

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 85

Representative Patton

A BILL

To amend section 5721.191 and to enact sections 1
5722.032 and 5722.033 of the Revised Code to 2
expand the methods by which land banks can 3
acquire delinquent property. 4

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

Section 1. That section 5721.191 be amended and sections 5
5722.032 and 5722.033 of the Revised Code be enacted to read as 6
follows: 7

Sec. 5721.191. (A) Subject to division (B) of this 8
section, the form for the advertisement of a sale conducted 9
pursuant to section 323.28, sections 323.65 to 323.79, or 10
section 5721.19 of the Revised Code shall be as follows: 11

"Notice of sale under judgment of foreclosure of liens 12
for delinquent land taxes 13

In the (court or board of revision, as 14
applicable) of , Ohio 15

case no. 16

in the matter of foreclosure of liens for 17

delinquent land taxes 18

county treasurer of _____, Ohio 19

Plaintiff, 20

vs. 21

parcels of land encumbered with delinquent 22

tax liens, 23

Defendants. 24

25

Whereas, judgment has been rendered against certain 26

parcels of real property for taxes, assessments, charges, 27

penalties, interest, and costs as follows: 28

(Here set out, for each parcel, the respective permanent 29

parcel number, full street address, description of the parcel, 30

name and address of the last known owners of the parcel as shown 31

on the general tax list, and total amount of the judgment) and; 32

Whereas, such judgment orders such real property to be 33

sold or otherwise disposed of according to law by the 34

undersigned to satisfy the total amount of such judgment; 35

Now, therefore, public notice is hereby given that I, 36

_____ (officer) of _____, 37

Ohio, will either dispose of such property according to law or 38

sell such real property at public auction, for cash, to the 39

highest bidder of an amount that equals at least (insert here, 40

as in the court's or board's order, the fair market value of the 41

parcel as determined by the county auditor, or the total amount 42

of the judgment, including all taxes, assessments, charges, 43

penalties, and interest payable subsequent to the delivery to 44

the prosecuting attorney of the delinquent land tax certificate 45
or master list of delinquent tracts and prior to the transfer of 46
the deed of the property to the purchaser following confirmation 47
of sale), between the hours of _____ a.m. and _____ p.m., 48
at (address and location) in _____, Ohio, on 49
_____, the _____ day of _____, ____ If any 50
parcel does not receive a sufficient bid or is not otherwise 51
disposed of according to law, it may be offered for sale, under 52
the same terms and conditions of the first sale and at the same 53
time of day and at the same place, on _____, the 54
_____ day of _____, ___, for an amount that 55
equals at least (insert here, as in the court's or board's 56
order, the fair market value of the parcel as determined by the 57
county auditor, or the total amount of the judgment, including 58
all taxes assessments, charges, penalties, and interest payable 59
subsequent to the delivery to the prosecuting attorney of the 60
delinquent land tax certificate or master list of delinquent 61
tracts and prior to the transfer of the deed of the property to 62
the purchaser following confirmation of sale)." 63

(B) If the title search required by division (B) of 64
section 5721.18 of the Revised Code that relates to a parcel 65
subject to an in rem action under that division, or if the title 66
search that relates to a parcel subject to an in personam action 67
under division (A) of section 5721.18 of the Revised Code, 68
indicates that a federal tax lien exists relative to the parcel, 69
then the form of the advertisement of sale as described in 70
division (A) of this section additionally shall include the 71
following statement in boldface type: 72

"PUBLIC NOTICE IS HEREBY GIVEN THAT (INSERT HERE THE 73
DESCRIPTION OF EACH RELEVANT PARCEL) TO BE SOLD AT PUBLIC 74
AUCTION IS SUBJECT TO A FEDERAL TAX LIEN THAT MAY NOT BE 75

