

Baldwin's Ohio Revised Code Annotated [Currentness](#)

Title XXXVII. Health--Safety--Morals

▣ [Chapter 3767](#). Nuisances ([Refs & Annos](#))

→ Abandoned and Unsafe Buildings

→ **3767.41 Injunctive relief; appointment of receiver; rehabilitation plans; demolition**

(A) As used in this section:

(1) “Building” means, except as otherwise provided in this division, any building or structure that is used or intended to be used for residential purposes. “Building” includes, but is not limited to, a building or structure in which any floor is used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and in which the other floors are used, or designed and intended to be used, for residential purposes. “Building” does not include any building or structure that is occupied by its owner and that contains three or fewer residential units.

(2)(a) “Public nuisance” means a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

(b) “Public nuisance” as it applies to subsidized housing means subsidized housing that fails to meet the following standards as specified in the federal rules governing each standard:

(i) Each building on the site is structurally sound, secure, habitable, and in good repair, as defined in [24 C.F.R. 5.703\(b\)](#);

(ii) Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system is free of health and safety hazards, functionally adequate, operable, and in good repair, as defined in [24 C.F.R. 5.703\(c\)](#);

(iii) Each dwelling unit within the building is structurally sound, habitable, and in good repair, and all areas and aspects of the dwelling unit are free of health and safety hazards, functionally adequate, operable, and in good repair, as defined in [24 C.F.R. 5.703\(d\)\(1\)](#);

(iv) Where applicable, the dwelling unit has hot and cold running water, including an adequate source of potable water, as defined in [24 C.F.R. 5.703\(d\)\(2\)](#);

(v) If the dwelling unit includes its own sanitary facility, it is in proper operating condition, usable in privacy, and adequate for personal hygiene, and the disposal of human waste, as defined in [24 C.F.R. 5.703\(d\)\(3\)](#);

(vi) The common areas are structurally sound, secure, and functionally adequate for the purposes intended. The basement, garage, carport, restrooms, closets, utility, mechanical, community rooms, daycare, halls, corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas are free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, smoke detectors, stairs, walls, and windows, to the extent applicable, are free of health and safety hazards, operable, and in good repair, as defined in [24 C.F.R. 5.703\(e\)](#);

(vii) All areas and components of the housing are free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint, as defined in [24 C.F.R. 5.703\(f\)](#).

(3) “Abate” or “abatement” in connection with any building means the removal or correction of any conditions that constitute a public nuisance and the making of any other improvements that are needed to effect a rehabilitation of the building that is consistent with maintaining safe and habitable conditions over its remaining useful life. “Abatement” does not include the closing or boarding up of any building that is found to be a public nuisance.

(4) “Interested party” means any owner, mortgagee, lienholder, tenant, or person that possesses an interest of record in any property that becomes subject to the jurisdiction of a court pursuant to this section, and any applicant for the appointment of a receiver pursuant to this section.

(5) “Neighbor” means any owner of property, including, but not limited to, any person who is purchasing property by land installment contract or under a duly executed purchase contract, that is located within five hundred feet of any property that becomes subject to the jurisdiction of a court pursuant to this section, and any occupant of a building that is so located.

(6) “Tenant” has the same meaning as in [section 5321.01 of the Revised Code](#).

(7) “Subsidized housing” means a property consisting of more than four dwelling units that, in whole or in part, receives project-based assistance pursuant to a contract under any of the following federal housing programs:

(a) The new construction or substantial rehabilitation program under section 8(b)(2) of the “United States Housing Act of 1937,” Pub. L. No. 75-412, 50 Stat. 888, [42 U.S.C. 1437f\(b\)\(2\)](#) as that program was in effect immediately before the first day of October, 1983;

(b) The moderate rehabilitation program under section 8(e)(2) of the “United States Housing Act of 1937,”

Pub. L. No. 75-412, 50 Stat. 888, [42 U.S.C. 1437f\(e\)\(2\)](#);

(c) The loan management assistance program under section 8 of the “United States Housing Act of 1937,” Pub. L. No. 75-412, 50 Stat. 888, [42 U.S.C. 1437f](#);

