



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 13 of the 128th G.A.

Date: March 24, 2009

Status: As Introduced

Sponsor: Sen. D. Miller

Local Impact Statement Procedure Required: Yes

Contents: Requires tenant notifications and specifies tenants' rights concerning certain foreclosure actions and sales of rental property

State Fiscal Highlights

STATE FUND

FY 2010 – FUTURE YEARS

Unspecified State Fund – Department of Commerce

Revenues

- 0 -

Expenditures

Potential minimal increase to prepare and distribute foreclosure prevention

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill requires that the Director of Commerce prepare a publication for owners and tenants of properties subject to foreclosure actions and make that publication available to clerks of court for inclusion in the notices provided to owners and tenants of properties undergoing foreclosure. The Department of Commerce already provides foreclosure prevention resources by county on its web site, but if the Department were required to provide copies to clerks of court, there would be some new printing costs that are likely to be minimal.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

Municipal and County Courts

Revenues

Potential offsetting gain from postage charged to court costs

Expenditures

Increase to send written notice to tenants concerning foreclosure actions; Potential increase for additional civil cases

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The tenant notification requirements contained in the bill may result in a significant increase in clerk of court costs for postage, labor, supplies, and equipment. Postage costs would likely be recouped through court costs collected.
- Labor, supplies, and equipment costs would not be recovered through court costs. Instead, these expenses would have to be absorbed by the clerks of court or require

additional funding. Labor costs for clerks of court would vary depending on the number of foreclosures and the number of tenant notifications required.

- As a result of a right of action for tenants created by the bill, there may be additional cases filed with municipal or county courts. Presumably, court cost revenue would offset some or all of any new costs created by the additional cases, making any new costs from the additional cases likely no more than minimal.

Detailed Fiscal Analysis

Overview

The bill requires various notifications to tenants when certain foreclosure actions and sales occur, enables tenants to terminate a rental agreement on a foreclosed property, provides for the continuance of a rental agreement after a foreclosure sale, and provides civil remedies for a tenant whose landlord violates the bill's provisions. The provisions with potential fiscal effects are discussed below.

Notifications

The bill requires tenants to receive several notifications during the foreclosure process on the property being rented. Within seven days after a summons for service has been issued on the property owner, the clerk of courts is to send written notice of the foreclosure action, in a specified form, by ordinary mail to the attention of the residents of the property. Within this notice, the clerk of court must include a copy of a publication that the Department of Commerce is required to develop listing the resources available to property owners and tenants involved in foreclosure actions.

Subsequently, the bill requires the landlord of the property involved in a foreclosure to provide written notice of the foreclosure to tenants as well as the time, place, and date of the scheduled sale of the property within 21 days of the date of sale. The bill also requires the landlord to provide notices to tenants in other circumstances specified by the bill.

Clerks of Court

The primary fiscal effect of the notification requirement will be on clerk of court costs for (1) postage to send the mailings, (2) labor to input tenant names in the clerk of court's case management system (which would have to be identified using either the defendants named in the complaint due to tenant interest in the rental contract or through instructions for service of summons) and to stuff and seal envelopes, and (3) supplies and equipment for paper and printing supplies.

While postage costs may be recouped through charges against a plaintiff's court cost deposit, the labor, equipment and supplies necessary to provide the additional notices would not be recoverable this way. Instead, clerks of court would have to absorb the additional expense or find additional funding.

The largest potential nonreimbursable expense resulting from the tenant notification requirement would likely be for office staffing. Any new personnel costs would be difficult to predict, as the need would vary from county to county depending on the volume of foreclosures, the number of parties involved in individual foreclosure actions, and other variables specific to each county's circumstances. However, if there

were a large enough number of foreclosure cases involving rental properties in a particular county or even if just a few foreclosure actions involved large multi-family complexes, some clerks of court might need to add part-time staff to handle the additional workload, a significant new cost to some clerks of court offices.

Department of Commerce

The bill also requires the Department of Commerce to provide a foreclosure resource publication to tenants in residential properties subject to foreclosure proceeding and make that publication available to clerks of court for inclusion in the notices provided to owners and tenants of properties undergoing foreclosure. The Department already has developed an on-line resource concerning foreclosure prevention resources, but there may be some new printing costs if the Department were required to provide copies to clerks of court. Even so, the cost for meeting this requirement would likely be minimal. This information, tailored for each county, is available on-line through its Save the Dream Foreclosure Prevention web site (<http://www.com.ohio.gov/SavetheDream/ResourcesLocal.aspx>).

Civil Actions

If the landlord does not provide the notices required by the bill or fails to honor a month-to-month rental agreement once a property is sold at auction, which the bill also requires, the bill permits a tenant to file a civil action for injunctive relief and to recover the greater of actual damages or one month's rent plus the security deposit amount and reasonable attorney's fees.

As a result of the right of action created by the bill, there may be additional cases filed with municipal or county courts. Presumably, court cost revenue would offset some or all of any new costs created by the additional cases, making any new costs likely no more than minimal.