



Ohio Revised Code

Section 5315.04 Execution of deed in lieu of foreclosure; documents.

Effective: September 28, 2016

Legislation: House Bill 303 - 131st General Assembly

(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.