



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 223

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(As Introduced)

**Reps.** Grossman and Curtin, Stinziano, Becker, Roegner, Lundy, Duffey, Mallory, Fedor, Hackett, Williams, Antonio, Beck, Driehaus

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## BILL SUMMARY

- Generally provides procedures relative to foreclosure actions for abandoned residential properties and unoccupied and blighted parcels.

### Abandoned properties

- Enables a court to deem foreclosed residential properties abandoned when the plaintiff does not seek a writ of execution as required by the bill or a property fails to sell at sheriff's auction two times.
- Extinguishes an owner's or a lienholder's right of redemption of a residential property that has been deemed abandoned.
- Provides for the transfer of abandoned property to the board of county commissioners for use pursuant to rules the commissioners adopt.
- Generally exempts a board of county commissioners from liability with respect to abandoned properties that are transferred to it.
- Establishes new procedures for pricing residential properties at a sheriff's sale.
- Authorizes a lender who has filed a residential foreclosure action to enter and secure the property if the lender has documented a good faith belief that the property is abandoned.

## Unoccupied, blighted parcels

- Permits a municipal corporation to bring a complaint seeking an order of remediation in the housing or environmental division of a municipal court against the owner of an unoccupied, blighted parcel.
- Requires the municipal corporation to cause service of both the complaint and a notice informing the lienholders and interested persons that they may remediate the conditions constituting blight or the court may order the parcel sold.
- Provides procedures and time periods for certification of remediation of the conditions constituting blight.
- Requires the court, if the conditions constituting blight are not remediated within the provided time period by lienholders, interested persons, or the owner, to order the property sold.
- Requires the sheriff of the county where the court has issued an order for sale of the unoccupied, blighted parcel to cause notice of the sale, to verify that each bidder who intends to bid on the parcel is a qualified bidder, and to conduct the sale.
- Permits only qualified bidders to bid at the sale and requires the winning bidder to deposit a security bond with the municipal corporation pursuant to procedures the municipal corporation adopts.
- Requires the municipal corporation to determine the amount of the security bond and the manner in which a winning qualified bidder is to deposit the bond.
- Requires the municipal corporation to establish qualifications to allow a person to bid at the sale, issue proof of that qualification, compile a list of qualified bidders for each sale, and provide that list to the sheriff conducting the sale.
- Provides that no minimum bid is required as a condition of a sale under the new procedures provided in the bill.
- Requires the municipal corporation to file and record the deed of the property after the court makes a journal entry that the court is satisfied of the sale's legality.
- Requires the municipal corporation to use the successful bidder's bond to remediate the conditions constituting blight, if the successful bidder fails to remediate the conditions constituting blight within 18 months after the sale.



- Requires the municipal corporation to return the bond deposited with it if the successful qualified bidder remediates the conditions constituting blight within 18 months after the sale.

### **Jurisdiction of courts in foreclosure actions**

- Expressly grants the Toledo municipal court jurisdiction within its territory in certain real property foreclosure actions, actions to recover real property, and for injunction actions to prevent or terminate city violations.
- Grants exclusive original jurisdiction for housing or environmental courts to hear actions and make findings and orders pertaining to unoccupied, blighted parcels as provided in the bill.

### **Miscellaneous**

- Provides that an owner who knowingly causes physical harm to the owner's residential property is guilty of vandalism if the property is the subject of a foreclosure action.
- Places additional duties on the clerk of courts with respect to notices of judgments of foreclosure.

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## CONTENT AND OPERATION

### Ohio foreclosure procedures—background

There are two primary types of foreclosure in the U.S.—judicial foreclosure, in which a court conducts and oversees the process and the plaintiff obtains title only if the plaintiff is the successful bidder at auction, and non-judicial, in which a lender or a trust may obtain title after a notice of foreclosure and then may sell the property, often at private auction.

#### Mortgage foreclosure

Ohio has the judicial form of foreclosure. In Ohio, a lender must file a complaint in a court of common pleas to initiate the foreclosure action. After a hearing in which the homeowner has an opportunity to be represented and heard, a court can issue a judgment in favor of the plaintiff lender. Then, the lender must file for a writ of execution of that judgment, which directs the sheriff to sell the property at auction. Upon receiving that order of sale, a sheriff has the property appraised and sells it at auction.

