

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 626

Representatives Celeste, Foley

**Cosponsors: Representatives Beatty, Yuko, Harwood, Williams, B., Ujvagi,
Slesnick, Skindell, Letson, Newcomb, Stewart, D., Hagan, R., Williams, S.,
Heard, Mallory, Setzer, Lundy**

—

A B I L L

To amend section 2329.26 and to enact section 5321.20 1
of the Revised Code to specify that, upon proper 2
notice, a rental agreement for a residential 3
property that is the subject of a foreclosure 4
action converts to a month-to-month rental 5
agreement unless that residential rental agreement 6
was entered into after the initiation of 7
foreclosure proceedings and notice of an ongoing 8
foreclosure action and subsequent sale date is not 9
provided, and to create penalties for a landlord 10
or a successor in interest who violates the bill's 11
provisions. 12

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

Section 1. That section 2329.26 be amended and section 13
5321.20 of the Revised Code be enacted to read as follows: 14

Sec. 2329.26. (A) Lands and tenements taken in execution 15
shall not be sold until all of the following occur: 16

(1)(a) Except as otherwise provided in division (A)(1)(b) of 17

this section, the judgment creditor who seeks the sale of the
lands and tenements or the judgment creditor's attorney does both
of the following:

(i) Causes a written notice of the date, time, and place of
the sale to be served in accordance with divisions (A) and (B) of
Civil Rule 5 upon the judgment debtor ~~and upon~~, each other party
to the action in which the judgment giving rise to the execution
was rendered, and, if the lands and tenements are residential
property, any tenant residing in the residential property who is
not a party to the action;

(ii) At least seven calendar days prior to the date of the
sale, files with the clerk of the court that rendered the judgment
giving rise to the execution a copy of the written notice
described in division (A)(1)(a)(i) of this section with proof of
service endorsed on the copy in the form described in division (D)
of Civil Rule 5.

(b) Service of the written notice described in division
(A)(1)(a)(i) of this section is not required to be made upon any
party who is in default for failure to appear in the action in
which the judgment giving rise to the execution was rendered.

(2) The officer taking the lands and tenements gives public
notice of the date, time, and place of the sale for at least three
weeks before the day of sale by advertisement in a newspaper
published in and of general circulation in the county. The court
ordering the sale may designate in the order of sale the newspaper
in which this public notice shall be published, and this public
notice is subject to division (A) of section 2329.27 of the
Revised Code.

(3) The officer taking the lands and tenements shall collect
the purchaser's information required by section 2329.271 of the
Revised Code.

(B) A sale of lands and tenements taken in execution may be set aside in accordance with division (B) of section 2329.27 of the Revised Code.

(C) The written notice this section requires shall be served to a tenant of a residential property at the address of that property at least thirty days before the sale date.

(D) "Tenant" has the same meaning as in section 5321.01 of the Revised Code.

Sec. 5321.20. (A) Except as provided in division (B) of this section, any rental agreement for a residential property that is the subject of a foreclosure action shall convert to a month-to-month rental agreement upon the approval of a sale at auction by a court pursuant to section 2329.33 of the Revised Code.

(B) If a tenant enters into a rental agreement after foreclosure begins and the tenant is not provided the notice of a foreclosure action as division (C) of this section requires or the notice of sale as division (D) of this section requires, an owner who purchases the property at auction shall, within fourteen days after that purchase, offer to honor the existing rental agreement. If the tenant does not accept that offer within fourteen days, the rental agreement shall convert to a month-to-month rental agreement.

(C)(1) Any landlord of a residential property that is the subject of a foreclosure action shall provide each tenant at that property with written notice of the foreclosure action. The notice shall include a statement in substantially the following form:

"This property is undergoing foreclosure. For more information on this action, you should contact the(your county) Clerk of Courts for the Court of Common Pleas,

.....(address), at(phone number). 79

A sale at auction may or may not occur as a result of this 80
foreclosure. Currently, the sale of this property has been set for 81
.....(time, date, and place) or no date for sale of this 82
property has been established. You will receive written notice of 83
the sale at least thirty days before it takes place. 84

If there is a sale of this property at auction, the following 85
will occur: 86

If you entered into your rental agreement before 87
.....(date the foreclosure action was initiated), your 88
current rental agreement converts to a month-to-month tenancy upon 89
the sale of the property. 90

If you entered into your rental agreement after 91
..... (date the foreclosure action was initiated) and the 92
agreement included a notice of the foreclosure, your rental 93
agreement will become a month-to-month rental agreement on the 94
date a court approves the sale. The new owner may offer to honor 95
your current rental agreement but is not required to do so. You 96
may accept or reject any such offer. 97

If you entered into your rental agreement after 98
..... (date the foreclosure action was initiated) and 99
the agreement did not include a notice of the foreclosure, within 100
fourteen days after purchasing the home the new owner must give 101
you a written offer to honor your current rental agreement. If you 102
do not accept that offer, your rental agreement will become a 103
month-to-month agreement. 104

Note: With a month-to-month rental agreement, either the 105
tenant or the landlord may terminate the agreement by providing 106
written notice of termination to the other at least thirty days 107
prior to a date on which the rent payment normally is due. The 108
rental agreement then terminates on that date." 109

(2) If the rental agreement is entered into before the foreclosure action is initiated, the landlord shall provide the written notice of foreclosure within thirty days after the foreclosure action is filed. If the rental agreement is entered into after the foreclosure action is initiated, the landlord shall include the written notice of foreclosure in the rental agreement.

(D) Any landlord of a residential property that is the subject of a foreclosure action shall provide each tenant at that property written notice of the date, time, and place of the sale of the foreclosed property at least thirty days before the sale date.

(E) In addition to any other remedy under law, a tenant may recover the greater of actual damages or one month's rent plus the security deposit amount and reasonable attorney's fees, obtain injunctive relief to enforce the rental agreement, or both, if a landlord or a successor in interest does either of the following:

(1) Fails to honor a rental agreement as divisions (A) and (B) of this section require;

(2) Fails to provide the written notices that divisions (C) and (D) of this section require.

Section 2. That existing section 2329.26 of the Revised Code is hereby repealed.