



H.B. 161

127th General Assembly
(As Introduced)

Reps. Raussen, J. McGregor, Setzer, White, Collier, Fessler, S. Williams, Bulp, DeGeeter, Domenick, Fende, Budish

BILL SUMMARY

- Permits a tenant to terminate a rental agreement if the tenant or the tenant's spouse is 62 years of age or older, is unable to live independently for medical reasons, requires assistance with certain daily living activities, and is moving into any of specified care facilities or the home of a family member.
- Specifies the notice requirements for terminating the rental agreement, the termination date, and the landlord's responsibility for obligations related to the termination of the rental agreement.
- Requires each written rental agreement to contain an addendum notice of the tenant's right to terminate the lease and provides the form for that notice.
- Requires a landlord, in the case of an oral rental agreement, to deliver to the tenant at the time of the tenant's initial occupancy of the residential premises a written notice of the tenant's right to terminate the existing rental agreement.

CONTENT AND OPERATION

Background law

The Landlord-Tenant Law, R.C. Chapter 5321., governs the rights and obligations of landlords and tenants of residential premises under rental agreements and the provisions of that Law. A rental agreement is any written or oral agreement 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. A landlord and a tenant may include in a rental agreement any

terms and conditions, including any term relating to rent, *the duration of an agreement*, and any other provisions governing the rights and obligations of the parties that are not inconsistent with or prohibited by the Landlord-Tenant Law or any other rule of law. In any action under the Landlord-Tenant Law, any party may recover damages for the breach of contract or the breach of any duty that is imposed by law. (R.C. 5321.01(D), 5321.06, and 5321.12--not in the bill.)

The termination date of a rental agreement may be specified in the agreement. If no termination date is specified in a rental agreement, generally, either party may terminate or fail to renew a week-to-week tenancy by notice given to the other party at least seven days prior to the termination date specified in the notice, or may terminate or fail to renew a month-to-month tenancy by notice given to the other party at least 30 days prior to the periodic rental date (R.C. 5321.17(A) and (B)--not in the bill).

Termination of residential lease without penalty

Causes for termination

The bill authorizes a tenant to terminate a rental agreement for the use and occupancy of a residential premises if all of the following apply (R.C. 5321.171(B)):

- (1) The tenant or the tenant's spouse is 62 years of age or older;
- (2) The tenant or tenant's spouse, for medical reasons, is no longer able to live independently in the residential premises that is the subject of the rental agreement, and requires assistance with instrumental activities or personal activities of daily living;
- (3) The tenant or the tenant's spouse is moving into any of the following:
 - (a) A nursing home, residential care facility, or home for the aging (see **COMMENT 1**);
 - (b) A facility authorized to provide extended care services under Title XVIII of the Social Security Act (see **COMMENT 2**);
 - (c) A county home or district home operated pursuant to the County Homes Law;
 - (d) An adult care facility (see **COMMENT 3**);
 - (e) A community residential facility approved by the Secretary of the Department of Veterans Affairs under section 104(a) of the "Veterans Health Care

Amendments of 1983," and used exclusively for the placement and care of veterans;

(f) An adult foster home certified by the Department of Aging or its designee under the Department of Aging Law (R.C. 173.36--not in the bill);

(g) The home of a family member who is not the spouse of the tenant or the home of a family member of the tenant's spouse if the move is expected to be for a period of six months or more.

Notice of termination

Except as provided under "**Statutory form of notice of right to terminate rental agreement**," below, in order to terminate a rental agreement under the bill, the tenant must provide notice of termination in writing to the person or place where rent is normally paid. The notice must have the following items attached (R.C. 5321.171(C)):

(1) A physician's certification that the tenant or the tenant's spouse is 62 years of age or older, is no longer able, for medical reasons, to live independently in the residential premises that is the subject of the rental agreement, and requires assistance with instrumental activities or personal activities of daily living;

(2) If the tenant or the tenant's spouse is moving into a facility described above in clauses (3)(a) to (f) in "**Causes for termination**," evidence of admission or pending admission to that facility, which may be a letter of admission pending admission to the home or facility signed by the home or facility's administrator or a copy of a lease or other contract entered into by the tenant or the tenant's spouse evidencing the tenant's or spouse's admission or pending admission to the home or facility;

(3) If the tenant or the tenant's spouse is moving into the home of a family member as described above in clause (3)(g) in "**Causes for termination**," a notarized statement from the family member stating that the tenant or the tenant's spouse is related and will be moving into the family member's home for a period of not less than six months.

Date and effect of termination

Under the bill, the termination date of a lease terminated pursuant to its provisions is the next date upon which rent is due that is at least 30 days subsequent to the receipt of the written notice of termination. The notice of termination is deemed received five days after mailing or upon personal delivery. (R.C. 5321.171(D)(1).)

Under the bill, the landlord is responsible for all obligations related to the termination of a rental agreement, including the return of any security deposit pursuant to the Landlord-Tenant Law (see **COMMENT 5**). The tenant under the rental agreement is not responsible for any rent or fees that accrue on or after the termination date of any rental agreement that is terminated under the bill. (R.C. 5321.171(D)(2) and (3).)