EXTINGUISHED BY THE SALE. 76

_____ 77

(officer)" 78

(C) If the proceedings for foreclosure were instituted 79
under division (C) of section 5721.18 of the Revised Code, then 80
the form of the advertisement of sale as described in division 81
(A) of this section additionally shall include the following 82
statement in boldface type: 83

"Public notice is hereby given that (insert here the 84
description of each relevant parcel) to be sold at public 85
auction will be sold subject to all liens and encumbrances with 86
respect to the parcel, other than the liens for land taxes, 87
assessments, charges, penalties, and interest for which the lien 88
was foreclosed and in satisfaction of which the property is 89
sold. 90

_____ 91

(officer)" 92

(D) If any parcel is located within the boundaries of an 93
electing subdivision as defined in section 5722.01 of the 94
Revised Code, then the form of the advertisement of sale as 95
described in division (A) of this section additionally shall 96
include the following statement in boldface type: 97

"Public notice is hereby given that all parcels sold at 98
public auction and located within the boundaries of an electing 99
subdivision will be sold subject to a right of first refusal by 100
that electing subdivision pursuant to section 5722.033 of the 101
Revised Code, whereby the electing subdivision may purchase any 102
parcel by paying the amount bid by the highest bidder at the 103

sale." 104

Sec. 5722.032. (A) On and after the effective date of an 105
ordinance or resolution adopted pursuant to section 5722.02 of 106
the Revised Code, a county treasurer may request that delinquent 107
land subject to a foreclosure proceeding under section 323.25 or 108
section 5721.18 of the Revised Code be sold to an electing 109
subdivision without advertisement and public sale, and in lieu 110
of utilizing the judicial sales provisions prescribed in section 111
323.28 or 5721.19 or Chapter 2329. of the Revised Code, in the 112
manner prescribed in this section. 113

(B) Upon rendering a decree of foreclosure, a court shall 114
order the sale of delinquent land to an electing subdivision 115
without advertisement and public sale under this section if all 116
of the following requirements are met: 117

(1) The foreclosure complaint prayed for the property to 118
be sold pursuant to this section. The complaint may have also 119
prayed for the property to be sold pursuant to section 323.28 or 120
section 5721.19 of the Revised Code. 121

(2) An electing subdivision requests that the treasurer 122
file a request with the court under division (B)(3) of this 123
section on its behalf. The electing subdivision shall submit the 124
request to the treasurer in writing at least ten days prior to 125
the final hearing on the complaint. The request shall identify 126
the electing subdivision and include an affirmation that the 127
electing subdivision will pay the amount required under division 128
(B)(3) of this section. If more than one electing subdivision 129
submits a request to the treasurer under this division, the 130
treasurer shall file the request on behalf of the following: 131

(a) A township or municipality, if the other notice is 132

<u>submitted by a county but not a county land reutilization</u>	133
<u>corporation;</u>	134
<u>(b) A county land reutilization corporation, if the other</u>	135
<u>notice is submitted by a municipality or township but not a</u>	136
<u>county;</u>	137
<u>(c) In all other cases, the county.</u>	138
<u>(3) The treasurer files a written request with the court</u>	139
<u>that the land be sold to the electing subdivision for the</u>	140
<u>greater of the following amounts, except as authorized in</u>	141
<u>division (G) of this section:</u>	142
<u>(a) The amount of taxes, assessments, penalties, interest,</u>	143
<u>and charges due and payable against the property at the time of</u>	144
<u>the proposed sale under this section, plus the cost of the</u>	145
<u>proceeding; or</u>	146
<u>(b) The county auditor's current valuation of the</u>	147
<u>property.</u>	148
<u>The request shall identify the electing subdivision to</u>	149
<u>which the land will be sold and, for each parcel being</u>	150
<u>foreclosed upon, include the parcel number and the amounts</u>	151
<u>described in divisions (B) (3) (a) and (b) of this section</u>	152
<u>applicable to that parcel.</u>	153
<u>(4) The request described in division (B) (3) of this</u>	154
<u>section is filed at least ten days before the final hearing and</u>	155
<u>served in accordance with Civil Rule 5 of the Rules of Civil</u>	156
<u>Procedure upon all parties to the proceeding with a recorded</u>	157
<u>interest in the land as identified in either the preliminary</u>	158
<u>judicial report or final judicial report, unless the lien or</u>	159
<u>interest is barred by lis pendens pursuant to section 2703.26 of</u>	160
<u>the Revised Code or otherwise by law, or unless the party was</u>	161

