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Office

S.B. 245
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 245's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Sens. Reynolds and Craig

Local Impact Statement Procedure Required: Yes

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Highlights

- Local civil justice systems generally will likely see a significant increase in workload and resultant expenses to process motions to seal eviction case files, notification requirements, and subsequently seal an indeterminate number of such files. Some of these costs could be offset if the court imposes a fee to file the motion to seal.
- The bill establishes the Eviction Defense Fund, to be used specifically for eviction defense.
- The Board of Building Standards will likely certify general contractors for code enforcement. The administrative costs for certification will be offset by application and renewal fees. These fees are deposited into Fund 5560 appropriation line item 800615, Industrial Compliance.
- If a local building department fails to complete a plan review or building inspection within 30 days of a request, it may forego some revenue while a certified third-party inspector or another build department completes the work. The building department may still charge an administrative or filing fee if a third-party inspector completes the work. Certain building departments may receive additional revenue to complete reviews or inspections for properties within another department's jurisdiction.

Detailed Analysis

The bill makes several changes related to real property law and statutes concerning state and local building code and plan review and inspection. These changes include (1) requiring that low-income defendants have access to free legal counsel in eviction proceedings, and (2) establishing time limits for building plan reviews and inspections by local building departments. The bill also contains requirements that apply to real estate salespersons and brokers. The primary fiscal impacts of the bill stem from the first two changes noted above. The

potential fiscal effects for the court system, the State Board of Building Standards within the Department of Commerce’s Division of Industrial Compliance, as well as local building departments are explained in more detail below.

Evictions

Sealing of eviction records

The bill establishes a procedure for a court to order the sealing of an eviction record upon the request of a tenant or manufactured home park resident, or upon the court’s own motion. If the defendant files a motion to seal, the defendant must serve the plaintiff with a copy of the motion. The plaintiff may file a response to the motion to seal within 17 days after the filing. Either party may request an oral hearing on a motion to seal. The courts and clerks of courts can likely expect to process a large number of sealing filings and then potentially seal a large percentage of related case files.¹

From 2015 through 2023, a total of 900,863 eviction cases were filed in municipal and county courts – an average of over 100,000 annually, or about 30% of all civil cases.² While not all of those cases will result in a motion for sealing, municipal and county courts are likely to see a significant increase in motions to seal from past cases following the enactment of the bill and an ongoing general increase as more eviction cases are filed and therefore potentially eligible for sealing. The increased workload and resultant expenses for county and municipal civil justice systems to hear motions for sealing, and to seal related files is not readily quantifiable, but is likely to be significant and vary among the state’s courts.

Increased expenses may be offset by the collection of fees, which is neither required nor prohibited by the bill. Under current law and practice, courts generally charge a fee for sealing or expungement of criminal records, and generally for the filing of a motion in a civil court proceeding. With the exception of those fees set by statute, fees vary from court to court. LBO is aware of three local courts that specify the circumstances under which a motion may be filed (including the applicable fee) to “seal” the court file of an eviction case: the Toledo Housing Court (\$3 fee), the Cleveland Housing Court (\$25 fee), and the Marion County Municipal Court (\$100 fee).

Eviction defense for low-income tenants

The bill provides a mechanism by which certain low-income tenants with at least one live-in child may obtain free legal counsel when facing eviction. The bill applies to three types of proceedings: (1) residential evictions governed by Ohio’s Eviction Law, (2) informal hearings required under federal law to terminate financial assistance from a metropolitan housing authority, and (3) appeals from either of those proceedings. For a complete description of the program, including eligibility and structure, please see the bill analysis.

¹ “Sealing” a court record means that the criminal record is removed from all public records and the public no longer has access to the records of the criminal case, including employers generally. However, a sealed record is still maintained by the holder of the record for access for limited purposes.

² The data, including drill-through data for each county, is available on the Ohio Supreme Court’s website at supremecourt.ohio.gov and then selecting “Statistical Reporting” under the Court’s menu.

The bill generally requires the Ohio Access to Justice Foundation (OAJF)³ to contract with and provide funding (only if the General Assembly appropriates funds) to legal aid societies or similar nonprofit organizations for the provision of eviction defense. Currently, the bill does not provide an appropriation for this purpose. This process requires the Office of the Public Defender to pass through funds to OAJF. According to OAJF, the systems are already in place to use any future appropriated funds to provide eviction defense. The entirety of any appropriated funds would go to eviction defense until the funding is exhausted.

