



Representative Steve Hambley, 69th District

Thank you Chairman Dever, Vice Chair Sprague, Ranking Member Smith, and members of the House Financial Institutions, Housing, and Urban Development Committee for the opportunity to offer testimony on House Bill 282. House Bill 282 expressly includes residential rental property under the criminal mischief statute. Under current law, there is no express criminal mischief prohibition relating to rental property. Thus, many cases related to destruction of rental property both private and publicly held are taken through civil litigation.

Although there are current criminal statutes regarding damage to property, many property owners believe that the punishments are often too weak to deter people from intentionally damaging these properties. As you will hear in future testimony, with the permission of the Chair, on the rare occasion when they are charged criminally, these cases are prosecuted under the Criminal Damaging statutes.

Criminal Damaging - Ohio Revised Code section 2909.06 - is a second-degree misdemeanor; punishable by a maximum of 90-day jail sentence, and \$750 in fines. By expressly listing rental property in the Criminal Mischief statute in HB 282, individuals could then be prosecuted for a first-degree misdemeanor, carrying a maximum fine of \$1,000 with up to 6 months in jail.

This bill would subject a tenant to the same penalties under existing law as any other person found guilty of mischief. The tenant at fault would have to *knowingly* damage the residential property. This criminal mischief language is virtually identical to that included for intentional damage to foreclosed properties, as provided for in Representative Dever's House Bill 463, which was enacted in the 131st General Assembly. The House version of HB 463 which included this specific criminal mischief provision passed by a 95 to 1 margin in May of 2016.

In addition to the penalties imposed by a criminal mischief conviction, House Bill 282 would also deem the tenant ineligible for public housing assistance for three years after conviction. From speaking with various public housing authorities, I have heard that the intentional damage to publicly held as well as government assisted housing occurs all too frequently and is a significant drain upon their limited resources. These criminal acts are taking away opportunities for the housing authorities to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities.

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Please let me be clear, this legislation is not anti-renter. As much as federal and state policies favor home ownership, renting offers many advantages, and is considered a viable long-term option for people of all ages and socioeconomic levels. Renters enjoy flexibility and freedom from the responsibilities of maintenance. Given the often-overlooked costs and risks of homeownership, renting is in many cases a wise financial choice. However, we do know that home ownership is associated with a number of positive social and psychological impacts, which renting may not provide. Psychology and behavioral economics refer to the “endowment effect” whereas people place an extra value on an object simply by virtue of it being, or having been, theirs. We actually learn it by the age of two.

There is abundant academic and industry research and writing on the link between homeownership and positive psychological impacts. Most suggest three ways that homeownership may influence psychological self-perceptions: self-esteem, perceived control, and financial security. People that rent rather than own their own home are challenged to find similar psychological benefits. Permit me to quote Matt Wallaert, a behavioral psychologist, summarizing the differences between owning and renting a home: “... it isn’t just mental. The psychological value of owning translates to real value in your interactions, as almost anyone that has ever rented something intrinsically knows. You scratch the floor and don’t feel particularly bad or try to get it fixed (unless motivated by worry about your damage deposit). You beat the hell out of a computer until the lease runs out and you get a new one. No one puts premium gas in a rental car.”¹

I am not saying people who are tenants tend to be bad or predisposed to abusing and destroying the property of their landlords. I believe the real question is this: are there enough checks and balances, legal rewards and sanctions to discourage the extreme behavior of a discrete number of renters that destroy private and public housing? All too often, as you will hear in future testimony before this committee with the permission of the Chair, the civil claim process not only proves inadequate to compensate a landlord for intentional destruction of private rental property, but it serves as virtually no deterrent to future transgression against subsequent landlords. I would suggest that we consider the fundamental differences between civil and criminal proceedings. Civil law protects the individual and the civil process is used for the main purpose of obtaining compensation for injury. Criminal law and proceedings’ main purposes are to enforce the standards of conduct necessary to protect society and to satisfy the demands for retribution, rehabilitation and deterrence. HB 282 seeks to add another deterrent as well as an opportunity for rehabilitation of those who intentionally destroy public or private residential property.

I believe that one of the greatest economic generators that we seldom take full advantage of is cost avoidance. With our public housing authorities becoming more creative and effective every day, one way to assist in advancing their mission is to avoid unnecessary costs. By disallowing tenants who have been convicted of criminal mischief of rental properties, we will create a disincentive for individuals living in those units to destroy property, as well as create an additional mechanism for those wronged parties to obtain restitution.

¹ “A Home of My Own: Why We Buy”, *Consumerism Commentary* (April 13, 2009)

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Further, by allowing landlords to bring more consequential charges against criminals who knowingly destroy the property which they are renting, this will deter people from continually destroying property. This deterrence will create higher quality rental properties, strengthen communities, and properly punish criminals for committing thousands of dollars of damage to these properties. By minimalizing damage to these properties, fewer homes will sit vacant, in need of repair - and our communities will grow stronger as a result.

Thank you for the opportunity to testify before you today, I will be happy to answer any questions the committee may have.