

As Introduced

135th General Assembly  
Regular Session  
2023-2024

S. B. No. 36

Senator Blessing  
Cosponsor: Senator Ingram

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A BILL

To amend section 2329.27 and to enact sections  
2329.261 and 2329.313 of the Revised Code to  
grant tenants and certain other eligible bidders  
rights relating to the purchase of residential  
property sold at foreclosure.

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

**Section 1.** That section 2329.27 be amended and sections  
2329.261 and 2329.313 of the Revised Code be enacted to read as  
follows:

**Sec. 2329.261.** (A) If residential property sold at public  
sale pursuant to this chapter contains one to four single-family  
units, the levying officer shall do all of the following:

(1) Include the following statement, in substantially the  
following form, in the notice required by division (A) (2) of  
section 2329.26 of the Revised Code:

"NOTICE TO TENANTS AND OTHER ELIGIBLE BIDDERS: You may  
have a right to purchase this property after the sale pursuant  
to R.C. 2329.313. If you are an "eligible-tenant buyer," you can  
purchase the property if you match the successful bid placed at

the sale. If you are an "eligible bidder," you may be able to 19  
purchase the property if you exceed the successful bid placed at 20  
the sale. There are three steps to exercising this right of 21  
purchase. 22

First, two calendar days after the date of the sale, you 23  
can call [telephone number for information regarding the sale], 24  
or visit this web site [web site address for information 25  
regarding the sale], using the file number assigned to this case 26  
[case file number] to find the date on which the sale was held, 27  
the amount of the successful bid, and the address of the person 28  
who conducted the sale. 29

Second, you must send a written notice of intent to place 30  
a bid so that the person who conducted the sale receives it not 31  
more than fifteen days after the date of the sale. 32

Third, you must submit a bid so that the person who 33  
conducted the sale receives it not more than forty-five days 34  
after the date of the sale. 35

If you think you may qualify as an "eligible tenant-buyer" 36  
or "eligible bidder," you should consider contacting an attorney 37  
or appropriate real estate professional immediately for advice 38  
regarding this potential right to purchase." 39

(2) Post a copy of the notice required by division (A) (2) 40  
of section 2329.26 of the Revised Code, as modified by division 41  
(A) (1) of this section, in a conspicuous place on the 42  
residential property to be sold at least three weeks before the 43  
date of the sale, where possible and where not restricted for 44  
any reason. The posting shall be on a door of each dwelling unit 45  
on the residential property, but, if that is not possible or 46  
access is restricted, then the notice shall be posted in a 47

conspicuous place on the residential property. If access is 48  
denied because a common entrance to the residential property is 49  
restricted by a guard gate or similar impediment, the notice may 50  
be posted at that guard gate or impediment. 51

(3) Maintain a web site and telephone number to provide 52  
information on applicable properties. A levying officer shall 53  
provide information required by division (A) (3) of this section, 54  
and, for completed sales, information regarding the sale date, 55  
amount of the successful bid, and the levying officer's address, 56  
to be accessible using the file number assigned to the case and 57  
listed on the notice required by division (A) (2) of section 58  
2329.26 of the Revised Code, as modified by division (A) (1) of 59  
this section. This information shall be made available free of 60  
charge and shall be available twenty-four hours a day, seven 61  
days a week. 62

(B) A levying officer may use any web site maintained to 63  
satisfy any other provision of this chapter, including the 64  
official public sheriff sale web site established pursuant to 65  
section 2329.153 of the Revised Code, to satisfy the 66  
requirements of division (A) (3) of this section. 67

(C) As used in this section, "levying officer" means the 68  
officer who makes the public sale of the residential property 69  
subject to this section. "Levying officer" includes a private 70  
selling officer. 71

