



City of Columbus

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Legislation Text

File #: 1997-2024, **Version:** 1

BACKGROUND: This legislation enacts Chapter 4519 of the Columbus City Codes to create a Foreclosed Property Registry.

Foreclosed properties pose a danger to the public health, safety and welfare. Several studies have demonstrated that foreclosed properties can quickly become blighted and are at greater risk of becoming vacant and abandoned properties than other properties in the city. Locating the person in control of the property or responsible for the care and maintenance of the property is often an impossible task, mired in disputes between the mortgagee, mortgagor, servicer, and subservicer. Accordingly, citations for property maintenance are routinely ignored at these properties, placing properties at increased risk for becoming unsecured, vandalized, and hazardous.

The proliferation of these foreclosed properties has caused blight to flourish, providing havens for criminal activity; destroying the safety of neighborhoods; posing dangerous risks to the city's firefighters, police officers, and code enforcement officials; depleting already scarce city resources; diminishing property values throughout the city; undermining the city's ability to enforce its criminal laws; and interfering with the city's duty to protect its citizens from unsafe and harmful conditions.

The purpose of this chapter is to ensure that foreclosed properties are protected and maintained and that city officials are alerted to the location of these vulnerable properties. This chapter is enacted in order to address the problem of blighted properties that are a direct result of foreclosed properties and that pose a threat to the public health, safety, and welfare.

FISCAL IMPACT: No Impact

To enact Chapter 4519 of the Columbus City Codes to create a Foreclosed Property Registry.

WHEREAS, foreclosed properties pose a danger to the public health, safety and welfare; and

WHEREAS, foreclosed properties can quickly become blighted and are at greater risk of becoming vacant and abandoned properties than other properties in the city; and

WHEREAS, the proliferation of these foreclosed properties has caused blight to flourish, providing havens for criminal activity; destroying the safety of neighborhoods; posing dangerous risks to the city's firefighters, police officers, and code enforcement officials; depleting already scarce city resources; diminishing property values throughout the city; undermining the city's ability to enforce its criminal laws; and interfering with the city's duty to protect its citizens from unsafe and harmful conditions; and

WHEREAS, it is important to ensure that foreclosed properties are protected and maintained and that city officials are alerted to the location of these vulnerable properties; **NOW, THEREFORE,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That Chapter 4519 of the Columbus City Codes be enacted to read as follows:

Chapter 4519 REGISTRY OF FORECLOSED PROPERTY

4519.01 Registry of Foreclosed Property.

There is hereby created in the Department a Registry of Foreclosed Property. This registry shall be available for public inspection during regular business hours of the Department. The Director is authorized to promulgate rules and regulations related to the operation and enforcement of the Registry of Foreclosed Property.

4519.03 Definitions.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section.

A. “Arm’s Length Transaction” means a transaction between two parties who are independent and do not have a close relationship with each other. These parties are presumed to have equal bargaining power and are not subject to undue pressure or influence from the other party.

B. “Bona Fide Purchaser” means a person who has purchased an asset for stated value, innocent of any fact which would cast doubt on the right of the seller to have sold it in good faith.

C. “Default” means that the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the mortgage.

D. “Foreclosure” means the legal process by which a mortgagee, or other lien holder, terminates or attempts to terminate a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. The legal process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm’s length transaction to satisfy the debt or lien or the foreclosure action has been dismissed.

E. “Mortgagee” means any lender who is party to a mortgage agreement and whose interest in that agreement is secured by a lien on residential property who initiates a foreclosure action on the premises at issue.

F. “Property Manager” means any party designated by the mortgagee/owner as responsible for inspecting, maintaining and securing the property as required in this Chapter.

G. “Registrable Property” means any real property located in the City, whether vacant or occupied, that is subject to an ongoing foreclosure action by the mortgagee or trustee. The designation of a “Registrable Property” shall remain in place until such time as the property is sold to a bona fide purchaser in an arm’s length transaction or the foreclosure action has been dismissed.

H. “Registry” means a database of real property records used by the City to allow mortgagees the opportunity to register properties and pay applicable fees as required in this Chapter.

I. “Semi-Annual Registration” means six (6) months from the date of the first action that defines the property as a Registrable Property, and every subsequent six (6) months the property remains a registrable property. The date of the initial registration may be different than the date of the first action that required registration.

