

As Introduced

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

S. B. No. 25

Senator Hackett

A BILL

To amend sections 323.28, 2329.01, 2329.151, 1
2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 2
2329.20, 2329.211, 2329.26, 2329.27, 2329.312, 3
2329.51, and 2329.52 of the Revised Code 4
relating to real property foreclosures. 5

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

Section 1. That sections 323.28, 2329.01, 2329.151, 6
2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 2329.20, 7
2329.211, 2329.26, 2329.27, 2329.312, 2329.51, and 2329.52 of 8
the Revised Code be amended to 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. 2329.151. Except as provided in sections 2329.152 to 161
2329.154 of the Revised Code, all public auctions of goods, 162
chattels, or lands levied upon by execution shall be conducted 163
personally by one of the following: 164

(A) An officer of the court; 165

(B) For the public auction of goods and chattels, a 166
resident of this state licensed as an auctioneer under Chapter 167
4707. of the Revised Code; 168

~~(C)~~(C) (1) For the public auction of lands, a private 169
selling officer who is not affiliated with or employed by either 170
of the following: 171

(a) A mortgagee or mortgage servicer; 172

(b) A subsidiary of a mortgagee or mortgage servicer. 173

(2) As used in division (C) (1) of this section, 174
"affiliated with" a mortgagee or mortgage servicer means a 175
person that, directly or indirectly, through one or more 176
intermediaries, controls, is controlled by, or is under common 177
control with, the specified mortgagee or mortgage servicer. 178

(3) Nothing in this section shall be construed to prohibit 179
a mortgagee or mortgage servicer from engaging in a regular 180
course of business with an independent private selling officer. 181

Sec. 2329.152. (A) In every action demanding the judicial 182
or execution sale of real estate in which the debtor has failed 183
to plead or otherwise defend as provided by the Rules of Civil 184
Procedure, the judgment creditor may elect that the real estate 185
be sold at a public auction by a private selling officer. If the 186
judgment creditor elects to have the real estate sold by the 187
private selling officer, the judgment creditor shall file with 188
the clerk of the court a praecipe directing the issuance of an 189
order of sale to the private selling officer. A judgment 190
creditor may specify multiple private selling officers in the 191
praecipe, any of which may conduct the sale. 192

In every other action demanding the judicial or execution 193
sale of real estate, the county sheriff shall sell the real 194
estate at a public auction, unless the judgment creditor files a 195
motion with the court for an order authorizing a specified 196
private selling officer to sell the real estate at a public 197

198 auction. If the court authorizes a private selling officer to
199 sell the real estate, the judgment creditor may seek to have the
200 property sold by the private selling officer authorized by the
201 court or by the county sheriff. If the judgment creditor elects
202 to have the property sold by the private selling officer
203 authorized by the court, the judgment creditor shall file with
204 the clerk of the court a praecipe requesting the issuance of an
205 order of ~~appraisal to the sheriff and an order of sale to the~~
206 private selling officer authorized by the court. ~~Upon~~

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

209 ~~(1) An order of appraisal to the sheriff, who shall obtain~~
210 ~~an appraisal of the real estate in conformity with sections~~
211 ~~2329.17 and 2329.18 of the Revised Code;~~

212 ~~(2) An an order of sale to the private selling officer,~~
213 ~~who, after the return or determination of the appraisal, shall~~
214 advertise and sell the real estate in conformity with applicable
215 provisions of sections 2329.01 to 2329.61 of the Revised Code_
216 using the appraised value established under section 2329.17 of
217 the Revised Code.

218 Within ten days after the issuance of an order of sale to
219 a private selling officer, any lienholder who is a party to the
220 action may file a motion with the court objecting to the use of
221 the private selling officer. If such motion is filed within ten
222 days after the issuance of the order of sale and the court
223 determines there is good and reasonable cause, as defined in
224 this division, the court may order that the sale be reset,
225 republished, and conducted by the county sheriff.

