

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 212

Senator Hackett

A BILL

To amend sections 323.28, 2329.01, 2329.152, 1
2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 2
2329.211, 2329.26, 2329.27, 2329.51, and 2329.52 3
of the Revised Code relating to real property 4
foreclosures. 5

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

Section 1. That sections 323.28, 2329.01, 2329.152, 6
2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 2329.211, 2329.26, 7
2329.27, 2329.51, and 2329.52 of the Revised Code be amended to 8
read as follows: 9

Sec. 323.28. (A) A finding shall be entered in a 10
proceeding under section 323.25 of the Revised Code for taxes, 11
assessments, penalties, interest, and charges due and payable at 12
the time the deed of real property sold or transferred under 13
this section is transferred to the purchaser or transferee, plus 14
the cost of the proceeding. For purposes of determining such 15
amount, the county treasurer may estimate the amount of taxes, 16
assessments, interest, penalties, charges, and costs that will 17
be payable at the time the deed of the property is transferred 18
to the purchaser or transferee. 19

The court of common pleas, a municipal court with 20
jurisdiction, or the county board of revision with jurisdiction 21
pursuant to section 323.66 of the Revised Code shall order such 22
premises to be transferred pursuant to division (E) of this 23
section or shall order such premises to be sold for payment of 24
the finding, but for not less than either of the following, 25
~~unless the county treasurer applies for an appraisal:~~ 26

(1) The total amount of such finding; 27

(2) The fair market value of the premises, as determined 28
by the county auditor, plus the cost of the proceeding. 29

~~If Alternatively, the county treasurer applies for an 30
appraisal, the premises shall be appraised in the manner 31
provided by section 2329.17 of the Revised Code, and may move to 32
sell the premises using the most recent appraised value for the 33
premises as shown on the records of the county auditor, in which 34
case the premises shall be sold for at least two-thirds of the 35
appraised value. 36~~

Notwithstanding the minimum sales price provisions of 37
divisions (A) (1) and (2) of this section to the contrary, a 38
parcel sold pursuant to this section shall not be sold for less 39
than the amount described in division (A) (1) of this section if 40
the highest bidder is the owner of record of the parcel 41
immediately prior to the judgment of foreclosure or a member of 42
the following class of parties connected to that owner: a member 43
of that owner's immediate family, a person with a power of 44
attorney appointed by that owner who subsequently transfers the 45
parcel to the owner, a sole proprietorship owned by that owner 46
or a member of the owner's immediate family, or partnership, 47
trust, business trust, corporation, or association in which the 48
owner or a member of the owner's immediate family owns or 49

controls directly or indirectly more than fifty per cent. If a 50
parcel sells for less than the amount described in division (A) 51
(1) of this section, the officer conducting the sale shall 52
require the buyer to complete an affidavit stating that the 53
buyer is not the owner of record immediately prior to the 54
judgment of foreclosure or a member of the specified class of 55
parties connected to that owner, and the affidavit shall become 56
part of the court records of the proceeding. If the county 57
auditor discovers within three years after the date of the sale 58
that a parcel was sold to that owner or a member of the 59
specified class of parties connected to that owner for a price 60
less than the amount so described, and if the parcel is still 61
owned by that owner or a member of the specified class of 62
parties connected to that owner, the auditor within thirty days 63
after such discovery shall add the difference between that 64
amount and the sale price to the amount of taxes that then stand 65
charged against the parcel and is payable at the next succeeding 66
date for payment of real property taxes. As used in this 67
paragraph, "immediate family" means a spouse who resides in the 68
same household and children. 69

(B) From the proceeds of the sale the costs shall be first 70
paid, next the amount found due for taxes, then the amount of 71
any taxes accruing after the entry of the finding and before the 72
deed of the property is transferred to the purchaser following 73
the sale, all of which taxes shall be deemed satisfied, though 74
the amount applicable to them is deficient, and any balance 75
shall be distributed according to section 5721.20 of the Revised 76
Code. No statute of limitations shall apply to such action. Upon 77
sale, all liens for taxes due at the time the deed of the 78
property is transferred to the purchaser following the sale, and 79
liens subordinate to liens for taxes, shall be deemed satisfied 80

and discharged unless otherwise provided by the order of sale. 81

(C) If the county treasurer's estimate of the amount of 82
the finding under division (A) of this section exceeds the 83
amount of taxes, assessments, interest, penalties, and costs 84
actually payable when the deed is transferred to the purchaser, 85
the officer who conducted the sale shall refund to the purchaser 86
the difference between the estimate and the amount actually 87
payable. If the amount of taxes, assessments, interest, 88
penalties, and costs actually payable when the deed is 89
transferred to the purchaser exceeds the county treasurer's 90
estimate, the officer shall certify the amount of the excess to 91
the treasurer, who shall enter that amount on the real and 92
public utility property tax duplicate opposite the property; the 93
amount of the excess shall be payable at the next succeeding 94
date prescribed for payment of taxes in section 323.12 of the 95
Revised Code, and shall not be deemed satisfied and discharged 96
pursuant to division (B) of this section. 97

