

Thank you for the opportunity to testify before the committee today. My name is George Davis, I am a homebuilder and residential developer in Northeastern Ohio.

A cognovit note is required to be signed for virtually all commercial loans in Ohio. The cognovit allows the bank to file judgement on the borrower and any guarantor without notice. This can be done for technical defaults not just for failure to make payments. Some examples of technical defaults are: loss of a tenant, drop in appraised value, failure to meet a pace of sales, another judgement against a borrower, change in accounts receivable, etc. Most technical defaults are not under the control of the borrower. They are macro economic related.

Residential home loans are not commercial loans and the cognovit was outlawed for them years ago but imagine this... During the most recent recession if home mortgages had a cognovit clause who knows how many people would of lost their properties due to a change in appraised value of their homes even though they had never missed a payment. Many homeowners in Ohio still are underwater in their mortgages but continue to make payments. Would it be fair for banks to file judgment without notice on them?

The cognovit puts Ohio at a disadvantage for economic development when compared to states that do not have it. Our neighboring state, Indiana, does not have it. A business would

have less risk expanding in Indiana than here. This hurts our economy.

HOUSE BILL 67 limits the cognovits feature to monetary defaults. So if the borrower is not making payments then the bank still has the tool. BUT if the default is just a technicality then the bank cannot just file judgement. This is fair. This is logical. This is good for Ohio and good for economic development.

My personal experience with cognovits could of ruined my business, my life and the lives of my employees and trade and vendor partners.

I had a development loan for a road I put in for a condominium project. Sales had slowed during the downturn and the appraised value had fallen dramatically. I was in technical default. But I had never missed a payment, always paid the real estate taxes and maintained the property. I was still building homes on the street. I was in good communication with the bank. All was good until there was a shakeup in upper management at the bank. The new department head called me in for a meeting

Luckily I overheard a conversation where they were discussing filing the judgment. I immediately retained counsel and was able to prevent it and work out a solution. But I was lucky. I had notice. Without that they would of filed the judgement and garnished my bank accounts. We owned about a ½ million dollars. There were enough funds in the accounts. But the vast

majority of those funds were there to pay trades, suppliers and to make payroll.

If the bank had acted I would of went out of business. Homes would have been left unfinished. Families without jobs. Suppliers and trade partners unpaid which would of snowballed into more lost jobs and closed businesses.

Because of my notice, that never happened. The jobs stayed. My business has quadrupled in size. Many more people are employed. Communities are collecting more property taxes on all the homes I have built. And most importantly the bank has been paid in full.

In summary the cognovit is a dangerous tool that a bank can use without oversight. House Bill 67 still allows banks to use it for monetary defaults but creates oversight and reasonableness for non-monetary, techinal defaults. House bill 67 is good for Ohio's business owners, good for employee of those businesses and good for economic development.