226 As used in this division, "good and reasonable cause"

means that the lienholder is more likely to have its lien 227
satisfied, in whole or in part, if the sale is conducted by the 228
county sheriff. 229

(B) (1) As used in this division: 230

(a) "Business day" means a calendar day that is not a 231
Saturday or Sunday or a legal holiday as defined in section 1.14 232
of the Revised Code. 233

(b) "Remote bid" means a bid submitted in writing via 234
facsimile, electronic mail, or overnight delivery or courier. 235

(2) If the sale of the real estate is conducted at a 236
physical location and not online, then each judgment creditor 237
and lienholder who was a party to the action may submit a remote 238
bid to the sheriff or the private selling officer. Each sheriff 239
and private selling officer shall establish and maintain a 240
facsimile number or an electronic mail address for use by 241
judgment creditors and lienholders in submitting remote bids. 242
Each remote bid shall be of a fixed maximum amount and shall be 243
delivered to the sheriff or private selling officer on or before 244
four-thirty p.m. on the business day immediately preceding the 245
~~date of the sale~~ date. 246

(3) Before the sale, the sheriff or the private selling 247
officer shall confirm receipt of the remote bid by sending 248
notice of such receipt via facsimile or electronic mail to the 249
judgment creditor or lienholder who submitted the remote bid. 250
During the sale, the sheriff or the private selling officer 251
shall place the remote bid on behalf of the judgment creditor or 252
lienholder who submitted the remote bid. After the sale, the 253
sheriff or the private selling officer shall provide notice of 254
the results of the sale not later than the close of business on 255

the day of the sale to all judgment creditors and lienholders 256
who submitted remote bids. Such notice shall be sent via 257
facsimile or electronic mail to the judgment creditor or 258
lienholder or by posting the results of the sale on a public web 259
site. 260

(4) If a sheriff or private selling officer fails to place 261
a remote bid on behalf of a judgment creditor or lienholder to 262
the prejudice of the judgment creditor or lienholder, then, upon 263
the filing of a motion to vacate the sale within ten business 264
days after the sale date, the sale shall be vacated. 265

(C) (1) A judgment creditor that obtains a court order 266
authorizing a specified private selling officer to sell the real 267
estate at a public auction pursuant to division (A) of this 268
section may instruct the private selling officer to postpone the 269
sale of the real estate one or more times, provided, however 270
that all rescheduled sale dates shall be within one hundred 271
eighty days of the initial sale date. Upon receiving this 272
instruction, the private selling officer shall postpone the sale 273
of the real estate by announcing that the sale is postponed. If 274
the sale is at a physical location, this announcement shall be 275
made at the sale and shall include the date, time, and place of 276
the rescheduled sale of the real estate. If the sale is online, 277
this announcement shall be made on the auction web site and 278
shall include the date of the rescheduled sale of real estate. 279
Each such announcement shall be deemed to meet the notice 280
requirement in section 2329.26 of the Revised Code. 281

(2) If the judgment creditor does not wish to postpone the 282
sale of the real estate, the judgment creditor may instruct the 283
private selling officer to cancel the sale of the real estate. 284
Upon receiving this instruction, the private selling officer 285

shall cancel the sale of the real estate by announcing that the 286
sale is canceled. If the sale is at a physical location, this 287
announcement shall be made at the sale. If the sale is online, 288
this announcement shall be made on the auction web site and 289
shall remain posted there until at least the end of the ~~seven-~~ 290
~~calendar day~~ three-calendar-day bidding period described in 291
division (E) (1) (a) of this section ~~2329.152 of the Revised Code.~~ 292

(3) If the sale of the real estate is postponed or 293
canceled as described in divisions (C) (1) and (2) of this 294
section, all bids made on the real estate prior to the 295
postponement or cancellation of the sale shall be void. 296

(D) (1) If the judgment creditor obtains a court order to 297
have the real estate sold by a private selling officer, then: 298

(a) ~~The cost of the appraisal required by section 2329.17~~ 299
~~of the Revised Code shall be taxed as costs in the case.~~ 300

~~(b)~~ The cost of the advertisement required by section 301
2329.26 of the Revised Code shall be taxed as costs in the case. 302

