



Ohio Revised Code

Section 5721.39 Judgment of foreclosure.

Effective: September 28, 2016

Legislation: House Bill 390 - 131st General Assembly

(A) In its judgment of foreclosure rendered in actions filed pursuant to section 5721.37 of the Revised Code, the court or board of revision shall enter a finding that includes all of the following with respect to the certificate parcel:

- (1) The amount of the sum of the certificate redemption prices for all the tax certificates sold against the parcel;
- (2) Interest on the certificate purchase prices of all certificates at the rate of eighteen per cent per year for the period beginning on the day on which the payment was submitted by the certificate holder under division (B) of section 5721.37 of the Revised Code;
- (3) The amount paid under division (B)(2) of section 5721.37 of the Revised Code, plus interest at the rate of eighteen per cent per year for the period beginning on the day the certificate holder filed a request for foreclosure or a notice of intent to foreclose under division (A) of that section;
- (4) Any delinquent taxes on the parcel that are not covered by a payment under division (B)(2) of section 5721.37 of the Revised Code;
- (5) Fees and costs incurred in the foreclosure proceeding instituted against the parcel, including, without limitation, the fees and costs of the prosecuting attorney represented by the fee paid under division (B)(3) of section 5721.37 of the Revised Code, plus interest as provided in division (D)(2)(d) of this section, or the fees and costs of the private attorney representing the certificate holder, and charges paid or incurred in procuring title searches and abstracting services relative to the subject premises.

(B) The court or board of revision may order the certificate parcel to be sold or otherwise transferred according to law, without appraisal and as set forth in the prayer of the complaint, for not less than the amount of its finding, or, in the event that the true value of the certificate parcel as determined by



the county auditor is less than the certificate redemption price, the court or board of revision may, as prayed for in the complaint, issue a decree transferring fee simple title free and clear of all subordinate liens to the certificate holder or as otherwise provided in sections 323.65 to 323.79 of the Revised Code. A decree of the court or board of revision transferring fee simple title to the certificate holder is forever a bar to all rights of redemption with respect to the certificate parcel.

(C)(1) The certificate holder may file a motion with the court for an order authorizing a specified private selling officer, as defined in section 2329.01 of the Revised Code, to sell the parcel at a public auction. If the court authorizes a private selling officer to sell the parcel, then upon the filing of a praecipe for order of sale with the clerk of the court, the clerk of the court shall immediately issue an order of sale to the private selling officer authorized by the court.

(2) The officer to whom the order of sale is directed may conduct the public auction of the parcel at a physical location in the county in which the parcel is located or online. If the public auction occurs online, the auction shall be open for bidding for seven days. If the parcel is not sold during this initial seven-day period, a second online auction shall be held not earlier than three days or later than thirty days after the end of the first auction. The second online auction shall be open for bidding for seven days.

(3) A private selling officer who conducts an auction of the parcel under this section may do any of the following:

(a) Market the parcels for sale and hire a title insurance agent licensed under Chapter 3953. of the Revised Code or title insurance company authorized to do business under that chapter to assist the private selling officer in performing administrative services;

(b) Execute to the purchaser, or to the purchaser's legal representatives, a deed of conveyance of the parcel sold in conformity with the form set forth in section 5302.31 of the Revised Code;

(c) Record on behalf of the purchaser the deed conveying title to the parcel sold, notwithstanding that the deed may not actually have been delivered to the purchaser prior to its recording.

(4) By placing a bid at a sale conducted pursuant to this section, a purchaser appoints the private



selling officer who conducts the sale as agent of the purchaser for the sole purpose of accepting delivery of the deed.

(5) The private selling officer who conducts the sale shall hire a title insurance agent licensed under Chapter 3953. of the Revised Code or title insurance company authorized to do business under that chapter to perform title, escrow, and closing services related to the sale of the parcel.

(6) Except as otherwise provided in sections 323.65 to 323.79 of the Revised Code, and the alternative redemption period thereunder, each certificate parcel shall be advertised and sold by the officer to whom the order of sale is directed in the manner provided by law for the sale of real property on execution. The advertisement for sale of certificate parcels shall be published once a week for three consecutive weeks and shall include the date on which a second sale will be conducted if no bid is accepted at the first sale. Any number of parcels may be included in one advertisement.