4519.05 Applicability and requirement to register.

A. Within ten (10) days from the date a mortgagee files a foreclosure action, the mortgagee who has a Registrable

Property shall:

1. perform an inspection of the Registerable Property, and
2. register each Registerable Property in accordance with this section and shall continue to register any Registerable Property semi-annually thereafter. If the property contains a Vacant Building, the mortgagee shall also register the vacant building in compliance with Chapter 4517.
- B. Initial registration pursuant to this Chapter shall contain, at a minimum, the name of the mortgagee, the mailing address, e-mail address, and telephone number of each mortgagee, and the mailing address, e-mail address, telephone number, name of the property manager, and whether the property is occupied or vacant.
- C. Property inspected pursuant to division (A) that remains in foreclosure, shall be inspected by mortgagee every thirty (30) days from the date of the initial inspection. If an inspection shows a change in the property's occupancy status the mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.
- D. This Chapter shall not apply to any Registerable Property that is owned, or in contract to be owned, by local, regional, or State governmental entities.
- E. If the mortgage and/or servicing on a property is sold or transferred, the new mortgagee is subject to all the terms of this Chapter so long as the property remains a Registerable Property. Within ten (10) days of the transfer, the new mortgagee shall register the property or update the existing registration. The previous mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the Registerable Property.
- F. If the mortgagee sells or transfers the Registrable Property in a non-arm's length transaction, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the mortgagee was at the time registration was required, including but not limited to unregistered periods during the foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the Registrable Property.
- G. Properties subject to this section shall remain subject to the semi-annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains a Registrable Property.
- H. Failure of the mortgagee to properly register or to modify the registration to reflect a change of circumstances as required by this section is a violation of this Chapter and shall be subject to criminal and civil penalties prescribed herein.
- I. Registration of a Registerable Property does not alleviate the mortgagee and/or owner from obtaining all required licenses, permits and inspections or registrations required by applicable City Codes or Ohio Revised Codes.

4519.07 Registration fee.

(A) At the time of registration and semi-annually thereafter, the Mortgagee shall pay a non-refundable registration fee, as set forth in the fee schedule pursuant to City Code Section 4103.14, for each registerable property. Said fees shall be used to offset the costs of:

- (i) registration and registration enforcement;
- (ii) code enforcement and mitigation related to defaulted properties;
- (iii) post-closing counseling and foreclosure intervention limited to owner-occupied persons in default, which may not

include cash and mortgage modification assistance.

(B) If the Registerable Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, the mortgagee shall be subject to a late fee as set forth in the fee schedule pursuant to City Code Section 4103.14.

4519.09 Severability

The provisions of this Chapter shall be deemed severable; and, if any such provision shall be held unconstitutional by a court of competent jurisdiction the decision of such court shall not impair any of the remaining provisions.

4519.99 - Violations.

A. No mortgagee shall violate any requirements of this Chapter. Strict liability is intended to be imposed for a violation of this Chapter.

B. If the Director determines that a Mortgagee has failed to comply with the requirements of this Chapter, a Notice of Violation shall be issued in accordance with Chapter 4509. Failure to comply with the Notice of Violation by the date specified therein shall subject the Mortgagee to penalties as set forth in Section 4519.995. The Notice of Violation shall state the date on which the assessment of civil penalties may commence.

C. Appeals. If the Director issues a Notice of Violation, the Mortgagee may appeal to the Property Maintenance Appeals Board, pursuant to Chapter 4509.

4519.995 - Civil penalty; effect of appeal.

A. In addition to any other remedy or penalty provided in this Housing Code or the Ohio Revised Code, a Mortgagee who fails to comply with a Notice of Violation issued pursuant to this Chapter by the date specified in the notice may incur a civil penalty of one hundred-fifty dollars (\$150.00) for each calendar day thereafter that the Property Owner fails to comply with the orders in the Notice of Violation.

B. In addition to any other remedy available by law, the Director may file a civil action in the Environmental Division of the Franklin County Municipal Court seeking a court order to recover any accumulated civil penalties.

C. Upon the Mortgagee appealing a Notice of Violation to the Property Maintenance Appeals Board pursuant to Chapter 4509, any enforcement action seeking compliance with the ordered abatement, including the collection of civil penalties imposed pursuant to this section, shall be stayed until the Property Maintenance Appeals Board issues its decision on the appeal. Civil penalties incurred pursuant to this section shall continue to be assessed during the pendency of any appeal to the Property Maintenance Appeals Board and any subsequent court on appeal, and shall be subject to collection upon a final judgment on the appeal.

SECTION 2. That this ordinance shall take effect and be in full force 30 days from and after its passage and approval by the Mayor of the City of Columbus.