~~(c)~~ (b) The fee charged by the private selling officer and 303
all costs incurred by the private selling officer other than the 304
costs described in ~~divisions~~ division (D) (1) (a) ~~and (b)~~ of this 305
section shall be taxed as costs in the case up to an amount 306
equal to one and one-half per cent of the sale price of the real 307
estate. To the extent the fees and costs described in division 308
~~(D) (1) (c)~~ (D) (1) (b) of this section exceed one and one-half per 309
cent of the sale price of the real estate, they shall not be 310
included in the amount necessary to redeem real estate under 311
section 2329.33 of the Revised Code or in the calculation of any 312
deficiency judgment under section 2329.08 of the Revised Code ~~-~~ 313
~~but rather.~~ Rather, the fees and costs shall be paid by the 314

buyer of the property, the judgment creditor, or from the 315
judgment creditor's portion of the proceeds of the sale in an 316
amount not exceeding ten per cent of the sale price of the real 317
estate. 318

(2) The private selling officer shall file with the court 319
that issued the order of sale an itemized report of all 320
~~appraisal,~~ publication, marketing, and other expenses of a sale 321
conducted under this section and all fees charged by the private 322
selling officer for marketing the real estate or conducting the 323
sale of the real estate, including the fee charged by the title 324
agent or title insurance company for administrative services, if 325
applicable, and title, escrow, and closing services. Each filing 326
of such itemized report shall be deemed to meet the writ of 327
execution requirement in section 2329.28 of the Revised Code. 328

(E) (1) The private selling officer who conducts a sale 329
under this section may do any of the following: 330

(a) Market the real estate and conduct the public auction 331
of the real estate online or at any physical location in the 332
county in which the real estate is situated. If the auction 333
occurs online, the auction shall be open for bidding for a 334
minimum of ~~seven~~ three calendar days, counted by excluding the 335
day the auction is first open for bidding and, notwithstanding 336
section 1.14 of the Revised Code, including all subsequent days. 337
The online auction shall be conducted in a manner so that all 338
bids are publicly displayed upon entry by the bidder throughout 339
the bidding period described in division (E) (1) (a) of this 340
section. 341

(b) Hire a title insurance agent licensed under Chapter 342
3953. of the Revised Code or title insurance company authorized 343
to do business under that chapter to assist the private selling 344

officer in performing administrative services; 345

(c) Execute to the purchaser, or to the purchaser's legal 346
representatives, a deed of conveyance of the real estate sold; 347

(d) Record on behalf of the purchaser the deed conveying 348
title to the real estate sold, notwithstanding that the deed may 349
not actually have been delivered to the purchaser prior to its 350
recording. 351

(2) By placing a bid at a sale conducted pursuant to this 352
section, a purchaser appoints the private selling officer who 353
conducts the sale as agent of the purchaser for the sole purpose 354
of accepting delivery of the deed. 355

(3) The private selling officer who conducts the sale 356
shall hire a title insurance agent licensed under Chapter 3953. 357
of the Revised Code or title insurance company authorized to do 358
business under that chapter to perform title, escrow, and 359
closing services related to the sale of the real estate. 360

(F) The fee charged by the title agent or title insurance 361
company for services provided under divisions (E)(1)(b) and (3) 362
of this section shall be taxed as costs in the case provided 363
they are reasonable. Fees less than or equal to five hundred 364
dollars are presumed to be reasonable. Fees exceeding five 365
hundred dollars shall be paid only if authorized by a court 366
order. 367

Sec. 2329.153. (A) Not later than ninety days after ~~the~~ 368
~~effective date of this section~~ September 28, 2016, the 369
department of administrative services shall solicit competitive 370
sealed proposals for the creation, operation, and maintenance of 371
the official public sheriff sale web site and an integrated 372
auction management system. The official public sheriff sale web 373

site and integrated auction management system shall be a single 374
statewide system for use by all county sheriffs in accordance 375
with the requirements of this section. 376

(B) The official public sheriff sale web site shall meet 377
the following minimum requirements: 378

(1) The web site shall have a domain name relevant to the 379
judicial sale of real property. 380

(2) The web site shall be limited to the judicial sale of 381
real property located in this state. 382

(3) The web site shall not charge a fee for members of the 383
public to view properties for sale. 384

(4) The web site shall allow each county sheriff to add 385
text, images, or graphics to the web site for the purpose of 386
identifying the county or sheriff conducting the sale. 387