served with the complaint and failed to answer, plead, or appear 162
within twenty-eight days of being served. 163

(5) No party has filed a certification requesting a public 164
sale under division (H) of this section. 165

(C) If the requirements of division (B) are met, the court 166
shall order the delinquent land to be sold to the applicable 167
electing subdivision for the amount specified in division (B) (3) 168
(a) or (b) of this section, as applicable, free and clear of all 169
liens and encumbrances. The sale shall be in lieu of a public 170
sale pursuant to section 323.28, 5721.19, or Chapter 2329. of 171
the Revised Code. 172

The court's journalized order approving the sale and 173
ordering the distribution of any proceeds in excess of the 174
amount described in division (B) (3) (a) of this section shall be 175
deemed a confirmation of the sale and constitute a final 176
appealable order. No separate order of confirmation of the sale 177
is required to be filed. 178

(D) Upon approval of a sale to an electing subdivision 179
under division (C) of this section, the electing subdivision 180
shall pay the amount specified in division (B) (3) (a) or (b) of 181
this section, as applicable. The payment shall be made to the 182
treasurer by cashier's check or other form of immediately 183
available funds. The proceeds of the sale shall be applied in 184
the same manner as prescribed in division (D) of section 5721.19 185
of the Revised Code and, if the property is sold for an amount 186
exceeding the amount described in division (B) (3) (a) of this 187
section, then as provided in division (E) of this section. 188

(E) Any proceeds from a sale under this section in excess 189
of the amount in division (B) (3) (a) of this section shall be 190

transferred to the clerk and the clerk shall report such amounts 191
to the court. The court shall order the distribution of such 192
proceeds in the manner provided by law or order further 193
proceedings to determine the order of priority of such 194
distribution to the parties or interest holders. 195

(F) The owner or any other party possessing a right of 196
redemption in the delinquent land by virtue of a recorded 197
interest may exercise such right of redemption at any time up to 198
the filing of an order under division (C) of this section 199
approving the sale and ordering the distribution of any excess 200
proceeds. Sections 2329.33 and 5721.25 of the Revised Code do 201
not apply to a sale under this section. 202

Any party entitled to redeem delinquent land that is the 203
subject of a request filed under division (B) (3) of this section 204
may do so by paying to the treasurer by cashier's check or other 205
form of immediately available funds an amount equal to the 206
amount prescribed in division (B) (3) (a) of this section. Upon 207
receipt of that amount, the treasurer shall advise the court and 208
all of the parties to whom notice of the request was given under 209
division (B) (4) of this section of the receipt of that amount, 210
and the court shall set aside the sale and dismiss the case. 211

(G) Any party to the proceeding that was served with the 212
complaint may assert an interest in or entitlement to any excess 213
proceeds received if the property is sold for an amount greater 214
than that described in division (B) (3) (a) of this section. Such 215
party shall file a short and plain attested certification with 216
the court at any time before the final hearing on the complaint 217
asserting such interest or entitlement to any excess proceeds 218
available after the sale proceeds are applied as described in 219
division (D) of this section. The certification shall include 220

the parcel number or address of the property, a brief 221
description of the claimed interest or entitlement, and a demand 222
for any excess proceeds. 223

