



Ohio Revised Code

Section 323.28 Finding and decree - appraisal and sale of property - proceeds of sale.

Effective: September 4, 2014

Legislation: Senate Bill 172 - 130th General Assembly

(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, or after being offered for sale on one occasion in the case of abandoned land as defined in section 323.65 of the Revised Code, shall be forfeited to the state or to a political subdivision, school district, or county land reutilization corporation pursuant to Chapter 5722. or section 5723.01 of the Revised Code, and shall be disposed of pursuant to Chapter 5722. or 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 (F) 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.