



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 245
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Reynolds and Craig

Carla Napolitano, Attorney

SUMMARY

Evictions

- Provides legal counsel in eviction proceedings for certain low-income tenants.
- Requires the Ohio Access to Justice Foundation to contract with legal aid societies or similar nonprofit organizations to provide that counsel, if appropriated funds are available.
- Requires notice to be provided to tenants facing eviction informing them that they may qualify for free legal representation.
- Expands an existing report submitted by the Foundation to the General Assembly and other state officials to include information about eviction defense.
- Requires eviction actions to be submitted to nonbinding mediation upon the request of either party.
- Establishes a procedure to seal eviction records.

Building inspections

- Requires rules adopted by the Board of Building Standards related to certifying persons to enforce the residential building code to make the certification process as accessible as possible, while still ensuring that certificate holders are adequately qualified.
- Requires the Board, within 180 days after the bill's effective date, to conduct a review of its current certification rules to achieve certain specified objectives.
- Requires plan review and inspections of residential and nonresidential building construction projects to be conducted within 30 days of the request.

- Permits a general contractor, the owner, or a building department with jurisdiction, to contract with a third-party private inspector or an out-of-jurisdiction certified building department to conduct inspections.
- Requires the Board of Building Standards to maintain and publish a list of third-party private inspectors and certified building departments that it authorizes to conduct inspections under the bill’s provisions.

Real estate agency agreements

- Requires written agency agreements for licensed brokers and salespersons representing other parties in real estate transactions.

Property conveyance transparency

- Requires grantees, other than natural persons, that acquire real property or mobile or manufactured homes to designate a natural person as an owner or agent respecting matters related to the conveyance.

TABLE OF CONTENTS

General overview	3
Evictions	3
Eviction defense for low-income tenants	3
Eligibility.....	3
Agreement with designated organizations	4
Notice to covered individuals.....	5
Eviction Defense Fund	6
Required reporting	6
Stay of eviction proceedings	7
No private cause of action.....	7
Mediation	7
Sealing of eviction records	7
Building inspections	8
Certification of code enforcement officials	8
Plan review and inspections.....	9
General contractor and owner – inspection contract.....	10
Local building department – inspection contract	10
Conforming changes.....	11
Real estate brokers and salespersons.....	11
Written agency agreements.....	11
Brokerage policy.....	11

Change in representation.....	12
Property conveyance transparency	12

DETAILED ANALYSIS

General overview

The bill makes several changes related to real property law. It requires that low-income defendants in eviction proceedings have access to legal counsel and establishes a procedure in which a tenant, manufactured home park resident, or court may seal eviction records. The bill also makes changes to building inspections by authorizing a general contractor or owner of a building to contract with an independent inspector if the building department with jurisdiction does not complete the inspection within 30 days after a request. The bill requires written agency agreements for licensed brokers and salespersons representing other parties in real estate transactions. Lastly, the bill requires that if anyone other than a natural person acquires real property or mobile or manufactured home, they must designate a natural person as an owner or agent respecting matters related to the conveyance.

Evictions

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. To accomplish this, the bill generally requires the Ohio Access to Justice Foundation to contract with and provide funding to legal aid societies or similar nonprofit organizations for the provision of eviction defense. The Foundation is an existing, statutorily created nonprofit organization that supports the delivery of civil legal services to indigent clients, primarily through providing financial assistance to legal aid societies that apply to the Foundation for funding. The bill does not appropriate funds for the purpose of achieving these objectives.

Eligibility

To qualify, the low-income tenant (1) must be an individual who legally occupies a dwelling with at least one child, (2) must not be the dwelling's owner, and (3) must have an annual gross income of not more than 250% of the federal poverty line for the size of the individual's family. The bill refers to such a qualifying low-income tenant as a "covered individual." The income threshold to qualify as a covered individual is double that required to qualify as an indigent person for civil legal services from a legal aid society under continuing law (i.e., income not exceeding 125% of the federal poverty line).¹ The Department of Health and Human Services Poverty Guidelines for 2024 set the poverty guideline at \$20,440 for a

¹ R.C. 120.532(A)(2) and (5); R.C. 120.51(B), not in the bill.

household of two, increasing \$5,380 for each additional person in the household.² For a household of two, 250% of the federal poverty guidelines would be \$51,100 in 2024.

