

Housing and Real Property

Sub. H.B. 18

Reps. Gonzales and Ginter, Amstutz, Becker, Blessing, Brenner, Buchy, Dever, Grossman, Hayes, T. Johnson, Kraus, Leland, Phillips, Rezabek, Roegner, Terhar, Vitale, Young, Perales, Anielski, Bishoff, Landis, M. O'Brien, Retherford, Zeltwanger, Antani, Antonio, Ashford, Baker, Barnes, Boose, Brown, Burkley, Butler, Celebrezze, Clyde, Craig, Cupp, Derickson, DeVitis, Dovilla, Driehaus, Duffey, Green, Hackett, Hagan, Hall, Hambley, Henne, Hill, G. Johnson, Koehler, Kuhns, Kunze, Lepore-Hagan, McClain, McColley, S. O'Brien, Patterson, Ramos, Reece, Reineke, Rogers, Romanchuk, Ruhl, Ryan, Schaffer, Scherer, Schuring, Sears, Sheehy, Slaby, Slesnick, K. Smith, R. Smith, Sprague, Sweeney, Thompson, Rosenberger

Sens. LaRose, Balderson, Beagle, Burke, Cafaro, Coley, Eklund, Faber, Hite, Hottinger, Hughes, Jones, Lehner, Manning, Oelslager, Patton, Peterson, Uecker

Effective date: March 21, 2017

- Prohibits manufactured home park operators and landlords from including a provision in a rental agreement or otherwise prohibiting the display of the U.S. flag, the Ohio flag, the POW/MIA flag, or service flags approved by the U.S. Secretary of Defense.
- Prohibits neighborhood associations and condominium associations from including a provision in a governing document that prohibits the display of the Ohio flag or a service flag, subject to specified conditions, and prohibits the association's trustees from construing a provision in a governing document for that purpose.
- Provides that such a prohibited provision or construction is void as against public policy.
- Establishes criteria to be discussed with a landlord or manufactured home operator when a tenant seeks to display a U.S. flag on a flag pole or by an affixed bracket.

Sub. H.B. 303

Reps. Dever and McColley, Antani, Barnes, Burkley, Butler, Conditt, Cupp, Hambley, Koehler, Perales, Sprague, Sweeney, K. Smith, Terhar, Kuhns, Brown, Amstutz, Anielski, Arndt, Baker, Blessing, Boccieri, Boyd, Buchy, Craig, Driehaus, Duffey, Fedor, Ginter, Green, Hackett, Henne, Leland, Lepore-Hagan, Manning, M. O'Brien, S. O'Brien, Patterson, Phillips, Reece, Reineke, Retherford, Rogers, Ruhl, Ryan, Schuring, Sheehy, Stinziano, Thompson, Rosenberger

Sens. Eklund, Bacon, Beagle, Coley, Gardner, Hite, Hughes, Jordan, LaRose, Manning, Obhof, Oelslager, Patton, Schiavoni, Seitz, Tavares, Thomas, Yuko

Effective date: September 28, 2016

- Creates the D.O.L.L.A.R. Deed Program to be established, in part, by the Ohio Housing Finance Agency.
- Requires a borrower and lender participating in the Program to execute (1) a deed in lieu of foreclosure and (2) a lease with option to purchase agreement relating to the real property that is the subject of the mortgage.
- Specifies that the lender's mortgage is not extinguished and does not merge with the borrower's interest conveyed because of the execution of the above documents.
- Specifies that the lease with option to purchase agreement is governed by Ohio's Landlord-Tenant Law and the borrower-lessee is subject to certain duties that it normally imposes on a landlord, as well as all duties it imposes on a tenant.
- Terminates the borrower's right to purchase if the borrower fails to meet the terms of the lease with option to purchase agreement and extinguishes the borrower's right of possession and occupancy.