If no party served with the complaint files a 224
certification under this division, the court shall order the 225
property to be sold under division (C) of this section to the 226
electing subdivision for the amount described in division (B) (3) 227
(a) of this section. If one or more parties served with the 228
complaint file a certification under this division, the court 229
shall order the property to be sold under division (C) of this 230
section to the electing subdivision for the greater of the 231
amounts described in division (B) (3) (a) or (b) of this section. 232

(H) Any party served with the foreclosure complaint may 233
file a short and plain attested certification with the court at 234
any time before the final hearing on the complaint requesting 235
that the property be sold at a public sale and not sold pursuant 236
to division (B) of this section. In such a case, upon an order 237
of foreclosure, the court shall order that the property be 238
offered for sale as prescribed in section 323.28 or section 239
5721.19 of the Revised Code, and no further proceedings shall 240
occur under this section. 241

(I) If real property is sold in accordance with this 242
section to an electing subdivision, upon payment of the amount 243
required in division (B) (3) (a) or (b) of this section, as 244
applicable, the sheriff shall execute and file for recording a 245
deed conveying title to the land. Once the deed has been 246
recorded, the sheriff shall deliver the deed to the electing 247
subdivision. The sheriff shall collect any applicable statutory 248
costs. Upon such recordation, title to the land is incontestable 249
in the electing subdivision and free and clear of all taxes, 250

assessments, penalties, interest, costs, charges and subordinate 251
liens and encumbrances, except those easements and covenants of 252
record running with the land and created prior to the time at 253
which the taxes or assessments, for the nonpayment of which the 254
land was sold, became due and payable. 255

If an electing subdivision acquires land under this 256
section before any costs, charges, or assessments have been 257
incurred against the owner of the land or certified on the tax 258
list, or any lien has been placed with respect to the property 259
under section 715.261, 743.04, or 6119.06 of the Revised Code, 260
the electing subdivision shall be deemed a bona fide purchaser 261
for value without knowledge of such costs or liens, regardless 262
of whether the electing subdivision had actual or constructive 263
knowledge of the costs or liens, and any such lien, costs, 264
charges or assessments thereunder shall be void and 265
unenforceable against the electing subdivision and its 266
successors in title. Any such costs, charges or assessments 267
filed for record under those sections shall be promptly removed 268
of record by the county auditor upon request by the electing 269
subdivision. The auditor is also required to remove such liens, 270
costs, charges and assessments of record upon request of any 271
successors of the electing subdivision in the manner prescribed 272
in section 715.261, 743.04, or 6119.06 of the Revised Code. 273

The title is not invalid because of any irregularity, 274
informality, or omission of any proceedings under section 275
323.25, this chapter, or Chapter 5721. of the Revised Code, or 276
in any processes of taxation, if such irregularity, informality, 277
or omission does not abrogate any provision of those sections or 278
chapters for notice to holders of title, lien, or mortgage to, 279
or other interests in, the foreclosed lands. 280

Sec. 5722.033. (A) On and after the effective date of an 281
ordinance or resolution adopted pursuant to section 5722.02 of 282
the Revised Code, an electing subdivision shall have the right 283
of first refusal to purchase delinquent land within the 284
subdivision's boundaries that will be offered for public sale 285
pursuant to a foreclosure proceeding as provided in section 286
323.25, sections 323.65 to 323.79, or section 5721.18 of the 287
Revised Code. 288

To exercise this right, the electing subdivision shall, 289
not more than three business days after the sale, provide 290
written notice to the officer conducting the public sale 291
indicating the subdivision's intent to purchase the delinquent 292
land. The notice shall state that the subdivision will purchase 293
the land for an amount equal to the amount bid by the highest 294
bidder at the sale. The electing subdivision shall include a 295
certificate of service with such notice attesting that the 296
notice has been served upon all parties to the action, except 297
for parties that are in default of answer or that have failed to 298
respond as required after service by publication. 299