Before the title of the property may transfer to the purchaser, the court must confirm the sale, indicating that the entire foreclosure procedure was conducted pursuant to the laws governing foreclosure. Only after the court's confirmation of the sale, and only if the plaintiff lender was the successful bidder at auction, does the lender obtain title to the property. The homeowner/borrower has until the court's confirmation of the sale to redeem the property and pay the amount owed. Ohio law also grants the lender the right to obtain a deficiency judgment against the homeowner if the proceeds of the sale do not cover the amount the homeowner owed on the mortgage.



Not all of the described steps in a foreclosure action are contained in the Revised Code. Mortgage foreclosure procedures in Ohio are governed by the Ohio Rules of Civil Procedure, common law, statute, and local court rules. The early stages of foreclosure, including the filing for a foreclosure action and the notice provided to parties, are governed primarily by Civil Rule. The sale procedures and court confirmation are primarily governed by statute.

### **Blighted property foreclosure**

Existing law also authorizes a municipal corporation to foreclose a property if it is a blighted parcel. The law grants a municipal corporation, in addition to any other remedy authorized by law, a cause of action in the environmental division of the municipal court to foreclose any existing liens upon a blighted parcel located in the municipal corporation provided that no other foreclosure action affecting the blighted parcel is being actively prosecuted in any court of record.<sup>1</sup> The bill provides a separate procedure for abating unoccupied, blighted parcels, which permits a municipal corporation to bring its own cause of action for orders of remediation of blight.

### **Definitions for residential foreclosures**

The bill adopts the following definitions for the purposes of residential foreclosures:

"Residential mortgage" means an obligation to pay a sum of money evidenced by a note and secured by a lien upon a residential property.

"Residential property" means real property located within Ohio consisting of land and a structure on that land containing four or fewer dwelling units, each of which is intended for occupancy by a separate household. "Residential property" includes a residential condominium unit owned by an individual, notwithstanding the number of units in the structure, and a manufactured or mobile home that is subject to real property taxes under the Manufactured Mobile Home Tax Law.<sup>2</sup>

### **Duty to file for writ of execution**

#### **Time limit for filing writ**

The bill establishes a time limit for the filing for a writ of execution in a residential mortgage foreclosure action. Under the bill, the plaintiff and any other lienholder must file for a writ of execution of a judgment, or show cause why that filing

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<sup>1</sup> R.C. 3767.50, not in the bill.

<sup>2</sup> R.C. 2308.01, 2329.01, and 2909.05.



is not being made, within 60 days after receiving the clerk's notice of the filing of the judgment of foreclosure. A lienholder other than the primary lienholder is directed to file for a contingent writ within that same time period, or show cause why that is not being sought. The bill directs the court to issue an order to the owner, the plaintiff, and any other lienholder who appeared in the action giving notice of the 60-day filing requirement and the need to show cause why the property should not be deemed abandoned and transferred pursuant to the bill's procedures. A party may assert any reason that the property should not be deemed abandoned, including those listed under Rule 60 of the Rules of Civil Procedure.<sup>3</sup>

Under existing law, a judgment becomes dormant after five years.<sup>4</sup> Otherwise, there is no time limit under existing law for a plaintiff to file for a writ of execution after a plaintiff receives a judgment of foreclosure.

Under the bill, when a property is deemed abandoned, the rights of the plaintiff and other lienholders to seek to collect the debts through other means or against assets other than the real property that is the subject of the foreclosure action remain unaffected. This right lasts for two years and then is unenforceable. However, the rights of the plaintiff and other lienholders for redemption of the property are extinguished.<sup>5</sup>

The bill directs the clerk to issue a writ of execution pursuant to procedures in continuing law. At its discretion, the court may extend the time period for filing for the writ or issuing the writ if the plaintiff and the owner in the action so request, for any reason the court considers appropriate.<sup>6</sup>

### **Property deemed abandoned for failure to file for writ**

A plaintiff or other lienholder who fails to file for a writ of execution and who does not show cause for that failure or show why the property should not be deemed abandoned and transferred, and an owner who fails to show why that property should not be deemed abandoned and transferred, is deemed to have abandoned all interest in the property and to any right of redemption. Any party who is deemed to have abandoned the property is barred from seeking another judgment on that property or

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<sup>3</sup> R.C. 2308.02(A)(1).