(d) The rent supplement program under section 101 of the “Housing and Urban Development Act of 1965,” Pub. L. No. 89-174, 79 Stat. 667, [12 U.S.C. 1701s](#);

(e) Section 8 of the “United States Housing Act of 1937,” Pub. L. No. 75-412, 50 Stat. 888, [42 U.S.C. 1437f](#), following conversion from assistance under section 101 of the “Housing and Urban Development Act of 1965,” Pub. L. No. 89-174, 79 Stat. 667, [12 U.S.C. 1701s](#);

(f) The program of supportive housing for the elderly under section 202 of the “Housing Act of 1959,” Pub. L. No. 86-372, 73 Stat. 654, [12 U.S.C. 1701q](#);

(g) The program of supportive housing for persons with disabilities under section 811 of the “National Affordable Housing Act of 1990,” [Pub. L. No. 101-625, 104 Stat. 4313, 42 U.S.C. 8013](#);

(h) The rental assistance program under section 521 of the “United States Housing Act of 1949,” Pub. L. No. 90-448, 82 Stat. 551, as amended by [Pub. L. No. 93-383, 88 Stat. 696, 42 U.S.C. 1490a](#).

(8) “Project-based assistance” means the assistance is attached to the property and provides rental assistance only on behalf of tenants who reside in that property.

(9) “Landlord” has the same meaning as in [section 5321.01 of the Revised Code](#).

(B)(1)(a) In any civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to buildings, that is commenced in a court of common pleas, municipal court, housing or environmental division of a municipal court, or county court, or in any civil action for abatement commenced in a court of common pleas, municipal court, housing or environmental division of a municipal court, or county court, by a municipal corporation in which the building involved is located, by any neighbor, tenant, or by a nonprofit corporation that is duly organized and has as one of its goals the improvement of housing conditions in the county or municipal corporation in which the building involved is located, if a building is alleged to be a public nuisance, the municipal corporation, neighbor, tenant, or nonprofit corporation may apply in its complaint for an injunction or other order as described in division (C)(1) of this section, or for the relief described in division (C)(2) of this section, including, if necessary, the appointment of a receiver as described in divisions (C)(2) and (3) of this section, or for both such an injunction or other order and such relief. The municipal corporation, neighbor, tenant, or nonprofit corporation commencing the action is not liable for the costs, expenses, and fees of any receiver appointed pursuant to divisions (C)(2) and (3) of this section.

(b) Prior to commencing a civil action for abatement when the property alleged to be a public nuisance is subsidized housing, the municipal corporation, neighbor, tenant, or nonprofit corporation commencing the action shall provide the landlord of that property with written notice that specifies one or more defective conditions that constitute a public nuisance as that term applies to subsidized housing and states that if the landlord fails to remedy the condition within sixty days of the service of the notice, a claim pursuant to this section may be brought on the basis that the property constitutes a public nuisance in subsidized housing. Any party authorized to bring an action against the landlord shall make reasonable attempts to serve the notice in the manner prescribed in the Rules of Civil Procedure to the landlord or the landlord's agent for the property at the property's management office, or at the place where the tenants normally pay or send rent. If the landlord is not the owner of record, the party bringing the action shall make a reasonable attempt to serve the owner. If the owner does not receive service the person bringing the action shall certify the attempts to serve the owner.

(2)(a) In a civil action described in division (B)(1) of this section, a copy of the complaint and a notice of the date and time of a hearing on the complaint shall be served upon the owner of the building and all other interested parties in accordance with the Rules of Civil Procedure. If certified mail service, personal service, or residence service of the complaint and notice is refused or certified mail service of the complaint and notice is not claimed, and if the municipal corporation, neighbor, tenant, or nonprofit corporation commencing the action makes a written request for ordinary mail service of the complaint and notice, or uses publication service, in accordance with the Rules of Civil Procedure, then a copy of the complaint and notice shall be posted in a conspicuous place on the building.

(b) The judge in a civil action described in division (B)(1) of this section shall conduct a hearing at least twenty-eight days after the owner of the building and the other interested parties have been served with a copy of the complaint and the notice of the date and time of the hearing in accordance with division (B)(2)(a) of this section.