**Sec. 2329.27.** (A) When the public notice required by 72  
division (A) (2) of section 2329.26 or divisions (A) (1) and (2) 73  
of section 2329.261 of the Revised Code is made in a newspaper 74  
published weekly, it is sufficient to insert it for three 75  
consecutive weeks. If both a daily and weekly edition of the 76  
paper are published and the circulation of the daily in the 77

county exceeds that of the weekly in the county, or if the lands 78  
and tenements taken in execution are situated in a city, both a 79  
daily and weekly edition of the paper are published, and the 80  
circulation of the daily in that city exceeds the circulation of 81  
the weekly in that city, it is sufficient to publish the public 82  
notice in the daily once a week for three consecutive weeks 83  
before the day of sale, each insertion to be on the same day of 84  
the week. The expense of that publication in a daily shall not 85  
exceed the cost of publishing it in a weekly. 86

(B) (1) Subject to divisions (B) (2) and (3) of this 87  
section, all sales of lands and tenements taken in execution 88  
that are made without compliance with the written notice 89  
requirements of division (A) (1) (a) of section 2329.26 of the 90  
Revised Code, the public notice requirements of division (A) (2) 91  
of that section or divisions (A) (1) and (2) of section 2329.261 92  
of the Revised Code, as applicable, the purchaser information 93  
requirements of section 2329.271 of the Revised Code, and 94  
division (A) of this section shall be set aside, on motion by 95  
any interested party, by the court to which the execution is 96  
returnable. 97

(2) Proof of service endorsed upon a copy of the written 98  
notice required by division (A) (1) (a) of section 2329.26 of the 99  
Revised Code shall be conclusive evidence of the service of the 100  
written notice in compliance with the requirements of that 101  
division, unless a party files a motion to set aside the sale of 102  
the lands and tenements pursuant to division (B) (1) of this 103  
section and establishes by a preponderance of the evidence that 104  
the proof of service is fraudulent. 105

(3) If the court to which the execution is returnable 106  
enters its order confirming the sale of the lands and tenements, 107

the order shall have both of the following effects: 108

(a) The order shall be deemed to constitute a judicial 109  
finding as follows: 110

(i) That the sale of the lands and tenements complied with 111  
the written notice requirements of division (A) (1) (a) of section 112  
2329.26 of the Revised Code and the public notice requirements 113  
of division (A) (2) of that section, or divisions (A) (1) and (2) 114  
of section 2329.261 of the Revised Code, as applicable, and 115  
division (A) of this section, or that compliance of that nature 116  
did not occur but the failure to give a written notice to a 117  
party entitled to notice under division (A) (1) (a) of section 118  
2329.26 of the Revised Code has not prejudiced that party; 119

(ii) That all parties entitled to notice under division 120  
(A) (1) (a) of section 2329.26 of the Revised Code received 121  
adequate notice of the date, time, and place of the sale of the 122  
lands and tenements; 123

(iii) That the purchaser has submitted the contact 124  
information required by section 2329.271 of the Revised Code. 125

(b) The order bars the filing of any further motions to 126  
set aside the sale of the lands and tenements. 127

**Sec. 2329.313. (A) As used in this section:** 128

(1) "Eligible bidder" means any of the following: 129

(a) A prospective owner-occupant; 130

(b) An unincorporated nonprofit association as defined in 131  
section 1745.05 of the Revised Code, nonprofit corporation as 132  
defined in section 1702.01 of the Revised Code, or cooperative 133  
as defined in section 1729.01 of the Revised Code whose primary 134  
activity is the development and preservation of affordable 135

rental housing and in which an eligible tenant-buyer or a 136  
prospective owner-occupant is a voting member or director; 137

(c) A nonprofit corporation, as defined in section 1702.01 138  
of the Revised Code, based in this state whose primary activity 139  
is the development and preservation of affordable rental 140  
housing; 141

(d) A limited partnership or domestic limited partnership, 142  
as defined in section 1782.01 of the Revised Code, in which a 143  
general partner is a nonprofit corporation based in this state, 144  
the primary activity of which is the development and 145  
preservation of affordable housing; 146

(e) A limited liability company, as defined in section 147  
1706.01 of the Revised Code, in which the manager is a nonprofit 148  
corporation based in this state, the primary activity of which 149  
is the development and preservation of affordable rental 150  
housing; 151

(f) A community improvement corporation, as defined in 152  
section 1724.01 of the Revised Code, or a community urban 153  
redevelopment corporation, as defined in section 1728.01 of the 154  
Revised Code; 155

