

I_136_0330-2

136th General Assembly
Regular Session
2025-2026

Sub. H. B. No. 92

To amend sections 1923.02 and 5321.03 and to enact
sections 743.51, 743.52, 743.53, 743.54, and
743.55 of the Revised Code regarding unpaid
municipal utility services.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1923.02 and 5321.03 be amended
and sections 743.51, 743.52, 743.53, 743.54, and 743.55 of the
Revised Code be enacted to read as follows:

Sec. 743.51. As used in sections 743.51 to 743.55 of the
Revised Code:

(A) "Landlord," "residential premises," and "tenant" have
the same meanings as in section 5321.01 of the Revised Code.

(B) "Municipal utility service" means water, sewer,
natural gas, electric, or other utility service supplied by a
municipal corporation.

Sec. 743.52. (A) Division (B) of this section applies only
if one or both of the following are met:

(1) The former tenant of a residential premises contracted



for municipal utility service at the residential premises with
the municipal corporation.

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(2) The municipal corporation provided municipal utility
service to a residential premises with the knowledge of the
former tenant's name and the period that the former tenant was
provided the service.

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(B) Notwithstanding any provision of the Revised Code to
the contrary, no municipal corporation shall refuse or
discontinue municipal utility service to a landlord, present
tenant, or prospective tenant at a residential premises based on
nonpayment for municipal utility services by a former tenant of
the residential premises.

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Sec. 743.53. Notwithstanding any provision of the Revised
Code to the contrary, a municipal corporation may adopt an
ordinance authorizing the municipal corporation to withdraw and
expend any security deposit collected by the municipal
corporation from any tenant for municipal utility service for
the nonpayment of municipal services by the tenant.

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Sec. 743.54. No contract entered into between a municipal
corporation and a landlord may waive any provision of sections
743.51 to 743.55 of the Revised Code.

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Sec. 743.55. Nothing in sections 743.51 to 743.55 of the
Revised Code shall be construed to prohibit a municipal
corporation from discontinuing municipal utility service to a
tenant who is in arrears thirty days or more.

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Sec. 1923.02. (A) Proceedings under this chapter may be
had as follows:

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(1) Against tenants or manufactured home park residents
holding over their terms;

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(2) Against tenants or manufactured home park residents in possession under an oral tenancy, who are in default in the payment of rent as provided in division (B) of this section;	47 48 49
(3) In sales of real estate, on executions, orders, or other judicial process, when the judgment debtor was in possession at the time of the rendition of the judgment or decree, by virtue of which the sale was made;	50 51 52 53
(4) In sales by executors, administrators, or guardians, and on partition, when any of the parties to the complaint were in possession at the commencement of the action, after the sales, so made on execution or otherwise, have been examined by the proper court and adjudged legal;	54 55 56 57 58
(5) When the defendant is an occupier of lands or tenements, without color of title, and the complainant has the right of possession to them;	59 60 61
(6) In any other case of the unlawful and forcible detention of lands or tenements. For purposes of this division, in addition to any other type of unlawful and forcible detention of lands or tenements, such a detention may be determined to exist when both of the following apply:	62 63 64 65 66
(a) A tenant fails to vacate residential premises within three days after both of the following occur:	67 68
(i) The tenant's landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation of Chapter 2925. or 3719. of the Revised Code, or of a municipal ordinance that is substantially similar to any section in either of those chapters, which involves a controlled	69 70 71 72 73 74 75

