



## Legislation Text

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**File #:** O-294-20, **Version:** 2

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### Amendment

#### **Enacting Chapter 1770 of the Toledo Municipal Code, Tenant's Right to Pay to Stay; and declaring an emergency.**

WHEREAS, international, national, state, and local governments and health authorities are responding to an outbreak of a disease caused by the novel coronavirus referred to as COVID-19; and

WHEREAS, the State of Ohio, the County of Lucas, and the City of Toledo are experiencing a public health crisis from the COVID-19 pandemic that will have lasting impacts on residents and the economy; and

WHEREAS, the Centers for Disease Control and Prevention, the Ohio Department of Health, and the Toledo-Lucas County Department of Public Health have all issued recommendations including, but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residents and businesses in the City of Toledo have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of Ohio has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, further economic impacts due to the continued rise in COVID-19 cases are occurring, leaving residential tenants vulnerable to eviction after the State of Ohio and the Federal Government have lifted their stays on evictions; and

WHEREAS, during this local emergency and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement to protect the City's affordable housing stock and to prevent housed individuals from falling into homelessness; and

WHEREAS, the City of Toledo is invested in helping to maintain occupancy during a global pandemic through a rental assistance program and other means as a way to protect all residents of the City; and

WHEREAS, unemployment compensation, rental assistance and other dollars are being made available to Ohioans so they can meet their basic needs but these dollars have been slow to make their way into people's bank accounts;

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 1770 is hereby enacted as follows:

**Chapter 1770 Tenant’s Right to Pay to Stay**

- 1770.01 Definition**
- 1770.02 Tenant’s affirmative defense after tendering rent prior to the filing of an eviction action (Complaint for Forcible Entry and Detainer)**
- 1770.03 Tenant’s affirmative defense after tendering rent prior to an eviction judgment (Judgment for Restitution)**
- 1770.04 Rent receipt required**
- 1770.05 Other Causes for Eviction**
- 1770.06 Reasonable Fees**
- 1770.07 Severability**

**1770.01 Definition**

For the purposes of this Chapter, "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

For the purposes of this Chapter, “Tender” means an offer of payment.

**1770.02 Tenant’s affirmative defense after tendering rent prior to the filing of an eviction action (Complaint for Forcible Entry and Detainer)**

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 a defense to any action filed by the landlord against the Tenant for nonpayment of rent.

**1770.03 Tenant’s affirmative defense after tendering rent prior to an eviction judgment (Judgment for Restitution)**

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 a defense to the eviction action filed by the landlord against the Tenant for nonpayment of rent.

**1770.04 Rent receipt required**

The landlord shall provide the Tenant with a signed receipt for the security deposit and all rental payments except for payments made by personal check of the Tenant, at the time the security deposit or rental payments are made.

**1770.05 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.

**1770.06 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 monthly contract rent.

**1770.07 Severability**

If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. Toledo City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and 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.

SECTION 3. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety, and property and for the further reason that it is necessary to assure that tenants have stable housing to assure health and safety during the current pandemic.

Vote on emergency clause: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Passed: \_\_\_\_\_, as an emergency measure: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

\_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council