<sup>4</sup> R.C. 2329.07, not in the bill.

<sup>5</sup> R.C. 2308.02(A)(5) and 2329.33.

<sup>6</sup> R.C. 2308.02(B) and (C).



making any claim against the property, and may not receive any proceeds from a sale of the property.<sup>7</sup>

### **Abandoned property transfers to county**

If the plaintiff, other lienholders, and the owner are deemed to have abandoned the property for a failure to file for a writ of execution or to show cause why the property should not be deemed abandoned, the property is transferred pursuant to the bill's procedures 60 days after the court enters the order of abandonment. Unless a motion to vacate the order is filed prior to entering an order of abandonment and the motion is approved, the property is transferred to the board of county commissioners in accordance with the bill. The bill directs the court to vacate any order of abandonment if the plaintiff or other lienholder files a motion under Rule 60 of the Rules of Civil Procedure, establishing that the party's failure was due to mistake or inadvertence, or other good cause. The bill provides procedures for the transfer of property that is deemed abandoned under the bill to the board of county commissioners of the county in which it is located.<sup>8</sup>

### **Conditions for deeming a property abandoned and transfer of the property**

A property in a residential mortgage foreclosure action is subject to being deemed abandoned and transferred under the bill if either of the following occur:

(1) The plaintiff, all other lienholders, and the owner are deemed to have abandoned their rights due to a failure of the plaintiff and other lienholders to file for a writ of execution as the bill requires and no party showed cause sufficient to the court as to why the property should not be deemed abandoned.

(2) The officer making the sale advertised the sale two times pursuant to the bill's procedures and held two auctions on the property, and at those auctions no person placed a bid (see "**Establishing the price for sheriff's sale**," below).<sup>9</sup>

### **Vesting of title in the county**

Under the bill, when a property is deemed abandoned by one of the two methods above, the title vests without further action in the board of county commissioners in the county where the property is located. The clerk issues a notice of that vesting to the board of county commissioners. The county prosecuting attorney

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<sup>7</sup> R.C. 2308.02(A)(2).

<sup>8</sup> R.C. 2308.02(A)(3) and (4).

<sup>9</sup> R.C. 2308.03(A).



prepares a deed that contains the names of the parties to the judgment and the owners of the foreclosed property, a reference to the volume and page of the recording of the recorded instrument by or through which the board claims title, the date and the amount of the judgment, and the date on which the owner and each lienholder is deemed to have abandoned the property. The bill requires the board of county commissioners to record the deed within 14 business days after the latest date on which an owner and any lienholder is deemed to have abandoned the property.<sup>10</sup>

The board of county commissioners may dispose of abandoned property it acquires under the bill pursuant to rules it adopts. The rules must specify that the property be placed in the county's land bank if the county has a land bank. If the county does not have a land bank, the board is to dispose of the property at its discretion.<sup>11</sup>

### **County liability**

The bill immunizes the board of county commissioners from specified types of liability for the abandoned property transferred to it pursuant to the bill. The board is not liable for damages caused by leaking underground storage tanks, air pollution, sewage waste, and hazardous wastes and chemicals, arising from a breach, or subject to equitable remedies for a breach of common law duty, or for other violations the bill specifies that was committed by another person in connection with the abandoned property.<sup>12</sup>

The immunity specifically refers to violations of the Underground Storage Tank Law, the Air Pollution Control Law, the Solid and Hazardous Waste Law, the Environmental Protection Agency Law, the Voluntary Action Program Law, the Emergency Planning Law, the Hazardous Substances Law, the Cessation of Regulated Operations Law, the Conservancy District Law, and the Water Pollution Control Law and any rule adopted or order, permit, license, variance, or plan approval issued under any of those laws.<sup>13</sup>

### **Delays and stays in a foreclosure action**

When a property is deemed abandoned pursuant to the bill, the rights of the plaintiff and other lienholders to redeem the property are extinguished, but their rights to collect the debts through other means or against assets other than the real property

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<sup>10</sup> R.C. 2308.03(B).

