



# Ohio Legislative Service Commission

## Bill Analysis

Lisa Sandberg

### **S.B. 13**

128th General Assembly  
(As Introduced)

**Sens.** D. Miller, Morano, Turner, Smith

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## **BILL SUMMARY**

- Requires a landlord who is the owner of property subject to foreclosure to provide written notice of that foreclosure to any tenant of the property.
- Allows any tenant of a residential property that is the subject of a foreclosure action to terminate that tenancy at any time after the holder of the mortgage files a complaint with the court to initiate the foreclosure action.
- Provides that any rental agreement for a residential property that is the subject of a foreclosure action must convert to a month-to-month rental agreement upon the court's approval of a sale at auction.
- Provides for remedies the tenant may recover if a landlord or successor in interest fails to provide the written notice or fails to honor the month-to-month rental agreement.
- Requires the Director of the Department of Commerce to prepare a publication for distribution to owners and tenants of residential properties that are the subject of foreclosure actions and details what information must be included in that publication.
- Requires the clerk of courts to provide a copy of the publication described in the above dot point along with the summons that is served on the owner of a residential property when a holder of a mortgage files a complaint to initiate a foreclosure action on that property.
- Requires the clerk of courts to send written notice of the foreclosure action by ordinary mail to the attention of the residents at the address of the property within seven days after issuing a summons for service on the property owner in a

foreclosure action, requires that a specific statement be included with the notice, and requires that the clerk enclose with the notice a copy of the publication on foreclosure.

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## **CONTENT AND OPERATION**

### **Requirements of a landlord who is the owner of property subject to foreclosure**

The bill requires a landlord who is the owner of a property that is the subject of a foreclosure action to do all of the following (R.C. 5321.20(A)):

(1) Within 30 days after receiving a summons that contains a notice of foreclosure, provide written notice of that foreclosure to any tenant of the property;

(2) 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;

(3) 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;

(4) 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 21 days before the date of the sale at auction.

Any written notice the landlord pursuant to the above-described requirements must include a statement in substantially the following form (R.C. 5321.20(B)):

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

A sale at auction could 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]. Ohio law requires that I provide you with 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 rent payment date."

### **Termination of tenancy by tenant**

The bill provides that any tenant of a residential property that is the subject of a foreclosure action brought by a mortgage holder may terminate that tenancy at any time after the holder of the mortgage files a complaint with a court to initiate the foreclosure action. To terminate the tenancy, the tenant must provide written notice of termination to the landlord at the place where rent is normally paid. The notice must state the date upon which the tenancy will terminate, which cannot be earlier than 30 days following the next date on which rent is due. The tenant is responsible for all rent until the termination date. (R.C. 5321.21(A).)

A landlord must return any deposit to a tenant who terminates a rental agreement in the manner described above in the same manner as R.C. Chapter 5321. provides for tenancies that end pursuant to the terms of the rental agreement. A tenant who terminates a rental agreement in the manner described above has all the rights of a tenant whose rental agreement expires pursuant to its own terms. (R.C. 5321.21(B).)

### **Conversion of rental agreement**

Under the bill, any rental agreement for a residential property that is the subject of a foreclosure action converts to a month-to-month rental agreement upon a court's approval of a sale at auction pursuant to R.C. 2329.31 (Ohio law regarding confirmation of sale and order of deed) (R.C. 5321.22).

### **Remedies available to tenant**

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 violates the provisions under "**Requirements of a landlord who is the owner of property subject to foreclosure**" above, fails to provide a written notice required under that provision, or fails to honor a rental agreement established under "**Conversion of rental agreement**" above.

### **Publication of residential properties that are the subject of foreclosure actions**

The bill requires the Director of the Department of Commerce to prepare a publication for distribution to owners and tenants of residential properties that are the subject of foreclosure actions. The publication must include a list of available resources

to assist owners of residential properties to retain their property and to assist tenants in obtaining assistance if relocation is necessary. The Director must make the publication available to clerks of courts in Ohio for distribution to owners and tenants of residential properties that are undergoing foreclosure. (R.C. 121.086.)

### **Requirements of the clerk of court**

Under the bill, when a holder of a mortgage files a complaint to initiate a foreclosure action on a residential property, along with the summons that is served on the owner of the property, the clerk of courts must provide a copy of the publication on foreclosure the Director of Commerce prepares as described in "**Publication of residential properties that are the subject of foreclosure actions**" above (R.C. 2703.10(A)). Within seven days after issuing a summons for service on the property owner in a foreclosure action, the clerk of courts must send written notice of the foreclosure action by ordinary mail to the attention of the residents at the address of the property. The notice must include the following statement (R.C. 2703.10(B)(1)):

"The holder of a mortgage has filed a complaint with this court to initiate a foreclosure action against the property at this address . . . . . For more information, you should contact the clerk of this court at . . . . .(phone number). A sale at auction could occur as a result of this foreclosure."

The clerk must enclose with the notice of foreclosure a copy of the publication on foreclosure the Director of Commerce prepares as described in "**Publication of residential properties that are the subject of foreclosure actions**" above (R.C. 2703.10(B)(2)).

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## **HISTORY**

| <b>ACTION</b> | <b>DATE</b> |
|---------------|-------------|
| Introduced    | 02-10-09    |

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