(c) In considering whether subsidized housing is a public nuisance, the judge shall construe the standards set forth in division (A)(2)(b) of this section in a manner consistent with department of housing and urban development and judicial interpretations of those standards. The judge shall deem that the property is not a public nuisance if during the twelve months prior to the service of the notice that division (B)(1)(b) of this section requires, the department of housing and urban development's real estate assessment center issued a score of seventy-five or higher out of a possible one hundred points pursuant to its regulations governing the physical condition of multifamily properties pursuant to 24 C.F.R. part 200, subpart P, and since the most recent inspection, there has been no significant change in the property's conditions that would create a serious threat to the health, safety, or welfare of the property's tenants.

(C)(1) If the judge in a civil action described in division (B)(1) of this section finds at the hearing required by division (B)(2) of this section that the building involved is a public nuisance, if the judge additionally determines that the owner of the building previously has not been afforded a reasonable opportunity to abate the public nuisance or has been afforded such an opportunity and has not refused or failed to abate the public nuisance, and if the complaint of the municipal corporation, neighbor, tenant, or nonprofit corporation commencing the action requested the issuance of an injunction as described in this division, then the judge may issue an injunction requiring the owner of the building to abate the public nuisance or issue any other order that the

judge considers necessary or appropriate to cause the abatement of the public nuisance. If an injunction is issued pursuant to this division, the owner of the building involved shall be given no more than thirty days from the date of the entry of the judge's order to comply with the injunction, unless the judge, for good cause shown, extends the time for compliance.

(2) If the judge in a civil action described in division (B)(1) of this section finds at the hearing required by division (B)(2) of this section that the building involved is a public nuisance, if the judge additionally determines that the owner of the building previously has been afforded a reasonable opportunity to abate the public nuisance and has refused or failed to do so, and if the complaint of the municipal corporation, neighbor, tenant, or nonprofit corporation commencing the action requested relief as described in this division, then the judge shall offer any mortgagee, lienholder, or other interested party associated with the property on which the building is located, in the order of the priority of interest in title, the opportunity to undertake the work and to furnish the materials necessary to abate the public nuisance. Prior to selecting any interested party, the judge shall require the interested party to demonstrate the ability to promptly undertake the work and furnish the materials required, to provide the judge with a viable financial and construction plan for the rehabilitation of the building as described in division (D) of this section, and to post security for the performance of the work and the furnishing of the materials.

If the judge determines, at the hearing, that no interested party is willing or able to undertake the work and to furnish the materials necessary to abate the public nuisance, or if the judge determines, at any time after the hearing, that any party who is undertaking corrective work pursuant to this division cannot or will not proceed, or has not proceeded with due diligence, the judge may appoint a receiver pursuant to division (C)(3) of this section to take possession and control of the building.

(3)(a) The judge in a civil action described in division (B)(1) of this section shall not appoint any person as a receiver unless the person first has provided the judge with a viable financial and construction plan for the rehabilitation of the building involved as described in division (D) of this section and has demonstrated the capacity and expertise to perform the required work and to furnish the required materials in a satisfactory manner. An appointed receiver may be a financial institution that possesses an interest of record in the building or the property on which it is located, a nonprofit corporation as described in divisions (B)(1) and (C)(3)(b) of this section, including, but not limited to, a nonprofit corporation that commenced the action described in division (B)(1) of this section, or any other qualified property manager.

(b) To be eligible for appointment as a receiver, no part of the net earnings of a nonprofit corporation shall inure to the benefit of any private shareholder or individual. Membership on the board of trustees of a nonprofit corporation appointed as a receiver does not constitute the holding of a public office or employment within the meaning of sections 731.02 and 731.12 or any other section of the Revised Code and does not constitute a direct or indirect interest in a contract or expenditure of money by any municipal corporation. A member of a board of trustees of a nonprofit corporation appointed as a receiver shall not be disqualified from holding any public office or employment, and shall not forfeit any public office or employment, by reason of membership on the board of trustees, notwithstanding any law to the contrary.