<sup>11</sup> R.C. 2308.03(C).

<sup>12</sup> R.C. 2308.03(D).

<sup>13</sup> R.C. 2308.03(D).



that is the subject of the foreclosure action remain unaffected. These rights last for two years and then are unenforceable.<sup>14</sup>

The bill enables the court to, for good cause, stay the issuance or enforcement of a writ of execution if the owner and the plaintiff, along with all other lienholders, enter into a forbearance or loan modification agreement that allows the owner to make payments over a specified period of time and that agreement is filed with the court. The stay is effective so long as all of the parties to the agreement comply with the terms of the agreement.<sup>15</sup>

The bill prohibits the plaintiff and other lienholders from withdrawing or dismissing a petition for a writ of execution or an order of sale unless the plaintiff or the owner requests such a dismissal and shows good cause for that dismissal.<sup>16</sup>

### **Right to enter the property**

The bill enables a lender who has filed a foreclosure action on a residential property for which the lender holds a mortgage, and who has a documented good faith belief that the owner has abandoned the property, to enter that property to secure it and prevent damage, unless otherwise prohibited by the mortgage contract or a specific provision of law. If the lender has not yet filed a mortgage foreclosure action, the lender may enter the property only if the mortgage contract or other documents allow such an entry.<sup>17</sup>

A lender may establish a good faith belief that the owner has abandoned the property by documenting that belief. Documentation may include contacting or attempting to contact the owner by telephone, mail, or electronic communications, and photographing the property for signs of neglect or abandonment.<sup>18</sup>

The bill allows that for five years after the bill's effective date, a plaintiff in a residential mortgage foreclosure action who has a good faith belief that the property is abandoned may provide the court with the documentation and request the court to

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<sup>14</sup> R.C. 2308.02(A)(5) and 2329.33.

<sup>15</sup> R.C. 2308.02(D).

<sup>16</sup> R.C. 2308.02(E).

<sup>17</sup> R.C. 2308.04(B) and (C).

<sup>18</sup> R.C. 2308.04(A).

deny the owner the equitable and statutory rights to redemption of the mortgage on that property.<sup>19</sup>

## **Modifications to judicial sale procedures**

### **Establishing the price for sheriff's sale**

The bill changes the procedures for sheriff's sales subsequent to the first attempt. The procedure for the first sheriff's sale remains the same as under existing law: the property must be appraised and the sale price may not be less than 2/3 of that appraised value. The bill requires that if a residential property remains unsold after the first auction with a minimum bid of 2/3 of the appraised value, a second auction is required with no set minimum bid. If the property remains unsold after two auctions, the bill requires it be deemed abandoned and be subject to transfer as described above in "**Vesting of title in the county.**" This differs from existing law, which allows the court, on motion of the plaintiff or defendant, to order a new appraisal and sale or direct the amount for which the property may be sold if the property remains unsold after the first sale.<sup>20</sup>

### **Price at sale and market value of other properties**

The bill specifies that the price at which a residential property is sold at a sheriff's auction may not be used to establish the market value of any other property.<sup>21</sup>

### **Owner's physical harm is vandalism**

Under the bill, a person who is an owner of residential property who knowingly causes physical harm to that property after the person has been personally served with a summons and complaint in a residential mortgage foreclosure action related to the property is guilty of vandalism. Under continuing law, vandalism is a felony, with the degree of the felony ranging from fifth degree to third degree, depending on the value of the property or the dollar amount of the harm.<sup>22</sup>

### **Clerk's duties in foreclosure action**

The bill expands the duties of the clerk of courts related to the filing of the judgment of foreclosure. In a residential mortgage foreclosure action, upon filing the

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<sup>19</sup> R.C. 2308.04(D).

<sup>20</sup> R.C. 2329.20 and 2329.52.

<sup>21</sup> R.C. 2329.20.

<sup>22</sup> R.C. 2308.05 and 2909.05.



certificate of judgment, the clerk must provide notice of the judgment of foreclosure to the judgment debtor, the judgment creditor, and any other lienholder who has appeared in the action. The notice is to include information with respect to the bill's requirement that the plaintiff and any other lienholder file for a writ of execution or a contingent writ, and the consequences of a failure to comply with that requirement.<sup>23</sup> Under continuing law, the clerk must still docket the certificate of the judgment.

