

**As Reported by the Senate Judiciary--Civil Justice Committee**

**128th General Assembly**

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**Sub. S. B. No. 13**

**Senator Miller, D.**

**Cosponsors: Senators Morano, Turner, Smith**

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**A B I L L**

To amend section 2329.26 and to enact sections 1  
121.086, 2703.10, 5321.20, 5321.21, 5321.22, 2  
5321.23, and 5321.24 of the Revised Code to 3  
require a landlord to notify tenants when a 4  
foreclosure action is filed, to require the 5  
Director of Commerce to prepare a publication to 6  
assist owners and tenants of foreclosed 7  
residential rental property, to require the 8  
officer taking lands and tenements to notify the 9  
owner of the property of the date, time, and place 10  
of the sale of the foreclosed property, to require 11  
landlords to notify tenants when a property is 12  
foreclosed and when a sale is scheduled, to 13  
provide for continuance of a rental agreement 14  
after a foreclosure sale, to impose a civil 15  
penalty upon the landlord if the landlord fails to 16  
notify the tenants when a property is foreclosed, 17  
and to provide civil remedies for a tenant whose 18  
landlord violates the bill's provisions. 19  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

Section 1. That section 2329.26 be amended and sections 21  
121.086, 2703.10, 5321.20, 5321.21, 5321.22, 5321.23, and 5321.24 22  
of the Revised Code be enacted to read as follows: 23

Sec. 121.086. The director of commerce shall prepare a 24  
publication for distribution to owners and tenants of residential 25  
rental properties that are the subject of foreclosure actions. The 26  
publication shall include a list of available resources to assist 27  
owners of residential rental properties to retain their property 28  
and to assist tenants in obtaining assistance if relocation is 29  
necessary. The director shall make the publication available to 30  
clerks of courts of common pleas in this state for distribution to 31  
owners and tenants of residential rental properties that are 32  
undergoing foreclosure. 33

Sec. 2329.26. (A) Lands and tenements taken in execution 34  
shall not be sold until all of the following occur: 35

(1)(a) Except as otherwise provided in division (A)(1)(b) of 36  
this section, the ~~judgment creditor who seeks the sale of officer~~ 37  
taking the lands and tenements ~~or the judgment creditor's attorney~~ 38  
does both of the following: 39

(i) ~~Causes~~ At least thirty-five days prior to the date of the 40  
sale, whether or not there is a default judgment, causes a written 41  
notice of the date, time, and place of the sale to be served in 42  
accordance with the procedure in divisions (A) and (B) of Civil 43  
Rule 5 upon the judgment debtor and upon each other party to the 44  
action in which the judgment giving rise to the execution was 45  
rendered and includes with the written notice a statement that if 46  
the property is residential rental property the judgment debtor 47  
who is the owner of the property must comply with divisions (A)(5) 48  
and (6) of section 5321.20 of the Revised Code; 49

(ii) At least seven calendar days prior to the date of the 50

sale, files with the clerk of the court that rendered the judgment 51  
giving rise to the execution a copy of the written notice and 52  
included statement described in division (A)(1)(a)(i) of this 53  
section with proof of service endorsed on the copy in the form 54  
described in division (D) of Civil Rule 5. 55

(b) Service of the written notice and included statement 56  
described in division (A)(1)(a)(i) of this section is not required 57  
to be made upon any party who is in default for failure to appear 58  
in the action in which the judgment giving rise to the execution 59  
was rendered. 60

(2) The officer taking the lands and tenements gives public 61  
notice of the date, time, and place of the sale for at least three 62  
weeks before the day of sale by advertisement in a newspaper 63  
published in and of general circulation in the county. The court 64  
ordering the sale may designate in the order of sale the newspaper 65  
in which this public notice shall be published, and this public 66  
notice is subject to division (A) of section 2329.27 of the 67  
Revised Code. 68

(3) The officer taking the lands and tenements shall collect 69  
the purchaser's information required by section 2329.271 of the 70  
Revised Code. 71

(B) A sale of lands and tenements taken in execution may be 72  
set aside in accordance with division (B) of section 2329.27 of 73  
the Revised Code. 74

**Sec. 2703.10.** (A) When a holder of a mortgage files a 75  
complaint to initiate a foreclosure action on a residential rental 76  
property, along with the summons that is served on the owner of 77  
the property, the clerk of the court of common pleas shall do all 78  
of the following: 79

(1) Include a statement that if the property that is the 80

subject of the foreclosure action is residential rental property, 81  
the owner of the property must comply with section 5321.20 of the 82  
Revised Code; 83

(2) Include a description of the penalties for failing to 84  
comply with section 5321.20 of the Revised Code; 85