(g) A public office. 156

(2) "Eligible tenant-buyer" means a natural person who, at 157  
the time of the judicial sale, is all of the following: 158

(a) Occupying the residential property that is the subject 159  
of the judicial sale as the person's primary residence; 160

(b) Occupying the residential property under a rental 161  
agreement entered into as the result of an arm's length 162  
transaction with the mortgagor on a date prior to a default on 163

the note secured by the mortgage that led to the action for 164  
judicial sale and foreclosure; 165

(c) Not the mortgagor, or the child, spouse, or parent of 166  
the mortgagor. 167

(3) "Levying officer" has the same meaning as in section 168  
2329.261 of the Revised Code. 169

(4) "Prospective owner-occupant" means a natural person 170  
who executes an affidavit pursuant to division (B) of this 171  
section and delivers it to a levying officer. 172

(5) "Public office" means any state agency as defined in 173  
section 1.60 of the Revised Code, state institution of higher 174  
education as defined in section 3345.011 of the Revised Code, 175  
public institution, political subdivision, or other organized 176  
body, office, agency, institution, or entity established by the 177  
laws of this state for the exercise of any function of 178  
government. 179

(B) To qualify as a prospective owner-occupant for 180  
purposes of this section, a bidder shall be a natural person who 181  
provides the levying officer with an affidavit swearing or 182  
affirming all of the following: 183

(1) That the person will occupy the residential property 184  
offered at sale under this chapter as the person's primary 185  
residence within sixty days of recording of a deed to the 186  
residential property or issuance of an order pursuant to 187  
division (C) of section 2329.31 of the Revised Code; 188

(2) That the person will maintain the person's occupancy 189  
at the residential property for at least one year; 190

(3) That the person is not the mortgagor, or the child, 191

spouse, or parent of the mortgagor; 192

(4) That the person is not acting as the agent of any 193  
other person or entity in purchasing the real property. 194

An eligible tenant-buyer may qualify as a prospective 195  
owner-occupant. 196

(C) Notwithstanding section 2329.53 of the Revised Code, 197  
if residential property sold at public sale on order of sale 198  
pursuant to this chapter contains one to four single-family 199  
units, and the successful bidder at the public sale is not a 200  
prospective owner-occupant, the levying officer shall not return 201  
the writ of execution pursuant to sections 2329.28 and 2329.53 202  
of the Revised Code until the earliest of the following dates: 203

(1) The date that is sixteen days after the date of the 204  
public sale, unless at least one eligible tenant-buyer or 205  
eligible bidder submits, and the levying officer receives, a bid 206  
pursuant to division (D) or (E) of this section or a nonbinding 207  
written notice of intent to place such a bid. To be effective, a 208  
written notice of intent to place a bid must be sent to the 209  
levying officer by certified mail, overnight delivery, or other 210  
method that allows for confirmation of the delivery date and 211  
must be received by the levying officer not more than fifteen 212  
days after the date of the public sale. 213

(2) The date upon which all eligible tenant-buyers are 214  
deemed the successful bidders pursuant to division (D) of this 215  
section or an eligible bidder is deemed the successful bidder 216  
pursuant to division (E) of this section. 217

(3) The date that is forty-six days after the date of the 218  
public sale. 219

(D) If residential property sold at public sale on order 220



of sale pursuant to this chapter contains one to four single- 221  
family units, eligible tenant-buyers, if any, are deemed to have 222  
submitted the successful bid at the public sale of residential 223  
property sold on order of sale under this chapter if both of the 224  
following are true: 225

(1) The successful bidder at the public sale was not a 226  
prospective owner-occupant. 227

(2) Not more than forty-five days after the date of the 228  
public sale, the levying officer receives both of the following 229  
from a representative of all eligible tenant-buyers, by 230  
certified mail, overnight delivery, or other method that allows 231  
for confirmation of the delivery date: 232

