



# Ohio Legislative Service Commission

## Bill Analysis

Daniel M. DeSantis

### H.B. 9

128th General Assembly  
(As Introduced)

**Reps.** Celeste and Foley, Garrison, Heard, Okey, Harris, Boyd, Newcomb, Harwood, Koziura, Hagan, Skindell, Stewart, Slesnick, Chandler, Brown, Murray, Mallory, DeBose, Patten, Oelslager, Lehner, Yuko, Moran, Pryor, S. Williams, Pillich, Phillips, B. Williams, Letson, Winburn, Fende, Luckie, Driehaus

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## BILL SUMMARY

- Requires any rental agreement for a residential property that is the subject of a foreclosure action to convert to a month-to-month rental agreement upon the approval of a sale at auction by a court.
- Requires any landlord of a residential property that is the subject of a foreclosure action to provide each tenant at that property written notice of the foreclosure action, prescribes the form of the notice, and requires the landlord to provide each tenant written notice of the date, time, and place of the sale of the foreclosed property at least 21 days before the sale date.
- Permits a tenant to recover damages and reasonable attorney's fees, obtain injunctive relief to enforce the rental agreement, or both, if a landlord or a successor in interest fails to abide by the provisions of this bill.

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## CONTENT AND OPERATION

### Effect on rental agreement of foreclosure of residential rental property

(R.C. 5321.20(A))

The bill requires any rental agreement for a residential property that is the subject of a foreclosure action to convert to a month-to-month rental agreement upon

the approval of a sale at auction by a court pursuant to R.C. 2329.31.<sup>1</sup> This approval, referred to as confirmation, generally takes place within 30 days after the selling authority, usually the sheriff, has advised the court that the property has been sold as the court ordered.<sup>2</sup>

## **Notice of foreclosure action**

(R.C. 5321.20(B)(1) and (2))

The bill requires any landlord of a residential property that is the subject of a foreclosure action to provide each tenant at that property written notice of the foreclosure action.<sup>3</sup> If the rental agreement is entered into before the foreclosure action is initiated, the landlord must provide the written notice of foreclosure within 30 days after the foreclosure action is filed. If the rental agreement is entered into after the foreclosure action is initiated, the landlord must include the written notice of foreclosure in the rental agreement.

### **Form of notice**

The above described notice must include a statement in substantially the following form:

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<sup>1</sup> A "rental agreement" under Ohio law governing landlords and tenants (R.C. Chapter 5321.) means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties (R.C. 5321.01). "Residential property" is not defined by the bill or Ohio law governing landlords and tenants. That law does, however, provide a definition of "residential premises," which generally means a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant and includes a dwelling unit that is owned or operated by a college or university. Various facilities are excluded from the definition, such as, for example, places of incarceration or correction, hospitals, boarding schools, and orphanages.

<sup>2</sup> R.C. 2329.31.

<sup>3</sup> Under Ohio law governing landlords and tenants, "landlord" means the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement. "Tenant" means a person entitled under a rental agreement to the use and occupancy of "residential premises" to the exclusion of others. (R.C. 5321.01.)

"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).

A sale at auction may or may not occur as a result of this foreclosure. Currently, [the sale of this property has been set for ..... (time, date, and place)] or [no date for sale of this property has been established]. You will receive written notice of the sale at least twenty-one days before it takes place.

If there is a sale of this property at auction, your current rental agreement will convert to a month-to-month rental agreement upon the sale of the property.

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

## **Notice of sale**

(R.C. 5321.20(C))

The bill requires any landlord of a residential property that is the subject of a foreclosure action to provide each tenant at that property written notice of the date, time, and place of the sale of the foreclosed property at least 21 days before the sale date.

## **Tenant's remedies**

(R.C. 5321.20(D) and (E))

The bill provides that 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 (1) fails to honor a rental agreement as the bill requires or (2) fails to provide the required written notice of the foreclosure action or written notice of sale as described above.

The rights and remedies provided for in the bill are in addition to, and do not preempt, any other rights and remedies that a tenant may be entitled to under Ohio's landlords and tenants law.

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## HISTORY

ACTION

DATE

Introduced

02-17-09

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