(D) Premises ordered to be sold under this section but 98
remaining unsold for want of bidders after being offered for 99
sale on two separate occasions, not less than two weeks apart, 100
or after being offered for sale on one occasion in the case of 101
abandoned land as defined in section 323.65 of the Revised Code, 102
shall be forfeited to the state or to a political subdivision, 103
school district, or county land reutilization corporation 104
pursuant to Chapter 5722. or section 5723.01 of the Revised 105
Code, and shall be disposed of pursuant to Chapter 5722. or 106
5723. of the Revised Code. 107

(E) Notwithstanding section 5722.03 of the Revised Code, 108
if the complaint alleges that the property is delinquent vacant 109
land as defined in section 5721.01 of the Revised Code, 110

abandoned lands as defined in section 323.65 of the Revised 111
Code, or lands described in division (F) of section 5722.01 of 112
the Revised Code, and the value of the taxes, assessments, 113
penalties, interest, and all other charges and costs of the 114
action exceed the auditor's fair market value of the parcel, 115
then the court or board of revision having jurisdiction over the 116
matter on motion of the plaintiff, or on the court's or board's 117
own motion, shall, upon any adjudication of foreclosure, order, 118
without appraisal and without sale, the fee simple title of the 119
property to be transferred to and vested in an electing 120
subdivision as defined in division (A) of section 5722.01 of the 121
Revised Code. For purposes of determining whether the taxes, 122
assessments, penalties, interest, and all other charges and 123
costs of the action exceed the actual fair market value of the 124
parcel, the auditor's most current valuation shall be rebuttably 125
presumed to be, and constitute prima-facie evidence of, the fair 126
market value of the parcel. In such case, the filing for 127
journalization of a decree of foreclosure ordering that direct 128
transfer without appraisal or sale shall constitute confirmation 129
of the transfer and thereby terminate any further statutory or 130
common law right of redemption. 131

(F) Whenever the officer charged to conduct the sale 132
offers any parcel for sale, the officer first shall read aloud a 133
complete legal description of the parcel, or in the alternative, 134
may read aloud only a summary description and a parcel number if 135
the county has adopted a permanent parcel number system and if 136
the advertising notice published prior to the sale includes a 137
complete legal description or indicates where the complete legal 138
description may be obtained. 139

Sec. 2329.01. (A) Lands and tenements, including vested 140
legal interests therein, permanent leasehold estates renewable 141

forever, and goods and chattels, not exempt by law, shall be 142
subject to the payment of debts, and liable to be taken on 143
execution and sold as provided in sections 2329.02 to 2329.61 of 144
the Revised Code. 145

(B) As used in sections 2329.02 to 2329.61 of the Revised 146
Code: 147

(1) "Commercial property" means any property that is not 148
residential property. 149

(2) "Private selling officer" means a resident of this 150
state licensed as both an auctioneer under Chapter 4707. of the 151
Revised Code and as a real estate broker or real estate 152
salesperson under Chapter 4735. of the Revised Code. 153

(3) "Residential mortgage loan" and "residential property" 154
have the same meanings as in section 2308.01 of the Revised 155
Code. 156

(4) "Sale date" means the day on which an auction for real 157
estate concludes. 158

(5) "Start date" means the first day an auction for real 159
estate is open for bidding to the public. 160

Sec. 2329.152. (A) In every action demanding the judicial 161
or execution sale of real estate in which the debtor has failed 162
to plead or otherwise defend as provided by the rules of civil 163
procedure, the judgment creditor may elect that the real estate 164
be sold at a public auction by a private selling officer. If the 165
judgment creditor elects to have the real estate sold by the 166
private selling officer, the judgment creditor shall file with 167
the clerk of the court a praecipe directing the issuance of an 168
order of sale to the private selling officer. A judgment 169
creditor may specify multiple private selling officers in the 170

praecipe, any of which may conduct the sale. 171

In every other action demanding the judicial or execution 172
sale of real estate, the county sheriff shall sell the real 173
estate at a public auction, unless the judgment creditor files a 174
motion with the court for an order authorizing a specified 175
private selling officer to sell the real estate at a public 176
auction. If the court authorizes a private selling officer to 177
sell the real estate, the judgment creditor may seek to have the 178
property sold by the private selling officer authorized by the 179
court or by the county sheriff. If the judgment creditor elects 180
to have the property sold by the private selling officer 181
authorized by the court, the judgment creditor shall file with 182
the clerk of the court a praecipe requesting the issuance of an 183
order of ~~appraisal to the sheriff and an order of sale to the~~ 184
private selling officer authorized by the court. 185