## **Unoccupied, blighted property foreclosure**

### **Definitions**

The bill adopts the following definition for the purposes of unoccupied, blighted property foreclosure:

"Unoccupied" means any of the following:

- (1) Property that is not physically inhabited or used as a dwelling;
- (2) Property on which no trade or business is actively being conducted by the owner or another party occupying the parcel pursuant to a lease or other legal authority;
- (3) Property that is uninhabited with no signs or active indications that it is undergoing improvements.

"Blighted parcel" means either of the following:

- (1) A parcel that has one or more of the following conditions:
  - A structure that is dilapidated, unsanitary, unsafe, or vermin infested and that because of its condition has been designated by an agency that is responsible for the enforcement of housing, building, or fire codes as unfit for human habitation or use;
  - The property poses a direct threat to public health or safety in its present condition by reason of environmentally hazardous conditions, solid waste pollution, or contamination;
  - Tax or special assessment delinquencies exceeding the fair value of the land that remain unpaid 35 days after notice to pay has been mailed.

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<sup>23</sup> R.C. 2329.02(G).

(2) A parcel that has two or more of 16 specified conditions that, collectively considered, adversely affect surrounding or community property values or entail land use relationships that cannot reasonably be corrected through existing zoning codes or other land use regulations.<sup>24</sup> The 16 specified conditions of the property are dilapidation and deterioration; age and obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; unsafe and unsanitary conditions; hazards that endanger lives or properties by fire or other causes; noncompliance with building, housing, or other codes; nonworking or disconnected utilities; property that is vacant or contains an abandoned structure; excessive dwelling unit density; property that is located in an area of defective or inadequate street layout; overcrowding of buildings on the land; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; vermin infestation; extensive damage or destruction caused by a major disaster when the damage has not been remediated within a reasonable time; identified hazards to health and safety that are conducive to ill health, transmission of disease, juvenile delinquency, or crime; ownership or multiple ownership of a single parcel when the owner, or a majority of the owners of a parcel in the case of multiple ownership, cannot be located.

### **Municipal corporation may seek order for remediation of blight in housing and environmental divisions of municipal courts**

The bill permits a municipal corporation to commence a cause of action by filing a complaint in the housing or environmental division of a municipal court against the owner of a property that is an unoccupied, blighted parcel located in that municipal corporation. The complaint is to seek an order from the court that the owner remediate the conditions of the property constituting blight.<sup>25</sup>

The bill expressly grants the Toledo municipal court jurisdiction within its territory over certain real property sale and foreclosure actions, actions to recover real property, and for injunction actions to prevent or terminate violations of city ordinances and regulations.<sup>26</sup> The bill grants exclusive original jurisdiction to housing and environmental divisions of municipal courts to hear actions and make findings and orders pertaining to unoccupied, blighted parcels as described in the bill.<sup>27</sup>

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<sup>24</sup> R.C. 3767.51 and by reference R.C. 1.08.

<sup>25</sup> R.C. 3767.52(A).

<sup>26</sup> R.C. 1901.18.

<sup>27</sup> R.C. 1901.185(B) and 3767.53(D).



## **Complaint and notice**

Under the bill, the municipal corporation, upon commencing an action seeking the order for remediation, must (1) cause service of the complaint, in addition to service required under the Rules of Civil Procedure, to all entities that hold a lien or other interest in the property, as indicated in the public record and (2) cause service of a notice to all entities that hold a lien or other interest in the property, as indicated in the public record. The notice must state both of the following:

- The lienholder or interested person may remediate the conditions of the property constituting blight within a period of time determined by the municipal corporation.
- If the blight is not remediated, the housing or environmental division of the municipal court in which the complaint was filed is required to order the blighted parcel to be sold free and clear of all liens and interests in the property other than federal tax liens.<sup>28</sup>

## **Certification for remediation of blight**

### **Procedure for approval of certification**

A person who receives the complaint and notice described above has 60 days after the service to certify to the court that the person will remediate the conditions of the property constituting blight. The bill directs a person who wishes to certify remediation to propose to the court a period of time within which the person will complete the remediation. The court may approve or disapprove a certification of remediation.

