

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 205

Representative Barnes

A BILL

To amend sections 323.25, 5721.18, and 5721.31 of 1
the Revised Code to enact the "Senior Housing 2
Relief Act" to prohibit the sale of delinquent 3
property tax certificates for homesteads owned 4
for at least 20 years by a person aged 65 or 5
older at the time of the sale and to prohibit 6
tax foreclosure on such property when the senior 7
homeowner has paid the current taxes in all but 8
five or fewer taxable years. 9

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

Section 1. That sections 323.25, 5721.18, and 5721.31 of 10
the Revised Code be amended to read as follows: 11

Sec. 323.25. When taxes charged against an entry on the 12
tax duplicate, or any part of those taxes, are not paid within 13
sixty days after delivery of the delinquent land duplicate to 14
the county treasurer as prescribed by section 5721.011 of the 15
Revised Code, the county treasurer shall enforce the lien for 16
the taxes by civil action in the treasurer's official capacity 17
as treasurer, for the sale of such premises in the same way 18
mortgage liens are enforced or for the transfer of such premises 19

to an electing subdivision pursuant to section 323.28 or 323.78 20
of the Revised Code, in the court of common pleas of the county, 21
in a municipal court with jurisdiction, or in the county board 22
of revision with jurisdiction pursuant to section 323.66 of the 23
Revised Code. Nothing in this section prohibits the treasurer 24
from instituting such an action before the delinquent tax list 25
or delinquent vacant land tax list that includes the premises 26
has been published pursuant to division (B) of section 5721.03 27
of the Revised Code if the list is not published within the time 28
prescribed by that division. 29

After the civil action has been instituted, but before the 30
expiration of the applicable redemption period, any person 31
entitled to redeem the land may do so by tendering to the county 32
treasurer an amount sufficient, as determined by the court or 33
board of revision, to pay the taxes, assessments, penalties, 34
interest, and charges then due and unpaid, and the costs 35
incurred in the civil action, and by demonstrating that the 36
property is in compliance with all applicable zoning 37
regulations, land use restrictions, and building, health, and 38
safety codes. 39

If the delinquent land duplicate lists minerals or rights 40
to minerals listed pursuant to sections 5713.04, 5713.05, and 41
5713.06 of the Revised Code, the county treasurer may enforce 42
the lien for taxes against such minerals or rights to minerals 43
by civil action, in the treasurer's official capacity as 44
treasurer, in the manner prescribed by this section, or proceed 45
as provided under section 5721.46 of the Revised Code. 46

If service by publication is necessary, such publication 47
shall be made once a week for three consecutive weeks instead of 48
as provided by the Rules of Civil Procedure, and the service 49

shall be complete at the expiration of three weeks after the 50
date of the first publication. If the prosecuting attorney 51
determines that service upon a defendant may be obtained 52
ultimately only by publication, the prosecuting attorney may 53
cause service to be made simultaneously by certified mail, 54
return receipt requested, ordinary mail, and publication. ~~The~~ 55

The county treasurer shall not enforce the lien for taxes 56
under this section against real property to which any of the 57
following applies: 58

(A) The real property is the subject of an application for 59
exemption from taxation under section 5715.27 of the Revised 60
Code and does not appear on the delinquent land duplicate~~+~~. 61

(B) The real property is the subject of a valid delinquent 62
tax contract under section 323.31 of the Revised Code for which 63
the county treasurer has not made certification to the county 64
auditor that the delinquent tax contract has become void in 65
accordance with that section~~+~~. 66

(C) A tax certificate respecting that property has been 67
sold under section 5721.32 or 5721.33 of the Revised Code; 68
provided, however, that nothing in this division shall prohibit 69
the county treasurer or the county prosecuting attorney from 70
enforcing the lien of the state and its political subdivisions 71
for taxes against a certificate parcel with respect to any or 72
all of such taxes that at the time of enforcement of such lien 73
are not the subject of a tax certificate. 74

(D) The real property is a senior-owned homestead and the 75
lien relates to delinquent taxes charged for five or fewer tax 76
years during the current owner's ownership of the property. As 77
used in this division, "senior-owned homestead" means a parcel 78

owned and occupied as a homestead, as defined under section 79
323.151 of the Revised Code, for at least twenty of the 80
preceding years by a person who is sixty-five years of age or 81
older at the time the county treasurer seeks to enforce the 82
lien. 83

