

As Reported by the Senate Financial Institutions Committee

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Representatives Dever, McColley

**Cosponsors: Representatives Antani, Barnes, Burkley, Butler, Conditt, Cupp, Hambley, Koehler, Perales, Sprague, Sweeney, Smith, K., Terhar, Kuhns, Brown, Amstutz, Anielski, Arndt, Baker, Blessing, Boccieri, Boyd, Buchy, Craig, Driehaus, Duffey, Fedor, Ginter, Green, Hackett, Henne, Leland, Lepore-Hagan, Manning, O'Brien, M., O'Brien, S., Patterson, Phillips, Reece, Reineke, Retherford, Rogers, Ruhl, Ryan, Schuring, Sheehy, Stinziano, Thompson, Speaker Rosenberger
Senators Eklund, Bacon**

A BILL

To enact sections 5315.01, 5315.02, 5315.03, 1
5315.04, and 5315.05 of the Revised Code to 2
create the D.O.L.L.A.R. Deed Program. 3

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

Section 1. That sections 5315.01, 5315.02, 5315.03, 4
5315.04, and 5315.05 of the Revised Code be enacted to read as 5
follows: 6

Sec. 5315.01. (A) As used in this chapter: 7

(1) "Borrower" means the person who receives a loan from a 8
lender secured by a mortgage on real property to which the 9
borrower holds legal title and who is an applicant of the 10
D.O.L.L.A.R. deed program. "Borrower" includes the original 11
borrower's successor in interest. 12

(2) "D.O.L.L.A.R. deed in lieu of foreclosure" means a 13

transaction in which a borrower, after default on a loan secured 14
by a mortgage on real property, conveys to the lender by deed 15
that satisfies the minimum requirements of section 5302.11 of 16
the Revised Code, title to the real property pledged as security 17
for the related note of indebtedness. 18

(3) "Home affordable modification program" means the home 19
affordable modification program established by the United States 20
departments of the treasury and housing and urban development 21
pursuant to 12 U.S.C. 5219. 22

(4) "Lender" means the mortgagee and holder of the note 23
secured by the mortgage or an agent on behalf of the holder of 24
the note, regardless of whether the holder of the note is the 25
original mortgagee. "Lender" includes the person entitled to 26
enforce the instrument secured by the mortgage under division 27
(A) (1) or (2) of section 1303.31 of the Revised Code or a 28
mortgagee with the right to enforce the obligation secured by 29
the mortgage pursuant to law outside of Chapter 1303. of the 30
Revised Code. 31

(5) "Mortgage" means the instrument securing an obligation 32
to pay a sum of money evidenced by a note of indebtedness and 33
secured by a lien on the borrower's real property. 34

(6) "Note" or "note of indebtedness" means an obligation 35
to pay a sum of money secured by a mortgage on borrower's real 36
property. 37

(B) There is hereby created the D.O.L.L.A.R. deed program. 38
The program shall provide a loss mitigation alternative for 39
borrowers who are in default on a mortgage encumbering real 40
property. 41

Sec. 5315.02. To assist in the establishment of the 42

<u>D.O.L.L.A.R. deed program, the Ohio housing finance agency shall</u>	43
<u>adopt in rule all of the following:</u>	44
<u>(A) A model form by which a person may apply to</u>	45
<u>participate in the program;</u>	46
<u>(B) A model for the deed, which act shall as the deed in</u>	47
<u>lieu of foreclosure described in division (A)(1) of section</u>	48
<u>5315.04 of the Revised Code;</u>	49
<u>(C) A model for the lease with option to purchase</u>	50
<u>agreement described in divisions (A)(2) and (3) of section</u>	51
<u>5315.04 of the Revised Code;</u>	52
<u>(D) Any other rules necessary to implement this chapter.</u>	53
<u>Sec. 5315.03. (A) An applicant to the D.O.L.L.A.R. deed</u>	54
<u>program shall submit both of the following to the loss</u>	55
<u>mitigation department of the lender of the mortgage that is in</u>	56
<u>default:</u>	57
<u>(1) An application form as set forth in section 5315.02 of</u>	58
<u>the Revised Code;</u>	59
<u>(2) A request for modification and affidavit form</u>	60
<u>developed under the home affordable modification program.</u>	61
<u>(B) To qualify for the program, all of the following shall</u>	62
<u>apply:</u>	63
<u>(1) The applicant need not be eligible for another</u>	64
<u>mortgage loss mitigation alternative or program.</u>	65
<u>(2) The applicant's front-end and back-end debt-to-income</u>	66
<u>ratios must fall below the current ratios set for the home</u>	67
<u>affordable modification program at the time the application is</u>	68
<u>submitted to the lender.</u>	69