Upon the filing of ~~that the~~ praecipe, the clerk of the 186
court shall immediately issue ~~both of the following:~~ 187

~~(1) An order of appraisal to the sheriff, who shall obtain~~ 188
~~an appraisal of the real estate in conformity with sections~~ 189
~~2329.17 and 2329.18 of the Revised Code;~~ 190

~~(2) An~~ an order of sale to the private selling officer, 191
who, ~~after the return or determination of the appraisal,~~ shall 192
advertise and sell the real estate in conformity with applicable 193
provisions of sections 2329.01 to 2329.61 of the Revised Code 194
using the appraised value established under section 2329.17 of 195
the Revised Code. 196

(B) (1) As used in this division: 197

(a) "Business day" means a calendar day that is not a 198
Saturday or Sunday or a legal holiday as defined in section 1.14 199

of the Revised Code.	200
(b) "Remote bid" means a bid submitted in writing via	201
facsimile, electronic mail, or overnight delivery or courier.	202
(2) If the sale of the real estate is conducted at a	203
physical location and not online, then each judgment creditor	204
and lienholder who was a party to the action may submit a remote	205
bid to the sheriff or the private selling officer. Each sheriff	206
and private selling officer shall establish and maintain a	207
facsimile number or an electronic mail address for use by	208
judgment creditors and lienholders in submitting remote bids.	209
Each remote bid shall be of a fixed maximum amount and shall be	210
delivered to the sheriff or private selling officer on or before	211
four-thirty p.m. on the business day immediately preceding the	212
date of the sale <u>date</u> .	213
(3) Before the sale, the sheriff or the private selling	214
officer shall confirm receipt of the remote bid by sending	215
notice of such receipt via facsimile or electronic mail to the	216
judgment creditor or lienholder who submitted the remote bid.	217
During the sale, the sheriff or the private selling officer	218
shall place the remote bid on behalf of the judgment creditor or	219
lienholder who submitted the remote bid. After the sale, the	220
sheriff or the private selling officer shall provide notice of	221
the results of the sale not later than the close of business on	222
the day of the sale to all judgment creditors and lienholders	223
who submitted remote bids. Such notice shall be sent via	224
facsimile or electronic mail to the judgment creditor or	225
lienholder or by posting the results of the sale on a public web	226
site.	227
(4) If a sheriff or private selling officer fails to place	228
a remote bid on behalf of a judgment creditor or lienholder to	229

the prejudice of the judgment creditor or lienholder, then, upon 230
the filing of a motion to vacate the sale within ten business 231
days after the sale date, the sale shall be vacated. 232

(C) (1) A judgment creditor that obtains a court order 233
authorizing a specified private selling officer to sell the real 234
estate at a public auction pursuant to division (A) of this 235
section may instruct the private selling officer to postpone the 236
sale of the real estate one or more times, provided, however 237
that all rescheduled sale dates shall be within one hundred 238
eighty days of the initial sale date. Upon receiving this 239
instruction, the private selling officer shall postpone the sale 240
of the real estate by announcing that the sale is postponed. If 241
the sale is at a physical location, this announcement shall be 242
made at the sale and shall include the date, time, and place of 243
the rescheduled sale of the real estate. If the sale is online, 244
this announcement shall be made on the auction web site and 245
shall include the date of the rescheduled sale of real estate. 246
Each such announcement shall be deemed to meet the notice 247
requirement in section 2329.26 of the Revised Code. 248

(2) If the judgment creditor does not wish to postpone the 249
sale of the real estate, the judgment creditor may instruct the 250
private selling officer to cancel the sale of the real estate. 251
Upon receiving this instruction, the private selling officer 252
shall cancel the sale of the real estate by announcing that the 253
sale is canceled. If the sale is at a physical location, this 254
announcement shall be made at the sale. If the sale is online, 255
this announcement shall be made on the auction web site and 256
shall remain posted there until at least the end of the ~~seven-~~ 257
~~calendar day~~ three-calendar-day bidding period described in 258
division (E) (1) (a) of this section ~~2329.152 of the Revised Code.~~ 259

(3) If the sale of the real estate is postponed or 260
canceled as described in divisions (C) (1) and (2) of this 261
section, all bids made on the real estate prior to the 262
postponement or cancellation of the sale shall be void. 263

(D) (1) If the judgment creditor obtains a court order to 264
have the real estate sold by a private selling officer, then: 265

~~(a) The cost of the appraisal required by section 2329.17~~ 266
~~of the Revised Code shall be taxed as costs in the case.~~ 267