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.³

Metropolitan housing authorities are established under state law in areas where there is substandard housing or a shortage of affordable housing, as determined by the Director of Development. Metropolitan housing authorities may acquire real property for the purpose of renting residential dwellings to low-income individuals, and may participate in programs administered by the U.S. Department of Housing and Urban Development, including the Housing Choice Voucher Program. Under that program, metropolitan housing authorities in Ohio receive and disburse federal funds to low-income individuals to attain decent, safe, and affordable housing. As a condition of receiving that federal funding, metropolitan housing authorities must abide by federal regulations, which generally require hearings for the termination of financial assistance to low-income individuals.⁴

Agreement with designated organizations

Under the bill, the Foundation is required to enter into agreements with legal aid societies or similar nonprofit organizations for the provision of eviction defense, but only if the General Assembly appropriates funds to the Foundation to pay for those services. As mentioned above, the bill does not appropriate funds for this purpose. The bill refers to such legal aid societies and nonprofit organizations as "designated organizations." When required, the Foundation must enter into a sufficient number of agreements with designated organizations to ensure the availability of eviction defense in all areas of the state. The Foundation must first attempt to enter into such agreements with legal aid societies that already receive funding from the Foundation. If it cannot, the Foundation may enter into agreements with other nonprofit organizations.⁵

Each contract required under the bill must include all of the following:

- That funds must be used for eviction defense for covered individuals or to educate tenants of their rights and available resources;
- That full-service legal representation (i.e., ongoing representation to a covered individual and all legal advice, advocacy, and assistance associated with that

² [HHS Poverty Guidelines for 2024](#), which is available at the Office of the Assistance Secretary for Planning and Evaluation's website: aspe.hhs.gov.

³ R.C. 120.532(A)(3).

⁴ R.C. Chapter 3735; 24 Code of Federal Regulations (C.F.R.) 982.555.

⁵ R.C. 120.532(A)(4), (B), (C)(1) and (2), and (D).

representation) must be provided as long as funds are available and must commence as soon as possible after eviction proceedings are initiated and the covered individual contacts the organization;

- That if full-service legal representation is not feasible, the designated organization must attempt to provide brief legal assistance (i.e., a single consultation for a covered individual related to an eviction proceeding);
- That the designated organization must work with the Foundation and community partners to engage and educate tenants on their rights and available resources;
- That the designated organization must satisfy performance metrics, report those metrics to the Foundation on a quarterly basis, and adhere to quality standards set in the contract to ensure continued funding eligibility;
- That any information reported under the contract must not include any personally identifiable or confidential information;
- That services provided under the contract do not replace or satisfy responsibilities under any other agreement;
- Any other terms the Foundation considers necessary for the provision of eviction defense services.⁶

Notice to covered individuals

The bill requires the landlord or other plaintiff in an eviction proceeding to provide notice to individuals subject to eviction informing them that they may qualify for free legal representation.

Under current law, similar notice is required in the summons in residential evictions. Such notice simply recommends that the tenant reach out to a local legal aid society or bar association if the tenant cannot afford a lawyer. Instead, the bill requires that the notice state that the tenant may qualify for free legal representation based on income and to recommend the tenant to contact Ohio Legal Help – a nonprofit organization that connects persons to government programs, legal aid societies, and other providers of legal services based on the person’s legal issue. The bill also requires the same notice to be provided by landlords upon the termination of the lease in certain circumstances.⁷

The bill makes a similar change to the notice required by continuing law in connection with an informal hearing to terminate financial assistance from a metropolitan housing authority.⁸

⁶ R.C. 120.532(A)(1), (6), (7), and (B).

⁷ R.C. 1923.06(B) and 5321.17(C).

⁸ R.C. 3735.41(D).

