

## **Chapter 323: COLLECTION OF TAXES**

### **323.121 Penalty and interest for failure to pay real estate taxes and installments when due**

(A)(1) Except as otherwise provided in division (A)(2) of this section, if one-half of the current taxes charged against an entry of real estate together with the full amount of any delinquent taxes are not paid on or before the thirty-first day of December in that year or on or before the last day for payment as extended pursuant to section 323.17 of the Revised Code, a penalty of ten per cent shall be charged against the unpaid balance of such half of the current taxes on the duplicate. If the total amount of all the taxes is not paid on or before the twentieth day of June, next thereafter, or on or before the last day for payment as extended pursuant to section 323.17 of the Revised Code, a like penalty shall be charged on the balance of the total amount of such unpaid current taxes.

(2) After a valid delinquent or omitted tax contract that includes unpaid current taxes from a first-half collection period described in section 323.12 of the Revised Code has been entered into under section 323.31 or 5713.20 of the Revised Code, no ten per cent penalty shall be charged against such taxes after the second-half collection period while the delinquent or omitted tax contract remains in effect. On the day a delinquent or omitted tax contract becomes void, the ten per cent penalty shall be charged against such taxes and shall equal the amount of penalty that would have been charged against unpaid current taxes outstanding on the date on which the second-half penalty would have been charged thereon under division (A)(1) of this section if the contract had not been in effect.

(B)(1) On the first day of the month following the last day the second installment of taxes may be paid without penalty, interest shall be charged against and computed on all delinquent taxes other than the current taxes that became delinquent taxes at the close of the last day such second installment could be paid without penalty. The charge shall be for interest that accrued during the period that began on the preceding first day of December and ended on the last day of the month that included the last date such second installment could be paid without penalty. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the tax list and duplicate compiled under section 319.28 or 5721.011 of the Revised Code, whichever list and duplicate are first compiled after the date on which the interest is computed and charged. However, for tracts and lots on the real property tax suspension list under section 319.48 of the Revised Code, the interest shall not be entered on the tax list and duplicate compiled under section 319.28 of the Revised Code, but shall be entered on the first tax list and duplicate compiled under section 5721.011 of the Revised Code after the date on which the interest is computed and charged.

(2) In a county on behalf of which a county land reutilization corporation has been organized under Chapter 1724. of the Revised Code, upon the written order of the county

treasurer, interest shall be charged against and computed on delinquent taxes as provided in division (B)(2)(a) or (b) of this section, as prescribed in the order:

(a) In the manner provided under divisions (B)(1) and (B)(3) of this section, except that the interest shall be computed at the rate of twelve per cent per annum; or

(b) On the first day of the month following the month in which interest otherwise would be charged in accordance with division (B)(1) of this section as specified in the order, and each subsequent month, interest shall be charged against and computed on all delinquent taxes remaining delinquent on the last day of the preceding month at a rate of one per cent per month.

The county treasurer shall file a copy of the order directing the rate and manner of charging interest under this division with the county treasurer and the tax commissioner. If interest is charged under division (B)(2) of this section, interest shall not be charged under division (B)(1) or (3) of this section.

(3) On the first day of December, the interest shall be charged against and computed on all delinquent taxes. The charge shall be for interest that accrued during the period that began on the first day of the month following the last date prescribed for the payment of the second installment of taxes in the current year and ended on the immediately preceding last day of November. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the tax list and duplicate compiled under section 319.28 or 5721.011 of the Revised Code, whichever list and duplicate are first compiled after the date on which the interest is computed and charged. However, for tracts and lots on the real property tax suspension list under section 319.48 of the Revised Code, the interest shall not be entered on the tax list and duplicate compiled under section 319.28 of the Revised Code, but shall be entered on the first tax list and duplicate compiled under section 5721.011 of the Revised Code after the date on which the interest is computed and charged.

(4) After a valid delinquent tax contract has been entered into for the payment of any delinquent taxes, no interest shall be charged against such delinquent taxes while the delinquent tax contract remains in effect in compliance with section 323.31 of the Revised Code. If a valid delinquent tax contract becomes void, interest shall be charged against the delinquent taxes for the periods that interest was not permitted to be charged while the delinquent tax contract was in effect. The interest shall be charged on the day the delinquent tax contract becomes void and shall equal the amount of interest that would have been charged against the unpaid delinquent taxes outstanding on the dates on which interest would have been charged thereon under divisions (B)(1), (2), and (3) of this section had the delinquent tax contract not been in effect.

(C) If the full amount of the taxes due at either of the times prescribed by division (A) of this section is paid within ten days after such time, the county treasurer shall waive the collection of and the county auditor shall remit one-half of the penalty provided for in that division for failure to make that payment by the prescribed time.

(D) The county treasurer shall compile and deliver to the county auditor a list of all tax payments the treasurer has received as provided in division (C) of this section. The list shall include any information required by the auditor for the remission of the penalties waived by the treasurer. The taxes so collected shall be included in the settlement next succeeding the settlement then in process.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 06-15-2004; 2008 SB353 04-07-2009

### **323.132 Paying delinquent taxes**

If one-half of the current taxes charged against an entry of real estate is not paid on or before the thirty-first day of December of the year for which they are charged or on or before the last day for such payment as extended pursuant to section 323.17 of the Revised Code, that amount, together with the penalty charged under division (A)(1) of section 323.121 of the Revised Code and all delinquent taxes or installment thereof charged against such entry may be paid at any time prior to the date on which tax bills for the second half collection are mailed and delivered, without at the same time requiring payment of the second half of such taxes.

If the total amount of such current taxes, delinquent taxes, and all installment payments due under section 323.31 of the Revised Code are not paid on or before the twentieth day of June, next thereafter, or on or before the last day for that payment as extended pursuant to section 323.17 of the Revised Code, the balance of the amount of such taxes, plus all penalties and interest imposed by section 323.121 of the Revised Code, constitutes the delinquent taxes on such entry, which shall be placed on the delinquent land list and duplicate pursuant to section 5721.011 of the Revised Code and shall be collected in the manner prescribed by law, unless the property against which such taxes are charged is the subject of an application for exemption from taxation pursuant to section 5715.27 of the Revised Code.

A taxpayer may tender, and the treasurer shall accept, the full amount of delinquent taxes charged against an entry of real estate without having to tender at the same time the payment of any current taxes that are due and payable.

A county treasurer may accept partial payments of taxes. Any overpayment shall be refunded by the treasurer in the manner most convenient to the treasurer. When the amount tendered and accepted is less than the amount due, the unpaid balance shall be treated as other unpaid taxes, and, except when the unpaid amount is the penalty or interest and charges on the unpaid taxes, the treasurer shall notify the taxpayer of such deficiency.

If the taxpayer files with the payment of taxes a copy of an application to the tax commissioner for remission of penalty, or the payment is received within ten days after the

last day the taxes may be paid without penalty, the county treasurer shall accept a partial payment in which the only unpaid amount is the penalty for late payment.

If, at any time, and having been provided such documentation as may be found acceptable by the county treasurer, the county treasurer determines that due to a clerical error, a taxpayer has overpaid either the first one-half or second one-half payment of current taxes as charged on the tax list and duplicate, the treasurer may refund the amount of the overpayment to the taxpayer in the manner most convenient to the treasurer.

Effective Date: 10-27-2000; 2008 SB353 04-07-2009

### **323.15 Payment of less than full amount due - payment by owner of undivided interest**

The county treasurer may accept payment of less than the full amount of taxes charged and payable for all purposes on real estate at the times provided by sections 323.12 and 323.17 of the Revised Code in such amounts as the county treasurer considers reasonable. Except as otherwise provided by sections 323.133, 323.31, and 5715.19 of the Revised Code, and when the collection of a particular tax is legally enjoined, interest and penalties shall accrue on the unpaid amount as prescribed by section 323.121 of the Revised Code. A person claiming to be the owner of an undivided interest in any real estate may present to the county auditor the recorded evidence of the existence and fractional extent of such interest; and the auditor may note the existence and extent of such interest, as ascertained by the auditor, on the margin of the tax list in the name of such person and give a certificate of the interest to the county treasurer, who shall enter it on the margin of the tax duplicate. Any person claiming to be entitled to or in any way interested in such interest may pay, and the treasurer may receive that proportion of the full amount of the taxes charged and payable for all purposes on the real estate affected, which is represented by the fraction expressing the extent of such interest. The payment so made and received shall be entered on the duplicate, shall be credited by the treasurer at the time of the next succeeding settlement of real estate taxes, and shall have the effect of relieving the undivided interest in such real estate, so entered on the margin of the tax list and duplicate, from the lien of the taxes charged on such duplicate against the real estate. Thereafter, in making up the tax list and duplicate, the auditor shall enter such interest and the proportional value of it separately from the other interests in such land, and shall adjust the value of the latter accordingly.