(5) The web site shall include industry-standard features 388
and functionality, including user guides, online financial 389
transaction device payments, anti-snipe functionality, watch 390
lists, electronic mail notifications, maximum bid limits, 391
automatic incremental bidding, and search and map features that 392
allow users to search by county, zip code, address, parcel 393
number, appraised value, party name, case number, and other 394
variables relevant to the judicial sale of real property. As 395
used in this section, "financial transaction device" has the 396
same meaning as in section 301.28 of the Revised Code. 397

(6) The web site shall include features that allow for the 398
cancellation of sales as required by law or court order and the 399
postponement of sales in accordance with divisions (E) (2) and 400
(3) of this section. 401

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

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

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

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

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

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

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

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

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

(6) The auction management system shall conduct the sale 430
in a manner so that all bids are publicly displayed upon entry 431
by the bidder throughout the bidding period described in 432
division (E)(1) of this section. 433

(D) The license fee for the creation, operation, and 434
maintenance of the official public sheriff sale web site and 435
integrated auction management system shall be determined using a 436
per-transaction license fee model or a per-use license fee 437
model. The addition of a property to the official public sheriff 438
sale web site or the auction management system shall each be 439
deemed a transaction for purposes of determining the license 440
fee. The license fee applicable to each judicial sale of real 441
property shall be taxed as costs in the case. No additional 442
license fees shall be assessed to the county sheriff. 443

(E) (1) Not later than one year after ~~the effective date of~~ 444
~~this section~~ September 28, 2016, in all cases in which the 445
sheriff is ordered to conduct a judicial sale of real property, 446
the following shall occur: 447

(a) For residential property, the sale may be conducted on 448
the official public sheriff sale web site for a five-year period 449
beginning on the date the online system is fully operational. 450
After this five-year period sales shall be conducted on the 451
official public sheriff sale web site. 452

(b) For commercial property, the sale may be conducted on 453
the official public sheriff sale web site. 454

All sales conducted on the official public sheriff sale 455
web site shall be open for bidding for at least ~~seven~~ three 456
days. 457

(2) If the sale of the real property is to be conducted on 458

the official public sheriff sale web site, the judgment creditor 459
may instruct the sheriff to postpone the sale of the real 460
property one time for up to one hundred eighty days after the 461
initial sale date. Upon receiving such instruction for 462
postponement, the sheriff shall postpone the sale of the 463
property by announcing on the official public sheriff sale web 464
site that the sale is postponed and giving notice of the 465
rescheduled sale date. This announcement shall be deemed to meet 466
the notice requirement of section 2329.26 of the Revised Code. 467

(3) If the judgment creditor does not wish to postpone the 468
sale of the real property, the judgment creditor may instruct 469
the sheriff to cancel the sale of the property. Upon receiving 470
this instruction, the sheriff shall cancel the sale of the 471
property by announcing on the official public sheriff sale web 472
site that the sale is canceled. This announcement shall remain 473
posted on the official public sheriff sale web site until at 474
least the end of the ~~seven-day~~ three-day bidding period 475
described in division (E) (1) of this section. 476

(4) If the sale of the real property is postponed or 477
canceled according to divisions (E) (2) and (3) of this section, 478
all bids made on the real property prior to the postponement or 479
cancellation of the sale shall be void. 480

(F) Pursuant to their authority in section 9.482 of the 481
Revised Code, counties may elect to enter into a shared services 482
agreement relating to the judicial sale of real property on the 483
official public sheriff sale web site. The shared services 484
agreement may seek to improve efficiency and reduce costs in the 485
judicial sale of real property by consolidating administrative 486
functions and processes. 487

Sec. 2329.17. (A) When execution is levied upon ~~lands and~~ 488

~~tenements real property, the sheriff shall call an inquest of 489
three disinterested freeholders, who are residents of, and real 490
property owners in, appraised value of the real property shall 491
be the most recent appraised value of the real property as shown 492
on the records of the county auditor of the county where the 493
lands real property taken in execution are is situated, who 494
shall appraise the property so levied upon, upon actual view. 495~~

~~(B) If the property to be appraised is residential 496
property, the freeholders selected by the sheriff shall return 497
to the sheriff an estimate of the value of the property in money 498
within twenty one calendar days of the issuance of the order of 499
appraisal by the clerk of the court. 500~~

