

**As Introduced**

**128th General Assembly  
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**H. B. No. 306**

**Representative Dolan**

**Cosponsors: Representatives Grossman, Boose, Ujvagi, Blair, Lehner,  
Balderson, Phillips**

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**A B I L L**

To amend sections 2303.201 and 2323.06 and to enact 1  
sections 2303.24 and 2308.01 to 2308.05 of the 2  
Revised Code to require courts to establish and 3  
operate programs of mandatory foreclosure 4  
mediation in non-tax foreclosure actions on 5  
occupied residential properties, to require courts 6  
to adopt rules to establish filing fees to cover 7  
the costs of the mediation, to set minimal 8  
qualifications that the court must adopt by rule 9  
for the mediators it appoints, and to establish 10  
procedures for the operation of foreclosure 11  
mediation programs. 12

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2303.201 and 2323.06 be amended and 13  
sections 2303.24, 2308.01, 2308.02, 2308.03, 2308.04, and 2308.05 14  
of the Revised Code be enacted to read as follows: 15

**Sec. 2303.201.** (A)(1) The court of common pleas of any county 16  
may determine that for the efficient operation of the court 17  
additional funds are required to computerize the court, to make 18

available computerized legal research services, or to do both. 19  
Upon making a determination that additional funds are required for 20  
either or both of those purposes, the court shall authorize and 21  
direct the clerk of the court of common pleas to charge one 22  
additional fee, not to exceed three dollars, on the filing of each 23  
cause of action or appeal under divisions (A), (Q), and (U) of 24  
section 2303.20 of the Revised Code. 25

(2) All fees collected under division (A)(1) of this section 26  
shall be paid to the county treasurer. The treasurer shall place 27  
the funds from the fees in a separate fund to be disbursed, upon 28  
an order of the court, in an amount not greater than the actual 29  
cost to the court of procuring and maintaining computerization of 30  
the court, computerized legal research services, or both. 31

(3) If the court determines that the funds in the fund 32  
described in division (A)(2) of this section are more than 33  
sufficient to satisfy the purpose for which the additional fee 34  
described in division (A)(1) of this section was imposed, the 35  
court may declare a surplus in the fund and expend those surplus 36  
funds for other appropriate technological expenses of the court. 37

(B)(1) The court of common pleas of any county may determine 38  
that, for the efficient operation of the court, additional funds 39  
are required to computerize the office of the clerk of the court 40  
of common pleas and, upon that determination, authorize and direct 41  
the clerk of the court of common pleas to charge an additional 42  
fee, not to exceed ten dollars, on the filing of each cause of 43  
action or appeal, on the filing, docketing, and endorsing of each 44  
certificate of judgment, or on the docketing and indexing of each 45  
aid in execution or petition to vacate, revive, or modify a 46  
judgment under divisions (A), (P), (Q), (T), and (U) of section 47  
2303.20 of the Revised Code. Subject to division (B)(2) of this 48  
section, all moneys collected under division (B)(1) of this 49  
section shall be paid to the county treasurer to be disbursed, 50

upon an order of the court of common pleas and subject to 51  
appropriation by the board of county commissioners, in an amount 52  
no greater than the actual cost to the court of procuring and 53  
maintaining computer systems for the office of the clerk of the 54  
court of common pleas. 55

(2) If the court of common pleas of a county makes the 56  
determination described in division (B)(1) of this section, the 57  
board of county commissioners of that county may issue one or more 58  
general obligation bonds for the purpose of procuring and 59  
maintaining the computer systems for the office of the clerk of 60  
the court of common pleas. In addition to the purposes stated in 61  
division (B)(1) of this section for which the moneys collected 62  
under that division may be expended, the moneys additionally may 63  
be expended to pay debt charges on and financing costs related to 64  
any general obligation bonds issued pursuant to division (B)(2) of 65  
this section as they become due. General obligation bonds issued 66  
pursuant to division (B)(2) of this section are Chapter 133. 67  
securities. 68

