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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 562  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Leland and Crossman

Andrew Little, Attorney

### SUMMARY

- Places a moratorium on eviction orders during the state of emergency declared due to COVID-19.
- Places a moratorium on foreclosure actions and foreclosure sales during the state of emergency declared due to COVID-19.
- Requires eviction actions and foreclosure actions filed within 60 days after the state of emergency declared due to COVID-19, and that are filed for monetary default that occurred during the emergency, to be referred to mediation.
- Declares an emergency.

### DETAILED ANALYSIS

The bill places a moratorium on eviction orders and foreclosure actions during the state of emergency declared by Governor Mike DeWine on March 9, 2020, to address COVID-19, and requires mediation of certain eviction and foreclosure actions after the emergency ends. The bill also declares an emergency, which will result in it taking immediate effect if it becomes law.<sup>1</sup>

#### Evictions

The bill prohibits courts from issuing eviction orders for any property, whether residential or commercial, during the state of emergency. It also prohibits law enforcement

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<sup>1</sup> Sections 1, 2, 3, and 4 and Executive Order 2020-01D., available at <https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/executive-order-2020-01-d>, accessed May 4, 2020.

officers who would normally enforce eviction orders from doing so during the state of emergency.

The bill does not prohibit landlords from filing eviction actions during the state of emergency. It does, however, state that plaintiffs who file complaints for eviction during the emergency, and receive eviction orders after the emergency terminates, will not be entitled to rent that went unpaid during the emergency.<sup>2</sup>

## **Foreclosures**

### **Moratorium on foreclosure actions**

The bill prohibits courts from conducting any business pertaining to foreclosures, whether on residential or commercial property, during the state of emergency. It also requires courts to take certain actions with respect to foreclosure actions during the state of emergency. (See **COMMENT.**) Specifically, under the bill, courts must:

- Refuse to accept complaints and other pleadings seeking to commence foreclosure actions;
- Stay all pending foreclosure actions;
- Refuse to accept motions or other pleadings that seeks writs of execution (orders allowing the sale of foreclosed property) in cases that have resulted in foreclosure judgments;
- Stay all judicial sales and sales by private selling officers (see **COMMENT**);
- Defer confirming any pending judicial sales (see **COMMENT**).<sup>3</sup>

### **Pause in deadlines and statutes of limitations**

To go along with the moratorium on foreclosure actions, the bill places a pause on all statutes of limitation related to foreclosure actions during the state of emergency. It also places a pause on deadlines in foreclosure actions that have already been filed.<sup>4</sup>

## **Eviction and foreclosure mediation**

The bill requires that, for 60 days after the state of emergency ends, any eviction and foreclosure actions that are filed as a result of a mortgage default or nonpayment of rent that occurred during the emergency must be stayed and referred to mediation. The costs of mediation are to be paid by the courts, and the required mediations are to be concluded at the courts' discretion.<sup>5</sup>

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<sup>2</sup> Section 1.

<sup>3</sup> Section 2(B).

<sup>4</sup> Section 2(C).

<sup>5</sup> Section 3.

## Background – H.B. 197 and Ohio Supreme Court Tolling Order

### H.B. 197

Section 22 of H.B. 197 of the 133<sup>rd</sup> General Assembly tolled a variety of civil deadlines that were set to expire between March 9, 2020, and the end of the state of emergency or July 30, 2020, whichever comes first. Specifically, H.B. 197 tolled:

- A statute of limitation, when a civil cause of action accrues against a person;
- The time within which discovery or any aspect of discovery must be completed;
- The time within which a party must be served;
- Any other civil time limitation under the Revised Code.

### Ohio Supreme Court

Similarly, the Ohio Supreme Court ordered the tolling of the time requirements imposed by Court rule and set to expire between March 9, 2020, and the end of the state of emergency or July 30, 2020, whichever comes first. Upon the order's expiration, the tolled time requirements resume. "Time requirements" are the time for filing all pleadings, appeals, and all other filings; time limitations; deadlines; and other directives related to time, including nonconstitutional jurisdictional deadlines.<sup>6</sup>

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## COMMENT

The bill both prohibits courts from conducting any business pertaining to foreclosures during the state of emergency, and requires courts to enter stays during the period of emergency. An amendment is suggested to remove the contradiction.

The bill requires a stay for "all judicial sales and sales by private selling officers." Sales by private selling officers are, however, judicial sales. An amendment is suggested so that the bill refers to "judicial sales, whether by sheriff or private selling officer."

The bill orders that confirmation for pending judicial sales be deferred. The confirmation process, though, is for judicial sales that have already taken place. An amendment is suggested to refer to deferral of confirmation for completed judicial sales.

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<sup>6</sup> The Supreme Court of Ohio, *In re Tolling of Time Requirements Imposed by Rules Promulgated by the Supreme Court and Use of Technology*, March 27, 2020 Administrative Actions, 2020-Ohio-1166, <http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-1166.pdf>, accessed May 4, 2020.

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## HISTORY

Action	Date
Introduced	03-23-20

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