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Legislation Text

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SUB ST IJ_ U J_§ ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 5-14 of the Municipal Code of Chicago is hereby repealed in its entirety.

SECTION 2. Title 5 of the Municipal Code of Chicago is hereby amended by adding a new Chapter 5-14, as follows:

5-14-010 Title, purpose, and scope.

This chapter shall be known and may be cited as the "Keep Chicago Renting Ordinance" and shall be liberally construed and applied to promote its purposes and policies.

In order to protect and promote the health, safety, and welfare of its residents and mitigate the damaging effects on our communities of foreclosures, which individually are catastrophic for the families and tenants who lose their homes, and collectively can economically destabilize an otherwise healthy neighborhood, by causing building abandonment, excessive vacancy, declines in property values, and a perception of a neighborhood as being unworthy of investment, it is the purpose of this chapter and the policy of the City to preserve, protect, maintain, and improve rental property and prevent occupied buildings from becoming vacant after foreclosures.

Nothing in this chapter shall affect the obligation to provide notice of termination of a tenancy as required by any applicable law governing actions for possession.

5-14-020 Definitions.

For purposes of this chapter, the following definitions apply:

"Bona fide third-party purchaser" means any person who, through an arms length transaction, purchases, or is otherwise transferred title to, a foreclosed rental property from an owner. A "bona fide purchaser" shall not include any person who had a mortgage lien on the foreclosed rental property during the foreclose procedure. A mortgagee shall also include the mortgagee's subsidiary, parent, trustee, nominee, agent, or assignee.

"Commissioner" means the Commissioner of Housing, or the Commissioner's designee.

"Cooperative building" means a building or buildings and the tract, lot, or parcel on which the building or buildings are located and fee title to the land and building or buildings is owned by a corporation or other legal entity in which the shareholders or other co-owners each also have a long-term proprietary lease or other long-term arrangement of exclusive possession for a specific unit of occupancy space located within the same building or buildings.

"Dwelling unit," "rental agreement," "rent," and "tenant" have the meaning ascribed to those terms in Section 5-12-030.

"Foreclosed rental property" means:

- a) (1) a building containing one or more dwelling units that are used as rental units, including a single-family house; or (2) a dwelling unit that is subject to either the Condominium Property Act or the Common Interest Community Association Act that is used as a rental unit;
- b) for which legal and equitable interests in the building or dwelling unit were terminated by a foreclosure action pursuant to the Illinois Mortgage Foreclosure Law; and
- c) one or more of the rental units are occupied on the date a person becomes the owner.

A "foreclosed rental property" does not include a dwelling unit in a cooperative building.

"Owner" means any person who alone, or jointly or severally with others, is: (a) pursuant to a judicial sale of a foreclosed rental property, the purchaser of the foreclosed rental property after the sale has been confirmed by the court; or (b) a mortgagee which has accepted a deed in lieu of foreclosure or consent foreclosure on a foreclosed rental property; or (c) a purchaser of the dwelling unit during the pendency of a foreclosure action pursuant to the Illinois Mortgage Foreclosure Law. "Owner" includes the owner and the owner's agent if the agent is responsible for managing, controlling, or collecting rents for the foreclosed rental property.

"Principal residence" means the primary residence of, and occupied on a regular basis by, a person who is a tenant.

"Qualified tenant" means a person who: (a) is a tenant in a foreclosed rental property on the day that a person becomes the owner of that property; and (b) has a bona fide rental agreement to occupy the rental unit as the tenant's principal residence. For purposes of this definition:

- 1) a rental agreement shall be considered bona fide only if:
 - i) the mortgagor, or any child, spouse, or parent of the mortgagor residing in the same dwelling unit with the mortgagor, is not the tenant;
 - ii) the rental agreement was a result of an arms-length transaction; and
 - iii) the rental agreement, at the time it was entered into, required the receipt of rent that was not substantially less than fair market rent for the property, or the rental unit's rent is reduced or subsidized due to a government subsidy.

2) "Mortgagor" means: (i) the person whose interest in the real estate was the subject of a mortgage and that person's legal and equitable interests in the real estate was terminated by a foreclosure pursuant to the Mortgage Foreclosure Law, 735 ILCS 5/15-1101; or (ii) any person claiming any legal or equitable interest in the real estate through a mortgagor as a successor. Where a mortgage is executed by a trustee of a land trust, the mortgagor is the trustee and not the beneficiary or beneficiaries.

"Rental unit" means any dwelling unit which is held out for rent to tenants.

"Unlawful conversion" means any dwelling unit that is an illegal or unlawful conversion, as that term is defined in Section 17-17-0240.5.