~~(b)~~The cost of the advertisement required by section 268
2329.26 of the Revised Code shall be taxed as costs in the case. 269

~~(e)~~(b) The fee charged by the private selling officer and 270
all costs incurred by the private selling officer other than the 271
costs described in ~~divisions~~division (D) (1) (a) ~~and (b)~~ of this 272
section shall be taxed as costs in the case up to an amount 273
equal to one and one-half per cent of the sale price of the real 274
estate. To the extent the fees and costs described in division 275
(D) (1) ~~(e)~~(b) of this section exceed one and one-half per cent 276
of the sale price of the real estate, they shall not be included 277
in the amount necessary to redeem real estate under section 278
2329.33 of the Revised Code or in the calculation of any 279
deficiency judgment under section 2329.08 of the Revised Code 280
~~but rather. Rather the fees and costs shall be paid by the buyer~~ 281
of the property, the judgment creditor, or from the judgment 282
creditor's portion of the proceeds of the sale in an amount not 283
exceeding ten per cent of the sale price of the real estate. 284

(2) The private selling officer shall file with the court 285
that issued the order of sale an itemized report of all 286
~~appraisal,~~ publication, marketing, and other expenses of a sale 287
conducted under this section and all fees charged by the private 288

selling officer for marketing the real estate or conducting the 289
sale of the real estate, including the fee charged by the title 290
agent or title insurance company for administrative services, if 291
applicable, and title, escrow, and closing services. Each filing 292
of such itemized report shall be deemed to meet the writ of 293
execution requirement in section 2329.28 of the Revised Code. 294

(E) (1) The private selling officer who conducts a sale 295
under this section may do any of the following: 296

(a) Market the real estate and conduct the public auction 297
of the real estate online or at any physical location in the 298
county in which the real estate is situated. If the auction 299
occurs online, the auction shall be open for bidding for a 300
minimum of ~~seven~~three calendar days, counted by excluding the 301
day the auction is first open for bidding and, notwithstanding 302
section 1.14 of the Revised Code, including all subsequent days. 303
The online auction shall be conducted in a manner so that the 304
current high bid is publicly displayed throughout the bidding 305
period described in division (E) (1) (a) of this section. 306

(b) Hire a title insurance agent licensed under Chapter 307
3953. of the Revised Code or title insurance company authorized 308
to do business under that chapter to assist the private selling 309
officer in performing administrative services; 310

(c) Execute to the purchaser, or to the purchaser's legal 311
representatives, a deed of conveyance of the real estate sold; 312

(d) Record on behalf of the purchaser the deed conveying 313
title to the real estate sold, notwithstanding that the deed may 314
not actually have been delivered to the purchaser prior to its 315
recording. 316

(2) By placing a bid at a sale conducted pursuant to this 317

section, a purchaser appoints the private selling officer who 318
conducts the sale as agent of the purchaser for the sole purpose 319
of accepting delivery of the deed. 320

(3) The private selling officer who conducts the sale 321
shall hire a title insurance agent licensed under Chapter 3953. 322
of the Revised Code or title insurance company authorized to do 323
business under that chapter to perform title, escrow, and 324
closing services related to the sale of the real estate. 325

(F) The fee charged by the title agent or title insurance 326
company for services provided under divisions (E) (1) (b) and (3) 327
of this section shall be taxed as costs in the case provided 328
they are reasonable. Fees less than or equal to five hundred 329
dollars are presumed to be reasonable. Fees exceeding five 330
hundred dollars shall be paid only if authorized by a court 331
order. 332

Sec. 2329.153. (A) Not later than ninety days after ~~the~~ 333
~~effective date of this section~~ September 28, 2016, the 334
department of administrative services shall solicit competitive 335
sealed proposals for the creation, operation, and maintenance of 336
the official public sheriff sale web site and an integrated 337
auction management system. The official public sheriff sale web 338
site and integrated auction management system shall be a single 339
statewide system for use by all county sheriffs in accordance 340
with the requirements of this section. 341

(B) The official public sheriff sale web site shall meet 342
the following minimum requirements: 343

(1) The web site shall have a domain name relevant to the 344
judicial sale of real property. 345

(2) The web site shall be limited to the judicial sale of 346

real property located in this state. 347

(3) The web site shall not charge a fee for members of the 348
public to view properties for sale. 349

(4) The web site shall allow each county sheriff to add 350
text, images, or graphics to the web site for the purpose of 351
identifying the county or sheriff conducting the sale. 352