(B) Notwithstanding any provision to the contrary in 300
Chapter 323., 2329., or 5721. of the Revised Code, if an 301
electing subdivision exercises its right of first refusal 302
pursuant to this section, the subdivision shall be deemed to 303
have submitted the highest bid at the sale and the land shall be 304
sold to the subdivision for the amount of that bid. If more than 305
one electing subdivision submits a notice prior to the sale 306
under division (A) of this section, the following shall be 307
deemed the highest bidder: 308

(1) A township or municipality, if the other notice is 309
submitted by a county but not a county land reutilization 310

corporation. 311

(2) A county land reutilization corporation, if the other 312
notice is submitted by a municipality or township but not a 313
county. 314

(3) In all other cases, the county. 315

The officer conducting the sale shall file a report of 316
sale, or amend its previously filed report of sale, indicating 317
that the appropriate electing subdivision is the highest bidder 318
pursuant to this section. 319

(C) The electing subdivision shall pay the winning bid and 320
any other statutory costs due and payable to the officer 321
conducting the sale within thirty days after the sale. The 322
proceeds of the sale shall be applied in the same manner 323
prescribed in division (D) of section 5721.19 of the Revised 324
Code. 325

(D) At any time after exercising its right of first 326
refusal, an electing subdivision may assign its right to 327
purchase the land to another electing subdivision within which 328
the land is located upon mutual written agreement of both 329
electing subdivisions; provided, however, that payment of the 330
winning bid shall be paid within thirty days after the sale. An 331
officer of each electing subdivision shall attest to the 332
assignment before a notary public and file a record of the 333
assignment with the court that ordered the sale within thirty 334
days after the sale. 335

(E) The officer conducting the sale shall collect any 336
applicable statutory costs from the electing subdivision and, 337
upon entry of the confirmation of sale, shall execute and file 338
for recording a deed conveying title to the land to the electing 339

subdivision, unless the land is redeemed under section 323.31 or 340
5721.18 of the Revised Code. For purposes of recording such 341
deed, by exercising its right of first refusal, the officer who 342
makes the sale shall be deemed to have designated the officer as 343
the electing subdivision's agent for the sole purpose of 344
accepting delivery of the deed. 345

Upon recordation of the deed, title to the land is 346
incontestable in the electing subdivision and free and clear of 347
all liens and encumbrances, except those easements and covenants 348
of record running with the land and created prior to the time at 349
which the taxes or assessments, for the nonpayment of which the 350
land is sold or transferred at foreclosure, became due and 351
payable. Once the deed has been recorded, the officer shall 352
deliver the deed to the electing subdivision. 353

If an electing subdivision acquires land under this 354
section before any costs, charges, or assessments have been 355
incurred against the owner of the land or certified on the tax 356
list, or any lien has been placed with respect to the property 357
under section 715.261, 743.04, or 6119.06 of the Revised Code, 358
the electing subdivision shall be deemed a bona fide purchaser 359
for value without knowledge of such costs or liens, regardless 360
of whether the electing subdivision had actual or constructive 361
knowledge of the costs or liens, and any such lien, costs, 362
charges or assessments thereunder shall be void and 363
unenforceable against the electing subdivision and its 364
successors in title. Any such costs, charges or assessments 365
filed for record under those sections shall be promptly removed 366
of record by the county auditor upon request by the electing 367
subdivision. The auditor is also required to remove such liens, 368
costs, charges and assessments of record upon request of any 369
successors of the electing subdivision in the manner prescribed 370

in section 715.261, 743.04, or 6119.06 of the Revised Code. 371

The title is not invalid because of any irregularity, 372
informality, or omission of any proceedings under section 373
323.25, sections 323.65 to 323.79, this chapter, or Chapter 374
5721. of the Revised Code, or in any processes of taxation, if 375
such irregularity, informality, or omission does not abrogate 376
any provision of those sections or chapters for notice to 377
holders of title, lien, or mortgage to, or other interests in, 378
the foreclosed lands. 379

Section 2. That existing section 5721.191 of the Revised 380
Code is hereby repealed. 381