~~If the court has ordered or the clerk of the court has 501
issued an order for a private selling officer to advertise and 502
sell the appraised property, the freeholders selected by the 503
sheriff shall also deliver a copy of their appraisal to the 504
private selling officer contemporaneously with their delivery of 505
their appraisal to the sheriff. 506~~

~~(C) If the freeholders selected by the sheriff under 507
division (B) of this section do not deliver their appraisal 508
within twenty one calendar days of the issuance of the order of 509
appraisal by the clerk of the court as required by division (B) 510
of this section, then all of the following shall occur: 511~~

~~(1) The cost of the appraisal by the freeholders shall not 512
be payable to the freeholders or taxed as costs in the case. 513~~

~~(2) The appraised value of the property shall be the most 514
recent appraised value of the property as shown on the records 515
of the county auditor, unless, for good cause shown, the court 516
authorizes a separate appraisal of the property. 517~~

~~(3)~~The advertisement and sale of the real property shall 518
proceed immediately in accordance with the order of 519
advertisement and sale issued by the clerk of the court. 520

~~If a separate appraisal of the property is obtained, the 521
cost of the appraisal shall be included as an expense of the 522
sale pursuant to division (D) of section 2329.152 of the Revised 523
Code. 524~~

~~(D) If the property to be appraised is commercial 525
property, the freeholders selected by the sheriff shall return 526
to the sheriff an estimate of the value of the property in money 527
in accordance with the timing or other requirements, if any, 528
that may be established for the sale. 529~~

~~(E) (C) The municipal corporation or township in which the 530
real property is situated may inspect prior to the judicial sale 531
any structures located on lands subject to a writ of execution 532
the real property. 533~~

Sec. 2329.18. (A) If a court has ordered or the clerk of a 534
court has issued an order for the sheriff to advertise and sell 535
the real estate ~~for which the appraised value has been 536
determined pursuant to section 2329.17 of the Revised Code, the 537
sheriff shall deposit a copy of the appraisal with the clerk of 538
the court from which the writ was issued, and immediately 539
advertise and sell such the real estate in conformity with 540
sections 2329.01 to 2329.61 of the Revised Code. 541~~

(B) If the court has ordered or the clerk of the court has 542
issued an order for a private selling officer to advertise and 543
sell the real estate ~~for which the appraised value has been 544
determined pursuant to section 2329.17 of the Revised Code, the 545
private selling officer shall immediately advertise and sell the 546~~

real estate in conformity with sections 2329.01 to 2329.61 of 547
the Revised Code. 548

Sec. 2329.19. ~~Upon the determination of the appraised~~ 549
~~value pursuant to section 2329.17 of the Revised Code, if~~ If it 550
appears that two-thirds of the appraised value, as established 551
pursuant to section 2329.17 of the Revised Code, of the ~~lands~~ 552
~~and tenements~~ real property levied upon is sufficient to satisfy 553
the execution, with costs, the judgment on which the execution 554
issued shall not operate as a lien on the residue of the 555
debtor's estate to the prejudice of any other judgment creditor. 556

Sec. 2329.20. Except as otherwise provided in this section 557
or sections 2329.51 and 2329.52 of the Revised Code, no tract of 558
land shall be sold for less than two-thirds the amount of the 559
appraised value as ~~determined~~ established pursuant to section 560
2329.17 of the Revised Code. In all cases in which a junior 561
mortgage or other junior lien is sought to be enforced against 562
real estate by an order, judgment, or decree of court, subject 563
to a prior lien thereon, and such prior lien, and the claims or 564
obligations secured thereby, are unaffected by such order, 565
judgment, or decree, the court making such order, judgment, or 566
decree, may determine the minimum amount for which such real 567
estate may be sold. In such a case, the minimum amount shall be 568
not less than two-thirds of the difference between the appraised 569
value of the real estate as ~~determined~~ established in that 570
section, and the amount remaining unpaid on the claims or 571
obligations secured by such prior lien. 572