Effective Date: 10-27-2000; 2008 SB353 04-07-2009

### **323.25 Enforcing tax lien**

When taxes charged against an entry on the tax duplicate, or any part of those taxes, are not paid within sixty days after delivery of the delinquent land duplicate to the county treasurer as prescribed by section 5721.011 of the Revised Code, the county treasurer shall enforce the lien for the taxes by civil action in the treasurer's official capacity as treasurer,

for the sale of such premises in the same way mortgage liens are enforced or for the transfer of such premises to an electing subdivision pursuant to section 323.28 of the Revised Code, in the court of common pleas of the county, in a municipal court with jurisdiction, or in the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code. After the civil action has been instituted, but before the expiration of the applicable redemption period, any person entitled to redeem the land may do so by tendering to the county treasurer an amount sufficient, as determined by the court or board of revision, to pay the taxes, assessments, penalties, interest, and charges then due and unpaid, and the costs incurred in the civil action, and by demonstrating that the property is in compliance with all applicable zoning regulations, land use restrictions, and building, health, and safety codes.

If the delinquent land duplicate lists minerals or rights to minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, the county treasurer may enforce the lien for taxes against such minerals or rights to minerals by civil action, in the treasurer's official capacity as treasurer, in the manner prescribed by this section, or proceed as provided under section 5721.46 of the Revised Code.

If service by publication is necessary, such publication shall be made once a week for three consecutive weeks instead of as provided by the Rules of Civil Procedure, and the service shall be complete at the expiration of three weeks after the date of the first publication. If the prosecuting attorney determines that service upon a defendant may be obtained ultimately only by publication, the prosecuting attorney may cause service to be made simultaneously by certified mail, return receipt requested, ordinary mail, and publication. The county treasurer shall not enforce the lien for taxes against real property to which any of the following applies:

(A) The real property is the subject of an application for exemption from taxation under section 5715.27 of the Revised Code and does not appear on the delinquent land duplicate;

(B) The real property is the subject of a valid delinquent tax contract under section 323.31 of the Revised Code for which the county treasurer has not made certification to the county auditor that the delinquent tax contract has become void in accordance with that section;

(C) A tax certificate respecting that property has been sold under section 5721.32 or 5721.33 of the Revised Code; provided, however, that nothing in this division shall prohibit the county treasurer or the county prosecuting attorney from enforcing the lien of the state and its political subdivisions for taxes against a certificate parcel with respect to any or all of such taxes that at the time of enforcement of such lien are not the subject of a tax certificate.

Upon application of the plaintiff, the court shall advance such cause on the docket, so that it may be first heard.

Effective Date: 03-11-2004; 2008 HB138 09-11-2008; 2008 SB353 04-07-2009

### **323.26 Allegations in petition - evidence**

Having made the proper parties in a suit under section 323.25 of the Revised Code, it shall be sufficient for the county treasurer to allege in the treasurer's petition that the taxes are charged on the tax duplicate against lands, lots, or parcels thereof, the amount of the taxes, and that the taxes are unpaid, and the treasurer shall not be required to set forth in the petition any other or further special matter relating to such taxes. A certified copy of the entry on the tax duplicate shall be prima-facie evidence of such allegations and the validity of the taxes. In the petition, the county treasurer of a county in which a county land reutilization corporation is organized under Chapter 1724. of the Revised Code may invoke the alternative redemption period provided under section 323.78 of the Revised Code. Notwithstanding the provisions for sale of property foreclosed under Chapters 323. and 5721. of the Revised Code, if the treasurer's petition invokes the alternative redemption period, upon the expiration of the alternative redemption period, title to the parcels may be transferred by deed to a municipal corporation, county, township, school district, or a county land reutilization corporation in accordance with section 323.78 of the Revised Code.

Effective Date: 09-21-1982; 2008 SB353 04-07-2009

### **323.28 Finding and decree - appraisal and sale of property - proceeds of sale**

(A) A finding shall be entered in a proceeding under section 323.25 of the Revised Code for taxes, assessments, penalties, interest, and charges due and payable at the time the deed of real property sold or transferred under this section is transferred to the purchaser or transferee, plus the cost of the proceeding. For purposes of determining such amount, the county treasurer may estimate the amount of taxes, assessments, interest, penalties, charges, and costs that will be payable at the time the deed of the property is transferred to the purchaser or transferee.

The court of common pleas, a municipal court with jurisdiction, or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code shall order such premises to be transferred pursuant to division (E) of this section or shall order such premises to be sold for payment of the finding, but for not less than either of the following, unless the county treasurer applies for an appraisal:

- (1) The total amount of such finding;
- (2) The fair market value of the premises, as determined by the county auditor, plus the cost of the proceeding.

If the county treasurer applies for an appraisal, the premises shall be appraised in the manner provided by section 2329.17 of the Revised Code, and shall be sold for at least two-thirds of the appraised value.

Notwithstanding the minimum sales price provisions of divisions (A)(1) and (2) of this section to the contrary, a parcel sold pursuant to this section shall not be sold for less than the amount described in division (A)(1) of this section if the highest bidder is the owner of record of the parcel immediately prior to the judgment of foreclosure or a member of the following class of parties connected to that owner: a member of that owner's immediate family, a person with a power of attorney appointed by that owner who subsequently transfers the parcel to the owner, a sole proprietorship owned by that owner or a member of the owner's immediate family, or partnership, trust, business trust, corporation, or association in which the owner or a member of the owner's immediate family owns or controls directly or indirectly more than fifty per cent. If a parcel sells for less than the amount described in division (A)(1) of this section, the officer conducting the sale shall require the buyer to complete an affidavit stating that the buyer is not the owner of record immediately prior to the judgment of foreclosure or a member of the specified class of parties connected to that owner, and the affidavit shall become part of the court records of the proceeding. If the county auditor discovers within three years after the date of the sale that a parcel was sold to that owner or a member of the specified class of parties connected to that owner for a price less than the amount so described, and if the parcel is still owned by that owner or a member of the specified class of parties connected to that owner, the auditor within thirty days after such discovery shall add the difference between that amount and the sale price to the amount of taxes that then stand charged against the parcel and is payable at the next succeeding date for payment of real property taxes. As used in this paragraph, "immediate family" means a spouse who resides in the same household and children.

(B) From the proceeds of the sale the costs shall be first paid, next the amount found due for taxes, then the amount of any taxes accruing after the entry of the finding and before the deed of the property is transferred to the purchaser following the sale, all of which taxes shall be deemed satisfied, though the amount applicable to them is deficient, and any balance shall be distributed according to section 5721.20 of the Revised Code. No statute of limitations shall apply to such action. Upon sale, all liens for taxes due at the time the deed of the property is transferred to the purchaser following the sale, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged unless otherwise provided by the order of sale.

(C) If the county treasurer's estimate of the amount of the finding under division (A) of this section exceeds the amount of taxes, assessments, interest, penalties, and costs actually payable when the deed is transferred to the purchaser, the officer who conducted the sale shall refund to the purchaser the difference between the estimate and the amount actually payable. If the amount of taxes, assessments, interest, penalties, and costs actually payable when the deed is transferred to the purchaser exceeds the county treasurer's estimate, the officer shall certify the amount of the excess to the treasurer, who shall enter that amount on the real and public utility property tax duplicate opposite the property; the amount of the excess shall be payable at the next succeeding date prescribed for payment of taxes in section 323.12 of the Revised Code, and shall not be deemed satisfied and discharged pursuant to division (B) of this section.

(D) Premises ordered to be sold under this section but remaining unsold for want of bidders after being offered for sale on two separate occasions, not less than two weeks apart, shall be forfeited to the state or to a political subdivision, school district, or county land reutilization corporation pursuant to section 5723.01 of the Revised Code, and shall be disposed of pursuant to Chapter 5723. of the Revised Code.

(E) Notwithstanding section 5722.03 of the Revised Code, if the complaint alleges that the property is delinquent vacant land as defined in section 5721.01 of the Revised Code, abandoned lands as defined in section 323.65 of the Revised Code, or lands described in division (E) of section 5722.01 of the Revised Code, and the value of the taxes, assessments, penalties, interest, and all other charges and costs of the action exceed the auditor's fair market value of the parcel, then the court or board of revision having jurisdiction over the matter on motion of the plaintiff, or on the court's or board's own motion, shall, upon any adjudication of foreclosure, order, without appraisal and without sale, the fee simple title of the property to be transferred to and vested in an electing subdivision as defined in division (A) of section 5722.01 of the Revised Code. For purposes of determining whether the taxes, assessments, penalties, interest, and all other charges and costs of the action exceed the actual fair market value of the parcel, the auditor's most current valuation shall be rebuttably presumed to be, and constitute prima-facie evidence of, the fair market value of the parcel. In such case, the filing for journalization of a decree of foreclosure ordering that direct transfer without appraisal or sale shall constitute confirmation of the transfer and thereby terminate any further statutory or common law right of redemption.

(F) Whenever the officer charged to conduct the sale offers any parcel for sale, the officer first shall read aloud a complete legal description of the parcel, or in the alternative, may read aloud only a summary description and a parcel number if the county has adopted a permanent parcel number system and if the advertising notice published prior to the sale includes a complete legal description or indicates where the complete legal description may be obtained.