Upon application of the plaintiff, the court shall advance 84
such cause on the docket, so that it may be first heard. 85

The court may order that the proceeding be transferred to 86
the county board of revision if so authorized under section 87
323.691 of the Revised Code. 88

Sec. 5721.18. ~~The~~ Subject to division (E) of this section, 89
the county prosecuting attorney, upon the delivery to the 90
prosecuting attorney by the county auditor of a delinquent land 91
or delinquent vacant land tax certificate, or of a master list 92
of delinquent or delinquent vacant tracts, shall institute a 93
foreclosure proceeding under this section in the name of the 94
county treasurer to foreclose the lien of the state, in any 95
court with jurisdiction or in the county board of revision with 96
jurisdiction pursuant to section 323.66 of the Revised Code, 97
unless the taxes, assessments, charges, penalties, and interest 98
are paid prior to the time a complaint is filed, or unless a 99
foreclosure or foreclosure and forfeiture action has been or 100
will be instituted under section 323.25, sections 323.65 to 101
323.79, or section 5721.14 of the Revised Code. If the 102
delinquent land or delinquent vacant land tax certificate or the 103
master list of delinquent or delinquent vacant tracts lists 104
minerals or rights to minerals listed pursuant to sections 105
5713.04, 5713.05, and 5713.06 of the Revised Code, the county 106
prosecuting attorney may institute a foreclosure proceeding in 107
the name of the county treasurer, in any court with 108

jurisdiction, to foreclose the lien of the state against such 109
minerals or rights to minerals, unless the taxes, assessments, 110
charges, penalties, and interest are paid prior to the time the 111
complaint is filed, or unless a foreclosure or foreclosure and 112
forfeiture action has been or will be instituted under section 113
323.25, sections 323.65 to 323.79, or section 5721.14 of the 114
Revised Code. 115

Nothing in this section or section 5721.03 of the Revised 116
Code prohibits the prosecuting attorney from instituting a 117
proceeding under this section before the delinquent tax list or 118
delinquent vacant land tax list that includes the parcel is 119
published pursuant to division (B) of section 5721.03 of the 120
Revised Code if the list is not published within the time 121
prescribed by that division. The prosecuting attorney shall 122
prosecute the proceeding to final judgment and satisfaction. 123
Within ten days after obtaining a judgment, the prosecuting 124
attorney shall notify the treasurer in writing that judgment has 125
been rendered. If there is a copy of a written delinquent tax 126
contract attached to the certificate or an asterisk next to an 127
entry on the master list, or if a copy of a delinquent tax 128
contract is received from the auditor prior to the commencement 129
of the proceeding under this section, the prosecuting attorney 130
shall not institute the proceeding under this section, unless 131
the prosecuting attorney receives a certification of the 132
treasurer that the delinquent tax contract has become void. 133

(A) This division applies to all foreclosure proceedings 134
not instituted and prosecuted under section 323.25 of the 135
Revised Code or division (B) or (C) of this section. The 136
foreclosure proceedings shall be instituted and prosecuted in 137
the same manner as is provided by law for the foreclosure of 138
mortgages on land, except that, if service by publication is 139

necessary, such publication shall be made once a week for three 140
consecutive weeks instead of as provided by the Rules of Civil 141
Procedure, and the service shall be complete at the expiration 142
of three weeks after the date of the first publication. In any 143
proceeding prosecuted under this section, if the prosecuting 144
attorney determines that service upon a defendant may be 145
obtained ultimately only by publication, the prosecuting 146
attorney may cause service to be made simultaneously by 147
certified mail, return receipt requested, ordinary mail, and 148
publication. 149

In any county that has adopted a permanent parcel number 150
system, the parcel may be described in the notice by parcel 151
number only, instead of also with a complete legal description, 152
if the prosecuting attorney determines that the publication of 153
the complete legal description is not necessary to provide 154
reasonable notice of the foreclosure proceeding to the 155
interested parties. If the complete legal description is not 156
published, the notice shall indicate where the complete legal 157
description may be obtained. 158

