

OH HB 134 Summary

Ohio House Bill 134, recently passed by the House, makes changes relative to judicial foreclosure actions. First, it permits the holder of a mortgage note to bring a summary foreclosure action against a residential property that appears to be "vacant and abandoned", and provides judicial and sale procedures for those properties.

The bill provides that a residential property is considered vacant and abandoned if (1) the owner of the residential property is in default on the residential mortgage loan secured by that property and (2) two or more of the following circumstances apply:

- No person is visibly present from an exterior inspection of the property at the time of the inspection of the land by the appropriate official of a county, municipal corporation, or township in which the land is located, or by the holder of the mortgage note or the holder's representative.
- No utility connections, including water, sewer, natural gas, or electric connections, service the property, or no such utility connections are actively being billed by any utility provider regarding the property.
- The property is sealed because, immediately prior to being sealed, it was considered by the appropriate official to be open, vacant, or vandalized.
- Junk, litter, trash, debris, or hazardous, noxious, or unhealthy substances or materials have accumulated on the property.
- Furnishings, window treatments, and personal items are absent from the structure on the land.
- Neighbors, delivery persons, or government employees provide statements indicating that the structure on the land is vacant and abandoned.
- A risk to the health and safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property.
- A mortgagor issues a written statement expressing clear intent of all mortgagors to abandon the property.
- Any other reasonable indicia of abandonment exists.

On properties found to be vacant and abandoned, the bill authorizes a holder of a mortgage note on the property to enter and secure the property. If the holder of the mortgage note has not yet filed a foreclosure action, they may only enter the property if the mortgage or other documents provide for such entry.

The bill extinguishes an owner's right to redemption of a mortgage on residential property found to be vacant and abandoned upon the confirmation of the sale of the property.

The bill also modifies the procedures that generally apply to the judicial sale of property by:

- Establishing new procedures for sheriff's sales of residential properties subsequent to the first sale attempt.
- Requiring the purchaser of a property at a judicial sale to deposit a specified amount with the sheriff at the time of the sale.
- Requiring a court, upon motion, to return a purchaser's deposit, less the costs of a subsequent sale, when a person fails to timely pay the balance due on the purchase price of a property sold at judicial sale.
- Holding a purchaser of property at a judicial foreclosure sale responsible for the payment of any and all taxes and assessments, and any penalties and interest on those taxes and assessments that attach the day following the sale.
- Removing the requirement that a county treasurer, upon request by a county sheriff, estimate the amount of costs that should be discharged out of the proceeds from a judicial tax foreclosure sale and the subsequent refund and certification procedures.
- Requiring the sheriff to record the deed of a property sold at a judicial sale within a certain time period, or the order of confirmation of sale by the purchaser transfers the property title to the purchaser.
- Granting the judgment creditor and the first lienholder a right of redemption under certain circumstances.
- Specifying that the redemption by a judgment debtor of property sold at a judicial sale does not discharge advancements of a judgment creditor.
- Requiring additional information to be included in the notice and advertisement of judicial sales.

With respect to "unoccupied, blighted" property, the bill creates a pilot program under which a municipal corporation may seek an order for remediation against the owner of the property in the Cleveland Municipal Court Housing Division, the Franklin County Municipal Court Environmental Division, or the Toledo Municipal Court Housing Division, and:

- 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 will order the parcel sold, with no minimum bid required as a condition of sale.
- 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 free and clear of all liens and interests in the property other than federal tax liens.

- 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, to conduct the sale, to provide a deed to the purchaser, to distribute sale proceeds, and to collect fees.
- 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.
- Allows the municipal corporation to remediate the conditions constituting blight, if the purchaser fails to remediate the conditions constituting blight in accordance with the bill's provisions, and to take a judgment against the purchaser for the costs.

Under the bill, an owner who knowingly causes physical harm to the owner's residential property is guilty of criminal mischief if the property is the subject of a foreclosure action.

Finally, the bill also expands the jurisdiction of the Toledo Municipal Court over certain real property actions and expands the responsibilities of the clerk of the court of common pleas related to the filing of a judgment of foreclosure.

[OH HB 134 Text](#)