Under the bill, more than one lienholder or interested person may make a certification for remediation. In the case of multiple certifications, the bill directs the court to approve the certification of the lienholder or person who proposes to remediate the conditions constituting blight within the shortest period of time.

If the court approves the certification, the court must stay the action until the period of time for remediation has elapsed. If the court disapproves the certification due to a proposal of an unreasonable period of time for remediation, the court must establish a reasonable period of time within which the person must remediate the conditions constituting blight. The person must then accept or reject the court's proposed period of time for remediation. If the person accepts the court's proposed period of time, the person must certify that the person will remediate the conditions

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<sup>28</sup> R.C. 3767.52(B).

constituting blight, and the court must approve that certification. If the person rejects the court's proposal, the court is to proceed as if no certification were made.<sup>29</sup>

**Lien or interest extinguished for failure to certify or failure to remediate after certification**

If a lienholder or interested person certifies that it will remediate the conditions constituting blight but fails to do so within the approved time period, or if no person makes a certification within the time period provided by the notice (see "**Complaint and notice**," above), the lien or other interest of the person in the property is extinguished but may be paid by the proceeds of a subsequent sale of the property. The bill permits a lienholder to still pursue payment of the debt represented by the lien, and a person to still seek recourse for the loss of other interest against the owner of the property if otherwise permitted by law.<sup>30</sup>

**Lien granted for expense of successful remediation**

If the court accepts a lienholder's or other interested person's certification of remediation, and the person remediates the blight, the bill directs the court to grant the lienholder or other interested person a lien in the amount expended to remediate the conditions constituting blight.<sup>31</sup>

**Order for remediation or dismissal of municipal corporation's action**

The bill directs the court to order the owner to remediate the conditions constituting blight within a specified period of time if all of the following occur:

- The court finds that the property was unoccupied at the time the municipal corporation filed the complaint.
- The court finds that the property is a blighted parcel.
- No lienholder or other interested person has certified that it will remediate the conditions constituting blight, or such a person certifies that it will remediate the blight but fails to timely do so.

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<sup>29</sup> R.C. 3767.52(C)(1).

<sup>30</sup> R.C. 3767.52(C)(2).

<sup>31</sup> R.C. 3767.52(C)(3).



If the blight is not remediated within the specified period of time, the bill directs the court to order the property sold pursuant to the bill's provisions. If the blight is remediated, the court must dismiss the action.<sup>32</sup>

### **Order of sale**

The bill directs a housing or environmental division of a municipal court to order the sale of an unoccupied, blighted parcel by the sheriff of the county where the property is located, if all of the following apply:

- The municipal corporation commenced a cause of action by filing a complaint for the owner of the blighted parcel in accordance with the bill's provisions (see "**Municipal corporation may bring a cause of action for remediation of blight**").
- The municipal corporation caused service of the complaint and notice in accordance with the bill's provisions (see "**Complaint and notice**").
- One of the following applies:
  - No lienholder or other interested person certified that it would remediate the conditions constituting blight.
  - A lienholder or other interested person certified that it would remediate the conditions constituting blight, but does not do so within the accepted period of time.
- The court has entered a finding that the property was unoccupied at the time the complaint was filed and is a blighted parcel.
- The court ordered the owner of the property to remediate the conditions constituting blight and the owner fails to do so.<sup>33</sup>

### **Order of deposit of security bond**

If a court issues an order of sale under the bill, the court must also issue an order that the successful qualified bidder at the sale deposit with the municipal corporation who commenced the action a bond as security. The municipal corporation must determine (1) the amount of bond that is necessary to remediate the conditions

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<sup>32</sup> R.C. 3767.52(D).

