



## Ohio Revised Code

### Section 3767.50 Action to foreclose lien on blighted parcel.

Effective: April 7, 2009

Legislation: Senate Bill 277 - 127th General Assembly

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(A) For purposes of this section:

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

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

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

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

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

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

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

(B)(1) A municipal corporation, in addition to any other remedy authorized by law, has a cause of action in the environmental division of the municipal court to foreclose any existing liens upon a blighted parcel located in the municipal corporation provided that no other foreclosure action affecting the blighted parcel is being actively prosecuted in any court of record. It is an affirmative defense to an action under this division that the owner of the



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

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

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

(C)(1) With respect to any blighted parcel that is or may be subject to an action under this section, the municipal corporation may notify the taxing authority of each taxing unit in which the blighted parcel is located that the municipal corporation is proceeding to foreclose the lien under this section. The notice shall state that the taxing authority may preserve its



claim on any distributions of delinquent or unpaid taxes and assessments charged against the blighted parcel and arising from the judicial sale proceeds by responding in writing to the municipal corporation within a period of time to be specified in the notice. The written response shall be certified by the taxing authority or by the fiscal officer or other person authorized by the taxing authority to respond. If such a response is received by the municipal corporation within the specified time, or if such a notice is not provided, the taxing authority's claim on distributions of delinquent or unpaid taxes and assessments charged against the blighted parcel and payable from proceeds of the judicial sale shall be preserved and shall be disposed of in the priority and manner otherwise prescribed by law. If such a notice is provided and the response is not received within the specified time, the taxing authority's claim on the delinquent or unpaid taxes and assessments is extinguished, the lien for such taxes is satisfied and discharged to the extent of that claim, and the blighted parcel may be sold at judicial sale free and clear of such lien to that extent, unless the successful bidder at the judicial sale is a lienholder of the blighted parcel. If the successful bidder is a lienholder of the blighted parcel, the lien for all delinquent or unpaid taxes and assessments charged against the blighted parcel shall continue until discharged as otherwise provided by law.

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