(D) Prior to ordering any work to be undertaken, or the furnishing of any materials, to abate a public nuisance under this section, the judge in a civil action described in division (B)(1) of this section shall review the submitted financial and construction plan for the rehabilitation of the building involved and, if it specifies all of the following, shall approve that plan:

(1) The estimated cost of the labor, materials, and any other development costs that are required to abate the public nuisance;

(2) The estimated income and expenses of the building and the property on which it is located after the furnishing of the materials and the completion of the repairs and improvements;

(3) The terms, conditions, and availability of any financing that is necessary to perform the work and to furnish the materials;

(4) If repair and rehabilitation of the building are found not to be feasible, the cost of demolition of the building or of the portions of the building that constitute the public nuisance.

(E) Upon the written request of any of the interested parties to have a building, or portions of a building, that constitute a public nuisance demolished because repair and rehabilitation of the building are found not to be feasible, the judge may order the demolition. However, the demolition shall not be ordered unless the requesting interested parties have paid the costs of demolition and, if any, of the receivership, and, if any, all notes, certificates, mortgages, and fees of the receivership.

(F) Before proceeding with the duties of receiver, any receiver appointed by the judge in a civil action described in division (B)(1) of this section may be required by the judge to post a bond in an amount fixed by the judge, but not exceeding the value of the building involved as determined by the judge.

The judge may empower the receiver to do any or all of the following:

(1) Take possession and control of the building and the property on which it is located, operate and manage the building and the property, establish and collect rents and income, lease and rent the building and the property, and evict tenants;

(2) Pay all expenses of operating and conserving the building and the property, including, but not limited to, the cost of electricity, gas, water, sewerage, heating fuel, repairs and supplies, custodian services, taxes and assessments, and insurance premiums, and hire and pay reasonable compensation to a managing agent;

(3) Pay pre-receivership mortgages or installments of them and other liens;

(4) Perform or enter into contracts for the performance of all work and the furnishing of materials necessary to abate, and obtain financing for the abatement of, the public nuisance;

(5) Pursuant to court order, remove and dispose of any personal property abandoned, stored, or otherwise located in or on the building and the property that creates a dangerous or unsafe condition or that constitutes a violation of any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation;

(6) Obtain mortgage insurance for any receiver's mortgage from any agency of the federal government;

(7) Enter into any agreement and do those things necessary to maintain and preserve the building and the property and comply with all local building, housing, air pollution, sanitation, health, fire, zoning, or safety codes, ordinances, and regulations;

(8) Give the custody of the building and the property, and the opportunity to abate the nuisance and operate the property, to its owner or any mortgagee or lienholder of record;

(9) Issue notes and secure them by a mortgage bearing interest, and upon terms and conditions, that the judge approves. When sold or transferred by the receiver in return for valuable consideration in money, material, labor, or services, the notes or certificates shall be freely transferable. Any mortgages granted by the receiver shall be superior to any claims of the receiver. Priority among the receiver's mortgages shall be determined by the order in which they are recorded.

(G) A receiver appointed pursuant to this section is not personally liable except for misfeasance, malfeasance, or nonfeasance in the performance of the functions of the office of receiver.

(H)(1) The judge in a civil action described in division (B)(1) of this section may assess as court costs, the expenses described in division (F)(2) of this section, and may approve receiver's fees to the extent that they are not covered by the income from the property. Subject to that limitation, a receiver appointed pursuant to divisions (C)(2) and (3) of this section is entitled to receive fees in the same manner and to the same extent as receivers appointed in actions to foreclose mortgages.

(2)(a) Pursuant to the police powers vested in the state, all expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance, and any expenditures in connection with the foreclosure of the lien created by this division, is a first lien upon the building involved and the property on which it is located and is superior to all prior and subsequent liens or other encumbrances associated with the building or the property, including, but not limited to, those for taxes and assessments, upon the occurrence of both of the following:

(i) The prior approval of the expenditures by, and the entry of a judgment to that effect by, the judge in the civil action described in division (B)(1) of this section;

(ii) The recordation of a certified copy of the judgment entry and a sufficient description of the property on which the building is located with the county recorder in the county in which the property is located within sixty days after the date of the entry of the judgment.

