

RULE 21
FORECLOSURE, QUIET TITLE AND PARTITION ACTIONS
(Amended after passage of 2008 H.B. 138, eff. 9-11-2008)

21.01 Preliminary Title Report In actions to quiet title, partition and for the marshalling and foreclosure of liens on real property, the Attorney for the Plaintiff shall procure and file with the Clerk evidence of the record title pursuant to O.R.C. §2329.191. Failure of the Attorney for Plaintiff to comply with the foregoing requirement may result in the dismissal of the complaint without prejudice. Such evidence of title or copy thereof shall become and remain a part of the case file. Where the evidence of title indicates that necessary parties have not been made Defendants, the Attorney for the party filing the same shall proceed without delay to cause such new parties to be added and served.

21.02 Filing Fees The following fees shall be collected by the Clerk of Courts at the time of the filing of the Complaint in all foreclosure cases, except cases filed by the Trumbull County Treasurer for foreclosure of a lien and/or for collection of delinquent real or personal property taxes, or for any foreclosure instituted by the United States of America, the State of Ohio, or a political subdivision thereof. Said fees are in addition to all filing fees charged in all other Civil Cases:

Clerk of Courts	(Foreclosure Account)	---\$100.00
Sheriff	(Civil Branch)	---\$200.00
Court of Common Pleas	(Special Projects)	---\$100.00

21.03 Final Title Report Prior to the entry of judgment in any such case, a final title report shall be prepared and filed, in accordance with the O.R.C. §2329.191. Said title report shall state the method of service on each of the parties and shall include a statement indicating whether any additional liens or mortgages have been filed since the date of the preliminary judicial report, and whether or not those additional liens are barred by lis pendens.

21.04 County Treasurer a Necessary Party In all foreclosure actions under this Rule, it shall be necessary to name the Trumbull County Treasurer as a Defendant. The Clerk shall reject for filing any foreclosure complaint that fails to join the Trumbull County Treasurer except upon prior leave of Court.

21.05 Title Report Premium The expense of the title work required under this Rule, exclusive of the premium required by the Ohio Department of Insurance, shall be allowed without prior leave of Court, in an amount not to exceed three hundred dollars (\$300.00) for each parcel of property and shall be taxed as part of the costs of the case.

21.06 Judgment Entry and Decree of Foreclosure All proposed judgment entries shall be circulated for approval to the other parties in the case and shall be a part of the file prior to the date of dispositive hearing. For the purpose of reporting by the trial judge to the Supreme Court in foreclosure cases, the judgment entry will determine the case to be closed. All other proceedings in foreclosure cases will proceed according to law.

21.07 Precipe for Sale All precipes for sale of property under judgment decree of foreclosure must include a property description approval form as required by the Trumbull County Auditor. These forms shall be made available online for the convenience of judgment creditors. The Sheriff shall not set any case for Sale unless said property description approval form has been received. In cases where the Plaintiff is unable to receive approval of the property description from the Trumbull County Auditor, the case shall not be set for Sale until the Plaintiff or moving creditor obtains separate approval from the Court.

21.08 Failure to Comply Failure to comply with the foregoing rule shall be grounds for dismissal of an action. Dismissal may be granted on motion of any party or upon order of the Court.

RULE 22
SHERIFF'S SALES

22.01 Time and Place of Sale Sheriff's Sales and all other Judicial Sales shall be held regularly in the Trumbull County Administration Building, or in any other area of convenience and as the case requires, at a time and place as designated by the Administrative Judge of this Court. Notice of the location of the scheduled Sales shall be included within any notice of publication of said Sale as required under Ohio law.

22.02 Registration of Bidders Bidders shall register with the Trumbull County Sheriff prior to Sale and shall be issued bidding identification. Successful purchasers shall provide the information required under O.R.C. §2329.271 to the Trumbull County Sheriff, the officer conducting the Sale, or their respective representatives immediately at the conclusion of the Sale.

22.03 Successful Purchaser / Required Deposit In every Sheriff's Sale of real property, the purchaser (unless the purchaser is the United States of America, the State of Ohio, or a political subdivision of this State), shall be required to deposit in cash or by certified check payable to the Sheriff, not less than ten percent (10%) of the amount of such accepted bid, but in no event shall such deposit be less than three thousand dollars (\$3,000.00), unless said deposit is for the entire purchase price. Where the purchase price is less than three thousand dollars (\$3,000.00), payment in full must be made as if it were a deposit under this Rule.

All deposits and/or payments required under this Rule must be made with the Sheriff by 3:00 PM on the date of Sale. If the deposit and/or payment under this Rule is not received on the date of Sale, the Sheriff shall immediately re-offer the property for sale upon the request of the creditor/Plaintiff and the bidder shall be in contempt of Court. The deposit monies shall be used first to satisfy all costs and fees of the Sale under the Ohio Revised Code. The purchaser under this Rule shall be separately responsible for any and all additional conveyance fees and recording fees not included in the successful bid pursuant to the Ohio Revised Code.

The unpaid balance of the purchase price shall be due and payable to the Sheriff within thirty (30) days from the date of the Confirmation of the Sale. The purchaser shall be required to pay interest on said unpaid balance, at ten percent (10%) per annum, from the date the balance is due. Any interest received shall be pro-rata and distributed by the Sheriff to the parties entitled to distribution of the proceeds of Sale, in the proper order of priority.

