

[PROPOSED SUBSTITUTE]

County Council of Cuyahoga County, Ohio

Ordinance No. O2023-0004

Sponsored by: Councilmember Miller	An Ordinance enacting the right of county renters to Pay-to-Stay and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, the public health crisis from the COVID-19 pandemic has had substantial and continuing negative impacts on residents and the economy in the State of Ohio and Cuyahoga County; and

WHEREAS, the public health crisis has caused adverse economic impacts for residents, including loss of employment, reduction in income, and loss of health care coverage, leading to the inability to pay for housing and basic needs; and

WHEREAS, County Council desires to avoid unnecessary housing displacement and evictions to protect the County’s housing stock and to prevent renters from falling into homelessness; and

WHEREAS, At least eight municipalities within Cuyahoga County have enacted pay-to-stay legislation to-date; and

WHEREAS, County Council wishes to provide additional safeguards to residents county-wide, and affirm tenants’ rights to tender late rent to avoid eviction and stay in rental properties in Cuyahoga County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Chapter 1305 of the Cuyahoga County Code is hereby enacted to read as follows:

Chapter 1305: Right of County Renters to Pay-to-Stay

Section 1305.01 Definitions

For the purposes of this Chapter:

- A. “Tenant” means a person entitled under a rental agreement to the use and occupancy of a residential premises to the exclusion of others.

- B. “Tender” means an offer of payment that is equivalent to the actual production or remittance of the money and includes any emergency rental assistance vouchers from an accredited social service, nonprofit, governmental, or quasi-governmental agency that guarantees the payment of past due rent, reasonable late fees, and court costs.
- C. “Court costs” means filing fees and costs assessed by the municipal court that include, but are not limited to, costs to file, costs for data entry, costs for court appearances, costs for serving summons and subpoenas, and costs associated with court transcripts and copying papers and exhibits.

Section 1305.02 Tenant’s right to pay to stay prior to the filing of an eviction action for non-payment of rent.

~~A. At any time prior to the filing of an action under Ohio Revised Code 1923 for nonpayment of rent by a landlord, a tenant shall have the right to pay the landlord all past due rent with reasonable late fees to avoid the filing of such action for the restitution of the lands or tenements. If the tenant tenders all accrued rent and reasonable late fees to the landlord, the landlord shall accept the tendered payment and allow the tenant to maintain the tenancy.~~

B.A. If the tenant tenders all past due rent with reasonable late fees to the landlord prior to the filing of an action under Ohio Revised Code 1923 and the landlord refuses the tender, the tenant’s tender of all past due rent with reasonable late fees shall be an affirmative defense to any action filed by the landlord against the tenant for nonpayment of rent.

Section 1305.03 Tenant’s right to pay to stay prior to an eviction judgment for non-payment of rent.

~~A. After the filing of an action under Ohio Revised Code 1923 for nonpayment of rent but prior to a judgment, the tenant shall have the right to pay the landlord all past due rent, reasonable late fees and court costs so that the tenant may maintain the tenancy. If the tenant tenders all past due rent amounts, including late fees and court costs, the landlord must accept the payment. Upon receipt of the payment, the landlord shall dismiss the action against the tenant.~~

B.A. If the tenant tenders all past due rent with reasonable late fees and court costs to the landlord prior to a judgment and the landlord refuses the tender, the tenant’s tender of all past due rent, reasonable late fees and court costs shall be an affirmative defense to the eviction action filed by the landlord against the tenant for nonpayment of rent.

~~Section 1305.04 Tenant’s right to pay to stay prior to the execution of the eviction judgment for non-payment of rent.~~

~~A. After the filing of an action under Ohio Revised Code 1923 for nonpayment of rent but prior to the execution of the eviction judgment through a writ of restitution, the tenant shall have the right to pay the landlord all past due rent, reasonable late fees and court costs, including the cost of obtaining the writ, so that the tenant may maintain the tenancy. If the tenant tenders all past due rent amounts, including reasonable late fees~~

~~and court costs, the landlord must accept the payment. Upon receipt of the payment, the landlord shall notify the court who shall vacate the eviction judgment and dismiss the eviction against the tenant.~~

~~B. If the tenant tenders all past due rent with reasonable late fees and court costs to the landlord prior to the execution of the eviction judgment through a writ of restitution and the landlord refuses the tender, the bailiff shall not enforce the eviction judgment until the court instructs the bailiff to do so after an emergency hearing on the tenant's right to pay and stay at the premises. If the court finds during the emergency hearing that the tenant tendered all past due rent, reasonable late fees and court costs, the court shall vacate the eviction judgment and dismiss the eviction action against the tenant.~~

Section 1305.046 Rent receipt required

The landlord shall provide the tenant with a signed receipt for all payments made under this chapter.

Section 1305.056 Other causes for eviction

This chapter in no way limits the ability of a landlord to initiate an eviction action for reasons other than solely for non-payment of rent.

Section 1305.067 Reasonable late fees

No landlord may charge a tenant late fees that are not reasonable late fees. If a rental agreement includes a provision that authorizes the landlord to assess the tenant a fee for late payment of the monthly rent, to be considered "reasonable late fees" the total amount of that late payment fee for any month may not exceed the larger of: (i) twenty-five dollars (\$25.00); or (ii) five percent (5%) of the contracted monthly rent.

Section 1305.078 Conflict with municipal law

In the event a municipal corporation within Cuyahoga County enacts, or has enacted, legislation pertaining to a tenant's right to pay to stay and such legislation conflicts with any provision of this chapter, the law of the municipal corporation shall govern.

SECTION 2. It is necessary that this Ordinance become immediately effective for the usual daily operation of the County; the preservation of public peace, health, or safety in the County; and any additional reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 3. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: March 14, 2023

Committee(s) Assigned: Community Development

Journal _____

_____, 20__