(3) Include a notice that if the property that is the subject 86  
of the foreclosure action is residential rental property the owner 87  
of the property must indicate that fact in the owner's answer to 88  
the complaint; 89

(4) Include a statement that the owner of the residential 90  
rental property must include the names and addresses of the 91  
tenants of the residential rental property in the owner's answer 92  
to the complaint. 93

(B) When the owner of residential rental property files an 94  
answer with the clerk of the court of common pleas to a complaint 95  
to initiate a foreclosure action on the owner's residential rental 96  
property, the owner shall indicate in the answer that the property 97  
that is the subject of the foreclosure action is residential 98  
rental property and shall provide the names and addresses of the 99  
tenants of the residential rental property. 100

**Sec. 5321.20.** (A) A landlord who is the owner of a 101  
residential rental property that is the subject of a foreclosure 102  
action shall do all of the following: 103

(1) Within sixty days after receiving a summons that contains 104  
a notice of foreclosure, provide written notice of that 105  
foreclosure to any tenant of the property and include in the 106  
written notice a statement that the tenant may contact the Ohio 107  
foreclosure prevention web site at [savethedream.ohio.gov](http://savethedream.ohio.gov) or at the 108  
toll-free telephone number 1-888-404-4674 to obtain a copy of the 109  
publication on foreclosure prepared by the director of the 110

department of commerce pursuant to section 121.08 of the Revised Code; 111  
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(2) After providing the written notice described in division (A)(1) of this section to any tenant of the property and within sixty days after receiving a summons that contains a notice of foreclosure, file an affidavit with the clerk of the court of common pleas certifying that the landlord provided the written notice described in division (A)(1) of this section to every tenant of the property; 113  
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(3) Include a notice of the foreclosure in any written rental agreement the landlord enters into after receiving the summons with a notice of the foreclosure action; 120  
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(4) Provide a written notice of foreclosure to a tenant at the time of any oral rental agreement the landlord enters into after the landlord has received a summons with a notice of foreclosure; 123  
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(5) Provide each tenant at the property with written notice of the date, time, and place of the scheduled sale of the foreclosed property at least twenty-one days before the date of the sale at auction; 127  
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(6) After providing each tenant at the property with written notice of the date, time, and place of the scheduled sale of the foreclosed property, file an affidavit with the clerk of the court of common pleas certifying that the landlord provided each tenant at the property with that written notice. 131  
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(7) Not more than seven days after the confirmation of the sale of the property subject to the foreclosure action if the "Protecting Tenants at Foreclosure Act of 2009," Pub. L. No. 111-22 (2009) has been repealed or has expired, provides the names of the tenants at the property who were not current on their rental payments under the rental agreement as of the date of the 136  
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confirmation of sale to the successor in interest. 142

(B) Any written notice the landlord provides pursuant to this 143  
section shall include a statement in substantially the following 144  
form: 145

"This property is undergoing foreclosure. The case number for 146  
this foreclosure action is ..... (case number). For more 147  
information on this action, you should contact the ..... 148  
(your county) County Court of Common Pleas, ..... (address), 149  
at ..... (phone number) or ..... (web site). 150

A sale at auction could occur as a result of this 152  
foreclosure. Currently, [the sale of this property has been set 153  
for ..... (time, date, and place)] or [no date for sale of 154  
this property has been established]. Ohio law requires that I 155  
provide you with written notice of the sale at least twenty-one 156  
days before it takes place. 157

If there is a sale of this property at auction, your current 158  
rental agreement will be subject to the "Protecting Tenants at 159  
Foreclosure Act of 2009," Pub. L. No. 111-22 (2009). If the 160  
"Protecting Tenants at Foreclosure Act of 2009" has expired or 161  
been repealed on or before the date of the confirmation of sale 162  
and if you are current on your rental payments under the rental 163  
agreement on the date of the confirmation of sale, your current 164  
rental agreement will convert to a month-to-month rental agreement 165  
upon the sale of the property unless you and the successor in 166  
interest mutually agree to a different termination date for the 167  
rental agreement. 168

Note: With a month-to-month rental agreement, either the 169  
tenant or the landlord may terminate the agreement by providing 170  
written notice of termination to the other at least thirty days 171  
prior to a date on which the rent payment normally is due. The 172

rental agreement then terminates on that rent payment date." 173

(C) If the landlord does not file as required by division 174  
(A)(2) of this section the affidavit with the clerk of the court 175  
of common pleas certifying that the landlord provided written 176  
notice of the foreclosure action to the tenants, the clerk shall, 177  
within seven days after the expiration of the sixty-day 178  
requirement that the landlord provide written notice of the 179  
foreclosure action to the tenants, send the written notice 180  
described in division (B) of section 5321.20 of the Revised Code 181  
to the tenants of the property. 182