Except as otherwise provided in sections 323.65 to 323.79 of the Revised Code, whenever the officer charged to conduct the sale offers a certificate parcel for sale at a physical location and not online and no bids are made equal to at least the amount of the finding of the court or board of revision, the officer shall adjourn the sale of the parcel to the second date that was specified in the advertisement of sale. The second sale shall be held at the same place and commence at the same time as set forth in the advertisement of sale. The officer shall offer any parcel not sold at the first sale. Upon the conclusion of any sale, or if any parcel remains unsold after being offered at two sales, the officer conducting the sale shall report the results to the court or board of revision.

(D) Upon the confirmation of a sale, the proceeds of the sale shall be applied as follows:

(1) The fees and costs incurred in the proceeding filed against the parcel pursuant to section 5721.37 of the Revised Code shall be paid first, including attorney's fees of the certificate holder's attorney payable under division (F) of that section, private selling officer's fees and marketing costs, title agent's or title company's fees, or the county prosecutor's costs covered by the fee paid by the certificate holder under division (B)(3) of that section.

(2) Following the payment required by division (D)(1) of this section, the certificate holder that filed



the notice of intent to foreclose or request for foreclosure with the county treasurer shall be paid the sum of the following amounts:

- (a) The sum of the amount found due for the certificate redemption prices of all the tax certificates that are sold against the parcel;
 - (b) Any premium paid by the certificate holder at the time of purchase;
 - (c) Interest on the amounts paid by the certificate holder under division (B)(1) of section 5721.37 of the Revised Code at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder to the county treasurer and ending on the day immediately preceding the day on which the proceeds of the foreclosure sale are paid to the certificate holder;
 - (d) Interest on the amounts paid by the certificate holder under divisions (B)(2) and (3) of section 5721.37 of the Revised Code at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder under divisions (B)(2) and (3) of that section and ending on the day immediately preceding the day on which the proceeds of the foreclosure sale are paid to the certificate holder pursuant to this section, except that such interest shall not accrue for more than three years if the certificate was sold under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, or more than six years if the certificate was sold under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, after the day the amounts were paid by the certificate holder under divisions (B)(2) and (3) of section 5721.37 of the Revised Code;
 - (e) The amounts paid by the certificate holder under divisions (B)(1), (2), and (3) of section 5721.37 of the Revised Code.
- (3) Following the payment required by division (D)(2) of this section, any amount due for taxes, installments of assessments, charges, penalties, and interest not covered by the tax certificate holder's payment under division (B)(2) of section 5721.37 of the Revised Code shall be paid, including all taxes, installments of assessments, charges, penalties, and interest payable subsequent to the entry of



the finding and prior to the transfer of the deed of the parcel to the purchaser following confirmation of sale. If the proceeds available for distribution pursuant to this division are insufficient to pay the entire amount of those taxes, installments of assessments, charges, penalties, and interest, the proceeds shall be paid to each claimant in proportion to the amount of those taxes, installments of assessments, charges, penalties, and interest that each is due, and those taxes, installments of assessments, charges, penalties, and interest are deemed satisfied and shall be removed from the tax list and duplicate.

(4) Any residue of money from proceeds of the sale shall be disposed of as prescribed by section 5721.20 of the Revised Code.

(E) Unless the parcel previously was redeemed pursuant to section 5721.25 or 5721.38 of the Revised Code, upon the filing of the entry of confirmation of sale, or an order to transfer the parcel under sections 323.65 to 323.79 of the Revised Code, the title to the parcel is incontestable in the purchaser and is free and clear of all liens and encumbrances, except a federal tax lien, notice of which lien is properly filed in accordance with section 317.09 of the Revised Code prior to the date that a foreclosure proceeding is instituted pursuant to section 5721.37 of the Revised Code, and which lien was foreclosed in accordance with 28 U.S.C.A. 2410(c), and except for the easements and covenants of record running with the land or lots that were created prior to the time the taxes or installments of assessments, for the nonpayment of which a tax certificate was issued and the parcel sold at foreclosure, became due and payable.

The title shall not be invalid because of any irregularity, informality, or omission of any proceedings under this chapter or in any processes of taxation, if such irregularity, informality, or omission does not abrogate the provision for notice to holders of title, lien, or mortgage to, or other interests in, such foreclosed parcels, as prescribed in this chapter.