(a) A bid in an amount equal to the full amount of the 233  
successful bid at the public sale, in the form of cash, a 234  
cashier's check drawn on a state or national bank, a cashier's 235  
check drawn on a state or federal credit union, or a cashier's 236  
check drawn on a state or federal savings and loan association, 237  
savings association, or savings bank specified and authorized to 238  
do business in this state; 239

(b) An affidavit stating that the persons represented are 240  
eligible tenant-buyers and the facts supporting that statement. 241  
The levying officer may reasonably rely on this affidavit. 242

The levying officer shall return all unsuccessful bids 243  
from eligible tenant-buyers to the bidders that submitted them 244  
not later than the date the levying officer returns the writ of 245  
execution. 246

(E) If residential property sold at public sale on order 247  
of sale pursuant to this chapter contains one to four single- 248  
family units, an eligible bidder is deemed to have submitted the 249

successful bid at the public sale if, not more than forty-five 250  
days after the date of the public sale, all of the following are 251  
true: 252

(1) The successful bidder at the public sale was not a 253  
prospective owner-occupant. 254

(2) No eligible tenant-buyers are deemed to have submitted 255  
the successful bid pursuant to division (D) of this section. 256

(3) The levying officer receives both of the following 257  
from the eligible bidder, by certified mail, overnight delivery, 258  
or other method that allows for confirmation of the delivery 259  
date: 260

(a) A bid in an amount that exceeds the successful bid at 261  
the public sale and all other bids submitted by other eligible 262  
bidders, in the form of cash, a cashier's check drawn on a state 263  
or national bank, a cashier's check drawn on a state or federal 264  
credit union, or a cashier's check drawn on a state or federal 265  
savings and loan association, savings association, or savings 266  
bank and authorized to do business in this state; 267

(b) An affidavit stating that the bidder is an eligible 268  
bidder as defined by this section, and the facts supporting that 269  
statement. The levying officer may reasonably rely on this 270  
affidavit. 271

The levying officer shall return all unsuccessful bids 272  
from eligible bidders to the bidders that submitted them not 273  
later than the date the levying officer returns the writ of 274  
execution. 275

(F) If residential property sold pursuant to this chapter 276  
contains one to four single-family units, and the successful 277  
bidder at the public sale is not a prospective owner-occupant, 278

then: 279

(1) Not later than two calendar days after the date of the 280  
public sale of residential property, the levying officer or an 281  
authorized agent shall post on the web site set forth on the 282  
notice of sale, as required by section 2329.261 of the Revised 283  
Code, the following information: 284

(a) The date on which the public sale took place; 285

(b) The amount of the successful bid at the public sale; 286

(c) An address at which the levying officer can receive 287  
documents sent by United States mail and by a method of delivery 288  
providing for overnight delivery. 289

(2) The information required to be posted on the web site 290  
under division (F)(1) of this section shall also be made 291  
available not later than two calendar days after the date of the 292  
public sale of the residential property by calling the telephone 293  
number set forth on the notice of sale as required by section 294  
2329.261 of the Revised Code. 295

(3) The information required to be provided under 296  
divisions (F)(1) and (2) of this section shall be made available 297  
using the file number assigned to the case that is set forth on 298  
the notice of sale as required under division (A)(1) of section 299  
2329.261 of the Revised Code. 300

(4) The information required to be provided under 301  
divisions (F)(1) and (2) of this section shall be made available 302  
for a period of not less than forty-five days after the date of 303  
the sale. 304

(5) A disruption of any of these methods of providing the 305  
information required under divisions (F)(1) and (2) of this 306

section to allow for reasonable maintenance or due to a service 307  
outage shall not be considered to be a violation of division (F) 308  
(1), (2), or (4) of this section. 309

(G) A prospective owner-occupant does not commit perjury 310  
by submitting an affidavit under this section if the prospective 311  
owner-occupant cannot occupy the property as the person's 312  
primary residence within sixty days of the deed to the property 313  
being recorded pursuant to section 2329.31 of the Revised Code 314  
because an action under Chapter 1923. of the Revised Code or a 315  
writ of possession from the court that entered the order of sale 316  
is needed to obtain possession of the property. 317

**Section 2.** That existing section 2329.27 of the Revised 318  
Code is hereby repealed. 319