It is sufficient, having been made a proper party to the 159
foreclosure proceeding, for the treasurer to allege in the 160
treasurer's complaint that the certificate or master list has 161
been duly filed by the auditor, that the amount of money 162
appearing to be due and unpaid is due and unpaid, and that there 163
is a lien against the property described in the certificate or 164
master list, without setting forth in the complaint any other or 165
special matter relating to the foreclosure proceeding. The 166
prayer of the complaint shall be that the court or the county 167
board of revision with jurisdiction pursuant to section 323.66 168
of the Revised Code issue an order that the property be sold or 169
conveyed by the sheriff or otherwise be disposed of, and the 170

equity of redemption be extinguished, according to the 171
alternative redemption procedures prescribed in sections 323.65 172
to 323.79 of the Revised Code, or if the action is in the 173
municipal court by the bailiff, in the manner provided in 174
section 5721.19 of the Revised Code. 175

In the foreclosure proceeding, the treasurer may join in 176
one action any number of lots or lands, but the decree shall be 177
rendered separately, and any proceedings may be severed, in the 178
discretion of the court or board of revision, for the purpose of 179
trial or appeal, and the court or board of revision shall make 180
such order for the payment of costs as is considered proper. The 181
certificate or master list filed by the auditor with the 182
prosecuting attorney is prima-facie evidence at the trial of the 183
foreclosure action of the amount and validity of the taxes, 184
assessments, charges, penalties, and interest appearing due and 185
unpaid and of their nonpayment. 186

(B) Foreclosure proceedings constituting an action in rem 187
may be commenced by the filing of a complaint after the end of 188
the second year from the date on which the delinquency was first 189
certified by the auditor. Prior to filing such an action in rem, 190
the prosecuting attorney shall cause a title search to be 191
conducted for the purpose of identifying any lienholders or 192
other persons with interests in the property subject to 193
foreclosure. Following the title search, the action in rem shall 194
be instituted by filing in the office of the clerk of a court 195
with jurisdiction a complaint bearing a caption substantially in 196
the form set forth in division (A) of section 5721.181 of the 197
Revised Code. 198

Any number of parcels may be joined in one action. Each 199
separate parcel included in a complaint shall be given a serial 200

number and shall be separately indexed and docketed by the clerk 201
of the court in a book kept by the clerk for such purpose. A 202
complaint shall contain the permanent parcel number of each 203
parcel included in it, the full street address of the parcel 204
when available, a description of the parcel as set forth in the 205
certificate or master list, the name and address of the last 206
known owner of the parcel if they appear on the general tax 207
list, the name and address of each lienholder and other person 208
with an interest in the parcel identified in the title search 209
relating to the parcel that is required by this division, and 210
the amount of taxes, assessments, charges, penalties, and 211
interest due and unpaid with respect to the parcel. It is 212
sufficient for the treasurer to allege in the complaint that the 213
certificate or master list has been duly filed by the auditor 214
with respect to each parcel listed, that the amount of money 215
with respect to each parcel appearing to be due and unpaid is 216
due and unpaid, and that there is a lien against each parcel, 217
without setting forth any other or special matters. The prayer 218
of the complaint shall be that the court issue an order that the 219
land described in the complaint be sold in the manner provided 220
in section 5721.19 of the Revised Code. 221

(1) Within thirty days after the filing of a complaint, 222
the clerk of the court in which the complaint was filed shall 223
cause a notice of foreclosure substantially in the form of the 224
notice set forth in division (B) of section 5721.181 of the 225
Revised Code to be published once a week for three consecutive 226
weeks in a newspaper of general circulation in the county. The 227
newspaper shall meet the requirements of section 7.12 of the 228
Revised Code. In any county that has adopted a permanent parcel 229
number system, the parcel may be described in the notice by 230
parcel number only, instead of also with a complete legal 231

description, if the prosecuting attorney determines that the 232
publication of the complete legal description is not necessary 233
to provide reasonable notice of the foreclosure proceeding to 234
the interested parties. If the complete legal description is not 235
published, the notice shall indicate where the complete legal 236
description may be obtained. 237

After the third publication, the publisher shall file with 238
the clerk of the court an affidavit stating the fact of the 239
publication and including a copy of the notice of foreclosure as 240
published. Service of process for purposes of the action in rem 241
shall be considered as complete on the date of the last 242
publication. 243