Sec. 2329.211. (A) (1) In every action demanding the 573
judicial or execution sale of residential property, if the 574
judgment creditor is the purchaser at the sale, the purchaser 575
shall not be required to make a sale deposit. All other 576

purchasers shall make a sale deposit as follows:	577
(a) If the appraised value of the residential property is less than or equal to ten thousand dollars, the deposit shall be two thousand dollars.	578 579 580
(b) If the appraised value of the residential property is greater than ten thousand dollars but less than or equal to two hundred thousand dollars, the deposit shall be five thousand dollars.	581 582 583 584
(c) If the appraised value of the residential property is greater than two hundred thousand dollars, the deposit shall be ten thousand dollars.	585 586 587
(2) The timing of the deposit and other payment requirements shall be established by the court or the person conducting the sale and included in the advertisement of the sale. If the purchaser fails to meet the timing or other requirements of the deposit, the sale shall be invalid and the residential property may be brought to sale on the provisional second sale <u>any subsequent start date</u> , if any, described in division (B) of section 2329.52 of the Revised Code, and included in the notice required by division (A)(1)(a)(i) of section 2329.26 of the Revised Code.	588 589 590 591 592 593 594 595 596 597
(3) If the sale is held online, the deposit may be made by a financial transaction device as defined in section 301.28 of the Revised Code.	598 599 600
(B) In every action demanding the judicial or execution sale of commercial property, the purchaser at the sale shall make a deposit pursuant to the requirements, if any, established for the sale.	601 602 603 604
Sec. 2329.26. (A) Lands and tenements taken in execution	605

shall not be sold until all of the following occur: 606

(1) (a) Except as otherwise provided in division (A) (1) (b) 607
of this section, the judgment creditor who seeks the sale of the 608
lands and tenements or the judgment creditor's attorney does 609
both of the following: 610

(i) Causes a written notice to be served in accordance 611
with divisions (A) and (B) of Civil Rule 5 upon the judgment 612
debtor and upon each other party to the action in which the 613
judgment giving rise to the execution was rendered. Such notice 614
shall include the start date, time, and place of the sale if the 615
sale is to be held at a physical location or the start date and 616
web site address of the sale if the sale is to be held online. 617
Such notice shall also include ~~the provisional second sale~~ any 618
subsequent start date described in division (B) of section 619
2329.52 of the Revised Code, if applicable. 620

(ii) At least seven calendar days prior to the sale date 621
~~of the sale~~, files with the clerk of the court that rendered the 622
judgment giving rise to the execution a copy of the written 623
notice described in division (A) (1) (a) (i) of this section with 624
proof of service endorsed on the copy in the form described in 625
division (B) of Civil Rule 5. 626

(b) Service of the written notice described in division 627
(A) (1) (a) (i) of this section is not required to be made upon any 628
party who is in default for failure to appear in the action in 629
which the judgment giving rise to the execution was rendered. 630

(2) One of the following applies: 631

(a) The officer taking the lands and tenements gives 632
public notice once a week for at least three consecutive weeks 633
before the ~~day of sale if the sale is to be held at a physical~~ 634

~~location or the start date of the sale if the sale is to be~~ 635
~~conducted online~~date. The last date of publication shall be four 636
or more calendar days prior to the sale date. 637

~~Such notice shall be by advertisement in a newspaper of~~ 638
~~general circulation in the county. The newspaper shall meet the~~ 639
~~requirements of section 7.12 of the Revised Code. The court~~ 640
~~ordering the sale may designate in the order of sale the~~ 641
~~newspaper in which this public notice shall be published.~~ 642

The notice shall include all the following information: 643

(i) The date, time, and place of the sale if the sale is 644
to be held at a physical location; 645

(ii) The start date, the minimum duration, and web site 646
address of the sale if the sale is to be held online; 647

(iii) The deposit required by section 2329.211 of the 648
Revised Code; 649

(iv) That the purchaser shall be responsible for those 650
costs, allowances, and taxes that the proceeds of the sale are 651
insufficient to cover; 652

(v) ~~The~~ Information meeting the requirements of division 653
(A) (2) (a) (i) or (ii) of this section, as applicable to where the 654
sale is to be held, for any subsequent provisional ~~second~~ sale 655
date described in division (B) of section 2329.52 of the Revised 656
Code, if applicable; provided, however, that no sale shall be 657
invalid, nor shall the court vacate any sale, if the notice 658
described in division (A) (1) (a) (i) of this section or the public 659
notice described in division (A) (2) of this section fails to 660
include the provisional sale date for a ~~second~~ subsequent sale 661
of the property and the property is sold on the initial sale 662
date. 663