(C) The court of common pleas shall collect the sum of 69  
twenty-six dollars as additional filing fees in each new civil 70  
action or proceeding for the charitable public purpose of 71  
providing financial assistance to legal aid societies that operate 72  
within the state and to support the office of the state public 73  
defender. This division does not apply to proceedings concerning 74  
annulments, dissolutions of marriage, divorces, legal separation, 75  
spousal support, marital property or separate property 76  
distribution, support, or other domestic relations matters; to a 77  
juvenile division of a court of common pleas; to a probate 78  
division of a court of common pleas, except that the additional 79  
filing fees shall apply to name change, guardianship, adoption, 80  
and decedents' estate proceedings; or to an execution on a 81  
judgment, proceeding in aid of execution, or other post-judgment 82

proceeding arising out of a civil action. The filing fees required 83  
to be collected under this division shall be in addition to any 84  
other filing fees imposed in the action or proceeding and shall be 85  
collected at the time of the filing of the action or proceeding. 86  
The court shall not waive the payment of the additional filing 87  
fees in a new civil action or proceeding unless the court waives 88  
the advanced payment of all filing fees in the action or 89  
proceeding. All such moneys collected during a month except for an 90  
amount equal to up to one per cent of those moneys retained to 91  
cover administrative costs shall be transmitted on or before the 92  
twentieth day of the following month by the clerk of the court to 93  
the treasurer of state in a manner prescribed by the treasurer of 94  
state or by the Ohio legal assistance foundation. The treasurer of 95  
state shall deposit four per cent of the funds collected under 96  
this division to the credit of the civil case filing fee fund 97  
established under section 120.07 of the Revised Code and 98  
ninety-six per cent of the funds collected under this division to 99  
the credit of the legal aid fund established under section 120.52 100  
of the Revised Code. 101

The court may retain up to one per cent of the moneys it 102  
collects under this division to cover administrative costs, 103  
including the hiring of any additional personnel necessary to 104  
implement this division. If the court fails to transmit to the 105  
treasurer of state the moneys the court collects under this 106  
division in a manner prescribed by the treasurer of state or by 107  
the Ohio legal assistance foundation, the court shall forfeit the 108  
moneys the court retains under this division to cover 109  
administrative costs, including the hiring of any additional 110  
personnel necessary to implement this division, and shall transmit 111  
to the treasurer of state all moneys collected under this 112  
division, including the forfeited amount retained for 113  
administrative costs, for deposit in the legal aid fund. 114

(D) On and after the thirtieth day after December 9, 1994, 115  
the court of common pleas shall collect the sum of thirty-two 116  
dollars as additional filing fees in each new action or proceeding 117  
for annulment, divorce, or dissolution of marriage for the purpose 118  
of funding shelters for victims of domestic violence pursuant to 119  
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 120  
required to be collected under this division shall be in addition 121  
to any other filing fees imposed in the action or proceeding and 122  
shall be collected at the time of the filing of the action or 123  
proceeding. The court shall not waive the payment of the 124  
additional filing fees in a new action or proceeding for 125  
annulment, divorce, or dissolution of marriage unless the court 126  
waives the advanced payment of all filing fees in the action or 127  
proceeding. On or before the twentieth day of each month, all 128  
moneys collected during the immediately preceding month pursuant 129  
to this division shall be deposited by the clerk of the court into 130  
the county treasury in the special fund used for deposit of 131  
additional marriage license fees as described in section 3113.34 132  
of the Revised Code. Upon their deposit into the fund, the moneys 133  
shall be retained in the fund and expended only as described in 134  
section 3113.34 of the Revised Code. 135

(E)(1) The court of common pleas may determine that, for the 136  
efficient operation of the court, additional funds are necessary 137  
to acquire and pay for special projects of the court, including, 138  
but not limited to, the acquisition of additional facilities or 139  
the rehabilitation of existing facilities, the acquisition of 140  
equipment, the hiring and training of staff, community service 141  
programs, mediation or dispute resolution services, the employment 142  
of magistrates, the training and education of judges, acting 143  
judges, and magistrates, and other related services. Upon that 144  
determination, the court by rule may charge a fee, in addition to 145  
all other court costs, on the filing of each criminal cause, civil 146  
action or proceeding, or judgment by confession. 147

If the court of common pleas offers a special program or service in cases of a specific type, the court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (E) of this section shall be paid to the county treasurer for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (E) of this section, the court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

(2) As used in division (E) of this section:

