



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 291

131st General Assembly  
(As Introduced)

**Reps.** Young and Dever, Blessing, Hambley, Hood, Bishoff, Schuring, Amstutz, T. Johnson, Grossman

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## BILL SUMMARY

- Permits a confession of judgment only for nonpayment of principal and interest under an instrument evidencing indebtedness.
- Requires that a defendant be given notice and an opportunity for a hearing before entry of judgment pursuant to a confession of judgment.

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## CONTENT AND OPERATION

### Confession of judgment

The bill limits the use of a confession of judgment pursuant to a cognovit note to defaults in payment of principal and interest.<sup>1</sup> The bill requires the creditor's attorney to give notice and an opportunity to be heard to the debtor (the defendant) before entering judgment under the terms of a cognovit note.

A confession of judgment is an agreement by a debtor to the entry of judgment on the happening of an event, such as nonpayment by the debtor. A promissory note containing a confession of judgment and a warrant of attorney (an authorization for the creditor's attorney to enter judgment, usually without notice to the debtor, in the event of a default) is known as a cognovit note. Existing law prohibits the use of cognovit notes in consumer transactions and bars entry of judgment under a cognovit note unless

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<sup>1</sup> R.C. 2323.13(A).

the note contains a notice to the debtor that by signing the note the debtor is giving up the right to a trial.<sup>2</sup>

The bill modifies the notice to the debtor by requiring the addition of the following language:<sup>3</sup>

You will be sent a notice by certified mail, return receipt requested, at your last known address at least thirty days prior to the entry of a judgment. You will have thirty days following receipt of the notice to request a court hearing to determine whether you have defaulted in the payment of principal and interest.

As indicated in the notice, the bill requires the attorney for the creditor to send the debtor at the debtor's last known address a written notice of the filing of a petition for a judgment by confession at least 30 days prior to the entry of the judgment. The notice must be sent by certified mail, return receipt requested. The attorney must notify the court of the date when the notice is sent.<sup>4</sup>

Within 30 days after receipt of the notice, the debtor may request, in writing, a hearing to determine whether the debtor has defaulted in the payment of principal and interest. The debtor must send a copy of the request to the judgment creditor's attorney by certified mail, return receipt requested. The parties may call witnesses and offer evidence at the hearing in accordance with the Rules of Evidence. If the court determines that the creditor has not demonstrated the debtor's default in the payment of principal and interest, it must deny the petition for judgment by confession.<sup>5</sup>

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## HISTORY

ACTION	DATE
Introduced	07-22-15

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<sup>2</sup> R.C. 2323.13(D) and (E) (existing law designations).

<sup>3</sup> R.C. 2323.13(F).

<sup>4</sup> R.C. 2323.13(C)(2).

<sup>5</sup> R.C. 2323.13(D).