Effective Date: 05-25-1994; 2008 HB138 09-11-2008; 2008 SB353 04-07-2009

### **323.31 Delinquent tax contract with treasurer**

(A)(1) A person who owns agricultural real property or owns and occupies residential real property or a manufactured or mobile home that does not have an outstanding tax lien certificate or judgment of foreclosure against it, and a person who is a vendee of such property under a purchase agreement or land contract and who occupies the property, shall have at least one opportunity to pay any delinquent or unpaid current taxes, or both, charged against the property by entering into a written delinquent tax contract with the county treasurer in a form prescribed or approved by the tax commissioner. Subsequent opportunities to enter into a delinquent tax contract shall be at the county treasurer's sole discretion.

(2) The treasurer may enter into a delinquent tax contract in accordance with division (A) of this section with an owner or vendee of real property, other than residential real property or a manufactured or mobile home that is occupied by the owner, and other than agricultural real property.

(3) The delinquent tax contract described in division (A) of this section may be entered into at any time prior to an adjudication of foreclosure pursuant to proceedings by the county treasurer and the county prosecuting attorney pursuant to section 323.25 or 323.65 to 323.79 of the Revised Code or by the county prosecuting attorney pursuant to section 5721.18 of the Revised Code, the adjudication of foreclosure pursuant to proceedings by a private attorney pursuant to section 5721.37 of the Revised Code, the commencement of foreclosure and forfeiture proceedings pursuant to section 5721.14 of the Revised Code, or the commencement of collection proceedings pursuant to division (H) of section 4503.06 of the Revised Code by the filing of a civil action as provided in that division. A duplicate copy of each delinquent tax contract shall be filed with the county auditor, who shall attach the copy to the delinquent land tax certificate, delinquent vacant land tax certificate, or the delinquent manufactured home tax list, or who shall enter an asterisk in the margin next to the entry for the tract or lot on the master list of delinquent tracts, master list of delinquent vacant tracts, or next to the entry for the home on the delinquent manufactured home tax list, prior to filing it with the prosecuting attorney under section 5721.13 of the Revised Code, or, in the case of the delinquent manufactured home tax list, prior to delivering it to the county treasurer under division (H)(2) of section 4503.06 of the Revised Code. If the delinquent tax contract is entered into after the certificate or the master list has been filed with the prosecuting attorney, the treasurer shall file the duplicate copy with the prosecuting attorney.

(4) A delinquent tax contract entered into under division (A) of this section shall provide for the payment of any delinquent or unpaid current taxes, or both, in installments over a period not to exceed five years after the date of the first payment made under the contract; however, a person entering into a delinquent tax contract who owns and occupies residential real property may request, and the treasurer shall allow, a delinquent tax contract providing for payment in installments over a period of no fewer than two years after the date of the first payment made under the contract.

(5) For each delinquent tax contract entered into under division (A) of this section, the county treasurer shall determine and shall specify in the delinquent tax contract the number of installments, the amount of each installment, and the schedule for payment of the installments. Except as otherwise provided for taxes, penalties, and interest under division (B) of section 319.43 of the Revised Code, the part of each installment payment representing taxes and penalties and interest thereon shall be apportioned among the several taxing districts in the same proportion that the amount of taxes levied by each district against the entry in the preceding tax year bears to the taxes levied by all such districts against the entry in the preceding tax year. The part of each payment representing assessments and other charges shall be credited to those items in the order in which they became due. Each payment made to a taxing district shall be apportioned among the taxing district's several funds for which taxes or assessments have been levied.

(6) When an installment payment is not received by the treasurer when due under a delinquent tax contract entered into under division (A) of this section or any current taxes or special assessments charged against the property become unpaid, the delinquent tax contract becomes void unless the treasurer permits a new delinquent tax contract to be entered into; if the treasurer does not permit a new delinquent tax contract to be entered into, the treasurer shall certify to the auditor that the delinquent tax contract has become void.

(7) Upon receipt of certification described in division (A)(6) of this section, the auditor shall destroy the duplicate copy of the voided delinquent tax contract. If such copy has been filed with the prosecuting attorney, the auditor immediately shall deliver the certification to the prosecuting attorney, who shall attach it to the appropriate certificate and the duplicate copy of the voided delinquent tax contract or strike through the asterisk entered in the margin of the master list next to the entry for the tract or lot that is the subject of the voided delinquent tax contract. The prosecuting attorney then shall institute a proceeding to foreclose the lien of the state in accordance with section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code or, in the case of delinquent vacant land, a foreclosure proceeding in accordance with section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code, or a foreclosure and forfeiture proceeding in accordance with section 5721.14 of the Revised Code. In the case of a manufactured or mobile home, the county treasurer shall cause a civil action to be brought as provided under division (H) of section 4503.06 of the Revised Code.

(B) If there is an outstanding tax certificate respecting a delinquent parcel under section 5721.32 or 5721.33 of the Revised Code, a written delinquent tax contract may not be entered into under this section. To redeem a tax certificate in installments, the owner or other person seeking to redeem the tax certificate shall enter into a redemption payment plan under division (C) of section 5721.38 of the Revised Code.

(C) As used in this section, "unpaid current taxes" means any current taxes charged on the general tax list and duplicate of real and public utility property or the manufactured home tax list and duplicate that remain unpaid after the last day prescribed for payment of the first installment of such taxes without penalty, and any penalties associated with such taxes.

Effective Date: 06-15-2004; 2008 SB353 04-07-2009

### **323.47 Lien on land to be discharged out of proceeds of sale**

(A) If land held by tenants in common is sold upon proceedings in partition, or taken by the election of any of the parties to such proceedings, or real estate is sold by administrators, executors, guardians, or trustees, the court shall order that the taxes, penalties, and assessments then due and payable, and interest on those taxes, penalties, and assessments, that are or will be a lien on such land or real estate at the time the deed is transferred following the sale, be discharged out of the proceeds of such sale or election. For purposes

of determining such amount, the county treasurer shall estimate the amount of taxes, assessments, interest, and penalties that will be payable at the time the deed of the property is transferred to the purchaser. If the county treasurer's estimate exceeds the amount of taxes, assessments, interest, and penalties actually payable when the deed is transferred to the purchaser, the officer who conducted the sale shall refund to the purchaser the difference between the estimate and the amount actually payable. If the amount of taxes, assessments, interest, and penalties actually payable when the deed is transferred to the purchaser exceeds the county treasurer's estimate, the officer shall certify the amount of the excess to the treasurer, who shall enter that amount on the real and public utility property tax duplicate opposite the property; the amount of the excess shall be payable at the next succeeding date prescribed for payment of taxes in section 323.12 of the Revised Code.

(B)(1) If real estate is sold at judicial sale, the court shall order that the total of the following amounts shall be discharged out of the proceeds of the sale but only to the extent of such proceeds:

(a) Taxes and assessments the lien for which attaches before the confirmation of sale but that are not yet determined, assessed, and levied for the year in which confirmation occurs, apportioned pro rata to the part of that year that precedes confirmation, and any penalties and interest on those taxes and assessments;

(b) All other taxes, assessments, penalties, and interest the lien for which attached for a prior tax year but that have not been paid on or before the date of confirmation.

(2) Upon the request of the officer who conducted the sale, the county treasurer shall estimate the amount in division (B)(1)(a) of this section. If the county treasurer's estimate exceeds that amount, the officer who conducted the sale shall refund to the purchaser the difference between the estimate and the actual amount. If the actual amount exceeds the county treasurer's estimate, the officer shall certify the amount of the excess to the treasurer, who shall enter that amount on the real and public utility property tax duplicate opposite the property; the amount of the excess shall be payable at the next succeeding date prescribed for payment of taxes in section 323.12 of the Revised Code.

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Effective Date: 09-21-1982

### **323.49 Power of county treasurer to become receiver of land - procedure - exception**

(A) In addition to all other means provided by law for collecting taxes and assessments charged upon real estate specifically as such and penalties and interest charged on any tax list and duplicate or delinquent land list in any county against any entry of real estate, the county treasurer at any time after any installment of such taxes and assessments has been

delinquent for more than six months and remains due and unpaid shall apply by petition to the court of common pleas to be appointed receiver ex officio of the rents, issues, and income of the real property against which such taxes and assessments are charged, for the purpose of satisfying out of such rents, issues, and income the taxes and assessments upon such real property, together with the penalties, interest, and costs charged or thereafter becoming chargeable on any tax list and duplicate, or otherwise collectible in respect thereof, and such costs and expenses of the receivership as are allowed by the court.

(B) If the proper parties are before the court, it shall be sufficient for the treasurer to allege in such petition the description of such real property that appears on the tax list and duplicate, that the money appearing to be due and unpaid by the tax list and duplicate or by the delinquent land list has been due and unpaid for more than six months, and that the treasurer believes that collection thereof can be made by applying the rents, issues, and income of such real property thereto, without setting forth in the petition any other or special matter relating thereto. The prayer of the petition shall be that the court make an order that the rents, issues, and income of such real property be applied to the payment of the amount set forth in the petition, and if a penalty is otherwise chargeable by law on all or any part of such amount, to the payment of such penalty to the date of final entry in such action, and that the plaintiff be appointed receiver ex officio of such rents, issues, and income for that purpose.

(C) In such proceedings the treasurer may join in one action any number of lots or lands, but the decree and any orders shall be rendered separately, and any proceedings may be severed in the decision of the court for the purpose of trial or appeal, where an appeal is allowed, and the court shall make such order for payment of costs as it deems equitable.