(b) Pursuant to the police powers vested in the state, all expenses and other amounts paid in accordance with division (F) of this section by a receiver appointed pursuant to divisions (C)(2) and (3) of this section, the amounts of any notes issued by the receiver in accordance with division (F) of this section, all mortgages granted by the receiver in accordance with that division, the fees of the receiver approved pursuant to division (H)(1) of this section, and any amounts expended in connection with the foreclosure of a mortgage granted by the receiver in accordance with division (F) of this section or with the foreclosure of the lien created by this division, are a first lien upon the building involved and the property on which it is located and are superior to all prior and subsequent liens or other encumbrances associated with the building or the property, including, but not limited to, those for taxes and assessments, upon the occurrence of both of the following:

(i) The approval of the expenses, amounts, or fees by, and the entry of a judgment to that effect by, the judge in the civil action described in division (B)(1) of this section; or the approval of the mortgages in accordance with division (F)(9) of this section by, and the entry of a judgment to that effect by, that judge;

(ii) The recordation of a certified copy of the judgment entry and a sufficient description of the property on which the building is located, or, in the case of a mortgage, the recordation of the mortgage, a certified copy of the judgment entry, and such a description, with the county recorder of the county in which the property is located within sixty days after the date of the entry of the judgment.

(c) Priority among the liens described in divisions (H)(2)(a) and (b) of this section shall be determined as described in division (I) of this section. Additionally, the creation pursuant to this section of a mortgage lien that is prior to or superior to any mortgage of record at the time the mortgage lien is so created, does not disqualify the mortgage of record as a legal investment under Chapter 1107. or 1151. or any other chapter of the Revised Code.

(I)(1) If a receiver appointed pursuant to divisions (C)(2) and (3) of this section files with the judge in the civil action described in division (B)(1) of this section a report indicating that the public nuisance has been abated, if the judge confirms that the receiver has abated the public nuisance, and if the receiver or any interested party requests the judge to enter an order directing the receiver to sell the building and the property on which it is located, the judge may enter that order after holding a hearing as described in division (I)(2) of this section and otherwise complying with that division.

(2)(a) The receiver or interested party requesting an order as described in division (I)(1) of this section shall cause a notice of the date and time of a hearing on the request to be served on the owner of the building in-

involved and all other interested parties in accordance with division (B)(2)(a) of this section. The judge in the civil action described in division (B)(1) of this section shall conduct the scheduled hearing. At the hearing, if the owner or any interested party objects to the sale of the building and the property, the burden of proof shall be upon the objecting person to establish, by a preponderance of the evidence, that the benefits of not selling the building and the property outweigh the benefits of selling them. If the judge determines that there is no objecting person, or if the judge determines that there is one or more objecting persons but no objecting person has sustained the burden of proof specified in this division, the judge may enter an order directing the receiver to offer the building and the property for sale upon terms and conditions that the judge shall specify.

(b) In any sale of subsidized housing that is ordered pursuant to this section, the judge shall specify that the subsidized housing not be conveyed unless that conveyance complies with applicable federal law and applicable program contracts for that housing. Any such conveyance shall be subject to the condition that the purchaser enter into a contract with the department of housing and urban development or the rural housing service of the federal department of agriculture under which the property continues to be subsidized housing and the owner continues to operate that property as subsidized housing unless the secretary of housing and urban development or the administrator of the rural housing service terminates that property's contract prior to or upon the conveyance of the property.

(3) If a sale of a building and the property on which it is located is ordered pursuant to divisions (I)(1) and (2) of this section and if the sale occurs in accordance with the terms and conditions specified by the judge in the judge's order of sale, then the receiver shall distribute the proceeds of the sale and the balance of any funds that the receiver may possess, after the payment of the costs of the sale, in the following order of priority and in the described manner:

(a) First, in satisfaction of any notes issued by the receiver pursuant to division (F) of this section, in their order of priority;

(b) Second, any unreimbursed expenses and other amounts paid in accordance with division (F) of this section by the receiver, and the fees of the receiver approved pursuant to division (H)(1) of this section;

(c) Third, all expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance, provided that the expenditures were approved as described in division (H)(2)(a) of this section and provided that, if any such interested party subsequently became the receiver, its expenditures shall be paid prior to the expenditures of any of the other interested parties so selected;

(d) Fourth, the amount due for delinquent taxes, assessments, charges, penalties, and interest owed to this state or a political subdivision of this state, provided that, if the amount available for distribution pursuant to division (I)(3)(d) of this section is insufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the proceeds and remaining funds shall be paid to each claimant in proportion to the amount of those taxes, assessments, charges, penalties, and interest that each is due.

