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**OHIO HOUSE BILL 368 CREATES
MANY OBSTACLES FOR SELLER-
FINANCED LAND CONTRACTS**

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On October 4, 2017, Ohio State Rep. Michele Lepore-Hagan introduced House Bill 368, *The Fair*

Lending through Land Contracts Act. This new bill will bring massive changes to seller financing and could deter land contract originations. The current statute found in Ohio Revised Code Section 5313.02 allows for seller financing and has some necessary language to include in land contracts. House Bill 368 amends the current statute to a point that land contracts may become extinct in Ohio. Here are the major proposed amendments to the statute:

1. The Seller is responsible for the payment of property taxes, property insurance premiums, assessments and other charges against the property from the date of the contract;
2. The Seller is responsible for all repairs and maintenance on the property;
3. The Seller shall not hold a mortgage on the property;
4. A copy of the recorded land contract must be provided to the Purchaser;
5. Requirement that homeowner's insurance must be obtained on the property;

If the above responsibilities aren't hard enough, the House Bill also creates 3 new sections of the Ohio Revised Code that relate to land contracts. The first section is Section 5313.021, and include the following:

1. A Seller shall pay off any liens on the property prior to executing the land contract;
2. A Seller shall not place a mortgage on the property during the course of the contract;
3. A Seller must comply with the requirements of any building codes;
4. A Seller must make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition;
5. A Seller must contact the local building department for code enforcement to conduct an inspection;
6. If the inspector finds a violation, the Seller must fix the violation prior to entering into a land contract and have a further inspection;
7. A Seller must provide the Purchaser with a certificate from the building department stating the property complies with the building codes; and
8. Prior to executing the land contract, the Seller shall obtain and pay for an appraisal and shall provide the appraisal report to the Purchaser.

The House Bill does, however, allow the parties to agree to contrary provisions if both the Seller and Purchaser are each represented by an attorney. Also, interest on a land contract can't be more than 2% above the treasury bill rate for loans of the same maturity on the date of the contract. The 20-year rate at the time of this article is hovering near 3%, so the highest you can charge on the land contract is 5%.

Finally, the House Bill gives the Purchaser a few more remedies for failure of the Seller to do anything that is required by statute:

1. A court can award monetary damages that include 2% of the principal; equity in the property; return of all money paid by Purchaser; court costs and attorney fees;
2. A court can also grant rescission of the land contract.

New House Bill 368 must stay on all investors' radar as potentially shaking up the landscape of seller-financing in Ohio. The proponents of this new House Bill believe that there is a litany of ills associated with land contracts, but in the same breath they also believe that, in fairness, not all land contracts have ill-will. Land Contracts serve a purpose for a borrower that doesn't have the means or the economic stature to obtain a loan from a traditional bank. Land Contracts also allow a borrower to build equity against the property through the monthly principal and interest payments. Without Land Contracts, borrowers would be forced to become renters and have no hope of actualizing the American Dream of owning a home.

As of the date of this publication, House Bill 368 is stuck in committee, but the new leadership in the House is looking to act as early as this upcoming fall to take the bill out of the committee and on to the floor. If House Bill 368 becomes law, investors will be forced to look into other options like Lease with Option to Purchase.

For more information, please feel free to contact Partner, Franco Barile, at franco.barile@sottileandbarile.com.