(D) The tax duplicate or the delinquent land tax certificate or master list of delinquent tracts filed by the auditor with the prosecuting attorney shall be prima-facie evidence on the trial of such action of the amount and validity of the taxes, assessments, and charges appearing due and unpaid thereon and of the nonpayment thereof. The petition of the treasurer shall be verified and shall be prima-facie evidence of all other facts therein stated.

(E) This section does not apply to any of the following:

(1) Real property entirely used and occupied in good faith by the owner thereof as a private residence;

(2) The collection of delinquent taxes and assessments charged against real property, the payment of which is subject to a delinquent tax contract entered into pursuant to section 323.31 of the Revised Code, so long as the delinquent tax contract remains in effect;

(3) The collection of delinquent taxes charged against real property that is the subject of an application for exemption from taxation pursuant to section 5715.27 of the Revised Code.

(F) A county treasurer appointed under this section as receiver ex officio of the rents, issues, and income of the real property against which the delinquent taxes, assessments,

penalties, interest, and charges are charged, with the consent of the court, may enter into a written agreement with a county land reutilization corporation organized under Chapter 1724. of the Revised Code for the corporation, acting as the treasurer's agent, to exercise all powers granted to the treasurer under this section and the order of appointment as receiver ex officio.

Effective Date: 10-27-2000; 2008 SB353 04-07-2009

Effective Date: 10-27-2000; 2008 SB353 04-07-2009

### **323.50 Decision of court - rental value of commercial property - ability to collect taxes from income - discharge of receiver**

In proceedings brought under section 323.49 of the Revised Code, a finding shall be entered of the amount of taxes and assessments found due and unpaid, of the penalty, interest, costs, and charges, and of the probable annual amount of the rents, issues, and income of such real property, together with the probable costs and expenses of the receivership. If such real property is used in whole or in part by the owner thereof for manufacturing, mercantile, industrial, commercial, or other business purposes, the court of common pleas shall find the annual rental value thereof, which shall be considered as rents, issues, and income of such real property for the purposes of this section. If the court finds that the amount due and unpaid, together with penalty, interest, costs, and other charges, and the costs and expenses of the receivership applied for can be so collected, the court shall order the same to be satisfied out of the rents, issues, and income of such property , shall appoint the county treasurer receiver ex officio thereof, and may consent to the agency of a county land reutilization corporation if requested by the treasurer in a petition filed under division (F) of section 323.49 of the Revised Code; provided that if the court finds that the aggregate probable annual amount of the rents, issues, and income of such real property joined in any one such action is less than two thousand dollars, it shall be conclusively presumed that the amount due and unpaid, together with penalty, interest, costs, and other charges, cannot be collected, and in such event no such order shall be made and the proceedings shall be dismissed, but the court in such event shall adjudge the costs of the proceedings against the defendant unless it is found that the action was improvidently filed, in which event the costs may be adjudged against the treasurer, and the treasurer shall pay the same from an appropriation made for such purposes by the board of county commissioners. Such receiver or the receiver's agent shall not be required to give bond other than the treasurer's official bond. Upon application of any proper party, the court shall, after a full hearing, order the receiver or the receiver's agent to pay out of the rents, issues, and income collected by the receiver or the receiver's agent from such property such expenses in connection with the maintenance and operation of the property as the court finds necessary to secure the greatest income from such property, and shall from such rents, issues, and income order the payment of premiums for fire, windstorm, and public liability insurance. If the real property is used in whole or in part by the owner thereof for manufacturing, mercantile, industrial, commercial, or other business purposes, the court shall order such owner to pay to the receiver or the receiver's agent in equal

monthly installments, in advance, the annual rental value of such real property, as found by the court, until the amount for the satisfaction of which such appointment was made, together with costs and expenses of the receivership have been paid in full. If any such installment of rent is not paid when due, such order shall have the effect of a writ authorizing the receiver or the receiver's agent summarily to evict such owner from such real property and to exclude such owner from the use and occupation thereof until such order is complied with. Whenever the amount for the satisfaction of which such appointment has been made, has been fully satisfied out of the rents, issues, and income collected by the receiver or the receiver's agent from such property, and the discharge of the receiver or the receiver's agent has been decreed by the court, the proceedings shall be dismissed, and the owner or any person interested in the real property may upon presentation of a certified copy of the final decree of the court to the treasurer receive receipted tax bills for the payment of the taxes so satisfied.

Effective Date: 09-21-1982; 2008 SB353 04-07-2009

### **323.65 Expedited foreclosure on unoccupied land definitions**

As used in sections 323.65 to 323.79 of the Revised Code:

(A) "Abandoned land" means delinquent lands or delinquent vacant lands, including any improvements on the lands, that are unoccupied and that first appeared on the list compiled under division (C) of section 323.67 of the Revised Code, or the delinquent tax list or delinquent vacant land tax list compiled under section 5721.03 of the Revised Code, at whichever of the following times is applicable:

(1) In the case of lands other than agricultural lands, at any time after the county auditor makes the certification of the delinquent land list under section 5721.011 of the Revised Code;

(2) In the case of agricultural lands, at any time after two years after the county auditor makes the certification of the delinquent land list under section 5721.011 of the Revised Code.

(B) "Agricultural land" means lands on the agricultural land tax list maintained under section 5713.33 of the Revised Code.

(C) "Clerk of court" means the clerk of the court of common pleas of the county in which specified abandoned land is located.

(D) "Delinquent lands" has the same meaning as in section 5721.01 of the Revised Code.

(E) "Delinquent vacant lands" means all lands that are delinquent lands and that are unimproved by any structure.

(F) "Impositions" means delinquent taxes, assessments, penalties, interest, costs, reasonable attorney's fees of a certificate holder, applicable and permissible costs of the prosecuting attorney of a county, and other permissible charges against abandoned land.

(G)(1) "Unoccupied," with respect to a parcel of abandoned land, means any of the following:

(a) No building, structure, land, or other improvement that is subject to taxation and that is located on the parcel is physically inhabited as a dwelling;

(b) No trade or business is actively being conducted on the parcel by the owner, a tenant, or another party occupying the parcel pursuant to a lease or other legal authority, or in a building, structure, or other improvement that is subject to taxation and that is located on the parcel;

(c) The parcel is uninhabited and there are no signs that it is undergoing a change in tenancy and remains legally habitable, or that it is undergoing improvements, as indicated by an application for a building permit or other facts indicating that the parcel is experiencing ongoing improvements;

(d) In the case of delinquent vacant land, there is no permanent structure or improvement affixed on the land.

(2) For purposes of division (G)(1) of this section, it is prima-facie evidence and a rebuttable presumption that may be rebutted to the county board of revision that abandoned land is unoccupied if, at the time the county auditor makes the certification under section 5721.011 of the Revised Code, the abandoned land is not agricultural land, and two or more of the following apply:

(a) At the time of the inspection of the abandoned land by a county, municipal corporation, or township in which the abandoned land is located, no person, trade, or business inhabits, or is visibly present from an exterior inspection of, the abandoned land.

(b) No utility connections, including, but not limited to, water, sewer, natural gas, or electric connections, service the abandoned land, or no such utility connections are actively being billed by any utility provider regarding the abandoned land.

(c) The abandoned land is boarded up or otherwise sealed because, immediately prior to being boarded up or sealed, it was deemed by a political subdivision pursuant to its municipal, county, state, or federal authority to be open, vacant, or vandalized.

(H) "Community development organization" means a nonprofit corporation that is formed or organized under Chapter 1702. or 1724. of the Revised Code and to which both of the following apply:

(1) The organization is in good standing under law at the time the county auditor makes the certification under section 5721.011 of the Revised Code and has remained in good standing uninterrupted for at least the two years immediately preceding the time of that certification or, in the case of a county land reutilization corporation, has remained so from the date of organization if less than two years.

(2) As of the time the county auditor makes the certification under section 5721.011 of the Revised Code, the organization has received from the county, municipal corporation, or township in which abandoned land is located official authority or agreement by a duly authorized officer of that county, municipal corporation, or township to accept the owner's fee simple interest in the abandoned land and to the abandoned land being foreclosed, and that official authority or agreement had been delivered to the county treasurer or county board of revision in a form that will reasonably confirm the county's, municipal corporation's, or township's assent to transfer the land to that community development organization under section 323.74 of the Revised Code. No such official authority or agreement by a duly authorized officer of a county, municipal corporation, or township must be received if a county land reutilization corporation is authorized to receive tax-foreclosed property under its articles of incorporation, regulations, or Chapter 1724. of the Revised Code.

(I) "Certificate holder" has the same meaning as in section 5721.30 of the Revised Code.

(J) "Abandoned land list" means the list of abandoned lands compiled under division (A) of section 323.67 of the Revised Code.

(K) "Alternative redemption period," in any action to foreclose the state's lien for unpaid delinquent taxes, assessments, charges, penalties, interest, and costs on a parcel of real property pursuant to section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code, means forty-five days after an adjudication of foreclosure of the parcel is journalized by a court or county board of revision having jurisdiction over the foreclosure proceedings. Upon the expiration of the alternative redemption period, the right and equity of redemption of any owner or party shall terminate without further order of the court or

board of revision. As used in any section of the Revised Code and for any proceeding under this chapter or section 5721.18 of the Revised Code, for purposes of determining the alternative redemption period, the period commences on the day immediately following the adjudication of foreclosure and ends on and includes the forty-fifth day thereafter.