Statutory form of notice of right to terminate rental agreement

The bill requires each written rental agreement to contain an addendum notice of the tenant's right to terminate the existing rental agreement pursuant to the bill. In the case of an oral rental agreement, the landlord must deliver to the tenant at the time of the tenant's initial occupancy of the residential premises that is the subject of the oral rental agreement a written notice of the tenant's right to terminate the existing rental agreement pursuant to the bill. The addendum and written notice must be printed in not less than 14-point type and must be substantially in the following form (R.C. 5321.171(E)):

"Notice to Senior Citizens

Termination of Residential Rental Agreement

1. You may terminate this rental agreement early without penalty if you or your spouse is 62 years of age or older and, for medical reasons, is moving into any of the following:

- a. A "nursing home," "residential care facility," or "home for the aging" as defined in section 3721.01 of the Revised Code;
- b. A facility authorized to provide extended care services under Title XVIII of the "Social Security Act," 42 U.S. Code 301;
- c. A county home or district home operated pursuant to Chapter 5155. of the Revised Code;
- d. An "adult care facility" as defined in section 3722.01 of the Revised Code;
- e. A community residential care facility approved by the Secretary of the Department of Veterans Affairs under section 104(a) of the "Veterans Health Care Amendments of 1983," 38 U.S. Code 1730 used exclusively for the placement and care of veterans;
- f. An adult foster home certified under section 173.36 of Revised Code;

g. The home of a family member, other than your spouse, who is related to you or your spouse by blood or marriage, if the move is expected to be for a period of six (6) months or more.

2. To terminate the rental agreement, send a notice in writing to the person to whom you normally pay your rent or to the place where you usually pay your rent, stating that you are terminating the rental agreement because you or your spouse must move due to medical reasons. Attach the following to that notice:

a. The statement of a physician certifying that the person moving into a home or facility described in paragraphs 1.a. to f., above, or into a family member's home as described in paragraph 1.g., above, is sixty-two (62) years of age or older and, for medical reasons, no longer is able to live independently in the residential premises covered by the rental agreement and requires assistance with the instrumental activities or personal activities of daily living;

b. If the move is into a home or facility described in 1.a. to f., above, documentation evidencing admission or pending admission to the home or facility. This documentation may be a letter signed by the administrator of the home or facility or a copy of a lease or other contract with the home or facility.

c. If the move is into the home of a family member described in paragraph 1.g., above, a notarized statement of the family member stating that you or your spouse is related by blood or marriage to the family member and will be moving into the family member's home for a period of not less than six (6) months.

3. Your rental agreement will terminate on the next date upon which rent is due that is at least thirty (30) days after your notice of termination is received. Your notice of termination will be considered received when personally delivered or five (5) days after mailing."

If a written rental agreement does not contain the required addendum notice described above or if, in the case of an oral rental agreement, the landlord does not deliver to the tenant the written notice required above, notwithstanding any provision of the rental agreement or any provision in the Landlord-Tenant Law, a tenant may terminate the rental agreement under the circumstances described under "Causes for termination," above without providing the written notice of termination and attachments described under "Notice of termination," above (R.C. 5321.171(F)).

COMMENT

1. The bill defines these facilities in the same manner as in R.C. 3721.01(A), not in the bill, as follows:

"Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

"Residential care facility" means a home that provides either (a) accommodations for 17 or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment or (b) accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by law.

"Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home for the aging provides its services only to individuals who are dependent on the services of others by reason of *both* age and physical or mental impairment. The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by law is licensed as a nursing home.

2. Under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 1395i-3(a), 1395x(h), generally, a skilled nursing facility is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care or rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and certain extended care services, as defined in that Title.

3. The bill defines "adult care facility" in the same manner as in R.C. 3722.01(A)(9), not in the bill, as follows:

"Adult care facility" means an adult family home or an adult group home. Any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to 16 unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include any of the following:

- (a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) A community alternative home as defined in section 3724.01 of the Revised Code;

(d) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

(e) A residential facility for the mentally ill licensed by the Department of Mental Health under section 5119.22 of the Revised Code;

(f) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(g) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the Department of Mental Retardation and Developmental Disabilities;

(h) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;

(i) Any facility that receives funding for operating costs from the Department of Development under any program established to provide emergency shelter housing or transitional housing for the homeless;

(j) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

(k) A facility approved by the Veterans Administration under section 104(a) of the Veterans Health Care Amendments of 1983, 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for

the placement and care of veterans (see **COMMENT 4**);

(1) Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of higher education authorized to award degrees by the Ohio Board of Regents under Chapter 1713. of the Revised Code.

4. Although a veterans' facility of this type is not considered an "adult care facility," it is a facility specified in the bill (R.C. 5321.171(A)(2)(e)) as a facility into which the tenant or the tenant's spouse may be moving.

5. The Landlord-Tenant Law provides that upon termination of the rental agreement, any property or money held by the landlord as a security deposit may be applied to the payment of past due rent and to the payment of the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with the statutory obligations of the tenant or the rental agreement. Any deduction from the security deposit must be itemized and identified by the landlord in a written notice delivered to the tenant together with the amount due, within 30 days after termination of the rental agreement and delivery of possession. The tenant must provide the landlord in writing with a forwarding address or new address to which the written notice and amount due from the landlord may be sent. If the tenant fails to provide the landlord with the forwarding or new address as required, the tenant is not entitled to damages or attorneys fees that the tenant otherwise may recover. If the landlord fails to comply with the above-described provisions regarding the return of the security deposit, the tenant may recover the property and money due the tenant, together with damages in an amount equal to the amount wrongfully withheld, and reasonable attorney's fees. (R.C. 5321.16(B) and (C)--not in the bill.)

HISTORY

ACTION	DATE
Introduced	04-18-07

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