(5) The web site shall include industry-standard features 353
and functionality, including user guides, online financial 354
transaction device payments, anti-snipe functionality, watch 355
lists, electronic mail notifications, maximum bid limits, 356
automatic incremental bidding, and search and map features that 357
allow users to search by county, zip code, address, parcel 358
number, appraised value, party name, case number, and other 359
variables relevant to the judicial sale of real property. As 360
used in this section, "financial transaction device" has the 361
same meaning as in section 301.28 of the Revised Code. 362

(6) The web site shall include features that allow for the 363
cancellation of sales as required by law or court order and the 364
postponement of sales in accordance with divisions (E) (2) and 365
(3) of this section. 366

(7) The web site shall provide a secure payment processing 367
system that accepts online payments for property sold via the 368
web site and, in an efficient and cost-effective manner, 369
transfers those payments to the appropriate county official or 370
account. 371

(8) The web site shall include the ability for an attorney 372
or law firm to enter a bid in a representative capacity. 373

(9) The web site shall be integrated with the auction 374
management system described in division (C) of this section. 375

(C) The auction management system shall meet the following minimum requirements:	376 377
(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.	378 379 380 381 382
(2) The auction management system shall record the data necessary to meet the reporting requirements of section 2329.312 of the Revised Code.	383 384 385
(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.	386 387 388
(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.	389 390 391 392
(5) The auction management system shall be integrated with the web site described in division (B) of this section.	393 394
<u>(6) The auction management system shall conduct the sale in a manner so that the current high bid is publicly displayed throughout the bidding period described in division (E) (1) of this section.</u>	395 396 397 398
(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	399 400 401 402 403 404

deemed a transaction for purposes of determining the license 405
fee. The license fee applicable to each judicial sale of real 406
property shall be taxed as costs in the case. No additional 407
license fees shall be assessed to the county sheriff. 408

(E) (1) Not later than one year after ~~the effective date of~~ 409
~~this section~~ September 28, 2016, in all cases in which the 410
sheriff is ordered to conduct a judicial sale of real property, 411
the following shall occur: 412

(a) For residential property, the sale may be conducted on 413
the official public sheriff sale web site for a five-year period 414
beginning on the date the online system is fully operational. 415
After this five-year period sales shall be conducted on the 416
official public sheriff sale web site. 417

(b) For commercial property, the sale may be conducted on 418
the official public sheriff sale web site. 419

All sales conducted on the official public sheriff sale 420
web site shall be open for bidding for at least ~~seven~~ three 421
days. 422

(2) If the sale of the real property is to be conducted on 423
the official public sheriff sale web site, the judgment creditor 424
may instruct the sheriff to postpone the sale of the real 425
property one time for up to one hundred eighty days after the 426
initial sale date. Upon receiving such instruction for 427
postponement, the sheriff shall postpone the sale of the 428
property by announcing on the official public sheriff sale web 429
site that the sale is postponed and giving notice of the 430
rescheduled sale date. This announcement shall be deemed to meet 431
the notice requirement of section 2329.26 of the Revised Code. 432

(3) If the judgment creditor does not wish to postpone the 433

sale of the real property, the judgment creditor may instruct 434
the sheriff to cancel the sale of the property. Upon receiving 435
this instruction, the sheriff shall cancel the sale of the 436
property by announcing on the official public sheriff sale web 437
site that the sale is canceled. This announcement shall remain 438
posted on the official public sheriff sale web site until at 439
least the end of the ~~seven-day~~ three-day bidding period 440
described in division (E) (1) of this section. 441

(4) If the sale of the real property is postponed or 442
canceled according to divisions (E) (2) and (3) of this section, 443
all bids made on the real property prior to the postponement or 444
cancellation of the sale shall be void. 445

(F) Pursuant to their authority in section 9.482 of the 446
Revised Code, counties may elect to enter into a shared services 447
agreement relating to the judicial sale of real property on the 448
official public sheriff sale web site. The shared services 449
agreement may seek to improve efficiency and reduce costs in the 450
judicial sale of real property by consolidating administrative 451
functions and processes. 452

Sec. 2329.17. (A) When execution is levied upon ~~lands and~~ 453
~~tenements~~ real property, the ~~sheriff shall call an inquest of~~ 454
~~three disinterested freeholders, who are residents of, and real~~ 455
~~property owners in,~~ appraised value of the real property shall 456
be the most recent appraised value of the real property as shown 457
on the records of the county auditor of the county where the 458
~~lands~~ real property taken in execution ~~are~~ is situated, ~~who~~ 459
~~shall appraise the property so levied upon, upon actual view.~~ 460

(B) ~~If the property to be appraised is residential~~ 461
~~property, the freeholders selected by the sheriff shall return~~ 462
~~to the sheriff an estimate of the value of the property in money~~ 463