(L) "County land reutilization corporation" means a corporation organized under Chapter 1724. of the Revised Code.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.66 Expedited foreclosure by board of revision on unoccupied land**

(A) In lieu of utilizing the judicial foreclosure proceedings and other procedures and remedies available under sections 323.25 to 323.28 or under Chapter 5721., 5722., or 5723. of the Revised Code, a county board of revision created under section 5715.01 of the Revised Code, upon the board's initiative, expressed by resolution, may foreclose the state's lien for real estate taxes upon abandoned land in the county and, upon the complaint of a certificate holder or county land reutilization corporation, foreclose the lien of the state or the certificate holder held under sections 5721.30 to 5721.43 of the Revised Code. The board shall order disposition of the abandoned land by public auction or by other conveyance in the manner prescribed by sections 323.65 to 323.79 of the Revised Code.

(B)(1) A county board of revision may adopt rules as are necessary to administer cases subject to its jurisdiction under Chapter 5715. or adjudicated under sections 323.65 to 323.79 of the Revised Code, as long as the rules are consistent with rules adopted by the tax commissioner under Chapter 5715. of the Revised Code. Rules adopted by a board shall be limited to rules relating to hearing procedure, the scheduling and location of proceedings, case management, and practice forms.

(2) A county board of revision, upon any adjudication of foreclosure under sections 323.65 to 323.79 of the Revised Code, may prepare final orders of sale and deeds. For such purposes, the board may create its own order of sale and deed forms. The sheriff or clerk of court shall execute and deliver any forms prepared under this division in the manner prescribed in sections 323.65 to 323.79 of the Revised Code.

(C) In addition to all other duties and functions provided by law, under sections 323.65 to 323.79 of the Revised Code the clerk of court, in the same manner as in civil actions, shall provide summons and notice of hearings, maintain an official case file, docket all proceedings, and tax as costs all necessary actions in connection therewith in furtherance of the foreclosure of abandoned land under those sections. The county board of revision

shall file with the clerk of court all orders and adjudications of the board, and the clerk shall docket, as needed, and journalize all orders and adjudications so filed by the board. The clerk may utilize the court's existing journal or maintain a separate journal for purposes of sections 323.65 to 323.79 of the Revised Code. Other than notices of hearings, the orders and adjudications of the board shall not become effective until journalized by the clerk. Staff of the board of revision may schedule and execute, and file with the clerk of courts, notices of hearings.

(D) For the purpose of efficiently and promptly implementing sections 323.65 to 323.79 of the Revised Code, the prosecuting attorney of the county, the county treasurer, the clerk of court of the county, the county auditor, and the sheriff of the county may promulgate rules, not inconsistent with sections 323.65 to 323.79 of the Revised Code, regarding practice forms, forms of notice for hearings and notice to parties, forms of orders and adjudications, fees, publication, and other procedures customarily within their official purview and respective duties.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.67 List of parcels of abandoned land**

(A) The county treasurer, county auditor, a county land reutilization corporation, or a certificate holder, from the list compiled under division (C) of this section or the delinquent tax list or delinquent vacant land tax list compiled under section 5721.03 of the Revised Code, may identify and compile a list of the parcels in the county that the treasurer, auditor, corporation, or certificate holder determines to be abandoned lands suitable for disposition under sections 323.65 to 323.79 of the Revised Code. The list may contain one or more parcels and may be transmitted to the board of revision in such a form and manner that allows the board to reasonably discern that the parcels constitute abandoned lands.

(B)(1) From the list of parcels compiled under division (A) of this section , the county treasurer or prosecuting attorney, for purposes of collecting the delinquent taxes, interest, penalties, and charges levied on those parcels and expeditiously restoring them to the tax list , may proceed to foreclose the lien for those impositions in the manner prescribed by sections 323.65 to 323.79 of the Revised Code.

(2) If a certificate holder or county land reutilization corporation compiles a list of parcels under division (A) of this section that the certificate holder determines to be abandoned lands suitable for disposition under sections 323.65 to 323.79 of the Revised Code, the certificate holder or corporation may proceed under sections 323.68 and 323.69 of the Revised Code.

(C) For purposes of sections 323.65 to 323.79 of the Revised Code, the county auditor or county treasurer may compile or certify a list of abandoned lands in any manner and at such times as will give effect to the expedited foreclosure of abandoned land.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.68 Title search to identify persons with interest in land**

(A)(1) For each parcel subject to foreclosure under sections 323.65 to 323.79 of the Revised Code, the prosecuting attorney shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons having a legal or equitable ownership interest or other security interest of record in such abandoned land .

(2) If a certificate holder or a county land reutilization corporation compiles a list of the parcels that the certificate holder or corporation determines to be abandoned land under division (A) of section 323.67 of the Revised Code, the certificate holder or corporation shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons having a legal or equitable ownership interest or other security interest of record in the abandoned land .

(B) Notwithstanding section 5301.252 of the Revised Code, an affidavit of a type described in that section shall not be considered a lien or encumbrance on the abandoned land, and the recording of an affidavit of a type described in that section shall not serve in any way to impede the bona fide purchaser status of the purchaser of any abandoned land sold at public auction under sections 323.65 to 323.79 of the Revised Code or of any other recipient of abandoned land transferred under those sections. However, any affiant who records an affidavit pursuant to section 5301.252 of the Revised Code shall be given notice and summons under sections 323.69 to 323.79 of the Revised Code in the same manner as any lienholder.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.69 Complaint for foreclosure - dismissal by board**

(A) Upon the completion of the title search required by section 323.68 of the Revised Code, the prosecuting attorney, representing the county treasurer, the county land reutilization corporation, or the certificate holder may file with the clerk of court a complaint for the foreclosure of each parcel of abandoned land appearing on the abandoned land list , and for the equity of redemption on each parcel. The complaint shall name all parties having any interest of record in the abandoned land that was discovered in the title search.

(B)(1) In accordance with Civil Rule 4, the clerk of court promptly shall serve notice of the summons and the complaint filed under division (A) of this section to the last known address of the record owner of the abandoned land and to the last known address of each lienholder or other person having a legal or equitable ownership interest or security interest of record identified by the title search. The notice shall inform the addressee that delinquent taxes stand charged against the abandoned land; that the land will be sold at public auction or otherwise disposed of if not redeemed by the owner or other addressee; that the sale or transfer will occur at a date, time, and place, and in the manner prescribed in sections 323.65 to 323.79 of the Revised Code; that the owner or other addressee may redeem the land by paying the total of the impositions against the land at any time before confirmation of sale or transfer of the parcel as prescribed in sections 323.65 to 323.79 of the Revised Code or before the expiration of the alternative redemption period, as may be applicable to the proceeding; that the case is being prosecuted by the prosecuting attorney of the county in the name of the county treasurer for the county in which the abandoned land is located or by a certificate holder, whichever is applicable; of the name, address, and telephone number of the county board of revision before which the action is pending; of the board case number for the action, which shall be maintained in the official file and docket of the clerk of court; and that all subsequent pleadings, petitions, and papers associated with the case and filed by any interested party must be filed with the clerk of court and will become part of the case file for the board of revision.

(2) The notice required by division (B)(1) of this section also shall inform the addressee that any owner of record may, at any time on or before the twentieth day after service of process is perfected, file a pleading with the clerk of court requesting that the board dismiss the complaint and order that the abandoned land identified in the notice be removed from the abandoned land list . The notice shall further inform the addressee that, upon filing such a pleading to remove the abandoned land from that list, the abandoned land will be removed from the list and cannot thereafter be disposed of under sections 323.65 to 323.79 of the Revised Code, until the record owner of the abandoned land who is provided notice under division (B)(1) of this section sells or otherwise conveys the owner's ownership interest, and that any future attempts to collect delinquent taxes, interest, penalties, and charges owed with respect to that land and appearing on the delinquent tax list or delinquent vacant land tax list, whichever the case may be, will be conducted in accordance with the judicial foreclosure proceedings and other remedies and procedures prescribed under sections 323.25 to 323.28 or under Chapters 5721., 5722., and 5723. of the Revised Code until the record owner sells or otherwise conveys the owner's ownership interest.