Sub. H.B. 463

Reps. Dever, Becker, Boccieri, Hambley, Perales, Sprague, Terhar, Leland, Anielski, Antonio, Arndt, Baker, Blessing, Brown, Buchy, Burkley, Celebrezze, Conditt, Craig, Dovilla, Duffey, Ginter, Green, Grossman, Henne, Lepore-Hagan, Manning, McClain, McColley, M. O'Brien, S. O'Brien, Patterson, Reece, Reineke, Retherford, Ryan, Scherer, Schuring, Slaby, Slesnick, K. Smith, Strahorn, Sweeney, Young

Sens. Coley, Bacon, Eklund, Hackett, Hite, Jones, Lehner, Patton, Seitz, Uecker

Effective date: April 6, 2017

Real property foreclosures

- Modifies how property taxes are collected out of the sale proceeds when real estate is sold in foreclosure or other court-ordered sale.
- Expressly requires the court to hold an oral hearing in determining whether to proceed in an expedited manner in a foreclosure action.
- Eliminates the requirement that the purchaser pay the recording fee required at a foreclosure sale and instead requires the collection of the sale deposit under continuing law.
- Clarifies that excess private selling officer fees may be paid by the buyer of the property.
- Establishes that when both the judgment creditor and the first lienholder seek to redeem the foreclosed property, the first lienholder prevails.

- Modifies the foreclosure sale minimum bid requirements.
- Requires that if the appraisal requirement is not met, the appraised value of the property should be the county auditor's most recent appraised value instead of the fair market value.
- Prohibits the use of plywood to secure real property that is deemed vacant and abandoned.

Escrow transactions

- Modifies when disbursements may be made from an escrow account in connection with residential real estate and the types of funds that may be accepted for immediate disbursement.

Ohio Civil Rights Commission

- Makes permissive the awarding of actual damages and attorney's fees in housing discrimination cases before the Civil Rights Commission.
- Permits the Commission as part of the penalty for a housing discrimination case to require remediation in the form of a class, seminar, or any other type of remediation approved by the Commission.
- Allows the Commission, to vindicate the public interest, to assess a civil penalty against a person found to have engaged in unlawful housing discrimination, instead of allowing the Commission to award the complainant punitive damages under prior law.
- Authorizes alternative dispute resolution of discrimination cases in addition to other informal methods of addressing allegations of discrimination.
- Allows a person to recover attorney's fees if the Commission finds that the person did not engage in an unlawful discriminatory practice.
- Permits a housing complaint to be amended at any time up to seven days prior to the hearing.

Commercial paper; bank deposits and collections

No obligation for double payment

- Generally provides that a note is paid if payment is made by the party obliged to pay to a person formerly entitled to enforce the note only if that party has not received notification that the note has been transferred and payment is to be made to the transferee.
- Specifies that unless a transferee complies with a request to furnish proof that the note has been transferred, a payment to the person formerly entitled to enforce the

note discharges the obligation to pay even if the party obliged to pay has received notification of the transfer.

- Generally provides that a transferee or person acquiring rights to the instrument from a transferee is deemed to have notice of any payment under the preceding dot points after the date the note is transferred to the transferee but before the party obliged to pay received notification of the transfer.

Unsigned, telephonically authorized checks

- Defines "remotely created consumer item," for purposes of the following provisions on commercial paper and bank deposits and collections, as an item drawn on a consumer account that is not created by the payor bank and does not bear a handwritten signature purporting to be the drawer's signature.
- Provides that, with respect to a remotely created consumer item, specified persons warrant that the person on whose account the item is drawn authorized the item's issuance in the amount for which it is drawn.

Defenses and claims in recoupment

- Makes a claim and defense available if, in a "consumer transaction," any law other than the Commercial Paper Law requires an instrument to include a statement that a holder's rights are subject to a claim or defense that the issuer could assert against the original payee and the instrument does not contain such statement.

Electronic records and signatures

- Changes various references in the Ohio Uniform Commercial Code laws on commercial paper and bank deposits and collections from "writing" or "written" to "record," defined as information that is inscribed on a tangible medium or is stored in an electronic or other medium and is retrievable in perceivable form.

Modernized suretyship and guaranty rules

- Replaces provisions on the discharge of indorsers and accommodation parties with rules on the discharge of the obligations of a principal obligor or secondary obligor when the obligation is released or modified.
- Provides that generally a secondary obligor's obligation is not discharged unless the person entitled to enforce the instrument knows that the person is a secondary obligor or has notice that the instrument was signed for accommodation.
- Generally provides that a secondary obligor asserting a discharge has the burden of persuasion both with respect to the occurrence of the acts alleged to harm the secondary obligor and loss or prejudice caused by those acts.

- Provides that a signer of an instrument as an accommodation party is obliged to pay the amount due on the instrument to the person entitled to enforce it in the same circumstances as the accommodated party is obliged without prior resort to the accommodated party by the person entitled to enforce the instrument.