<u>(3) The applicant must occupy the residence.</u>	70
<u>(C) The lender shall respond to the applicant in writing not later than thirty days after the date the lender receives all application documents.</u>	71 72 73
<u>(D) The lender is not required to participate in the program.</u>	74 75
Sec. 5315.04. <u>(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:</u>	76 77 78
<u>(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.</u>	79 80 81 82 83 84 85 86 87
<u>(2) A notarized estoppel affidavit, which shall be included in the deed, that shall affirm all of the following:</u>	88 89
<u>(a) That the mortgage and title to the real property are not merged;</u>	90 91
<u>(b) That the lender retains its lien position and its right to foreclose on any junior lienholders after the transfer;</u>	92 93
<u>(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;</u>	94 95 96
<u>(d) That the transfer is the free act and will of the</u>	97

<u>borrower;</u>	98
<u>(e) That the transfer is not made under duress or</u>	99
<u>coercion;</u>	100
<u>(f) That the transfer is made for valuable consideration</u>	101
<u>in the form of the lease with option to purchase contract</u>	102
<u>granted by the lender to purchase the real property as further</u>	103
<u>defined in this section.</u>	104
<u>(3) A lease with option to purchase agreement, which shall</u>	105
<u>be the consideration for the borrower applicant's deed in lieu</u>	106
<u>of foreclosure, whereby the former lender leases to the former</u>	107
<u>borrower the real property that is the subject of the mortgage</u>	108
<u>in default;</u>	109
<u>(a) The lease with option to purchase agreement term shall</u>	110
<u>be for the shorter of the period of time necessary for the</u>	111
<u>former borrower to be approved for financing or other mortgage</u>	112
<u>assistance by the federal housing administration or two years</u>	113
<u>from the date of the lease with option to purchase agreement.</u>	114
<u>(b) The rent shall be on a monthly basis and shall be one-</u>	115
<u>twelfth of an amount that shall be not less than the sum of all</u>	116
<u>of the following annualized items with respect to the real</u>	117
<u>property:</u>	118
<u>(i) Real property taxes;</u>	119
<u>(ii) Homeowner's insurance premiums for homeowner's</u>	120
<u>insurance, which shall reflect the market rate for homeowner's</u>	121
<u>insurance based on the market value of the real property;</u>	122
<u>(iii) Any homeowner's association or condominium dues.</u>	123
<u>(c) The option to purchase contained within the lease</u>	124
<u>shall allow the former borrower the opportunity to purchase the</u>	125

real property that is the subject of the mortgage and the lease 126
with option to purchase agreement at a specified price until the 127
termination of the lease described in this section. 128

(B) The documents required under division (A) of this 129
section shall be provided to the borrower at least ten business 130
days before the documents are signed by both parties. 131

(C) If the former borrower does not exercise the option to 132
purchase the real property within the time permitted under the 133
lease with option to purchase agreement, the right to purchase 134
terminates. The lease with option to purchase may be renewed by 135
mutual written agreement between the former borrower and former 136
lender, but such renewal is not effective until it is recorded. 137

(D) If a borrower conveys to a lender a deed of the type 138
described in division (A) (1) of this section, and the former 139
borrower and former lender enter into a lease with option to 140
purchase agreement of the type described in divisions (A) (2) and 141
(3) of this section, the lender's mortgage is not extinguished 142
and does not merge with the former borrower's interest conveyed. 143

(E) All of the following documents relating to the 144
D.O.L.L.A.R. deed program entered into under sections 5315.01 to 145
5315.05 of the Revised Code shall be recorded in the real 146
property records of the office of the county recorder of the 147
county in which the subject real property is located: 148

(1) A deed in lieu of foreclosure; 149

(2) A lease with option to purchase agreement; 150

(3) The renewal of a lease with option to purchase 151
agreement; 152

(4) The termination of a lease with option to purchase 153

<u>agreement.</u>	154
<u>Sec. 5315.05. (A) A former borrower and a former lender</u>	155
<u>who are party to a lease with option to purchase agreement under</u>	156
<u>divisions (A) (2) and (3) of section 5315.04 of the Revised Code</u>	157
<u>are governed by Chapter 5321. of the Revised Code.</u>	158
<u>(1) The former borrower-lessee is responsible for all of</u>	159
<u>the obligations of a tenant under section 5321.05 of the Revised</u>	160
<u>Code as well as the duties under divisions (A) (1) to (6) of</u>	161
<u>section 5321.04 of the Revised Code.</u>	162
<u>(2) Divisions (A) (1) to (6) of section 5321.04 of the</u>	163
<u>Revised Code do not apply to a lender-lessor participating in</u>	164
<u>the D.O.L.L.A.R. deed program in accordance with this chapter.</u>	165
<u>(B) A former borrower-lessee who defaults or otherwise</u>	166
<u>fails to meet the terms of a lease with option to purchase</u>	167
<u>agreement executed pursuant to this chapter forfeits the former</u>	168
<u>borrower-lessee's right to purchase the real property under</u>	169
<u>division (B) of section 5315.04 of the Revised Code and has no</u>	170
<u>further right of possession or occupancy and shall be subject to</u>	171
<u>a forcible entry and detainer action under section 5321.03 and</u>	172
<u>Chapter 1923. of the Revised Code.</u>	173