(C) Subsequent pleadings, motions, or papers associated with the case and filed with the clerk of court shall be served upon all parties of record in accordance with Civil Rules 4 and

5, except that service by publication in any case requiring such service shall require that any such publication shall be advertised in the manner, and for the time periods and frequency, prescribed in section 5721.18 of the Revised Code. A party that fails to appear after being served with notice of a final or interim hearing, by publication or otherwise, shall be deemed to be in default, and no further service as to any subsequent proceedings is required on such a party. Any inadvertent noncompliance with those rules does not serve to defeat or terminate the case, or subject the case to dismissal, as long as actual notice or service of filed papers is shown by a preponderance of the evidence or is acknowledged by the party charged with notice or service, including by having made an appearance or filing in relation to the case. The county board of revision may conduct evidentiary hearings on the sufficiency of process, service of process, or sufficiency of service of papers in any proceeding arising from a complaint filed under this section. Other than the notice and service provisions contained in Civil Rules 4 and 5, the Rules of Civil Procedure shall not be applicable to the proceedings of the board. The board of revision may utilize procedures contained in the Rules of Civil Procedure to the extent that such use facilitates the needs of the proceedings, such as vacating orders, correcting clerical mistakes, and providing notice to parties. To the extent not otherwise provided in sections 323.65 to 323.79 of the Revised Code, the board may apply the procedures prescribed by sections 323.25 to 323.28 or Chapters 5721., 5722., and 5723. of the Revised Code. Board practice shall be in accordance with the practice and rules, if any, of the board that are promulgated by the board under section 323.66 of the Revised Code and are not inconsistent with sections 323.65 to 323.79 of the Revised Code.

(D) At any time after a foreclosure action is filed under this section, the county board of revision may, upon its own motion, dismiss the case without prejudice if it determines that, given the complexity of the case or other circumstances, a court would be a more appropriate forum for the action.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.70 Final hearing on complaint - dismissal on petition**

(A) Subject to this section and to sections 323.71 and 323.72 of the Revised Code, a county board of revision shall conduct a final hearing on the merits of a complaint filed under section 323.69 of the Revised Code, including the validity or amount of any impositions alleged in the complaint, not sooner than thirty days after the service of notice of summons and complaint has been perfected . If, after a hearing, the board finds that the validity or amount of all or a portion of the impositions is not supported by a preponderance of the evidence, the board may order the county auditor to remove from the tax list and duplicate amounts the board finds invalid or not supported by a preponderance of the evidence. The

auditor shall remove all such amounts from the tax list and duplicate as ordered by the board of revision, including any impositions asserted under sections 715.26 and 715.261 of the Revised Code.

(B) If, on or before the twentieth day after service of process is perfected under division (B) of section 323.69 of the Revised Code, a record owner or the United States government files with the clerk of court a motion requesting that the county board of revision order the complaint to be dismissed and the abandoned land removed from the abandoned land list, the board shall, without conducting a hearing on the matter, promptly dismiss the complaint for foreclosure of that land and order the land to be removed from the list. Thereafter, until the record owner sells or otherwise conveys the owner's ownership interest, any attempts to collect delinquent taxes, interest, penalties, and charges owed with respect to that land and appearing on the delinquent tax list or delinquent vacant land tax list, whichever the case may be, shall be conducted in accordance with the judicial foreclosure proceedings and other remedies and procedures prescribed under sections 323.25 to 323.28 or under Chapters 5721., 5722., and 5723. of the Revised Code.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.71 Procedure where impositions exceed fair market value**

(A)(1) If the county board of revision, upon its own motion or pursuant to a hearing under division (A)(2) of this section, determines that the impositions against a parcel of abandoned land that is the subject of a complaint filed under section 323.69 of the Revised Code exceed the fair market value of that parcel as currently shown by the latest valuation by the auditor of the county in which the land is located, then the board may proceed to hear and adjudicate the case as provided under sections 323.70 and 323.72 of the Revised Code. Upon entry of an order of foreclosure, the parcel may be disposed of as prescribed by division (G) of section 323.73 of the Revised Code. If the board of revision, upon its own motion or pursuant to a hearing under division (A)(2) of this section, determines that the impositions against a parcel do not exceed the fair market value of the parcel as shown by the county auditor's then-current valuation of the parcel, the parcel shall not be disposed of as prescribed by division (G) of section 323.73 of the Revised Code, but may be disposed of as otherwise provided in section 323.73, 323.74, 323.75, 323.77, or 323.78 of the Revised Code.

(2) By a motion filed not later than seven days before a final hearing on a complaint is held under section 323.70 of the Revised Code, an owner or lienholder may file with the county board of revision a good faith appraisal of the parcel from a licensed professional appraiser and request a hearing to determine whether the impositions against the parcel of

abandoned land exceed or do not exceed the fair market value of that parcel as shown by the auditor's then-current valuation of that parcel. If the motion is timely filed, the board of revision shall conduct a hearing and shall make a factual finding as to whether the impositions against the parcel exceed or do not exceed the fair market value of that parcel as shown by the auditor's then-current valuation of that parcel. An owner or lienholder must show by a preponderance of the evidence that the impositions against the parcel do not exceed the auditor's then-current valuation of the parcel in order to preclude the application of division (G) of section 323.73 of the Revised Code.

(B) Any parcel of abandoned land for which the complaint is not dismissed and that is not removed from the abandoned land list in accordance with division (A) of this section or pursuant to a dismissal petition filed under division (B) of section 323.70 of the Revised Code shall be disposed of as prescribed in sections 323.65 to 323.79 of the Revised Code.

(C) Notwithstanding sections 323.65 to 323.79 of the Revised Code to the contrary, for purposes of determining in any proceeding under those sections whether the total of the impositions against the abandoned land exceed the fair market value of the abandoned land, it is prima-facie evidence and a rebuttable presumption that may be rebutted to the county board of revision that the auditor's then-current valuation of that abandoned land is the fair market value of the land, regardless of whether an independent appraisal has been performed.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.72 Answer - hearing on or dismissal of complaint**

(A) (1) At any time after a complaint is filed under section 323.69 of the Revised Code, and before a decree of foreclosure is entered, the record owner or another person having a legal or equitable ownership interest in the abandoned land may plead only that the impositions shown by the notice to be due and outstanding have been paid in full or are invalid or inapplicable in whole or in part, and may raise issues pertaining to service of process and the parcel's status as abandoned land.

(2) At any time before confirmation of sale or transfer of abandoned land or before the expiration of the alternative redemption period, a lienholder or another person having a security interest of record in the abandoned land may plead that the impositions shown by the notice to be due and outstanding have been paid in full or, subject to division (C) of this section, that in order to preserve the lienholder's or other person's security interest of record in the land, the complaint should be dismissed and the abandoned land should be

removed from the abandoned land list and not disposed of as provided in sections 323.65 to 323.79 of the Revised Code.

(B) If the record owner or another person having a legal or equitable ownership interest in a parcel of abandoned land files a pleading with the county board of revision under division (A)(1) of this section, or if a lienholder or another person having a security interest of record in the abandoned land files a pleading with the board under division (A)(2) of this section that asserts that the impositions have been paid in full, the board shall schedule a hearing for a date not sooner than thirty days, and not later than ninety days, after the board receives the pleading. Upon scheduling the hearing, the board shall notify the person that filed the pleading and all interested parties, other than parties in default, of the date, time, and place of the hearing, and shall conduct the hearing. The only questions to be considered at the hearing are the amount and validity of all or a portion of the impositions, whether those impositions have in fact been paid in full, and, under division (A)(1) of this section, whether valid issues pertaining to service of process and the parcel's status as abandoned land have been raised. If the record owner, lienholder, or other person shows by a preponderance of the evidence that all impositions against the parcel have been paid, the board shall dismiss the complaint and remove the parcel of abandoned land from the abandoned land list, and that land shall not be offered for sale or otherwise conveyed under sections 323.65 to 323.79 of the Revised Code. If the record owner, lienholder, or other person fails to appear, or appears and fails to show by a preponderance of the evidence that all impositions against the parcel have been paid, the board shall proceed in the manner prescribed in section 323.73 of the Revised Code. A hearing under this division may be consolidated with any final hearing on the matter under section 323.70 of the Revised Code.

If the board determines that the impositions have been paid, then the board, on its own motion, may dismiss the case without a hearing.

(C) If a lienholder or another person having a security interest of record in the abandoned land, other than the owner, timely files a pleading under division (A)(2) of this section requesting that the complaint be dismissed and the parcel of land be removed from the abandoned land list and not disposed of as provided in sections 323.65 to 323.79 of the Revised Code in order to preserve the lienholder's or other person's security interest, the county board of revision may approve the request if the board finds that the sale or other conveyance of the parcel of land under those sections would unreasonably jeopardize the lienholder's or other person's ability to enforce the security interest or to otherwise preserve the lienholder's or other person's security interest. The board may conduct a hearing on the request and make a ruling based on the available and submitted evidence of the parties. If the board approves the request without a hearing, the board shall file the

decision with the clerk of court, and the clerk shall send a notice of the decision to the lienholder or other person by ordinary mail. In order for a lienholder or other person having a security interest to show for purposes of this division that the parcel of abandoned land should be removed from the list in order “to preserve the lienholder’s or other person’s security interest,” the lienholder or other person must make a minimum showing by a preponderance of the evidence pursuant to section 323.71 of the Revised Code that the impositions against the parcel of abandoned land do not exceed the fair market value of the abandoned land as determined by the auditor’s then-current valuation of that parcel, which valuation is presumed, subject to rebuttal, to be the fair market value of the land.

(D) If a pleading as described in division (B) or (C) of this section is filed and the county board of revision approves a request made under those divisions, regardless of whether a hearing is conducted under division (C) of this section, the board shall dismiss the complaint .