Eviction Defense Fund

The bill creates the Eviction Defense Fund, to consist of money appropriated by the General Assembly, plus any gifts or donations made specifically for eviction defense. The bill does not include an appropriation to the Eviction Defense Fund. Unlike current legal aid funding, which may be used for any civil legal service for indigent persons, funds in the Eviction Defense Fund must be used only for eviction defense for covered individuals. Such funds must be distributed to designated organizations by the State Public Defender through the Foundation in the same manner as funds distributed under continuing law, described below. The Treasurer of State is authorized to invest the funds, as long as it does not interfere with the use of those funds by the Foundation.⁹

Under continuing law, the Foundation receives much of its funding from local court fees and the Interest on Lawyers Trust Accounts (IOLTA) and Interest on Trust Accounts (IOTA) programs, plus any gifts and donations. The majority of funding is apportioned to each county based on the ratio of the number of indigent persons who reside in the county that are served by legal aid societies applying for financial assistance, to the total number of indigent persons who reside in all counties served by such eligible legal aid societies. If there is more than one eligible legal aid society in the county, each legal aid society receives a proportional amount based on its total budget expended for the previous year.¹⁰

Required reporting

Under continuing law, the Foundation is required to submit an annual report to the Governor, the General Assembly, and the Ohio Supreme Court detailing information about distribution of funds to, and use by, legal aid societies for civil legal services, as well as audited financial statements detailing all gifts, donations, and other funds received by the Foundation. The report is based, in part, on information legal aid societies receiving funding are required to report to the Foundation, including the number and types of cases handled and the amount and types of legal training, legal technical assistance, and other services provided.

The bill expands that report to also include information regarding eviction defense. Specifically, the report must include all the same information described above related to eviction defense, as well as the following:

- The number of covered individuals served for the period of the report;
- The extent of legal services performed;
- The outcomes of those services;
- Projected budgeting needs for full-service legal representation for all covered individuals;

⁹ R.C. 120.521(A), 120.531, and 120.532(C)(3).

¹⁰ R.C. 120.53(D)(2) and (E); R.C. 120.52, not in the bill.

- A summary of the engagement and education of tenants.

As is the case with the existing reporting requirements, the additional content required to be reported must not contain any information that can be used to identify any covered individual or that would breach confidentiality.¹¹

Stay of eviction proceedings

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.

The bill adds two additional circumstances. A continuance may be granted 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. Unlike the first two circumstances, both of which do not have a specified continuance period, a stay entered under the third circumstance must be for exactly 14 days.

The bill also allows a continuance of 50 days if either the plaintiff or the defendant demand nonbinding mediation of the dispute (see “**Mediation**,” below). A continuance for mediation purposes may be extended by the judge, as necessary.¹²

No private cause of action

The bill expressly disclaims the creation of any private cause of action against the state or any state agency, official, or employee by providing state-funded eviction defense.¹³

Mediation

The bill also 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.¹⁴

Sealing of eviction records

The bill establishes a procedure by which a court may seal an eviction record upon the request of a tenant or manufactured home park resident, or upon the court’s own motion. The procedure is available if any of the following applies:

¹¹ R.C. 120.521(A), 120.53(G), and 120.532(E).

¹² R.C. 1923.08.

¹³ R.C. 120.532(F).

¹⁴ R.C. 1923.09 and 1923.16.

- An eviction action was dismissed;
- The judgment was granted for the defendant (i.e., the tenant or resident) in the action;
- The plaintiff prevailed on the merits in the action and at least five years have passed since the judgment or any other eviction judgement against the defendant. And if the plaintiff prevailed on an action for past due rent or other damages under a rental agreement, the defendant has satisfied the judgment.
- The plaintiff consents to sealing the court file;
- The judgment was granted improperly;
- The judge decides that restricting public access to the court file is appropriate under Rule 45 of the Rules of Superintendence for the Courts of Ohio.

In order to initiate the eviction sealing procedure, the tenant, manufactured home park resident, or the court must file a motion in the same court in which the eviction action was commenced. 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. When considering a motion to seal, the court may consider any of the following:

- Whether any unusual or exceptional circumstances apply;
- The disposition of the action, including which party prevailed or whether the matter was voluntarily dismissed;
- Whether the plaintiff has filed a memorandum opposing the motion to seal;
- The legitimate need of the government to maintain a public record of the case;
- Any other relevant information.