substance and which occurred in, is occurring in, or otherwise 76
was or is connected with the premises, whether or not the tenant 77
or other person has been charged with, has pleaded guilty to or 78
been convicted of, or has been determined to be a delinquent 79
child for an act that, if committed by an adult, would be a 80
violation as described in this division. For purposes of this 81
division, a landlord has "actual knowledge of or has reasonable 82
cause to believe" that a tenant, any person in the tenant's 83
household, or any person on the premises with the consent of the 84
tenant previously has or presently is engaged in a violation as 85
described in this division if a search warrant was issued 86
pursuant to Criminal Rule 41 or Chapter 2933. of the Revised 87
Code; the affidavit presented to obtain the warrant named or 88
described the tenant or person as the individual to be searched 89
and particularly described the tenant's premises as the place to 90
be searched, named or described one or more controlled 91
substances to be searched for and seized, stated substantially 92
the offense under Chapter 2925. or 3719. of the Revised Code or 93
the substantially similar municipal ordinance that occurred in, 94
is occurring in, or otherwise was or is connected with the 95
tenant's premises, and states the factual basis for the 96
affiant's belief that the controlled substances are located on 97
the tenant's premises; the warrant was properly executed by a 98
law enforcement officer and any controlled substance described 99
in the affidavit was found by that officer during the search and 100
seizure; and, subsequent to the search and seizure, the landlord 101
was informed by that or another law enforcement officer of the 102
fact that the tenant or person has or presently is engaged in a 103
violation as described in this division and it occurred in, is 104
occurring in, or otherwise was or is connected with the tenant's 105
premises. 106

(ii) The landlord gives the tenant the notice required by
division (C) of section 5321.17 of the Revised Code. 107
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(b) The court determines, by a preponderance of the
evidence, that the tenant, any person in the tenant's household,
or any person on the premises with the consent of the tenant
previously has or presently is engaged in a violation as
described in division (A) (6) (a) (i) of this section. 109
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(7) In cases arising out of Chapter 5313. of the Revised
Code. In those cases, the court has the authority to declare a
forfeiture of the vendee's rights under a land installment
contract and to grant any other claims arising out of the
contract. 114
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(8) Against tenants who have breached an obligation that
is imposed by section 5321.05 of the Revised Code, other than
the obligation specified in division (A) (9) of that section, and
that materially affects health and safety. Prior to the
commencement of an action under this division, notice shall be
given to the tenant and compliance secured with section 5321.11
of the Revised Code. 119
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(9) Against tenants who have breached an obligation
imposed upon them by a written rental agreement; 126
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(10) Against manufactured home park residents who have
defaulted in the payment of rent or breached the terms of a
rental agreement with a park operator. Nothing in this division
precludes the commencement of an action under division (A) (12)
of this section when the additional circumstances described in
that division apply. 128
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(11) Against manufactured home park residents who have
committed two material violations of the rules of the 134
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manufactured home park, of the division of industrial compliance 136
of the department of commerce, or of applicable state and local 137
health and safety codes and who have been notified of the 138
violations in compliance with section 4781.45 of the Revised 139
Code; 140

(12) Against a manufactured home park resident, or the 141
estate of a manufactured home park resident, who as a result of 142
death or otherwise has been absent from the manufactured home 143
park for a period of thirty consecutive days prior to the 144
commencement of an action under this division and whose 145
manufactured home or mobile home, or recreational vehicle that 146
is parked in the manufactured home park, has been left 147
unoccupied for that thirty-day period, without notice to the 148
park operator and without payment of rent due under the rental 149
agreement with the park operator; 150

(13) Against occupants of self-service storage facilities, 151
as defined in division (A) of section 5322.01 of the Revised 152
Code, who have breached the terms of a rental agreement or 153
violated section 5322.04 of the Revised Code; 154

(14) Against any resident or occupant who, pursuant to a 155
rental agreement, resides in or occupies residential premises 156
located within one thousand feet of any school premises, 157
preschool or child care center premises, children's crisis care 158
facility premises, or residential infant care center premises 159
and to whom both of the following apply: 160

(a) The resident's or occupant's name appears on the state 161
registry of sex offenders and child-victim offenders maintained 162
under section 2950.13 of the Revised Code. 163

(b) The state registry of sex offenders and child-victim 164

offenders indicates that the resident or occupant was convicted 165
of or pleaded guilty to a sexually oriented offense or a child- 166
victim oriented offense in a criminal prosecution and was not 167
sentenced to a serious youthful offender dispositional sentence 168
for that offense. 169

(15) Against any tenant who permits any person to occupy 170
residential premises located within one thousand feet of any 171
school premises, preschool or child care center premises, 172
children's crisis care facility premises, or residential infant 173
care center premises if both of the following apply to the 174
person: 175

(a) The person's name appears on the state registry of sex 176
offenders and child-victim offenders maintained under section 177
2950.13 of the Revised Code. 178