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

(F)(1) The court of common pleas shall establish by rule a

residential foreclosure filing fee in an amount up to five hundred 179  
dollars to charge to any person who files a petition for 180  
foreclosure on a residential property, except as division (F)(3) 181  
of this section otherwise provides. The fee shall be in addition 182  
to any other filing fee or court cost that otherwise applies to 183  
the filing. The clerk of courts shall pay all moneys collected as 184  
a residential foreclosure filing fee to the county treasurer for 185  
deposit into a residential foreclosure mediation fund the 186  
treasurer establishes. Upon an order of the court, the treasurer 187  
shall disburse moneys from the fund to reimburse the court for any 188  
foreclosure mediation expenses the court incurs pursuant to the 189  
foreclosure mediation program it establishes pursuant to section 190  
2303.24 of the Revised Code. If the amount collected as 191  
residential foreclosure filing fees is more than the amount 192  
sufficient to satisfy the purpose for which the fee is imposed, 193  
the court may declare a surplus and expend the money for other 194  
costs related to residential foreclosure actions. 195

(2) The fee that a filing party pays pursuant to division 196  
(F)(1) of this section is an expense that the filing party may 197  
recover from the sale of the property or as part of a deficiency 198  
judgment. 199

(3) The fee that division (F)(1) of this section establishes 200  
does not apply to any foreclosure filing based on a lien for 201  
delinquent taxes. 202

**Sec. 2303.24.** (A) A court of common pleas shall establish a 203  
program of mandatory mediation to be conducted by a 204  
court-appointed mediator that shall apply to all foreclosure 205  
actions on occupied residential structures, except for the 206  
following: 207

(1) A foreclosure action that is based on a lien for 208  
delinquent taxes; 209

(2) A foreclosure action in which the homeowner does not answer the summons within twenty-eight days after its issuance; 210  
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(3) A foreclosure action on a property that is not an occupied residential property, as defined in section 2308.01 of the Revised Code. 212  
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(B) The foreclosure mediation program shall be consistent with sections 2308.02 to 2308.05 of the Revised Code. 215  
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(C) The court shall adopt rules that establish training requirements for mediators that the court appoints under its foreclosure mediation program. The rules shall comply with rule sixteen of the rules of superintendence for the courts of Ohio, and shall include all of the following as minimal requirements: 217  
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(1) Twelve hours of basic mediation training; 222

(2) Foreclosure mediation training approved by the supreme court; 223  
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(3) Two hours of training on the provisions of Chapter 2710. of the Revised Code. 225  
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(D) The court may appoint volunteer mediators or mediators who require a fee to conduct the mediations in its foreclosure mediation program, so long as the mediator meets the court's training requirements. The court shall pay any costs of mediation from the residential foreclosure mediation fund the county treasurer establishes pursuant to division (F) of section 2303.201 of the Revised Code. 227  
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**Sec. 2308.01. As used in this chapter:** 234

(A) "Occupied residential property" means real property with a residential unit that is occupied by the owner of the property or a tenant of the owner; 235  
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(B) "Filing party" means the party who files an action for 238

foreclosure on a residential property. "Filing party" does not 239  
include any person who files for a foreclosure action based on a 240  
lien for delinquent taxes. 241

Sec. 2308.02. (A) Except as otherwise provided in division 242  
(B) of this section, no action for foreclosure on an occupied 243  
residential property shall proceed unless the filing party and the 244  
homeowner participate in foreclosure mediation pursuant to the 245  
program the court establishes under section 2303.24 of the Revised 246  
Code. 247

(B) The mediation this section requires does not apply to any 248  
of the following: 249

(1) A foreclosure filing that is based on a lien for 250  
delinquent taxes; 251

(2) A foreclosure action on a property that is not an 252  
occupied residential property; 253

(3) A foreclosure action in which the property owner does not 254  
reply to the summons within twenty-eight days after its issuance. 255

(C) At the time of filing a foreclosure action, or within 256  
twenty-eight days after that filing, either the filing party or 257  
the homeowner may file an affidavit with the clerk of courts 258  
stating that the property being foreclosed upon is not an occupied 259  
residential property, specifying the basis for that conclusion, 260  
and requesting that the foreclosure action proceed without 261  
mediation after the twenty-eight-day answer period. 262

