

OHIO'S RECEIVERSHIP STATUTE

The following is information on Ohio's Receivership Process.

- Under the Ohio Statute, this strategy can be used for any building or structure that is used, or is intended to be used, for residential purposes. This includes mixed-use buildings that have, or will have, a residential component after rehabilitation.
- Buildings must be declared a "public nuisance" by the City of Cleveland before the petition for Receivership can proceed.
- The statute allows an interested party to petition the Cleveland Municipal Court, Housing Division, for Receivership based on the public nuisance determination.
- The organization or individual seeking to be appointed Receiver must present a financial and construction plan for the rehabilitation of the building/property to the Court.
- The Court makes a determination on the feasibility of the project and typically grants the request for Receivership.
- The property owner(s) and all other lien holders can oppose the Receivership action, but unless they have a better plan for financing and rehabilitating the building, the Court will award the Receivership to the petitioner.
- Receivership gives immediate, legal control of a property with no purchase or eminent domain required, and rehabilitation can start immediately. It also legally obligates the Receiver to complete the project as proposed to the Court.
- The title to the property remains with the owner(s) but the statute protects the Receiver's financial investment in the property.
- The investment made by the Receiver is equivalent to placing a lien on the property equal to the total rehabilitation cost (legal, carrying, soft and hard costs), plus 10% of that total, which is the Receiver's Fee. The Receivership lien comes before every other lien on the property except for mortgages and Federal liens (taxes, social security, etc.).
- After rehabilitation is complete, the Receiver returns to Court to file a financial report on the project and to ask that the lien be satisfied. At that time, the owner(s) is given the opportunity to satisfy the lien and regain the full rights to their now-rehabilitated property.
- Should the owner(s) decline the opportunity to satisfy the lien, which is the expected outcome, the Receiver then requests permission to sell the property on the open market for a minimum asking price that reflects the Receiver's investment and 10% fee.
- Upon accepting an offer and executing a purchase agreement, the Receiver returns to Court to be released as Receiver.
- Proceeds from the sale in excess of the Receiver's lien, go to pay off any subordinate liens which the statute prioritizes. Any proceeds remaining after all liens have been satisfied, which is very unlikely, would go to the owner(s).
- If only the Receiver's lien can be satisfied by the sale proceeds, the title is cleared of all other liens by order of the Court. Notices are sent to all lien holders informing them of the statute and action. The Title Company then guarantees the title for the new owner(s).

Receivership requires dedicated counsel and a title company committed to an unusual procedure.