Ohio Legislative Service Commission

Bill Analysis

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S.B. 191
130th General Assembly
(As Introduced)

Sens. Tavares, Schiavoni, Brown, Sawyer, Skindell

BILL SUMMARY

- Requires a landlord of a property with one to four single-family dwelling units in the same structure who has been served notice of a foreclosure action against that property to provide a written disclosure of the foreclosure action to any prospective tenant prior to the execution of a lease agreement.
- Specifies the form for the written disclosure.
- Provides that a property manager is not liable for failure to provide the written disclosure unless the landlord notified the property manager of the notice of the foreclosure action and directed the property manager, in writing, to deliver the written disclosure to the prospective tenant.
- Provides remedies for the affected tenant if a landlord or property manager fails to provide a written notice to the tenant.
- Automatically repeals certain provisions of the bill on January 1, 2018.

CONTENT AND OPERATION

Written disclosure of foreclosure action to prospective tenant

The bill requires a landlord of a property with one to four single-family dwelling units in the same structure, who has been served notice of a foreclosure action against that property, which action has not been dismissed, to provide a written disclosure of the foreclosure action to any prospective tenant of the property prior to executing a

lease agreement for the property.[1] The landlord must provide the written disclosure to the prospective tenant in the following substantial form:[2]

> THE FORECLOSURE PROCESS HAS BEGUN ON THIS PROPERTY, AND THIS PROPERTY MAY BE SOLD AT A FORECLOSURE SALE. IF YOU RENT THIS PROPERTY, AND A FORECLOSURE SALE OCCURS, THE SALE MAY AFFECT YOUR RIGHT TO CONTINUE TO LIVE IN THIS PROPERTY IN THE FUTURE. YOUR TENANCY MAY CONTINUE AFTER THE SALE. THE NEW OWNER MUST HONOR THE LEASE UNLESS THE NEW OWNER WILL OCCUPY THE PROPERTY AS A PRIMARY RESIDENCE, OR IN OTHER LIMITED CIRCUMSTANCES AS PROVIDED IN THE FEDERAL PROTECTING TENANTS AT FORECLOSURE ACT. IN ORDER FOR THE NEW OWNER TO EVICT YOU, THE NEW OWNER MUST PROVIDE YOU WITH AT LEAST 90 DAYS WRITTEN EVICTION NOTICE IN MOST CASES.

Rights of affected tenant

Under the bill, if a landlord does not provide the written disclosure form to a prospective tenant, the tenant may do one of the following:[3]

(1) Void the lease, which entitles the tenant to recover from the landlord who was served notice one month's rent or twice the actual damages, whichever is greater, and all prepaid rent;

(2) If the foreclosure sale has not occurred and the tenant has not voided the lease, deduct a total amount equal to one month's rent from future rent obligations owed to the landlord who was served notice.

Liability of property manager

The bill provides that a property manager is not liable for failure to provide the written disclosure described above unless the landlord has notified the property manager of the notice of the foreclosure action and directed the property manager, in

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[1] R.C. 5321.20(A).

[2] R.C. 5321.20(B).

[3] R.C. 5321.20(C).

writing, to deliver the written disclosure to the prospective tenant. If a landlord has directed that property manager to deliver the written disclosure and the property manager fails to do so, the tenant is entitled to void the lease and to recover from the property manager one month's rent or twice the actual damages, whichever is greater, and all prepaid rent. This provision does not preclude a landlord from being held liable when a tenant does not receive the written disclosure.[4]

Rights and remedies

The rights and remedies in the bill are in addition to any other rights and remedies available under law. Nothing in the bill can be construed to alter, limit, or negate any other rights and remedies.[5]

Automatic repeal

All of the provisions described above are automatically repealed effective January 1, 2018. Any right to recover that accrues prior to that date continues in effect. The right to recover accrues upon the violation of the written disclosure requirement described above, even if the foreclosure action continues after that date or the foreclosure sale occurs after that date.[6]

Obligations of a landlord

The bill adds to the existing obligations of a landlord the requirement that the landlord comply with the written disclosure requirement described above when the landlord is party to any rental agreements that cover a property with one to four dwelling units in the same structure and are entered into before January 1, 2018.[7]

HISTORY

ACTION	DATE
Introduced	09-17-13

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[4] R.C. 5321.20(D).

[5] R.C. 5321.20(E).

[6] Section 3 of the bill.

[7] R.C. 5321.04(A)(11).