Eviction Defense Fund

The bill establishes the Eviction Defense Fund, to be used specifically for eviction defense. Under the bill, the fund may consist of money appropriated by the General Assembly plus any gifts or donations. The bill does not include an appropriation from the Eviction Defense Fund. OAJF is responsible for distributing all moneys in the fund to legal aid societies to provide eviction defense. The Office of the Public Defender will serve as the administrator to the fund.

Stay of eviction proceedings and mediation

The bill adds two additional exceptions by which a court is prohibited from granting a continuance in an eviction action. Under current law, a court is prohibited from granting a continuance in an eviction action for longer than eight days, unless either (1) the plaintiff applies for a continuance and the defendant consents to it, or (2) the defendant applies and gives a court-approved bond to the plaintiff. Under the bill, an additional circumstance will also include if the defendant is entitled to legal representation under the bill, but has not yet entered into an attorney-client relationship for such eviction defense services. Further, the bill allows a continuance of 50 days if either the plaintiff or the defendant demand nonbinding mediation of the dispute. A continuance for mediation purposes may be extended by the judge, as necessary.

The bill specifies that any time after an eviction complaint is filed, and before trial proceedings are commenced, either the plaintiff or defendant may demand nonbinding mediation. If mediation is requested, the judge is required to determine which party or parties will pay the cost of the mediation and the court will appoint a mediator. The mediation must be conducted and concluded within 50 days after the complaint was filed, unless extended by the judge. The bill specifies that if the mediation is not timely concluded, or does not resolve the dispute, the eviction action will proceed by trial.

The net effect of these changes is that certain eviction proceedings may take longer for the courts to resolve.

Code enforcement

Board of Building Standards

Under the bill, the Board of Building Standards will likely incur additional administrative costs to certify certain additional individuals to enforce build codes, and these costs will be offset by certification fees. As of May 20, 2024, there is a \$50 initial application fee which provides an interim certification for up to two years while the applicant completes the necessary training and

³ The Ohio Access to Justice Foundation is a statewide nonprofit organization that provides civil legal aid and access to justice initiatives to help ensure access to the courts for low-income Ohioans.

tests to receive full status certification. The Board of Building Standards provides training and continuing education credits at no cost. The International Code Council administers the tests needed for certification. Upon reaching full status certification, the individual will have three years before needing to pay \$30 every three years to renew their certification. These fees are deposited into the Industrial Compliance Operating Fund (Fund 5560). As of May 20, 2024, the Board of Building Standards notes that there are approximately 4,500 active certifications which are held by approximately 2,500 people.

The bill also requires the Board of Building Standards to review the rules pertaining to the certification of persons to enforce the residential building code with the purpose of making the process more accessible and simple. As of May, the Board of Building Standards is pursuing changes to these rules.

Local building departments

The bill requires a building department to complete a plan review or conduct a building inspection within 30 days of being requested to do so. If the review or inspection is not completed within 30 days of a request, a third-party private inspector, certified and listed by the Board of Building Standards, or a certified building department from another jurisdiction can perform the work. As a result, it is possible that a building department with jurisdiction could forego some revenue. Additionally, it is possible that building departments without jurisdiction may perform work for overburdened building departments with jurisdiction and therefore receive additional revenues from time to time.

If a general contractor or owner contracts with a certified third-party private inspector, then the contractor or owner is responsible for the payment of any fee pursuant to the contract. The building department having jurisdiction (but which is not conducting the inspection) may still charge any standard fee that is customary for the approval, including an administrative or filing fee. However, it cannot charge any fee related to the inspection. If the general contractor or owner chooses a certified building department to conduct the inspection, then the general contractor or owner must pay any fee established by the certified building department fee schedule for inspection.

If the building department having jurisdiction contracts with a third-party private inspector or certified building department from the list, then the building department having jurisdiction must pay the third-party private inspector or certified building department the fee collected for the inspection.

Other provisions

The bill includes various changes dealing with real estate law that have little, if any, fiscal impact on state or local government. These include requiring written agency agreements for licensed brokers and salespersons representing other parties in residential real estate transactions, and that brokers or salespersons working for a brokerage give the seller a copy of the brokerage policy on agency at the time the parties enter into a written agency agreement. Making agreements mandatory for these residential real estate transactions is unlikely to have a significant impact on the number of complaints filed with the Enforcement Section of the Division of Real Estate and Professional Licensing in the Department of Commerce. The bill's impact on courts, which would handle civil litigation related to real estate contract disputes, is unclear. But in all likelihood, it would reduce the volume of such cases that might arise. Finally, the bill

contains a provision requiring that a natural person be designated as an owner or agent for matters related to the conveyance of a property.