Within thirty days after the filing of a complaint and 244
before the final date of publication of the notice of 245
foreclosure, the clerk of the court also shall cause a copy of a 246
notice substantially in the form of the notice set forth in 247
division (C) of section 5721.181 of the Revised Code to be 248
mailed by certified mail, with postage prepaid, to each person 249
named in the complaint as being the last known owner of a parcel 250
included in it, or as being a lienholder or other person with an 251
interest in a parcel included in it. The notice shall be sent to 252
the address of each such person, as set forth in the complaint, 253
and the clerk shall enter the fact of such mailing upon the 254
appearance docket. If the name and address of the last known 255
owner of a parcel included in a complaint is not set forth in 256
it, the auditor shall file an affidavit with the clerk stating 257
that the name and address of the last known owner does not 258
appear on the general tax list. 259

(2) (a) An answer may be filed in an action in rem under 260
this division by any person owning or claiming any right, title, 261

or interest in, or lien upon, any parcel described in the 262
complaint. The answer shall contain the caption and number of 263
the action and the serial number of the parcel concerned. The 264
answer shall set forth the nature and amount of interest claimed 265
in the parcel and any defense or objection to the foreclosure of 266
the lien of the state for delinquent taxes, assessments, 267
charges, penalties, and interest as shown in the complaint. The 268
answer shall be filed in the office of the clerk of the court, 269
and a copy of the answer shall be served on the prosecuting 270
attorney, not later than twenty-eight days after the date of 271
final publication of the notice of foreclosure. If an answer is 272
not filed within such time, a default judgment may be taken as 273
to any parcel included in a complaint as to which no answer has 274
been filed. A default judgment is valid and effective with 275
respect to all persons owning or claiming any right, title, or 276
interest in, or lien upon, any such parcel, notwithstanding that 277
one or more of such persons are minors, incompetents, absentees 278
or nonresidents of the state, or convicts in confinement. 279

(b) (i) A receiver appointed pursuant to divisions (C) (2) 280
and (3) of section 3767.41 of the Revised Code may file an 281
answer pursuant to division (B) (2) (a) of this section, but is 282
not required to do so as a condition of receiving proceeds in a 283
distribution under division (B) (1) of section 5721.17 of the 284
Revised Code. 285

(ii) When a receivership under section 3767.41 of the 286
Revised Code is associated with a parcel, the notice of 287
foreclosure set forth in division (B) of section 5721.181 of the 288
Revised Code and the notice set forth in division (C) of that 289
section shall be modified to reflect the provisions of division 290
(B) (2) (b) (i) of this section. 291

(3) At the trial of an action in rem under this division, 292
the certificate or master list filed by the auditor with the 293
prosecuting attorney shall be prima-facie evidence of the amount 294
and validity of the taxes, assessments, charges, penalties, and 295
interest appearing due and unpaid on the parcel to which the 296
certificate or master list relates and their nonpayment. If an 297
answer is properly filed, the court may, in its discretion, and 298
shall, at the request of the person filing the answer, grant a 299
severance of the proceedings as to any parcel described in such 300
answer for purposes of trial or appeal. 301

(C) In addition to the actions in rem authorized under 302
division (B) of this section and section 5721.14 of the Revised 303
Code, an action in rem may be commenced under this division. An 304
action commenced under this division shall conform to all of the 305
requirements of division (B) of this section except as follows: 306

(1) The prosecuting attorney shall not cause a title 307
search to be conducted for the purpose of identifying any 308
lienholders or other persons with interests in the property 309
subject to foreclosure, except that the prosecuting attorney 310
shall cause a title search to be conducted to identify any 311
receiver's lien. 312

(2) The names and addresses of lienholders and persons 313
with an interest in the parcel shall not be contained in the 314
complaint, and notice shall not be mailed to lienholders and 315
persons with an interest as provided in division (B)(1) of this 316
section, except that the name and address of a receiver under 317
section 3767.41 of the Revised Code shall be contained in the 318
complaint and notice shall be mailed to the receiver. 319