(D) If the landlord does not file as required by division 183  
(A)(6) of this section the affidavit with the clerk of the court 184  
of common pleas certifying that the landlord provided written 185  
notice of the date, time, and place of the scheduled sale of the 186  
foreclosed property to the tenants at least twenty-one days before 187  
the date of the sale at auction, the clerk of the court of common 188  
pleas shall, no later than fourteen days before the date of the 189  
sale at auction, notify the landlord of the landlord's requirement 190  
to provide each tenant at the property with written notice of the 191  
date, time, and place of the scheduled sale of the foreclosed 192  
property and to provide the clerk with an affidavit certifying 193  
that the landlord provided that written notice. 194

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Sec. 5321.21. Any rental agreement for a residential rental 196  
property that is the subject of a foreclosure action is subject to 197  
the "Protecting Tenants at Foreclosure Act of 2009," Pub. L. No. 198  
111-22 (2009). Upon the repeal or expiration of the "Protecting 199  
Tenants at Foreclosure Act of 2009," any rental agreement for a 200  
residential rental property that is the subject of a foreclosure 201  
action shall convert to a month-to-month rental agreement upon a 202  
court's approval of a sale at auction pursuant to section 2329.31 203

of the Revised Code if the tenant under the rental agreement is 204  
current on the tenant's rental payments under the rental agreement 205  
on the date of the confirmation of sale unless the successor in 206  
interest and the tenant mutually agree to a different termination 207  
date for the rental agreement. The initial successor in interest 208  
in the property shall be subject to the month-to-month rental 209  
agreement and shall be the landlord under the month-to-month 210  
rental agreement or the alternative rental agreement mutually 211  
agreed to by the successor in interest and the tenant as provided 212  
in this section. The successor in interest has the right to enter 213  
the property subject to division (A)(8) of section 5321.04 of the 214  
Revised Code. 215

Sec. 5321.22. Within seven days after the confirmation of the 216  
sale of the property subject to the foreclosure action pursuant to 217  
section 2329.21 of the Revised Code, the owner of the property 218  
subject to the foreclosure action shall forward to the successor 219  
in interest all security deposits held by the owner of the 220  
property on behalf of the tenants of the property. The successor 221  
in interest shall return any deposit to a tenant when the rental 222  
agreement ends in the same manner that this chapter provides for 223  
tenancies that end pursuant to the terms of the rental agreement, 224  
except that the successor in interest shall be obligated to return 225  
a security deposit only to the extent that the security deposit 226  
was forwarded to the successor in interest from the owner of the 227  
property as provided for in this section. 228

Sec. 5321.23. (A) A tenant may recover reasonable attorney's 229  
fees as well as the greater of actual damages or one month's rent 230  
and obtain injunctive relief to enforce the rental agreement, or 231  
both, if a landlord or a successor in interest violates section 232  
5321.20, 5321.21, or 5321.22 of the Revised Code, fails to provide 233



a written notice that section 5321.20 of the Revised Code 234  
requires, or fails to honor a rental agreement established under 235  
section 5321.21 of the Revised Code. 236

(B) If the landlord fails to provide the tenants with the 237  
written notice required under section 5321.20 of the Revised Code 238  
and fails to file an affidavit with the clerk of the court of 239  
common pleas certifying that the landlord provided the tenants 240  
with that written notice, the court may impose upon the landlord a 241  
civil penalty that equals the cost that the clerk incurs for 242  
sending out the written notice in accordance with division (C) of 243  
section 5321.20 of the Revised Code plus one hundred dollars per 244  
rental unit, not to exceed one thousand dollars. The clerk shall 245  
pay each collected civil penalty to the county treasurer for 246  
deposit in the county treasury. 247

Sec. 5321.24. The rights and remedies provided for in 248  
sections 5321.20, 5321.21, 5321.22, and 5321.23 of the Revised 249  
Code are in addition to and do not preempt any other rights that a 250  
tenant may be entitled to under any other provision of the Revised 251  
Code. Upon the repeal or expiration of the "Protecting Tenants at 252  
Foreclosure Act of 2009," Pub. L. No. 111-22 (2009), nothing in 253  
this section shall prevent a successor in interest from providing 254  
a thirty-day notice to terminate a month-to-month rental agreement 255  
created under section 5321.21 of the Revised Code on the first day 256  
that a rental payment is due following the confirmation of sale. 257  
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**Section 2.** That existing section 2329.26 of the Revised Code 259  
is hereby repealed. 260