~~within twenty one calendar days of the issuance of the order of appraisal by the clerk of the court.~~ 464
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~~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 appraised property, the freeholders selected by the sheriff shall also deliver a copy of their appraisal to the private selling officer contemporaneously with their delivery of their appraisal to the sheriff.~~ 466
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~~(C) If the freeholders selected by the sheriff under division (B) of this section do not deliver their appraisal within twenty one calendar days of the issuance of the order of appraisal by the clerk of the court as required by division (B) of this section, then all of the following shall occur:~~ 472
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~~(1) The cost of the appraisal by the freeholders shall not be payable to the freeholders or taxed as costs in the case.~~ 477
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~~(2) The appraised value of the property shall be the most recent appraised value of the property as shown on the records of the county auditor, unless, for good cause shown, the court authorizes a separate appraisal of the property.~~ 479
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~~(3) The advertisement and sale of the real property shall proceed immediately in accordance with the order of advertisement and sale issued by the clerk of the court.~~ 483
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~~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.~~ 486
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~~(D) 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~~ 490
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~~in accordance with the timing or other requirements, if any,~~ 493
~~that may be established for the sale.~~ 494

~~(E)~~ (C) The municipal corporation or township in which the 495
real property is situated may inspect prior to the judicial sale 496
any structures located on ~~lands subject to a writ of execution~~ 497
the real property. 498

Sec. 2329.18. (A) If a court has ordered or the clerk of a 499
court has issued an order for the sheriff to advertise and sell 500
the real estate ~~for which the appraised value has been~~ 501
~~determined pursuant to section 2329.17 of the Revised Code,~~ the 502
sheriff shall ~~deposit a copy of the appraisal with the clerk of~~ 503
~~the court from which the writ was issued, and immediately~~ 504
advertise and sell ~~such~~ the real estate in conformity with 505
sections 2329.01 to 2329.61 of the Revised Code. 506

(B) If the court has ordered or the clerk of the court has 507
issued an order for a private selling officer to advertise and 508
sell the real estate ~~for which the appraised value has been~~ 509
~~determined pursuant to section 2329.17 of the Revised Code,~~ the 510
private selling officer shall immediately advertise and sell the 511
real estate in conformity with sections 2329.01 to 2329.61 of 512
the Revised Code. 513

Sec. 2329.19. ~~Upon the determination of the appraised~~ 514
~~value pursuant to section 2329.17 of the Revised Code, if~~ If it 515
appears that two-thirds of the appraised value, as established 516
pursuant to section 2329.17 of the Revised Code, of the ~~lands~~ 517
~~and tenements~~ real property levied upon is sufficient to satisfy 518
the execution, with costs, the judgment on which the execution 519
issued shall not operate as a lien on the residue of the 520
debtor's estate to the prejudice of any other judgment creditor. 521

Sec. 2329.20. Except as otherwise provided in this section 522
or sections 2329.51 and 2329.52 of the Revised Code, no tract of 523
land shall be sold for less than two-thirds the amount of the 524
appraised value as ~~determined~~ established pursuant to section 525
2329.17 of the Revised Code. In all cases in which a junior 526
mortgage or other junior lien is sought to be enforced against 527
real estate by an order, judgment, or decree of court, subject 528
to a prior lien thereon, and such prior lien, and the claims or 529
obligations secured thereby, are unaffected by such order, 530
judgment, or decree, the court making such order, judgment, or 531
decree, may determine the minimum amount for which such real 532
estate may be sold. In such a case, the minimum amount shall be 533
not less than two-thirds of the difference between the appraised 534
value of the real estate as ~~determined~~ established in that 535
section, and the amount remaining unpaid on the claims or 536
obligations secured by such prior lien. 537

Sec. 2329.211. (A) (1) In every action demanding the 538
judicial or execution sale of residential property, if the 539
judgment creditor is the purchaser at the sale, the purchaser 540
shall not be required to make a sale deposit. All other 541
purchasers shall make a sale deposit as follows: 542

(a) If the appraised value of the residential property is 543
less than or equal to ten thousand dollars, the deposit shall be 544
two thousand dollars. 545

(b) If the appraised value of the residential property is 546
greater than ten thousand dollars but less than or equal to two 547
hundred thousand dollars, the deposit shall be five thousand 548
dollars. 549

(c) If the appraised value of the residential property is 550
greater than two hundred thousand dollars, the deposit shall be 551

ten thousand dollars. 552

(2) The timing of the deposit and other payment 553
requirements shall be established by the court or the person 554
conducting the sale and included in the advertisement of the 555
sale. If the purchaser fails to meet the timing or other 556
requirements of the deposit, the sale shall be invalid and the 557
residential property may be brought to sale on ~~the provisional-~~ 558
~~second sale~~ any subsequent start date, if any, described in 559
division (B) of section 2329.52 of the Revised Code, and 560
included in the notice required by division (A) (1) (a) (i) of 561
section 2329.26 of the Revised Code. 562