(3) With respect to the forms applicable to actions 320
commenced under division (B) of this section and contained in 321

section 5721.181 of the Revised Code: 322

(a) The notice of foreclosure prescribed by division (B) 323
of section 5721.181 of the Revised Code shall be revised to 324
exclude any reference to the inclusion of the name and address 325
of each lienholder and other person with an interest in the 326
parcel identified in a statutorily required title search 327
relating to the parcel, and to exclude any such names and 328
addresses from the published notice, except that the revised 329
notice shall refer to the inclusion of the name and address of a 330
receiver under section 3767.41 of the Revised Code and the 331
published notice shall include the receiver's name and address. 332
The notice of foreclosure also shall include the following in 333
boldface type: 334

"If pursuant to the action the parcel is sold, the sale 335
shall not affect or extinguish any lien or encumbrance with 336
respect to the parcel other than a receiver's lien and other 337
than the lien for land taxes, assessments, charges, interest, 338
and penalties for which the lien is foreclosed and in 339
satisfaction of which the property is sold. All other liens and 340
encumbrances with respect to the parcel shall survive the sale." 341

(b) The notice to the owner, lienholders, and other 342
persons with an interest in a parcel shall be a notice only to 343
the owner and to any receiver under section 3767.41 of the 344
Revised Code, and the last two sentences of the notice shall be 345
omitted. 346

(4) As used in this division, a "receiver's lien" means 347
the lien of a receiver appointed pursuant to divisions (C) (2) 348
and (3) of section 3767.41 of the Revised Code that is acquired 349
pursuant to division (H) (2) (b) of that section for any 350
unreimbursed expenses and other amounts paid in accordance with 351

division (F) of that section by the receiver and for the fees of 352
the receiver approved pursuant to division (H) (1) of that 353
section. 354

(D) The conveyance by the owner of any parcel against 355
which a complaint has been filed pursuant to this section at any 356
time after the date of publication of the parcel on the 357
delinquent tax list but before the date of a judgment of 358
foreclosure pursuant to section 5721.19 of the Revised Code 359
shall not nullify the right of the county to proceed with the 360
foreclosure. 361

(E) The county prosecuting attorney shall not institute a 362
foreclosure proceeding under this section against a senior-owned 363
homestead if delinquent taxes charged against the parcel relate 364
to five or fewer tax years during the current owner's ownership 365
of the parcel. As used in this division, "senior-owned 366
homestead" means a parcel owned and occupied as a homestead, as 367
defined under section 323.151 of the Revised Code, for at least 368
twenty of the preceding years by a person who is sixty-five 369
years of age or older at the time a foreclosure proceeding would 370
be instituted. 371

Sec. 5721.31. (A) (1) After receipt of a duplicate of the 372
delinquent land list compiled under section 5721.011 of the 373
Revised Code, or a delinquent land list compiled previously 374
under that section, the county treasurer may select from the 375
list parcels of delinquent land the lien against which the 376
county treasurer may attempt to transfer by the sale of tax 377
certificates under sections 5721.30 to 5721.43 of the Revised 378
Code. None of the following parcels may be selected for a tax 379
certificate sale: 380

(a) A parcel for which the full amount of taxes, 381

assessments, penalties, interest, and charges have been paid; 382

(b) A parcel for which a valid contract under section 383
323.122, 323.31, or 5713.20 of the Revised Code is in force; 384

(c) A parcel the owner of which has filed a petition in 385
bankruptcy, so long as the parcel is property of the bankruptcy 386
estate; 387

(d) A parcel owned and occupied as a homestead, as defined 388
under section 323.151 of the Revised Code, for at least twenty 389
of the preceding years by a person who is sixty-five years of 390
age or older at the time the parcel would be selected for a tax 391
certificate sale. 392

(2) The county treasurer shall compile a separate list of 393
parcels selected for tax certificate sales, including the same 394
information as is required to be included in the delinquent land 395
list. 396

Upon compiling the list of parcels selected for tax 397
certificate sales, the county treasurer may conduct a title 398
search for any parcel on the list. 399

(B) (1) Except as otherwise provided in division (B) (3) of 400
this section, when tax certificates are to be sold under section 401
5721.32 of the Revised Code with respect to parcels, the county 402
treasurer shall send written notice by certified mail to either 403
the owner of record or all interested parties discoverable 404
through a title search, or both, of each parcel on the list. A 405
notice to an owner shall be sent to the owner's last known tax- 406
mailing address. The notice shall inform the owner or interested 407
parties that a tax certificate will be offered for sale on the 408
parcel, and that the owner or interested parties may incur 409
additional expenses as a result of the sale. 410