If the court grants a motion to seal, the clerk is required to redact the tenant's or manufactured home park resident's name from all public records the clerk maintains, including the electronic case index system, to the same extent the clerk would for the sealing of the record of a criminal conviction. The bill prohibits a court from sealing more than five cases per individual.¹⁵

Building inspections

Certification of code enforcement officials

The bill makes several changes aimed at speeding the building inspection process. Continuing law requires the Board of Building Standards to certify local building departments, building department personnel, and certain other persons to enforce the residential and nonresidential building codes. Such a building department, personnel, or person may enforce

¹⁵ R.C. 1923.111.

only the type of building code for which it is certified.¹⁶ The bill requires that the rules adopted by the Board related to certifying persons to enforce the residential building code make the certification process as accessible as possible, while still ensuring that certificate holders are adequately qualified to enforce compliance with the state's residential building standards.¹⁷

In addition, the bill requires the Board to complete a review of rules pertaining to the certification of persons to enforce the residential building code within 180 days after the effective date of the bill. The Board's goals for the review must include all of the following:

- Making the certification process more accessible and appealing without compromising the integrity and quality of enforcement of the residential building code;
- Simplifying the certification process, reducing bureaucratic hurdles, and increasing transparency to make the process less daunting and more appealing to potential candidates;
- Modifying the trainee program to allow for a broader range of supervisory relationships and experiences to provide more pathways for individuals to gain access to the necessary qualifications;
- Revising supervisory ratios to allow supervisors to oversee more trainees to increase the efficiency of the training process and the number of candidates moving through it.¹⁸

Plan review and inspections

The bill requires a building department having jurisdiction over a residential or nonresidential building construction project to review plans and conduct the inspection of the building within 30 days after being requested to do so.¹⁹ The Revised Code does not currently specify the timeframe inspections must be conducted. In addition, the bill permits a general contractor or owner of the building construction project, or the building department with jurisdiction over the building, to contract with a third-party private inspector or a certified building department of another jurisdiction to approve plans and conduct the building inspection if the inspection is not completed within 30 days after the request. A "third-party private inspector" is an inspector that is certified by the Board to accept and approve plans and to conduct inspections of residential or nonresidential building construction projects but who is not directly employed by a governmental entity.²⁰

Under the bill, the Board is required to maintain a list of third-party private inspectors and certified building departments it authorizes to conduct plan review and inspections for

¹⁶ R.C. 3781.03 and 3781.10(E).

¹⁷ R.C. 3781.10(E)(3)(c).

¹⁸ Section 6.

¹⁹ R.C. 3781.181(B).

²⁰ R.C. 3781.10(E)(7)(e) and 3781.181(A)(3) and (D).

residential and nonresidential buildings construction projects. The Board must include on this list for each third-party inspector what certification the inspector holds. The Board is then required to publish the list on a publically accessible website maintained by the Board.²¹ If the building department with jurisdiction does not timely conduct the plan review or inspection, the general contractor or owner may notify the Board and the building department of the intention to contract for an independent plan review or inspection.²²

General contractor and owner – inspection contract

If a general contractor or owner contracts with a third-party private inspector from the list, then the contractor or owner is responsible for the payment of any fee pursuant to the contract. The building department having jurisdiction (which is not conducting the inspection) may still charge any standard fee that is customary for the approval, including an administrative or filing fee, but it cannot charge any fee related to the inspection. If the general contractor or owner chooses a certified building department from the list to conduct the inspection, then the general contractor or owner must pay any fee established by the certified building department fee schedule for inspection.²³

Within 24 hours after the plan review or inspection is completed, the third-party private inspector or the inspector employed by the certified building department must send a copy of the results to the building department having jurisdiction.²⁴ The general contractor or owner may request a certificate of occupancy from either the building department having jurisdiction or the Board.²⁵ The bill requires the Board to adopt rules relating to the procedures for the review and processing of the inspection reports by the building official of the building department having jurisdiction.²⁶

Local building department – inspection contract

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.²⁷

²¹ R.C. 3781.181(C).