(e) The amount of any pre-receivership mortgages, liens, or other encumbrances, in their order of priority.

(4) Following a distribution in accordance with division (I)(3) of this section, the receiver shall request the judge in the civil action described in division (B)(1) of this section to enter an order terminating the receivership. If the judge determines that the sale of the building and the property on which it is located occurred in accordance with the terms and conditions specified by the judge in the judge's order of sale under division (I)(2) of this section and that the receiver distributed the proceeds of the sale and the balance of any funds that the receiver possessed, after the payment of the costs of the sale, in accordance with division (I)(3) of this section, and if the judge approves any final accounting required of the receiver, the judge may terminate the receivership.

(J)(1) A receiver appointed pursuant to divisions (C)(2) and (3) of this section may be discharged at any time in the discretion of the judge in the civil action described in division (B)(1) of this section. The receiver shall be discharged by the judge as provided in division (I)(4) of this section, or when all of the following have occurred:

(a) The public nuisance has been abated;

(b) All costs, expenses, and approved fees of the receivership have been paid;

(c) Either all receiver's notes issued and mortgages granted pursuant to this section have been paid, or all the holders of the notes and mortgages request that the receiver be discharged.

(2) If a judge in a civil action described in division (B)(1) of this section determines that, and enters of record a declaration that, a public nuisance has been abated by a receiver, and if, within three days after the entry of the declaration, all costs, expenses, and approved fees of the receivership have not been paid in full, then, in addition to the circumstances specified in division (I) of this section for the entry of such an order, the judge may enter an order directing the receiver to sell the building involved and the property on which it is located. Any such order shall be entered, and the sale shall occur, only in compliance with division (I) of this section.

(K) The title in any building, and in the property on which it is located, that is sold at a sale ordered under division (I) or (J)(2) of this section shall be incontestable in the purchaser and shall be free and clear of all liens for delinquent taxes, assessments, charges, penalties, and interest owed to this state or any political subdivision of this state, that could not be satisfied from the proceeds of the sale and the remaining funds in the receiver's possession pursuant to the distribution under division (I)(3) of this section. All other liens and encumbrances with respect to the building and the property shall survive the sale, including, but not limited to, a federal tax lien notice properly filed in accordance with [section 317.09 of the Revised Code](#) prior to the time of the sale, and the easements and covenants of record running with the property that were created prior to the time of the sale.

(L)(1) Nothing in this section shall be construed as a limitation upon the powers granted to a court of common

pleas, a municipal court or a housing or environmental division of a municipal court under Chapter 1901. of the Revised Code, or a county court under Chapter 1907. of the Revised Code.

(2) The monetary and other limitations specified in Chapters 1901. and 1907. of the Revised Code upon the jurisdiction of municipal and county courts, and of housing or environmental divisions of municipal courts, in civil actions do not operate as limitations upon any of the following:

(a) Expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance;

(b) Any notes issued by a receiver pursuant to division (F) of this section;

(c) Any mortgage granted by a receiver in accordance with division (F) of this section;

(d) Expenditures in connection with the foreclosure of a mortgage granted by a receiver in accordance with division (F) of this section;

(e) The enforcement of an order of a judge entered pursuant to this section;

(f) The actions that may be taken pursuant to this section by a receiver or a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance.

(3) A judge in a civil action described in division (B)(1) of this section, or the judge's successor in office, has continuing jurisdiction to review the condition of any building that was determined to be a public nuisance pursuant to this section.

3767.50 Foreclosure to abate blighted parcels

(A) For purposes of this section:

(1) "Blighted parcel" has the same meaning as in [section 1.08 of the Revised Code](#).

(2) "Owner" means any of the following:

(a) The owner of record as shown on the current tax list of the county auditor;

(b) A person who has a freehold or lesser estate in the premises;

(c) A mortgagee in possession or vendee in possession who evidences charge, care, or control of the premises, including, but not limited to, a person to whom the sheriff has issued a deed for the premises after a judicial sale regardless of whether the deed has been recorded;

(d) A person who has charge, care, or control of the premises as executor, administrator, assignee, receiver, trustee, or legal guardian;

(e) A person who holds the person's self out to be in charge, care, or control of the premises as evidenced by the negotiation of written or oral lease agreements for the premises, the collection of rents for the premises, the performance of maintenance or repairs on the premises, or the authorization of others to perform maintenance or repairs on the premises.