(3) If the sale is held online, the deposit may be made by 563
a financial transaction device as defined in section 301.28 of 564
the Revised Code. 565

(B) In every action demanding the judicial or execution 566
sale of commercial property, the purchaser at the sale shall 567
make a deposit pursuant to the requirements, if any, established 568
for the sale. 569

Sec. 2329.26. (A) Lands and tenements taken in execution 570
shall not be sold until all of the following occur: 571

(1) (a) Except as otherwise provided in division (A) (1) (b) 572
of this section, the judgment creditor who seeks the sale of the 573
lands and tenements or the judgment creditor's attorney does 574
both of the following: 575

(i) Causes a written notice to be served in accordance 576
with divisions (A) and (B) of Civil Rule 5 upon the judgment 577
debtor and upon each other party to the action in which the 578
judgment giving rise to the execution was rendered. Such notice 579
shall include the start date, time, and place of the sale if the 580

sale is to be held at a physical location or the start date and 581
web site address of the sale if the sale is to be held online. 582
Such notice shall also include ~~the provisional second sale~~ any 583
subsequent start date described in division (B) of section 584
2329.52 of the Revised Code, if applicable. 585

(ii) At least seven calendar days prior to the sale date 586
~~of the sale~~, files with the clerk of the court that rendered the 587
judgment giving rise to the execution a copy of the written 588
notice described in division (A) (1) (a) (i) of this section with 589
proof of service endorsed on the copy in the form described in 590
division (B) of Civil Rule 5. 591

(b) Service of the written notice described in division 592
(A) (1) (a) (i) of this section is not required to be made upon any 593
party who is in default for failure to appear in the action in 594
which the judgment giving rise to the execution was rendered. 595

(2) One of the following applies: 596

(a) The officer taking the lands and tenements gives 597
public notice once a week for at least three consecutive weeks 598
before the ~~day of sale if the sale is to be held at a physical~~ 599
~~location or the start date of the sale if the sale is to be~~ 600
~~conducted online~~ date. The last date of publication shall be four 601
or more calendar days prior to the sale date. 602

~~Such~~ Except as provided in division (B) of this section, 603
such notice shall be by advertisement in a newspaper of general 604
circulation in the county. The newspaper shall meet the 605
requirements of section 7.12 of the Revised Code. The court 606
ordering the sale may designate in the order of sale the 607
newspaper in which this public notice shall be published. 608

The notice shall include all the following information: 609

- (i) The date, time, and place of the sale if the sale is to be held at a physical location; 610
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- (ii) The start date, the minimum duration, and web site address of the sale if the sale is to be held online; 612
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- (iii) The deposit required by section 2329.211 of the Revised Code; 614
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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; 616
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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. 619
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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. No sale that otherwise complies with division (A) (2) of this section shall be invalid. 630
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(B) Any officer taking lands and tenements in execution 639
that are advertised and offered for sale but unsold for want of 640
bidders may advertise any subsequent sale in any method the 641
officer finds suitable, which may include online advertisement 642
instead of print. Any such advertisement of a subsequent sale 643
shall be deemed to meet the notice requirement in division (A) 644
of this section. 645

(C) The officer taking the lands and tenements shall 646
collect the purchaser's information required by section 2329.271 647
of the Revised Code. 648

~~(C)~~ (D) A sale of lands and tenements taken in execution 649
may be set aside in accordance with division (A) or (B) of 650
section 2329.27 of the Revised Code. 651

Sec. 2329.27. (A) When the public notice required by 652
division (A) (2) of section 2329.26 of the Revised Code is made 653
in a newspaper published weekly, it is sufficient to insert it 654
for three consecutive weeks before the sale date. If both a 655
daily and weekly edition of the paper are published and the 656
circulation of the daily in the county exceeds that of the 657
weekly in the county, or if the lands and tenements taken in 658
execution are situated in a city, both a daily and weekly 659
edition of the paper are published, and the circulation of the 660
daily in that city exceeds the circulation of the weekly in that 661
city, it is sufficient to publish the public notice in the daily 662
once a week for three consecutive weeks ~~before the day of sale~~ 663
date, each insertion to be on the same day of the week. The 664
expense of that publication in a daily shall not exceed the cost 665
of publishing it in a weekly. 666

(B) (1) ~~Subject~~ Except as provided in division (B) of 667
section 2329.26 of the Revised Code and subject to divisions (B) 668