²² R.C. 3781.181(D)(1).

²³ R.C. 3781.181(D)(2) and (3).

²⁴ R.C. 3781.181(D)(4).

²⁵ R.C. 3781.181(F).

²⁶ R.C. 3781.181(D)(5).

²⁷ R.C. 3781.181(E).

Conforming changes

The bill makes conforming changes to the law; making an inspector that contracts with an owner or general contractor pursuant to the bill's provisions also subject to the law relating to disqualification for specified conflict of interests.²⁸

Real estate brokers and salespersons

Written agency agreements

Current law allows, but does not require, real estate brokers and salespersons to enter into written agency agreements with the buyers and sellers they represent. However, if a broker or salesperson chooses to enter into such an agreement, the law imposes certain content-based requirements. Specifically, the agreement must include the following:

- An expiration date;
- A statement that it is illegal to deny housing accommodations based on race, color, religion, sex, familial status, ancestry, military status, disability, or national origin;
- A statement about the illegality of “blockbusting;”
- A copy of the U.S. Department of Housing and Urban Development Equal Housing Opportunity logotype.

Under the bill, brokers and salespersons are required to enter into written agency agreements prior to engaging in activities on behalf of a buyer or seller in residential real estate transactions that require a real estate license.

The bill requires that the written agency agreement include, in addition to information required under current law, a statement that the broker or salesperson is appointed as an agent of the client, an indication of whether the agency relationship is exclusive or nonexclusive, and the terms by which the broker or salesperson is to be compensated.²⁹

Brokerage policy

Current law requires a broker or salesperson working as part of a brokerage (i.e., a business that is issued a broker's license) to provide a seller with their brokerage policy on agency prior to marketing or showing the seller's real estate. The bill specifies that the policy must be provided at the time the parties enter into the written agency agreement required by the bill.³⁰ Under current law, a broker or salesperson working with a buyer must provide the buyer with their brokerage policy prior to the occurrence of any of a list of actions. The bill adds entering into an agency agreement to the list.³¹

²⁸ R.C. 3781.10(E)(11)(a); Sections 3, 4, and 5.

²⁹ R.C. 4735.55.

³⁰ R.C. 4735.56(C).

³¹ R.C. 4735.56(D)(6).

Change in representation

Continuing law requires a broker or salesperson that wishes to change the party they are representing in a real estate transaction to do both of the following:

- Obtain written consent from the party they originally represented;
- Promptly notify all persons involved in the transaction of the original relationship.

This requirement applies after an agency disclosure statement is signed and dated by the original party or following verbal disclosure of the agency relationship to that party. The bill adds that the requirement applies following a written agency agreement.³²

Property conveyance transparency

The bill requires the grantee (i.e., the buyer) in a transaction that conveys ownership of real property or a manufactured or mobile home to provide certain information to the county auditor before the auditor indorses the transaction. If the grantee is a natural person, the grantee must submit an affirmation of that fact. If the grantee is not a natural person – such as a trust, business, or nonprofit corporation – the grantee must identify a natural person who owns or controls the grantee. Under the bill, “control” means the authority to direct the affairs and day-to-day operations of the grantee. “Own” is defined as possession of more than 50% of the stock, equity, or other ownership interest of the grantee. Finally, if no natural person owns or controls the grantee, the grantee must instead designate a natural person to serve as the grantee’s agent. If the grantee is not a natural person, the statement issued to the county auditor must vest the owner or the designated agent with the authority to make binding decisions on behalf of the grantee respecting the real property or manufactured or mobile home that is the subject of the conveyance. The bill authorizes the grantee to change the information provided for the owner or agent by filing a petition in the court of common pleas, in the same manner permitted for correcting an error, omission, or defect in an instrument or writing under continuing law. The county auditor is prohibited from indorsing a conveyance without first receiving the affirmation or statement required by the bill.³³

HISTORY

Action	Date
Introduced	04-17-24

ANSB0245IN-135/ar

³² R.C. 4735.59.

³³ R.C. 319.20 and 319.204.