<sup>33</sup> R.C. 3767.53(A).

constituting blight of the unoccupied, blighted parcel and (2) the manner in which a successful qualified bidder at the sheriff's sale will deposit the required bond.<sup>34</sup>

### **Sheriff's sale**

If the housing or environmental division of a municipal court orders an unoccupied, blighted parcel to be sold pursuant to the bill's provisions, the sheriff of the county where the property is located is required by the bill to do all of the following:

- Cause notice of the sale, notice of the security bond order, and notice that only qualified bidders are eligible to purchase the property to be sent to the owner of the property and the public in the same manner as provided under continuing law, except the date, time, and place of the sale need only be published once at least one week before the day of sale by advertisement in a newspaper of general circulation;
- Verify that each bidder who intends to bid at the sale is included in the list of qualified bidders that the municipal corporation provides to the sheriff and is in possession of proof that the bidder is a qualified bidder;
- Conduct the sale of the property.<sup>35</sup>

### **Qualified bidders**

The bill limits potential purchasers at a sale conducted pursuant to the bill's provisions to qualified bidders. "Qualified bidder" means a person who (1) has been prequalified by a municipal corporation, (2) has the capacity to remediate the conditions that constitute blight of the blighted parcel, and (3) has agreed, as a condition of the sale, to own the property for at least 18 months following the sale and to remediate the conditions constituting blight within the time period the bidder owns the property, to the satisfaction of the municipal corporation that commenced the cause of action.<sup>36</sup>

The bill requires the municipal corporation to (1) establish qualifications to allow a person to bid at the sheriff's sale, (2) issue proof of qualification to a qualified bidder in a form determined by the municipal corporation, (3) compile a list of qualified bidders for each sale, and (4) provide the list of qualified bidders to the sheriff conducting the sale at least one day prior to the sale. The qualifications in (1) above

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<sup>34</sup> R.C. 3767.53(B) and 3767.55(B).

<sup>35</sup> R.C. 3767.54(A).

<sup>36</sup> R.C. 3767.54(F).



must include a requirement that the person be able and willing to remediate the conditions that constitute blight of the unoccupied, blighted parcel and agree to deposit a security bond upon submission of the winning bid (see "**Order of deposit of security bond**," above).<sup>37</sup>

#### **No appraisal or minimum bid**

No appraisal of the property or minimum bid for the property is required as a condition of a sale conducted pursuant to the bill's provisions.<sup>38</sup>

#### **Conditions of sale**

As a condition of a sale of property conducted pursuant to the bill's provisions, the winning qualified bidder must deposit with the municipal corporation that commenced the cause of action a bond in an amount and in accordance with procedures determined by the municipal corporation (see "**Order of deposit of security bond**," above). The property is to be sold free and clear of all liens, including all taxes and assessments other than federal taxes, to the highest qualified bidder.<sup>39</sup>

#### **Proceeds of sale**

The bill directs the proceeds of the sale to first be paid to satisfy the costs of the municipal corporation for bringing the action and then be distributed according to continuing law priorities, including to lienholders whose liens are extinguished by the sale.<sup>40</sup>

#### **Entry of sale and deed record**

After a sale, the housing or environmental division of the municipal court is required to make an entry on the journal that the court is satisfied of the legality of the sale. The municipal corporation who filed the complaint must then file and record the deed of the property in accordance with continuing law.<sup>41</sup>

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<sup>37</sup> R.C. 3767.55(A).

<sup>38</sup> R.C. 3767.54(C).

<sup>39</sup> R.C. 3767.54(B).

<sup>40</sup> R.C. 3767.54(D).

<sup>41</sup> R.C. 3767.54(E).



## Unsold properties

If a property that is ordered sold under the bill remains unsold for want of qualified bidders, after having been advertised and offered for sale in accordance with the bill's provisions, the court may, on motion of the municipal corporation and from time-to-time until the property is sold, order a new sale.<sup>42</sup>

## Remediation after the sheriff's sale

If the successful qualified bidder of the property fails to remediate the conditions constituting blight within 18 months after the sheriff's sale, the municipal corporation that commenced the cause of action must use the bond deposited by the bidder to remediate the blight. If the successful qualified bidder remediates the conditions constituting blight within 18 months after the sheriff's sale, the municipal corporation must return the bond to the bidder.<sup>43</sup>

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## HISTORY

| ACTION     | DATE     |
|------------|----------|
| Introduced | 06-25-13 |

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<sup>42</sup> R.C. 3767.53(C).

<sup>43</sup> R.C. 3767.56.

