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# OHIO LEGISLATIVE SERVICE COMMISSION

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133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. A. Miller

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### SUMMARY

#### Public Nuisance Law

- Reduces the notice the landlord of subsidized housing must be given before a lawsuit seeking to abate a public nuisance can be filed from 60 days to 30 days.
- Reduces the minimum amount of time that must pass between the filing of a public nuisance lawsuit and the first hearing from 28 days to 14 days.
- Reduces the amount of time a property owner who has been ordered to abate a public nuisance has to comply with such an order from 30 days to 14 days, but preserves the judge's option to extend the deadline for good cause shown.
- Establishes a criminal penalty for property owners who fail to comply with an order requiring the abatement of a public nuisance.
- Establishes that the "preponderance of the evidence" standard is to be used by courts when determining whether a property is a public nuisance and when determining the appropriate party to abate the nuisance.

#### Blight foreclosure

- Reduces the amount of time a lienholder that is party to a blight foreclosure action has to remedy the blight conditions, thus requiring the dismissal of the action, from 60 days after service of the complaint to 30 days after service of the complaint.
- Establishes that the "preponderance of the evidence standard" is the applicable evidentiary standard under the Blight Foreclosure Statute.

#### Emergency

- Declares an emergency.

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## DETAILED ANALYSIS

### Overview

The Ohio Public Nuisance Law and blight foreclosure statute allow for lawsuits designed to address nuisance and blight conditions relating to real property. The bill amends the Public Nuisance Law by reducing certain required timelines, establishing criminal penalties for property owners that fail to comply with court orders requiring abatement of public nuisances, and setting an evidentiary standard for when a judge makes a finding or determination regarding the nuisance abatement.<sup>1</sup> The bill also reduces the window of time a lienholder has to remediate blight on a property before a municipal corporation is permitted to foreclose on the property, and establishes an evidentiary standard to be used by courts addressing blight foreclosure claims.

### Public Nuisance Law

Under continuing law, before a lawsuit seeking abatement of a public nuisance in federally subsidized housing can be filed, the party seeking abatement must provide the property's landlord with written notice regarding the nuisance claims. The required prefiling notice must specify one or more defective conditions that constitute a public nuisance as the term applies to public housing. It must also state that if the landlord fails to remedy the conditions within 60 days of the notice's service, suit may be filed. The bill reduces the time a landlord has to remedy the conditions to 30 days.<sup>2</sup>

Under existing law, the judge must hold a hearing in the public nuisance action (involving both subsidized housing and other housing) at least 28 days after the owner of the building and other interested parties have been served with a copy of the complaint, along with notice of the date and time of the hearing. The bill reduces the minimum time that must pass before the hearing to 14 days.<sup>3</sup>

If the judge determines that a building is a public nuisance, the appropriate remedy depends on additional determinations required under the Public Nuisance Law. If the judge also determines that: (1) the building's owner has not previously been afforded a reasonable opportunity to abate the public nuisance or has been afforded that opportunity and has not refused or failed to abate the public nuisance, and (2) the complaint requested the issuance of an injunction, then the judge may issue an injunction requiring the owner of the building to abate the public nuisance or issue any other order to cause the public nuisance's abatement. If an injunction or other order is issued to the owner, the owner then has no more than 30 days, under existing law, to comply with the injunction, unless the judge extends that time for good

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<sup>1</sup> R.C. 3767.41.

<sup>2</sup> R.C. 3767.41(B)(1)(b).

<sup>3</sup> R.C. 3767.41(B)(2)(b).

cause shown. The bill reduces the initial period for abatement to 14 days, but maintains the possibility of extensions for good cause shown.<sup>4</sup>

Existing law does not set an evidentiary standard to be used by a judge making any findings or determinations required when directing an owner, interested party, or receiver to abate a public nuisance. The bill establishes that, in making any such finding, the judge must apply the preponderance of the evidence standard.<sup>5</sup>

Existing law does not impose a criminal penalty on property owners who fail to comply with an injunction or order requiring the abatement of a public nuisance. Under the bill, a person who recklessly fails to comply with an injunction or order is guilty of a first degree misdemeanor, and the court may impose a fine of up to \$500 for each day the failure persists. First degree misdemeanors are normally punishable by a fine of not more than \$1,000 and up to 180 days in jail. The bill applies (i.e., does not address) the standard maximum jail time.<sup>6</sup>

## **Blight foreclosure**

The blight foreclosure statute allows a municipal corporation (a village or city) to force the foreclosure of liens (e.g., mortgages and tax liens) by alleging that the blight conditions cause the owner to be in default under the liens' terms. The process is available even if the municipal corporation does not own the liens to be foreclosed. Under existing law, if a lienholder party certifies to the court that it will remediate the conditions of the parcel constituting blight within 60 days after the party is served with a copy of the complaint of the foreclosure action, the municipal court must move to dismiss the action. The bill reduces the amount of time a lienholder party has to remediate blight conditions to 30 days.<sup>7</sup> Existing law does not set an evidentiary standard to be used by a judge during blight foreclosure proceedings. The bill establishes that, in making any such finding, the judge must apply the preponderance of the evidence standard.<sup>8</sup> Cases under this statute are brought in the environmental division of the common pleas court; currently, only the Franklin County Court of Common Pleas has an environmental division.<sup>9</sup>

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<sup>4</sup> R.C. 3767.41(C)(1).

<sup>5</sup> R.C. 3767.41(C)(4).

<sup>6</sup> R.C. 3767.41(D) and 3767.99(E), with conforming changes in R.C. 5721.17, 5721.18, 5721.19, 5721.192, 5723.05, and 5723.18; R.C. 2929.24 and 2929.28, not in the bill.

<sup>7</sup> R.C. 3767.50(B)(1).

<sup>8</sup> R.C. 3767.50(D).

<sup>9</sup> R.C. 3767.50; R.C. 1901.011, not in the bill.

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## HISTORY

Action	Date
Introduced	06-23-20

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