(B)(1) A municipal corporation, in addition to any other remedy authorized by law, has 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. It is an affirmative defense to an action under this division that the owner of the blighted parcel has not been in default on any mortgage on the property for twelve months or more or that there is a bankruptcy proceeding pending in which the blighted parcel has been listed as an asset. To maintain the action, it is not necessary for the municipal corporation to have a lien of its own upon the property. Rather, it is sufficient for the municipal corporation to allege that, because of the continuing existence of conditions causing the property to be a blighted parcel, the owner has defaulted on the terms of any agreement giving rise to a lien for failure to maintain the property, and then to marshal and plead for foreclosure of any or all outstanding liens upon the blighted parcel. Section 3767.50 of the Revised Code does not create a cause of action regarding any property not subject to a lien. The municipal corporation shall not marshal a lien held by the United States, a lien held by this state other than a lien for real property taxes and assessments, a lien held by a political subdivision other than itself, or a lien vested by a tax certificate held under [sections 5721.30 to 5721.43 of the Revised Code](#). The municipal corporation shall join as a party to the action a lienholder whose lien is being marshaled and shall notify the lienholder party that the municipal corporation is proceeding to foreclose the lien under this section and that the lienholder party may remediate the conditions of the parcel constituting blight. If a lienholder party certifies to the court that the party will remediate the conditions of the parcel constituting blight within sixty days after the party is served with a copy of the complaint of the foreclosure action, the municipal corporation shall move to dismiss the action.

In a judicial sale of a blighted parcel that is ordered as a result of the foreclosure action, the priority of distribution of the proceeds from the sale shall not be altered because the municipal corporation marshaled and foreclosed on one or more liens. Rather, proceeds from the sale shall be distributed according to the priorities otherwise established by law.

(2) The environmental division of the municipal court has exclusive original jurisdiction of an action under this section.

(C)(1) With respect to any blighted parcel that is or may be subject to an action under this section, the municipal corporation may notify the taxing authority of each taxing unit in which the blighted parcel is located that the municipal corporation is proceeding to foreclose the lien under this section. The notice shall state that the taxing authority may preserve its claim on any distributions of delinquent or unpaid taxes and assessments charged against the blighted parcel and arising from the judicial sale proceeds by responding in writing to the municipal corporation within a period of time to be specified in the notice. The written response shall be certified by the taxing authority or by the fiscal officer or other person authorized by the taxing authority to respond. If such a response is received by the municipal corporation within the specified time, or if such a notice is not provided, the taxing authority's claim on distributions of delinquent or unpaid taxes and assessments charged against the blighted parcel and payable from proceeds of the judicial sale shall be preserved and shall be disposed of in the priority and manner otherwise prescribed by law. If such a notice is provided and the response is not received within the specified time, the taxing authority's claim on the delinquent or unpaid taxes and assessments is extinguished, the lien for such taxes is satisfied and discharged to the extent of that claim, and the blighted parcel may be sold at judicial sale free and clear of such lien to that extent, unless the successful bidder at the judicial sale is a lienholder of the blighted parcel. If the successful bidder is a lienholder of the blighted parcel, the lien for all delinquent or unpaid taxes and assessments charged against the blighted parcel shall continue until discharged as otherwise provided by law.

(2) The taxing authority of a taxing unit and a municipal corporation may enter into an agreement whereby the taxing authority consents in advance to release the taxing authority's claim on distributions of delinquent or unpaid taxes and assessments charged against blighted parcels in the taxing unit's territory and waives its right to prior notice and response under division (C)(1) of this section. The agreement shall provide for any terms and conditions on the release of such claim as are mutually agreeable to the taxing authority and municipal corporation, including any option vesting in the taxing authority the right to revoke its release with respect to any blighted parcel before the release becomes effective, and the manner in which notice of such revocation shall be effected.

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