(b) The state registry of sex offenders and child-victim 179
offenders indicates that the person was convicted of or pleaded 180
guilty to a sexually oriented offense or a child-victim oriented 181
offense in a criminal prosecution and was not sentenced to a 182
serious youthful offender dispositional sentence for that 183
offense. 184

(16) Against a tenant who is financially responsible for 185
paying for municipal utility service and fails to do so. As used 186
in this division, "municipal utility service" has the same 187
meaning as in section 743.51 of the Revised Code. 188

(B) If a tenant or manufactured home park resident holding 189
under an oral tenancy is in default in the payment of rent, the 190
tenant or resident forfeits the right of occupancy, and the 191
landlord may, at the landlord's option, terminate the tenancy by 192
notifying the tenant or resident, as provided in section 1923.04 193

of the Revised Code, to leave the premises, for the restitution 194
of which an action may then be brought under this chapter. 195

(C) (1) If a tenant or any other person with the tenant's 196
permission resides in or occupies residential premises that are 197
located within one thousand feet of any school premises, 198
children's crisis care facility premises, or residential infant 199
care center premises and is a resident or occupant of the type 200
described in division (A) (14) of this section or a person of the 201
type described in division (A) (15) of this section, the landlord 202
for those residential premises, upon discovery that the tenant 203
or other person is a resident, occupant, or person of that 204
nature, may terminate the rental agreement or tenancy for those 205
residential premises by notifying the tenant and all other 206
occupants, as provided in section 1923.04 of the Revised Code, 207
to leave the premises. 208

(2) If a landlord is authorized to terminate a rental 209
agreement or tenancy pursuant to division (C) (1) of this section 210
but does not so terminate the rental agreement or tenancy, the 211
landlord is not liable in a tort or other civil action in 212
damages for any injury, death, or loss to person or property 213
that allegedly result from that decision. 214

(D) This chapter does not apply to a student tenant as 215
defined by division (H) of section 5321.01 of the Revised Code 216
when the college or university proceeds to terminate a rental 217
agreement pursuant to section 5321.031 of the Revised Code. 218

(E) As used in this section, "children's crisis care 219
facility premises" and "residential infant care center premises" 220
have the same meanings as in section 2950.034 of the Revised 221
Code. 222

Sec. 5321.03. (A) Notwithstanding section 5321.02 of the Revised Code, a landlord may bring an action under Chapter 1923. of the Revised Code for possession of the premises if:	223 224 225
(1) The tenant is in default in the payment of rent;	226
(2) The violation of the applicable building, housing, health, or safety code that the tenant complained of was primarily caused by any act or lack of reasonable care by the tenant, or by any other person in the tenant's household, or by anyone on the premises with the consent of the tenant;	227 228 229 230 231
(3) Compliance with the applicable building, housing, health, or safety code would require alteration, remodeling, or demolition of the premises which would effectively deprive the tenant of the use of the dwelling unit;	232 233 234 235
(4) A tenant is holding over the tenant's term.	236
(5) The residential premises are located within one thousand feet of any school premises, preschool or child care center premises, children's crisis care facility premises, or residential infant care center premises, and both of the following apply regarding the tenant or other occupant who resides in or occupies the premises:	237 238 239 240 241 242
(a) The tenant's or other occupant's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code.	243 244 245
(b) The state registry of sex offenders and child-victim offenders indicates that the tenant or other occupant was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.	246 247 248 249 250 251

<u>(6) The tenant is financially responsible for paying for municipal utility service and fails to do so. As used in this division, "municipal utility service" has the same meaning as in section 743.51 of the Revised Code.</u>	252
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 <u>(B) The maintenance of an action by the landlord under this section does not prevent the tenant from recovering damages for any violation by the landlord of the rental agreement or of section 5321.04 of the Revised Code.</u>	256
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 <u>(C) This section does not apply to a dwelling unit occupied by a student tenant.</u>	260
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 <u>(D) As used in this section, "children's crisis care facility premises" and "residential infant care center premises" have the same meanings as in section 2950.034 of the Revised Code.</u>	262
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 Section 2. That existing sections 1923.02 and 5321.03 of the Revised Code are hereby repealed.	266
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