Property tax exemptions

- Extends the maximum term of a Community Reinvestment Area (CRA) tax exemption for remodeled property.
- Changes the basis for determining the tax-exempt value of remodeled structures for property in a CRA.
- Establishes a definite starting point and method for determining the tax-exempt value of contaminated ("brownfield") property.

Coverage of autism services and insurance mandates

- Requires health plan issuers to provide coverage for autism spectrum disorder and prescribes minimum coverage requirements.
- Allows a health plan issuer to review an autism spectrum disorder treatment plan on an annual basis, or more often if the overseeing physician agrees.
- Requires the Superintendent of Insurance to conduct an actuarial study on the costs of health care mandates under Ohio law that apply to non-ERISA individual and group health insurance plans.
- States the General Assembly's intent to implement a two-year moratorium on new health care mandates and to develop potential tax credits that offset additional employer costs associated with health care mandates.

Child abuse prevention councils

- Provides that Child Abuse and Child Neglect Prevention Regional Council members are to be reimbursed for expenses incurred in the performance of official duties.
- Prohibits members from participating in Council matters that may pose a conflict of interest.

Local initiative petitions

- Requires a board of elections or the Secretary of State to invalidate a local initiative petition if the board or the Secretary determines that the petition or any portion of it falls outside the local government's constitutional authority to enact ordinances or fails to satisfy the statutory prerequisites to place the issue on the ballot.

- Changes the deadline to file a county charter petition with the board of county commissioners from 110 to 115 days before the general election at which the proposal is to appear on the ballot.

Recall of municipal officials

- Specifies that a municipal recall petition is not valid after 90 days from the date of the first signature.
- Requires a recall election to be held at the next primary or general election occurring more than 90 days after the petition is certified as sufficient.

Am. Sub. S.B. 257

Sens. Seitz and Skindell, Eklund, Bacon, Brown, Jones, Oelslager, Schiavoni, Tavares, Thomas, Yuko

Reps. Celebrezze, Antani, Antonio, Barnes, Blessing, Burkley, Butler, Perales, Rezabek, Sweeney

Effective date: April 6, 2017

Real property instruments

- Specifies that, upon delivery to and acceptance by a county recorder, certain real property instruments raise a rebuttable presumption that the instrument conveys, encumbers, or is enforceable against the interest of the person who signed the instrument.
- Specifies that, upon delivery to and acceptance by a county recorder, certain real property instruments raise a rebuttable presumption that the instrument is valid, enforceable, and effective as if the instrument were legally made, executed, acknowledged, and recorded.
- Specifies that these presumptions may be rebutted only by clear and convincing evidence of fraud, undue influence, duress, forgery, incompetency, or incapacity.
- Reduces from 21 years to four years the period of time a real property instrument, for which the record shows there is a defect, is cured of defects by operation of law and becomes effective as if it had been legally made, executed, acknowledged, and recorded.
- Expands the type of defects in a real property instrument that may be cured from three specific defects under prior law to any defect in the making, execution, or acknowledgement of the instrument under the act.

- Eliminates a provision that requires any person claiming adversely to a real property instrument with a defect to bring proceedings to contest the effect of the instrument only within 21 years after the instrument is recorded.
- Specifies that, when delivered to the appropriate county recorder and filed in the chain of title, a real property instrument provides constructive notice to all third parties of the instrument notwithstanding a defect in the making, execution, or acknowledgment of the instrument.
- Specifies that the real property instrument curative statute generally applies to all real property instruments notwithstanding any other provision under Ohio law, specifically including a continuing law provision concerning constructive notice.
- Specifies that nothing in the real property instrument curative statute discharges the obligations under the Ohio Marketable Title Act, the Ohio Dormant Mineral Act, and law concerning the forfeiture and cancellation of natural gas and oil land leases.
- Specifies that the act gives the real property instrument curative statute retroactive effect to the fullest extent the Ohio Constitution permits.

Property owner opt out of incentive district TIFs

- Allows the owner of a parcel of land to exclude the parcel from a tax increment financing incentive district, under specific circumstances, by submitting a written response to the political subdivision proposing the creation of the incentive district.
- Requires the political subdivision to include in its notice of public hearing a map of the proposed incentive district on which the subdivision has delineated an "overlay," any parcels located outside of which qualify to be excluded from the district.
- Requires the subdivision to amend its ordinance or resolution creating the incentive district to exclude any qualifying parcel for which a written response has been submitted.