If the county board of revision does not dismiss the complaint or does not approve a request as described in division (B) or (C) of this section after conducting a hearing, the board shall proceed with the final hearing prescribed in section 323.70 of the Revised Code and file its decision on the complaint for foreclosure with the clerk of court. The clerk shall send written notice of the decision to the parties by ordinary mail or by certified mail, return receipt requested. If the board renders a decision ordering the foreclosure and forfeiture of the parcel of abandoned land, the parcel shall be disposed of under section 323.73 of the Revised Code.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.73 Disposal of abandoned land at public auction**

(A) Except as provided in division (G) of this section or section 323.78 of the Revised Code, a parcel of abandoned land that is to be disposed of under this section shall be disposed of at a public auction scheduled and conducted as described in this section. At least twenty-one days prior to the date of the public auction, the clerk of court or sheriff of the county shall advertise the public auction in a newspaper of general circulation in the county in which the land is located. The advertisement shall include the date, time, and place of the auction, the permanent parcel number of the land if a permanent parcel number system is in effect in the county as provided in section 319.28 of the Revised Code or, if a permanent parcel number system is not in effect, any other means of identifying the parcel, and a notice stating that the abandoned land is to be sold subject to the terms of sections 323.65 to 323.79 of the Revised Code.

(B) The sheriff of the county or a designee of the sheriff shall conduct the public auction at which the abandoned land will be offered for sale. To qualify as a bidder, a person shall file with the sheriff on a form provided by the sheriff a written acknowledgment that the abandoned land being offered for sale is to be conveyed in fee simple to the successful bidder. At the auction, the sheriff of the county or a designee of the sheriff shall begin the bidding at an amount equal to the total of the impositions against the abandoned land, plus the costs apportioned to the land under section 323.75 of the Revised Code. The abandoned land shall be sold to the highest bidder.

The county sheriff or designee may reject any and all bids not meeting the minimum bid requirements specified in this division.

(C) Except as otherwise permitted under section 323.74 of the Revised Code, the successful bidder at a public auction conducted under this section shall pay the sheriff of the county or a designee of the sheriff a deposit of at least ten per cent of the purchase price in cash, or by bank draft or official bank check, at the time of the public auction, and shall pay the balance of the purchase price within thirty days after the day on which the auction was held. Notwithstanding section 321.261 of the Revised Code, with respect to any proceedings initiated pursuant to sections 323.65 to 323.79 of the Revised Code, from the total proceeds arising from the sale, transfer, or redemption of abandoned land, twenty per cent of such proceeds shall be deposited to the credit of the delinquent tax and assessment collection fund to reimburse the fund for costs paid from the fund for the transfer, redemption, or sale of abandoned land at public auction. Not more than one-half of the twenty per cent may be used by the treasurer for community development, nuisance abatement, foreclosure prevention, demolition, and related services or distributed by the treasurer to a land reutilization corporation. The balance of the proceeds, if any, shall be distributed to the appropriate political subdivisions and other taxing units in proportion to their respective claims for taxes, assessments, interest, and penalties on the land. Upon the sale of foreclosed lands, the clerk of court shall hold any surplus proceeds in excess of the impositions until the clerk receives an order of priority and amount of distribution of the surplus that are adjudicated by a court of competent jurisdiction or receives a certified copy of an agreement between the parties entitled to a share of the surplus providing for the priority and distribution of the surplus. Any party to the action claiming a right to distribution of surplus shall have a separate cause of action in the county or municipal court of the jurisdiction in which the land reposes, provided the board confirms the transfer or regularity of the sale. Any dispute over the distribution of the surplus shall not affect or revive the equity of redemption after the board confirms the transfer or sale.

(D) Upon the sale or transfer of abandoned land pursuant to this section, the owner's fee simple interest in the land shall be conveyed to the purchaser. A conveyance under this

division is free and clear of any liens and encumbrances of the parties named in the complaint for foreclosure attaching before the sale or transfer, and free and clear of any liens for taxes, except for federal tax liens and covenants and easements of record attaching before the sale.

(E) The county board of revision shall reject the sale of abandoned land to any person if it is shown by a preponderance of the evidence that the person is delinquent in the payment of taxes levied by or pursuant to Chapter 307., 322., 324., 5737., 5739., 5741., or 5743. of the Revised Code or any real property taxing provision of the Revised Code. The board also shall reject the sale of abandoned land to any person if it is shown by a preponderance of the evidence that the person is delinquent in the payment of property taxes on any parcel in the county, or to a member of any of the following classes of parties connected to that person:

(1) A member of that person's immediate family;

(2) Any other person with a power of attorney appointed by that person;

(3) A sole proprietorship owned by that person or a member of that person's immediate family;

(4) A partnership, trust, business trust, corporation, association, or other entity in which that person or a member of that person's immediate family owns or controls directly or indirectly any beneficial or legal interest.

(F) If the purchase of abandoned land sold pursuant to this section or section 323.74 of the Revised Code is for less than the sum of the impositions against the abandoned land and the costs apportioned to the land under division (A) of section 323.75 of the Revised Code, then, upon the sale or transfer, all liens for taxes due at the time the deed of the property is conveyed to the purchaser following the sale or transfer, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

(G) If the county board of revision finds that the total of the impositions against the abandoned land are greater than the fair market value of the abandoned land as determined by the auditor's then-current valuation of that land, the board, at any final hearing under section 323.70 of the Revised Code, may order the property foreclosed and, without an appraisal or public auction, order the sheriff to execute a deed to the certificate holder or county land reutilization corporation that filed a complaint under section 323.69 of the Revised Code, or to a community development organization, school district, municipal corporation, county, or township, whichever is applicable, as provided in section 323.74 of the Revised Code. Upon a transfer under this division, all liens for taxes due at the

time the deed of the property is transferred to the certificate holder, community development organization, school district, municipal corporation, county, or township following the conveyance, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.74 Disposition of abandoned land not sold at auction**

(A) If a public auction is held for abandoned land pursuant to section 323.73 of the Revised Code, but the land is not sold at the public auction, the county board of revision may order the disposition of the abandoned land in accordance with division (B) or (C) of this section.

(B) The abandoned land offered for sale at a public auction as described in section 323.73 of the Revised Code, but not sold at the auction, may be offered for sale in any usual and customary manner by the sheriff as otherwise provided by law. The subsequent public auction may be held in the same manner as the public auction was held under section 323.73 of the Revised Code, but the minimum bid at an auction held under this division shall be the lesser of fifty per cent of fair market value of the abandoned land as currently shown by the county auditor's latest valuation, or the sum of the impositions against the abandoned land plus the costs apportioned to the land under section 323.75 of the Revised Code. Notice of any subsequent sale pursuant to this section may be given in the original notice of sale listing the time, date, and place of the subsequent sale.

(C) Upon certification from the sheriff that abandoned land was offered for sale at a public auction as described in section 323.73 of the Revised Code but was not purchased, a community development organization or any school district, municipal corporation, county, or township in which the land is located may request that title to the land be transferred to the community development organization, school district, municipal corporation, county, or township at the time described in this division. The request shall be delivered to the board of revision at any time from the date the complaint for foreclosure is filed under section 323.69 of the Revised Code, but not later than sixty days after the date on which the land was first offered for sale. The request shall include a representation that the organization, district, or political subdivision, not later than thirty days after receiving legal title to the abandoned land, will begin basic exterior improvements that will protect the land from further unreasonable deterioration. The improvements shall include, but are not limited to, the removal of trash and refuse from the exterior of the premises and the securing of open, vacant, or vandalized areas on the exterior of the premises. The

representation shall be deemed to have been given if the notice is supplied by an electing subdivision as defined in section 5722.01 of the Revised Code.

(D) The county board of revision, upon any adjudication of foreclosure and forfeiture against the abandoned land, may order the sheriff to dispose of the abandoned land as prescribed in sections 323.65 to 323.79 of the Revised Code. The order by the board shall include instructions to the sheriff to transfer the land to the specified community development organization, school district, municipal corporation, county, or township after payment of the costs of disposing of the abandoned land pursuant to section 323.75 of the Revised Code or, if any negotiated price has been agreed to between the county treasurer and the community development organization, school district, municipal corporation, county, or township, after payment of that negotiated price as certified by the board to the sheriff.

(E) Upon receipt of payment under this section, the sheriff shall convey by sheriff's deed the fee simple interest in, and to, the abandoned land. If the abandoned land is transferred pursuant to division (D) of this section and the county treasurer reasonably determines that the transfer will result in the property being occupied, the county treasurer may waive, but is not required to waive, some or all of the impositions against the abandoned land or costs apportioned to the land under section 323.75 of the Revised Code.

(F) Upon a transfer under this section, all liens for taxes due at the time the deed of the property is conveyed to a purchaser or transferred to a community development organization, school district, municipal corporation, county, or township, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

(G) Any parcel that has been advertised and offered for sale pursuant to foreclosure proceedings and has not sold for want of bidders or been otherwise transferred under sections 323.65 to 323.79 of the Revised Code shall be forfeited or otherwise disposed of in the same manner as lands under section 323.25 or 5721.18 or Chapter 5723. of the Revised Code.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.75 Apportionment of costs of sale at auction**

(A) The county treasurer or county prosecuting attorney shall apportion the costs of the proceedings with respect to abandoned lands offered for sale at a public auction held pursuant to section 323.73 or 323.74 of the Revised Code among those lands according to

actual identified costs, equally, or in proportion to the fair market values of the lands. The costs of the proceedings include the costs of conducting the title search, notifying record owners or other persons required to be notified of the pending sale, advertising the sale, and any other costs incurred by the county board of revision, county treasurer, county auditor, clerk of court, prosecuting attorney, or county sheriff in performing their duties under sections 323.65 to 323.79 of the Revised Code.

