

AN ACT

To enact sections 5315.01, 5315.02, 5315.03, 5315.04, and 5315.05 of the Revised Code to create the D.O.L.L.A.R. Deed Program.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 5315.01, 5315.02, 5315.03, 5315.04, and 5315.05 of the Revised Code be enacted to read as follows:

Sec. 5315.01. (A) As used in this chapter:

(1) "Borrower" means the person who receives a loan from a lender secured by a mortgage on real property to which the borrower holds legal title and who is an applicant of the D.O.L.L.A.R. deed program. "Borrower" includes the original borrower's successor in interest.

(2) "D.O.L.L.A.R. deed in lieu of foreclosure" means a transaction in which a borrower, after default on a loan secured by a mortgage on real property, conveys to the lender by deed that satisfies the minimum requirements of section 5302.11 of the Revised Code, title to the real property pledged as security for the related note of indebtedness.

(3) "Home affordable modification program" means the home affordable modification program established by the United States departments of the treasury and housing and urban development pursuant to 12 U.S.C. 5219.

(4) "Lender" means the mortgagee and holder of the note secured by the mortgage or an agent on behalf of the holder of the note, regardless of whether the holder of the note is the original mortgagee. "Lender" includes the person entitled to enforce the instrument secured by the mortgage under division (A)(1) or (2) of section 1303.31 of the Revised Code or a mortgagee with the right to enforce the obligation secured by the mortgage pursuant to law outside of Chapter 1303. of the Revised Code.

(5) "Mortgage" means the instrument securing an obligation to pay a sum of money evidenced by a note of indebtedness and secured by a lien on the borrower's real property.

(6) "Note" or "note of indebtedness" means an obligation to pay a sum of money secured by a mortgage on borrower's real property.

(B) There is hereby created the D.O.L.L.A.R. deed program. The program shall provide a loss mitigation alternative for borrowers who are in default on a mortgage encumbering real property.

Sec. 5315.02. To assist in the establishment of the D.O.L.L.A.R. deed program, the Ohio housing finance agency shall adopt in rule all of the following:

(A) A model form by which a person may apply to participate in the program;

(B) A model for the deed, which act shall as the deed in lieu of foreclosure described in division (A)(1) of section 5315.04 of the Revised Code;

(C) A model for the lease with option to purchase agreement described in divisions (A)(2) and (3) of section 5315.04 of the Revised Code;

(D) Any other rules necessary to implement this chapter.

Sec. 5315.03. (A) An applicant to the D.O.L.L.A.R. deed program shall submit both of the following to the loss mitigation department of the lender of the mortgage that is in default:

(1) An application form as set forth in section 5315.02 of the Revised Code;

(2) A request for modification and affidavit form developed under the home affordable modification program.

(B) To qualify for the program, all of the following shall apply:

(1) The applicant need not be eligible for another mortgage loss mitigation alternative or program.

(2) The applicant's front-end and back-end debt-to-income ratios must fall below the current ratios set for the home affordable modification program at the time the application is submitted to the lender.

(3) The applicant must occupy the residence.

(C) The lender shall respond to the applicant in writing not later than thirty days after the date the lender receives all application documents.

(D) The lender is not required to participate in the program.

Sec. 5315.04. (A) If a lender approves a borrower applicant to the D.O.L.L.A.R. deed program, the borrower and lender shall execute all of the following:

(1) A deed in lieu of foreclosure that transfers to the lender all of the borrower's right, title, and interest in and to the real property that is the subject of the mortgage. The deed in lieu of foreclosure shall be an absolute conveyance and, upon delivery of the executed deed in lieu of foreclosure to the lender, the borrower conveys all of its right, title, and interest in the real property and rights associated therewith including, but not limited to, any equity and right of redemption.

(2) A notarized estoppel affidavit, which shall be included in the deed, that shall affirm all of the following:

(a) That the mortgage and title to the real property are not merged;

(b) That the lender retains its lien position and its right to foreclose on any junior lienholders after the transfer;

(c) That the transfer by deed in lieu of foreclosure is an absolute conveyance of title to the real property, free and clear of any rights or claim of redemption;

(d) That the transfer is the free act and will of the borrower;

(e) That the transfer is not made under duress or coercion;

(f) That the transfer is made for valuable consideration in the form of the lease with option to purchase contract granted by the lender to purchase the real property as further defined in this section.

(3) A lease with option to purchase agreement, which shall be the consideration for the borrower applicant's deed in lieu of foreclosure, whereby the former lender leases to the former borrower the real property that is the subject of the mortgage in default:

(a) The lease with option to purchase agreement term shall be for the shorter of the period of time necessary for the former borrower to be approved for financing or other mortgage assistance by the federal housing administration or two years from the date of the lease with option to purchase agreement.

(b) The rent shall be on a monthly basis and shall be one-twelfth of an amount that shall be not less than the sum of all of the following annualized items with respect to the real property:

(i) Real property taxes;

(ii) Homeowner's insurance premiums for homeowner's insurance, which shall reflect the market rate for homeowner's insurance based on the market value of the real property;

(iii) Any homeowner's association or condominium dues.

(c) The option to purchase contained within the lease shall allow the former borrower the opportunity to purchase the real property that is the subject of the mortgage and the lease with option to purchase agreement at a specified price until the termination of the lease described in this section.

(B) The documents required under division (A) of this section shall be provided to the borrower at least ten business days before the documents are signed by both parties.

(C) If the former borrower does not exercise the option to purchase the real property within the time permitted under the lease with option to purchase agreement, the right to purchase terminates. The lease with option to purchase may be renewed by mutual written agreement between the former borrower and former lender, but such renewal is not effective until it is recorded.

(D) If a borrower conveys to a lender a deed of the type described in division (A)(1) of this section, and the former borrower and former lender enter into a lease with option to purchase agreement of the type described in divisions (A)(2) and (3) of this section, the lender's mortgage is not extinguished and does not merge with the former borrower's interest conveyed.

(E) All of the following documents relating to the D.O.L.L.A.R. deed program entered into under sections 5315.01 to 5315.05 of the Revised Code shall be recorded in the real property records of the office of the county recorder of the county in which the subject real property is located:

(1) A deed in lieu of foreclosure;

(2) A lease with option to purchase agreement;

(3) The renewal of a lease with option to purchase agreement;

(4) The termination of a lease with option to purchase agreement.

Sec. 5315.05. (A) A former borrower and a former lender who are party to a lease with option to purchase agreement under divisions (A)(2) and (3) of section 5315.04 of the Revised Code are governed by Chapter 5321. of the Revised Code.

(1) The former borrower-lessee is responsible for all of the obligations of a tenant under section 5321.05 of the Revised Code as well as the duties under divisions (A)(1) to (6) of section 5321.04 of the Revised Code.

(2) Divisions (A)(1) to (6) of section 5321.04 of the Revised Code do not apply to a lender- lessor participating in the D.O.L.L.A.R. deed program in accordance with this chapter.

(B) A former borrower-lessee who defaults or otherwise fails to meet the terms of a lease with option to purchase agreement executed pursuant to this chapter forfeits the former borrower-lessee's right to purchase the real property under division (B) of section 5315.04 of the Revised Code and has no further right of possession or occupancy and shall be subject to a forcible entry and detainer action under section 5321.03 and Chapter 1923. of the Revised Code.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____