revised Code, the state shall have the first lien on the lands 772
and lots described in the delinquent land list, for the amount 773
of taxes, assessments, interest, and penalty charged prior to 774
the delivery of such list. If the taxes have not been paid for 775
one year after having been certified as delinquent, the state 776
shall institute foreclosure proceedings in the manner provided 777
by section 323.25, sections 323.65 to 323.79, or sections 778
5721.01 to 5721.28 of the Revised Code, unless a tax certificate 779

respecting that property has been sold or assigned under section 780
5721.32 or 5721.33 of the Revised Code, or unless such taxes are 781
the subject of a valid delinquent tax contract under section 782
323.31 of the Revised Code for which the county treasurer has 783
not made certification to the county auditor that the delinquent 784
tax contract has become void. The court shall levy, as costs in 785
the foreclosure proceedings instituted on the certification of 786
delinquency, the cost of an abstract or certificate of title to 787
the property described in the certification, if it is required 788
by the court, to be paid into the general fund of the county. 789
Sections 5721.01 to 5721.28 of the Revised Code do not prevent 790
the partial payment of such delinquent taxes, assessments, 791
interest, and penalty during the period the delinquency is being 792
discharged in accordance with a delinquent tax contract under 793
section 323.31 of the Revised Code, but the partial payments may 794
be made and received as provided by law without prejudice to the 795
right of the state to institute foreclosure proceedings for any 796
amount then remaining unpaid, if the county treasurer certifies 797
to the county auditor that the delinquent tax contract has 798
become void. 799

Section 2. That existing sections 2127.38, 2329.01, 800
2329.151, 2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 801
2329.20, 2329.211, 2329.26, 2329.27, 2329.312, 2329.52, and 802
5721.10 of the Revised Code are hereby repealed. 803