(b) ~~If Except as provided in division (B) of this section,~~ 664
~~if a private selling officer has been ordered to sell the lands~~ 665
~~and tenements, the private selling officer shall give the public~~ 666
~~notice described in division (A) (2) (a) of this section in the~~ 667
~~newspaper designated by the court. If the court has not~~ 668
~~designated a newspaper, the private selling officer shall give~~ 669
~~this public notice in the newspaper customarily used or~~ 670
~~designated by the county sheriff. No sale that otherwise~~ 671
complies with division (A) (2) of this section shall be invalid. 672

(B) Any officer taking lands and tenements in execution 673
that are advertised and offered for sale but unsold for want of 674
bidders may advertise any subsequent sale in any method the 675
officer finds suitable, which may include online advertisement 676
instead of print. Any such advertisement of a subsequent sale 677
shall be deemed to meet the notice requirement in division (A) 678
of this section. 679

(C) The officer taking the lands and tenements shall 680
collect the purchaser's information required by section 2329.271 681
of the Revised Code. 682

~~(C)-(D) A sale of lands and tenements taken in execution~~ 683
may be set aside in accordance with ~~division (A) or (B) of~~ 684
section 2329.27 of the Revised Code. 685

Sec. 2329.27. (A) ~~When the public notice required by~~ 686
~~division (A) (2) of section 2329.26 of the Revised Code is made~~ 687
~~in a newspaper published weekly, it is sufficient to insert it~~ 688
~~for three consecutive weeks. If both a daily and weekly edition~~ 689
~~of the paper are published and the circulation of the daily in~~ 690
~~the county exceeds that of the weekly in the county, or if the~~ 691
~~lands and tenements taken in execution are situated in a city,~~ 692
~~both a daily and weekly edition of the paper are published, and~~ 693

~~the circulation of the daily in that city exceeds the~~ 694
~~circulation of the weekly in that city, it is sufficient to~~ 695
~~publish the public notice in the daily once a week for three~~ 696
~~consecutive weeks before the day of sale, each insertion to be~~ 697
~~on the same day of the week. The expense of that publication in~~ 698
~~a daily shall not exceed the cost of publishing it in a weekly.~~ 699

~~(B) (1) Subject~~ Except as provided in division (B) of 700
section 2329.26 of the Revised Code and subject to divisions ~~(B)~~ 701
~~(2) (B) and (3) (C)~~ of this section, all sales of lands and 702
tenements taken in execution that are made without compliance 703
with the written notice requirements of division (A) (1) (a) of 704
section 2329.26 of the Revised Code, the public notice 705
requirements of division (A) (2) of that section, and the 706
purchaser information requirements of section 2329.271 of the 707
Revised Code, ~~and division (A) of this section~~ shall be set 708
aside, on motion by any interested party, by the court to which 709
the execution is returnable. 710

~~(2) (B)~~ Proof of service endorsed upon a copy of the 711
written notice required by division (A) (1) (a) of section 2329.26 712
of the Revised Code shall be conclusive evidence of the service 713
of the written notice in compliance with the requirements of 714
that division, unless a party files a motion to set aside the 715
sale of the lands and tenements pursuant to division ~~(B) (1) (A)~~ 716
of this section and establishes by a preponderance of the 717
evidence that the proof of service is fraudulent. 718

~~(3) (C)~~ If the court to which the execution is returnable 719
enters its order confirming the sale of the lands and tenements, 720
the order shall have both of the following effects: 721

~~(a) (1)~~ The order shall be deemed to constitute a judicial 722
finding as follows: 723

~~(i)-(a)~~ That the sale of the lands and tenements complied 724
with the written notice requirements of division (A) (1) (a) of 725
section 2329.26 of the Revised Code and the public notice 726
requirements of division (A) (2) of that section ~~and division (A)~~ 727
~~of this section~~, or that compliance of that nature did not occur 728
but the failure to give a written notice to a party entitled to 729
notice under division (A) (1) (a) of section 2329.26 of the 730
Revised Code has not prejudiced that party; 731