EXCEPTION FOR FIRST LIENHOLDERS: If the successful bidder is also the first lienholder after costs, taxes, and assessments, the deposit under this rule shall be waived, but all necessary payments for

costs, fees, taxes and assessments, as well as any all recording and conveyance fees required to be paid at the time of Sale under the Ohio Revised Code shall be paid by the purchasing first lienholder, or any other party exempted from this rule, within fourteen days of the Sale date. The party entitled to this exception for first lienholders shall, within fourteen days of the Sale, prepare and produce to the Sheriff separate instruments of payment payable to each entitled party for the following: 1) Court costs (less any deposit to be applied); 2) All Sheriff fees and other fees as Ordered to be paid in the Confirmation; 3) Real Estate Taxes and Assessments to the County Treasurer; 4) Conveyance / transfer taxes and/or fees to the Trumbull County Auditor; 5) Recording fees to the Trumbull County Recorder; and 6) any other fee specifically required under Ohio law or necessary in the given case.

All payments under this Rule must be made before the deed will be recorded by the Sheriff or officer who conducted the Sale. In no event should this Rule be construed in such a way as to cause delay of payment to entitled creditors pursuant to the Confirmation of Sale and under the guidelines and timetables established under Ohio law. The Court reserves the right in each case to alter the terms of any Sale.

22.04 Real Estate Taxes In all judicial and foreclosure Sales, the purchaser shall pay the real estate taxes pursuant to O.R.C. §323.47, and pursuant to law, said taxes shall include:

(a) Taxes and assessments the lien for which attaches before the Confirmation of Sale but that are not yet determined, assessed, and levied for the year in which Confirmation occurs, apportioned pro rata to the part of that year that precedes Confirmation, and any penalties and interest on those taxes and assessments;

(b) All other taxes, assessments, penalties, and interest the lien for which attached for a prior tax year but that have not been paid on or before the date of Confirmation, as estimated by the Trumbull County Treasurer pursuant to O.R.C. §323.47.

For the purposes of enforcement of this rule, the date of Confirmation shall be deemed to occur thirty days following the Sheriff Sale, unless said date is changed by the Court by way of motion or upon stipulation among the interested parties, the purchaser, and the County Treasurer.

In cases where the purchaser is not the first lienholder after real estate taxes and assessments, the Trumbull County Treasurer may require that Real Estate Taxes be paid directly by said purchaser, or the Sheriff may pay the Treasurer from all funds received from the purchaser. In any event, the purchaser shall not pay more than his or her required bid except as otherwise stated in these Rules or as is otherwise provided under Ohio law.

22.05 Post Sale Procedure The Sheriff or officer conducting the Sale shall make return of the writ of execution within seven days of the Sale. The Attorney for the creditor who moved for the Sale shall submit a Confirmation entry to this Court within fourteen days of the Sale. The proposed Confirmation submitted by the Attorney for the moving creditor shall include either a verification form obtained from the Trumbull County Treasurer and/or signed approval from the Trumbull County Prosecuting Attorney, as well as the written approval of all represented lienholders or their representatives.

A moving creditor and/or Plaintiff who fails to submit a proposed entry of Confirmation within the allowable time shall be liable for contempt, upon motion of the purchaser, and shall pay to the purchaser the costs and Attorney fees incurred, together with any fines that may be imposed by the Court.

Unless proper written objection to the Confirmation entry is made, said entry shall be approved by the Court pursuant to O.R.C. §2329.31, if the Court finds the requirements of R.C. Chapter 2329 have been met. If proper written objection to the Confirmation is made by a party, the Court shall determine the validity of the objection and make an order determining the issue. After the Confirmation is signed, the Court that confirmed the Sale shall forthwith cause the Sheriff to file the Confirmation with the Clerk of Courts. The Attorney shall then prepare the deed and, if the Plaintiff is the successful purchaser, the conveyance form(s) required by Trumbull County within seven days of receiving the Confirmation entry pursuant to O.R.C. §2329.36.

The Court hereby adopts a short form recommended deed pursuant to O.R.C. §2329.36, as follows:

I, (Sheriff Name), Sheriff of Trumbull County, Ohio, pursuant to the Order of Sale entered on _____, the Confirmation of Sale entered on _____, and in consideration of the sum of (Sale price) dollars, the receipt whereof is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto (Grantee), all the rights, title, and interest of the parties in Trumbull County Court of Common Pleas Case (Case number), captioned (Plaintiff v. Defendant), and all pleadings therein incorporated herein by reference in and to the following Land and Tenements situated in the County of Trumbull, State of Ohio, known and described as follows, to wit:

(Property Legal Description)

The short form deed, or any other deed prepared, shall also include reference to the permanent parcel number(s), prior owner, and prior instrument, and shall otherwise comply with Ohio law.

22.06 Purchaser's Failure to Comply In the event a purchaser fails to pay the balance due on the purchase price and complete the purchase within said thirty (30) days after the date of Confirmation of Sale, he or she shall be in contempt of this Court and the Sheriff, or other interested party, may forthwith cause a citation to issue commanding such defaulting purchaser to appear before the Judge of this Court having such matters in charge, and show cause why he should not be punished. Upon a finding of contempt, the Court shall proceed in determining punishment, including the forfeiture of the deposit, under O.R.C. §2329.30.

22.07 Appraisal Fees Appraisal fees shall be based on the Auditor's last tax appraisal of the property as shown by his duplicates and the area of the County where the property is located. The fees shall be \$75.00 per appraisal per case.

Compensation for appraisal fees may be obtained in special cases, and for commercial parcels, by approval of Court, and for good cause shown.

22.08 Sheriff to Post Rules The Sheriff shall keep a copy of this entire Rule conspicuously posted at the place where Sheriff Sales are conducted and shall call attention thereto before receiving bids. The County shall place required forms under this Rule and other assistance for parties, attorneys, bidders and/or purchasers on the County's internet website.

22.09 Failure to Comply Failure to comply with these Rules shall subject a party, an attorney, a bidder and/or a purchaser to Contempt of this Court.