(2) and (3) of this section, all sales of lands and tenements 669
taken in execution that are made without compliance with the 670
written notice requirements of division (A) (1) (a) of section 671
2329.26 of the Revised Code, the public notice requirements of 672
division (A) (2) of that section, the purchaser information 673
requirements of section 2329.271 of the Revised Code, and 674
division (A) of this section shall be set aside, on motion by 675
any interested party, by the court to which the execution is 676
returnable. 677

(2) Proof of service endorsed upon a copy of the written 678
notice required by division (A) (1) (a) of section 2329.26 of the 679
Revised Code shall be conclusive evidence of the service of the 680
written notice in compliance with the requirements of that 681
division, unless a party files a motion to set aside the sale of 682
the lands and tenements pursuant to division (B) (1) of this 683
section and establishes by a preponderance of the evidence that 684
the proof of service is fraudulent. 685

(3) If the court to which the execution is returnable 686
enters its order confirming the sale of the lands and tenements, 687
the order shall have both of the following effects: 688

(a) The order shall be deemed to constitute a judicial 689
finding as follows: 690

(i) That the sale of the lands and tenements complied with 691
the written notice requirements of division (A) (1) (a) of section 692
2329.26 of the Revised Code and the public notice requirements 693
of division (A) (2) of that section and division (A) of this 694
section, or that compliance of that nature did not occur but the 695
failure to give a written notice to a party entitled to notice 696
under division (A) (1) (a) of section 2329.26 of the Revised Code 697
has not prejudiced that party; 698

(ii) That all parties entitled to notice under division 699
(A) (1) (a) of section 2329.26 of the Revised Code received 700
adequate notice of the date, time, and place of the sale of the 701
lands and tenements; 702

(iii) That the purchaser has submitted the contact 703
information required by section 2329.271 of the Revised Code. 704

(b) The order bars the filing of any further motions to 705
set aside the sale of the lands and tenements. 706

Sec. 2329.51. When real estate taken on execution and 707
~~appraised, is advertised,~~ and offered for sale but is unsold for 708
want of bidders meeting the minimum bid requirements established 709
under this chapter, the court from which the execution issued, 710
on motion of the plaintiff, ~~shall set aside such appraisement~~ 711
~~and order a new appraisement to be made, or shall set aside the~~ 712
~~levy and appraisement and award a new execution to issue. When~~ 713
~~such real estate or a part of it has been two times appraised~~ 714
~~and thereafter advertised and offered for sale, and is unsold~~ 715
~~for want of bidders, the court may direct the amount for which~~ 716
it shall be sold. 717

Sec. 2329.52. (A) Except as otherwise provided in division 718
(B) of this section, when premises are ordered to be sold, if 719
said premises, or a part thereof, remain unsold for want of 720
bidders meeting the minimum bid requirements established under 721
this chapter, after having been once ~~appraised,~~ advertised, and 722
offered for sale, the court from which the order of sale issued 723
may, on motion of the plaintiff or defendant and from time to 724
time until said premises are disposed of, order a new 725
~~appraisement and sale or direct the amount for which said~~ 726
premises, or a part thereof, may be sold. 727

The court may order that the premises be sold as follows: 728
One third cash in hand, one third in nine months from the ~~day of~~ 729
sale date, and the remaining one third in eighteen months from 730
the ~~day of~~ sale date, the deferred payments to draw interest at 731
six per cent and be secured by a mortgage on the premises. 732

(B) (1) When a residential property is ordered to be sold 733
pursuant to a residential mortgage loan foreclosure action, if 734
the property remains unsold after the first auction, then a 735
~~second subsequent~~ auction shall be held and the property shall 736
be sold to the highest bidder without regard to the minimum bid 737
requirement in section 2329.20 of the Revised Code, but subject 738
to section 2329.21 of the Revised Code relating to costs, 739
allowances, and real estate taxes, or disposed of in any other 740
manner pursuant to this chapter or any other provision of the 741
Revised Code. ~~This second~~ Any subsequent auction shall be held 742
not earlier than ~~seven~~ three days and not later than thirty days 743
after the ~~first~~ previous auction start date. ~~A residential~~ 744
~~property that remains unsold after two auctions may be~~ 745
~~subsequently offered for sale without regard to the minimum bid~~ 746
~~requirement in section 2329.20 of the Revised Code, but subject~~ 747
~~to section 2329.21 of the Revised Code relating to costs,~~ 748
~~allowances, and real estate taxes, or disposed of in any other~~ 749
~~manner pursuant to this chapter or any other provision of the~~ 750
~~Revised Code.~~ 751

(2) For purposes of division (B) (1) of this section, the 752
first day an online auction is open for bidding shall be 753
considered the start date ~~of the auction~~. 754

Section 2. That existing sections 323.28, 2329.01, 755
2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 756
2329.211, 2329.26, 2329.27, 2329.51, and 2329.52 of the Revised 757

Code are hereby repealed.

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