(B) All costs assessed in connection with proceedings under sections 323.65 to 323.79 of the Revised Code may be paid after they are incurred, as follows:

(1) If the abandoned land in question is purchased at public auction, from the purchaser of the abandoned land;

(2) In the case of abandoned land transferred to a community development organization, school district, municipal corporation, county, or township under section 323.74 of the Revised Code, from either of the following:

(a) At the discretion of the county treasurer, in whole or in part from the delinquent tax and assessment collection fund created under section 321.261 of the Revised Code, in which case the amount shall be a prior charge to the fund before its equal allocation between the county treasurer and prosecuting attorney;

(b) From the community development organization, school district, municipal corporation, county, or township, whichever is applicable.

(3) If the abandoned land in question is transferred to a certificate holder, from the certificate holder.

(C) If a parcel of abandoned land is sold or otherwise transferred pursuant to sections 323.65 to 323.79 of the Revised Code, the officer who conducted the sale or made the transfer, the prosecuting attorney, or the county treasurer may collect a recording fee from the purchaser or transferee of the parcel at the time of the sale or transfer and shall prepare the deed conveying title to the parcel or execute the deed prepared by the board for that purpose. That officer or the prosecuting attorney or treasurer is authorized to record on behalf of that purchaser or transferee the deed conveying title to the parcel, notwithstanding that the deed may not actually have been delivered to the purchaser or transferee prior to the recording of the deed. Receiving title to a parcel under sections 323.65 to 323.79 of the Revised Code constitutes the transferee's consent to an officer, prosecuting attorney, or county treasurer to file the deed to the parcel for recording. Nothing in this division shall be construed to require an officer, prosecuting attorney, or treasurer to file a deed or to relieve a transferee's obligation to file a deed. Upon

confirmation of that sale or transfer, the deed shall be deemed delivered to the purchaser or transferee of the parcel.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.76 Termination of right of redemption on sale or transfer**

Upon the sale of abandoned land at public auction pursuant to section 323.73 or 323.74 of the Revised Code, or upon the county board of revision's order to the sheriff to transfer abandoned land to a community development organization, school district, municipal corporation, county, or township under section 323.74 of the Revised Code, any common law or statutory right of redemption shall forever terminate upon the occurrence of whichever of the following is applicable:

(A) In the case of a sale of the land at public auction, upon the order of confirmation of the sale by the county board of revision and the filing of such order with the clerk of court, who shall enter it upon the journal of the court or a separate journal;

(B) In the case of a transfer of the land to a community development organization, school district, municipal corporation, county, or township under section 323.74 of the Revised Code, upon the filing with the clerk of court an order to transfer the parcel based on the adjudication of foreclosure by the county board of revision ordering the sheriff to transfer the land in fee simple to the community development organization, school district, municipal corporation, county, or township pursuant to such adjudication, which the clerk shall enter upon the journal of the court or a separate journal;

(C)(1) In the case of a transfer of the land to a certificate holder or county land reutilization corporation pursuant to division (G) of section 323.73 of the Revised Code, upon the filing with the clerk of court the county board of revision's order to the sheriff to execute a deed to the certificate holder or corporation based on the adjudication of foreclosure, which the clerk shall enter upon the journal of the court or a separate journal;

(2) In the case of an adjudication of foreclosure in which a court or board of revision has included in its adjudication decree that the alternative redemption period authorized in section 323.78 of the Revised Code applies, then upon the expiration of such alternative redemption period.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.77 Notice by electing subdivision of desire to acquire land**

(A) As used in this section, “electing subdivision” has the same meaning as in section 5722.01 of the Revised Code.

(B) At any time from the date the complaint for foreclosure is filed under section 323.69 of the Revised Code, but not later than sixty days after the date on which the land was first offered for sale, an electing subdivision or a county land reutilization corporation may give the county treasurer, prosecuting attorney, or board of revision notice in writing that it seeks to acquire any parcel of abandoned land, identified by parcel number, from the abandoned land list. If any such parcel of abandoned land identified under this section is offered for sale pursuant to section 323.73 of the Revised Code, but is not sold for want of a minimum bid, the electing subdivision or a county land reutilization corporation that identified that parcel of abandoned land shall be deemed to have appeared at the sale and submitted the winning bid at the auction, and the parcel of abandoned land shall be sold to the electing subdivision or corporation for no consideration other than the costs prescribed in section 323.75 of the Revised Code or those costs to which the electing subdivision or corporation and the county treasurer mutually agree. The conveyance shall be confirmed, and any common law or statutory right of redemption forever terminated, upon the filing with the clerk of court the order of confirmation based on the adjudication of foreclosure by the county board of revision, which the clerk shall enter upon the journal of the court or a separate journal.

If a county land reutilization corporation and an electing subdivision both request to acquire the parcel, the electing subdivision shall have priority to acquire the parcel. Notwithstanding its prior notice to the county treasurer under this section that it seeks to acquire the parcel of abandoned land, if a county land reutilization corporation has also requested to acquire the parcel, the electing subdivision may withdraw the notice before confirmation of the conveyance, in which case the parcel shall be conveyed to the county land reutilization corporation.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 09-28-2006; 2008 SB353 04-07-2009

### **323.78 Invocation of alternative redemption period**

Notwithstanding anything in Chapters 323., 5721., and 5723. of the Revised Code, if the county treasurer of a county in which a county land reutilization operates, in any petition for foreclosure of abandoned lands, elects to invoke the alternative redemption period, then upon any adjudication of foreclosure by any court or the board of revision in any

proceeding under section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code, the following apply:

(A) Unless otherwise ordered by a motion of the court or board of revision, the petition shall assert, and any notice of final hearing shall include, that upon foreclosure of the parcel, the equity of redemption in any parcel by its owner shall be forever terminated after the expiration of the alternative redemption period, that the parcel thereafter may be sold at sheriff's sale either by itself or together with other parcels as permitted by law; or that the parcel may, by order of the court or board of revision, be transferred directly to a municipal corporation, township, county, school district, or county land reutilization corporation without appraisal and without a sale, free and clear of all impositions and any other liens on the property, which shall be deemed forever satisfied and discharged.

(B) After the expiration of the alternative redemption period following an adjudication of foreclosure, by order of the court or board of revision, any equity of redemption is forever extinguished, and the parcel may be transferred individually or in lots with other tax-foreclosed properties to a municipal corporation, township, county, school district, or county land reutilization corporation without appraisal and without a sale, upon which all impositions and any other liens subordinate to liens for impositions due at the time the deed to the property is conveyed to a purchaser or transferred to a community development organization, county land reutilization corporation, municipal corporation, county, township, or school district, shall be deemed satisfied and discharged. Other than the order of the court or board of revision so ordering the transfer of the parcel, no further act of confirmation or other order shall be required for such a transfer, or for the extinguishment of any right of redemption.

(C) Upon the expiration of the alternative redemption period in cases to which the alternative redemption period has been ordered, if no community development organization, county land reutilization corporation, municipal corporation, county, township, or school district has requested title to the parcel, the court or board of revision may order the property sold as otherwise provided in Chapters 323. and 5721. of the Revised Code, and, failing any bid at any such sale, the parcel shall be forfeited to the state and otherwise disposed of pursuant to Chapter 5723. of the Revised Code.

Amended by 128th General Assembly File No. 31, HB 313, § 1, eff. 7/7/2010.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

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### **323.79 Appeal by aggrieved party in court of common pleas**

Any party to any proceeding instituted pursuant to sections 323.65 to 323.79 of the Revised Code who is aggrieved in any of the proceedings of the county board of revision under those sections may file an appeal in the court of common pleas pursuant to Chapters 2505. and 2506. of the Revised Code upon a final order of foreclosure and forfeiture by the board. A final order of foreclosure and forfeiture occurs upon confirmation of any sale or upon confirmation of any conveyance or transfer to a certificate holder, community development organization, county land reutilization corporation organized under Chapter 1724. of the Revised Code, municipal corporation, county, or township pursuant to sections 323.65 to 323.79 of the Revised Code. An appeal as provided in this section shall proceed as an appeal de novo and may include issues raised or adjudicated in the proceedings before the county board of revision, as well as other issues that are raised for the first time on appeal and that are pertinent to the abandoned land that is the subject of those proceedings.

An appeal shall be filed not later than fourteen days after the date on which the order of confirmation of the sale or of the conveyance or transfer to a certificate holder, community development organization, county land reutilization corporation, municipal corporation, county, or township is filed with and journalized by the clerk of court. The court does not have jurisdiction to hear any appeal filed after the expiration of that fourteen-day period. If the fourteenth day after the date on which the confirmation is filed with the clerk of court falls upon a weekend or official holiday during which the court is closed, then the filing shall be made on the next day the court is open for business.

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