

**As Introduced**

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

**Representative Dolan**

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

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**A BILL**

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

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

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

**Sec. 2303.201.** (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed three dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.

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

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee

described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court.

(B)(1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the court of common pleas.

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

(C) The court of common pleas shall collect the sum of twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to proceedings concerning annulments, dissolutions of marriage, divorces, legal separation, spousal support, marital property or separate property distribution, support, or other domestic relations matters; to a juvenile division of a court of common pleas; to a probate division of a court of common pleas, except that the additional filing fees shall apply to name change, guardianship, adoption, and decedents' estate proceedings; or to an execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month except for an amount equal to up to one per cent of those moneys retained to cover administrative costs shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. The treasurer of state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

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

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

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

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

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

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

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

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

(2) A foreclosure action in which the homeowner does not answer the summons within twenty-eight days after its issuance;

(3) A foreclosure action on a property that is not an occupied residential property, as defined in section 2308.01 of the Revised Code.

(B) The foreclosure mediation program shall be consistent with sections 2308.02 to 2308.05 of the Revised Code.

(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:

(1) Twelve hours of basic mediation training;

(2) Foreclosure mediation training approved by the supreme court;

(3) Two hours of training on the provisions of Chapter 2710. of the Revised Code.

(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.

**Sec. 2308.01.** As used in this chapter:

(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;

(B) "Filing party" means the party who files an action for foreclosure on a residential property. "Filing party" does not include any person who files for a foreclosure action based on a lien for delinquent taxes.

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

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

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

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

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

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

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

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

(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;

(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;

(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;

(4) That the homeowner may be accompanied and represented by an attorney at the mediation;

(5) That at the request of the mediator, the first mediation meeting may be held by telephone.

(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.

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 date, time, and place of the mediation meeting, or information with respect to establishing the date, time, and place of the meeting. The notice also shall include a statement that the homeowner has a right to be accompanied and represented by an attorney.

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

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

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

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

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

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

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

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