~~(ii)-(b)~~ That all parties entitled to notice under 732
division (A) (1) (a) of section 2329.26 of the Revised Code 733
received adequate notice of the date, time, and place of the 734
sale of the lands and tenements; 735

~~(iii)-(c)~~ That the purchaser has submitted the contact 736
information required by section 2329.271 of the Revised Code. 737

~~(b)-(2)~~ The order bars the filing of any further motions 738
to set aside the sale of the lands and tenements. 739

Sec. 2329.312. (A) All levying officers appointed or 740
authorized by a court under this chapter to conduct the judicial 741
or execution sale of residential property consisting of one to 742
four single-family units shall submit quarterly reports to the 743
attorney general. The reports shall include data on each such 744
sale conducted by the officer, including data showing whether or 745
not the deadlines required under division (E) of section 746
2308.02, ~~division (B) of section 2329.17,~~ and sections 2329.30 747
and 2329.31 of the Revised Code are met. 748

(B) The attorney general shall make the information 749
included in the reports described in division (A) of this 750
section publicly available. 751

Sec. 2329.51. When real estate taken on execution ~~and~~ 752

~~appraised, is advertised, and offered for sale but is unsold for~~ 753
~~want of bidders meeting the minimum bid requirements established~~ 754
~~under this chapter, the court from which the execution issued,~~ 755
~~on motion of the plaintiff, shall set aside such appraisement~~ 756
~~and order a new appraisement to be made, or shall set aside the~~ 757
~~levy and appraisement and award a new execution to issue. When~~ 758
~~such real estate or a part of it has been two times appraised~~ 759
~~and thereafter advertised and offered for sale, and is unsold~~ 760
~~for want of bidders, the court may direct the amount for which~~ 761
it shall be sold. 762

Sec. 2329.52. (A) Except as otherwise provided in division 763
(B) of this section, when premises are ordered to be sold, if 764
said premises, or a part thereof, remain unsold for want of 765
bidders meeting the minimum bid requirements established under 766
this chapter, after having been once ~~appraised,~~ advertised, and 767
offered for sale, the court from which the order of sale issued 768
may, on motion of the plaintiff or defendant and from time to 769
time until said premises are disposed of, order a new 770
~~appraisement and sale~~ or direct the amount for which said 771
premises, or a part thereof, may be sold. 772

The court may order that the premises be sold as follows: 773
One third cash in hand, one third in nine months from the ~~day of~~ 774
sale date, and the remaining one third in eighteen months from 775
the ~~day of sale date~~, the deferred payments to draw interest at 776
six per cent and be secured by a mortgage on the premises. 777

(B) (1) When a residential property is ordered to be sold 778
pursuant to a residential mortgage loan foreclosure action, if 779
the property remains unsold after the first auction, then a 780
~~second subsequent~~ auction shall be held and the property shall 781
be sold to the highest bidder without regard to the minimum bid 782

requirement in section 2329.20 of the Revised Code, but subject 783
to section 2329.21 of the Revised Code relating to costs, 784
allowances, and real estate taxes, or disposed of in any other 785
manner pursuant to this chapter or any other provision of the 786
Revised Code. ~~This second~~ Any subsequent auction shall be held 787
not earlier than ~~seven~~ three days and not later than thirty days 788
after the ~~first~~ previous auction start date. ~~A residential~~ 789
~~property that remains unsold after two auctions may be~~ 790
~~subsequently offered for sale without regard to the minimum bid~~ 791
~~requirement in section 2329.20 of the Revised Code, but subject~~ 792
~~to section 2329.21 of the Revised Code relating to costs,~~ 793
~~allowances, and real estate taxes, or disposed of in any other~~ 794
~~manner pursuant to this chapter or any other provision of the~~ 795
~~Revised Code.~~ 796

(2) For purposes of division (B)(1) of this section, the 797
first day an online auction is open for bidding shall be 798
considered the start date ~~of the auction.~~ 799

Section 2. That existing sections 323.28, 2329.01, 800
2329.151, 2329.152, 2329.153, 2329.17, 2329.18, 2329.19, 801
2329.20, 2329.211, 2329.26, 2329.27, 2329.312, 2329.51, and 802
2329.52 of the Revised Code are hereby repealed. 803