



Ohio Revised Code

Section 2308.02 Expedited proceedings for vacant and abandoned properties.

Effective: September 28, 2016

Legislation: House Bill 390 - 131st General Assembly

(A) A mortgagee who files a foreclosure action on a residential property may file a motion with the court to proceed in an expedited manner under this section on the basis that the property is vacant and abandoned. In order to proceed in an expedited manner, upon the filing of such motion, the mortgagee must be a person entitled to enforce the instrument secured by the mortgage under division (A)(1) or (2) of section 1303.31 of the Revised Code or a person with the right to enforce the obligation secured by the mortgage pursuant to law outside of Chapter 1303. of the Revised Code.

(B) If a motion to proceed in an expedited manner is filed before the last answer period has expired, the court shall decide the motion not later than twenty-one days, or within the time consistent with the local rules, after the last answer period has expired. If a motion to proceed in an expedited manner is filed after the last answer period has expired, the court shall decide the motion not later than twenty-one days, or within the time consistent with local rules, after the motion is filed.

(C) In deciding the motion to proceed in an expedited manner, the court shall deem the property to be vacant and abandoned if all of the following apply:

(1) The court finds by a preponderance of the evidence that the residential mortgage loan is in monetary default.

(2) The court finds by a preponderance of the evidence that the mortgagee is a person entitled to enforce the instrument secured by the mortgage under division (A)(1) or (2) of section 1303.31 of the Revised Code or a person with the right to enforce the obligation secured by the mortgage pursuant to law outside of Chapter 1303. of the Revised Code.

(3) The court finds by clear and convincing evidence that at least three of the following factors are true:



- (a) Gas, electric, sewer, or water utility services to the property have been disconnected.
 - (b) Windows or entrances to the property are boarded up or closed off, or multiple window panes are broken and unrepaired.
 - (c) Doors on the property are smashed through, broken off, unhinged, or continuously unlocked.
 - (d) Junk, litter, trash, debris, or hazardous, noxious, or unhealthy substances or materials have accumulated on the property.
 - (e) Furnishings, window treatments, or personal items are absent from the structure on the land.
 - (f) The property is the object of vandalism, loitering, or criminal conduct, or there has been physical destruction or deterioration of the property.
 - (g) A mortgagor has made a written statement expressing the intention of all mortgagors to abandon the property.
 - (h) Neither an owner nor a tenant appears to be residing in the property at the time of an inspection of the property by the appropriate official of a county, municipal corporation, or township in which the property is located or by the mortgagee.
 - (i) The appropriate official of a county, municipal corporation, or township in which the property is located provides a written statement or statements indicating that the structure on the land is vacant and abandoned.
 - (j) The property is sealed because, immediately prior to being sealed, it was considered by the appropriate official of a county, municipal corporation, or township in which the property is located to be open, vacant, or vandalized.
 - (k) Other reasonable indicia of abandonment exist.
- (4) No mortgagor or other defendant has filed an answer or objection setting forth a defense or



objection that, if proven, would preclude the entry of a final judgment and decree of foreclosure.

(5) No mortgagor or other defendant has filed a written statement with the court indicating that the property is not vacant and abandoned.

(6)(a) If a government official has not verified the real property is vacant and abandoned pursuant to division (C)(3)(h), (i), or (j) of this section, but the court makes a preliminary finding that the residential real property is vacant and abandoned pursuant to division (C) of this section, then within seven days of the preliminary finding, the court shall order the appropriate official of a county, municipal corporation, or township in which the property is located to verify the property is vacant and abandoned.

(b) Any court costs assessed in connection with the inspection conducted pursuant to division (C)(6)(a) of this section shall not be more than fifty dollars.

(D) If the court decides after an oral hearing that the property is vacant and abandoned and that the mortgagee who filed the motion to proceed in an expedited manner is entitled to judgment, the court shall enter a final judgment and decree of foreclosure and order the property to be sold in accordance with division (E) of this section. If the court does not decide that the property is vacant and abandoned, the seventy-five-day deadline established in division (E) of this section shall not apply to the sale of the property.

(E) If the court decides that the property is vacant and abandoned and enters a final judgment and decree of foreclosure under division (D) of this section, the property shall be offered for sale not later than seventy-five days after the issuance of the order of sale. The sale of the property shall be conducted in accordance with the requirements in Chapter 2329. of the Revised Code, including possible postponement of the sale pursuant to division (C) of section 2329.152 of the Revised Code.

(F) Nothing in this section shall supersede or limit other procedures adopted by the court to resolve the residential mortgage loan foreclosure action, including foreclosure mediation.