(2) Except as otherwise provided in division (B) (3) of 411
this section, when tax certificates are to be sold or 412
transferred under section 5721.33 of the Revised Code with 413
respect to parcels, the county treasurer, at least thirty days 414
prior to the date of sale or transfer of such tax certificates, 415
shall send written notice of the sale or transfer by certified 416
mail to the last known tax-mailing address of the record owner 417
of the property or parcel and may send such notice to all 418
parties with an interest in the property that has been recorded 419
in the property records of the county pursuant to section 317.08 420
of the Revised Code. The notice shall state that a tax 421
certificate will be offered for sale or transfer on the parcel, 422
and that the owner or interested parties may incur additional 423
expenses as a result of the sale or transfer. 424

(3) The county treasurer is not required to send a notice 425
under division (B) (1) or (B) (2) of this section if the treasurer 426
previously has attempted to send such notice to the owner of the 427
parcel and the notice has been returned by the post office as 428
undeliverable. The absence of a valid tax-mailing address for 429
the owner of a parcel does not preclude the county treasurer 430
from selling or transferring a tax certificate for the parcel. 431

(C) The county treasurer shall advertise the sale of tax 432
certificates under section 5721.32 of the Revised Code in a 433
newspaper of general circulation in the county once a week for 434
two consecutive weeks. The newspaper shall meet the requirements 435
of section 7.12 of the Revised Code. The advertisement shall 436
include the date, the time, and the place of the public auction, 437
abbreviated legal descriptions of the parcels, and the names of 438
the owners of record of the parcels. The advertisement also 439
shall include the certificate purchase prices of the parcels or 440
the total purchase price of tax certificates for sale in blocks 441

of tax certificates. 442

(D) After the county treasurer has compiled the list of 443
parcels selected for tax certificate sales but before a tax 444
certificate respecting a parcel is sold or transferred, if the 445
owner of record of the parcel pays to the county treasurer in 446
cash the delinquent taxes respecting the parcel or otherwise 447
acts so that any condition in division (A) (1) (a), (b), or (c) of 448
this section applies to the parcel, the owner of record of the 449
parcel also shall pay a fee in an amount prescribed by the 450
treasurer to cover the administrative costs of the treasurer 451
under this section respecting the parcel. The fee shall be 452
deposited in the county treasury to the credit of the tax 453
certificate administration fund. 454

(E) A tax certificate administration fund shall be created 455
in the county treasury of each county selling tax certificates 456
under sections 5721.30 to 5721.43 of the Revised Code. The fund 457
shall be administered by the county treasurer, and used solely 458
for the purposes of sections 5721.30 to 5721.43 of the Revised 459
Code or as otherwise permitted in this division. Any fee 460
received by the treasurer under sections 5721.30 to 5721.43 of 461
the Revised Code shall be credited to the fund, except the 462
bidder registration fee under division (B) of section 5721.32 of 463
the Revised Code and the county prosecuting attorney's fee under 464
division (B) (3) of section 5721.37 of the Revised Code. To the 465
extent there is a surplus in the fund from time to time, the 466
surplus may, with the approval of the county treasurer, be 467
utilized for the purposes of a county land reutilization 468
corporation operating in the county. 469

(F) The county treasurers of more than one county may 470
jointly conduct a regional sale of tax certificates under 471

section 5721.32 of the Revised Code. A regional sale shall be 472
held at a single location in one county, where the tax 473
certificates from each of the participating counties shall be 474
offered for sale at public auction. Before the regional sale, 475
each county treasurer shall advertise the sale for the parcels 476
in the treasurer's county as required by division (C) of this 477
section. At the regional sale, tax certificates shall be sold on 478
parcels from one county at a time, with all of the certificates 479
for one county offered for sale before any certificates for the 480
next county are offered for sale. 481

(G) The tax commissioner shall prescribe the form of the 482
tax certificate under this section, and county treasurers shall 483
use the form so prescribed. 484

Section 2. That existing sections 323.25, 5721.18, and 485
5721.31 of the Revised Code are hereby repealed. 486