Sec. 2308.03. Along with the summons that the clerk of courts 263  
issues when a foreclosure action is filed on a residential 264  
property, except when the filing is based on a lien for delinquent 265  
taxes, the clerk shall provide both of the following: 266

(A) A written notice that includes all of the following: 267

(1) That the filing party and the owner of an occupied residential property are required to participate in mediation with a court-appointed mediator as a condition of the foreclosure action proceeding; 268  
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(2) That the homeowner has twenty-eight days to answer the summons, that in any answer the homeowner should assert whether the property is an occupied residential property, and that if the homeowner does not answer within twenty-eight days after the issuance of the summons, the mediation will not be held and the filing party may seek a default judgment; 272  
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(3) That upon receiving an answer to the summons from the homeowner, the clerk will schedule the mediation to be held within sixty days and will notify the filing party and the homeowner of the date, time, and place of the mediation meeting; 278  
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(4) That the homeowner may be accompanied and represented by an attorney at the mediation; 282  
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(5) That at the request of the mediator, the first mediation meeting may be held by telephone. 284  
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(B) Information about programs that help homeowners who face foreclosure, including information on state programs such as the "save the dream program" and any local programs organized by local task forces or other entities. 286  
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**Sec. 2308.04.** (A) Upon receiving a homeowner's answer to the clerk's summons in a residential foreclosure action, if the property is an occupied residential property, the clerk shall appoint a mediator who is qualified pursuant to section 2303.24 of the Revised Code and schedule a mediation meeting to be held within sixty days after receiving that answer. The clerk shall provide the filing party and the homeowner written notice of that meeting. The notice shall include the name of the mediator and the 290  
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date, time, and place of the mediation meeting, or information 298  
with respect to establishing the date, time, and place of the 299  
meeting. The notice also shall include a statement that the 300  
homeowner has a right to be accompanied and represented by an 301  
attorney. 302

(B) If the homeowner does not answer the summons in a 303  
residential foreclosure action within twenty-eight days after the 304  
issuance of the summons, or if the answer asserts that the 305  
property is not an occupied residential property, the mediation 306  
requirement established in section 2308.02 of the Revised Code 307  
does not apply and the filing party may proceed pursuant to usual 308  
procedures in the foreclosure action. 309

**Sec. 2308.05.** (A) A foreclosure mediation meeting shall 310  
proceed according to Chapter 2710. of the Revised Code unless 311  
otherwise provided. 312

(B) At the discretion of the mediator, the first mediation 313  
meeting may be conducted by telephone. The mediation shall 314  
continue for as many sessions as the mediator determines is 315  
beneficial, at the discretion of the mediator. 316

(C) Upon a reasonable request of either party that certain 317  
documents be provided to the mediator, a mediator may require a 318  
party to provide those documents. The privileges and exceptions 319  
pertaining to mediation communications that are contained in 320  
Chapter 2710. of the Revised Code apply to foreclosure mediations. 321

(D) If either the filing party or a homeowner does not attend 323  
a scheduled mediation meeting, the mediator immediately shall 324  
report this to the court and the foreclosure shall proceed as if 325  
the mediation meeting had been held. If the filing party does not 326  
attend a mediation meeting, the court may dismiss the foreclosure 327

action. 328

(E) A mediator shall prepare a written report of the 329  
mediation and provide that report to the court within fourteen 330  
days after the final mediation meeting. The mediator shall include 331  
in that report the dates of all scheduled mediation meetings, 332  
whether the mediation was successful in resolving the issue, 333  
whether both parties attended scheduled mediation meetings and 334  
participated in good faith, and any other information the mediator 335  
considers appropriate. 336

**Sec. 2323.06.** In addition to the mediation that section 338  
2308.02 of the Revised Code requires, in an action for the 339  
foreclosure of a mortgage, the court may at any stage in the 340  
action require the mortgagor and the mortgagee to participate in 341  
mediation as the court considers appropriate and may include a 342  
stipulation that requires the mortgagor and the mortgagee to 343  
appear at ~~the~~ that mediation in person. 344

**Section 2.** That existing sections 2303.201 and 2323.06 of the 345  
Revised Code are hereby repealed. 346