"Unlawful hazardous unit" means a dwelling unit for which an order to vacate the dwelling unit, or the building in which the dwelling unit is located, has been issued by: (a) a judge of a court of competent jurisdiction; or (b) a person authorized to issue an order to vacate pursuant to Section 14A-3-307, or any other applicable section, of the Code. "Unlawful hazardous unit" also means a dwelling unit as to which a proceeding is pending in a court of

competent jurisdiction for an order to vacate or close the dwelling unit or the building in which the dwelling unit is located.

5-14-030 Exclusions.

This chapter shall not apply to:

- a) an owner of a foreclosed rental property who was the owner prior to the effective date of this chapter;
- b) any bona fide third-party purchaser;
- c) a person appointed as a receiver and issued, or assigned, a Receiver's Certificate under 65 ILCS 5/11-31-2 or 765 ILCS 605/14.5 who becomes an owner due to the foreclosure on the Receiver's Certificate;
- d) an owner who will occupy the rental unit as the person's principal residence;
- e) a bona fide not-for-profit in existence continuously for a period of five years immediately prior to becoming the owner of the rental unit and whose purpose is provide financing for the purchase or rehabilitation of affordable housing.

5-14-035 Acting in good faith.

All parties participating in the process governed by this chapter shall operate in good faith. Indications of participating in good faith include, but are not limited to, the following:

- a) An owner's rental agreement offer, along with any modified rental agreement offers, shall be presented in writing with language that is plain and clear and is designed and organized so that it is easy to read and understand.
- b) An owner shall comply in a timely fashion with any reasonable request for information requested by the occupants or tenants.
- c) An owner may not use or demand any payment, fees, or costs, other than those allowed under Section 2-44-120, Chapter 5-10, Chapter 5-12, and Section 13-72-060 of this Code, to refuse to present, negotiate, or accept a rental agreement.
- d) An owner may not use any report, record, transcript, or proceeding to refuse to present, offer, negotiate, or accept a rental agreement, unless the documents indicate clear evidence of a danger to the health, safety, and welfare of the property's occupants, the public, or first responders, subject to Section 5-14-050(a)(2).
- e) Parties are to act with honesty in fact and the observance of reasonable standards of fair dealing in the negotiations, in so much as the party is acting within the limits of any education, knowledge, experience, and resources that party can access in their dealing with the other party.
- f) Parties are to avoid intentionally engaging in any act that uses or employs any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression, or omission of any material fact.
- (g)' All parties shall make their own contact information available to the other party.

5-14-040 Notice to occupants.

a) (1) No later than 21 days after a person becomes the owner of a foreclosed rental property, the owner shall make a good faith effort to ascertain the identities and addresses of all occupants of the rental units in the foreclosed rental property and notify, in writing, all occupants of such rental units that, under certain circumstances, the occupants may be eligible for relocation assistance. The notice shall be given in Arabic, Chinese (simplified), Chinese (traditional), English, Filipino, Hindi, Korean, Polish, and Spanish and be as follows:

"This Is Not A Notice To Vacate The Premises. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any right that you may have.

Pursuant to the City of Chicago's Keep Chicago Renting Ordinance, if you are a qualified tenant you may be eligible for relocation assistance in the amount of \$10,600 unless the owner negotiates in good faith for a new rental agreement, offers you a new rental agreement, and you accept the offer, in writing, for a new rental agreement. YOU MAY REJECT THE OFFER OF A NEW RENTAL AGREEMENT AND STILL RECEIVE \$10,600 IN RELOCATION ASSISTANCE.

If you are eligible as a qualified tenant and the owner fails to pay you the relocation assistance that is due, you may bring a private cause of action in a court of competent jurisdiction seeking compliance with the Keep Chicago Renting Ordinance, Chapter 5-14 of the Municipal Code of Chicago, and the prevailing plaintiff shall be entitled to recover, in addition to any other remedy available, his damages and reasonable attorney's fees.

You may go to the City of Chicago Department of Housing's website for additional information regarding your rights and obligations under the Ordinance or phone the City of Chicago's 311 Service Center to file a complaint."

The notice shall also include the name, address, and telephone number of the owner, property manager, or owner's agent who is responsible for the foreclosed rental property and the date the notice was sent.

(2) If the owner ascertains the identity of an occupant more than 21 days after becoming the owner, the owner shall provide the notice within seven days of ascertaining the identity of the occupant.

(3) The written notice required by this section shall be served by:

(A) delivering a copy of the notice to the occupant;

B) leaving a copy of the notice with some person of the age of 13 years or older who is residing in the occupant's rental unit; or

C) sending a copy of the notice by first class or certified mail, return receipt requested, to each occupant, addressed to the occupant.

b) The owner shall attach to each notice required by subsection (a) a Tenant Information Disclosure Form, in a form prescribed by rule. No later than 21 days after the receipt of the notice, the occupant may complete and return the Tenant Information Disclosure Form to the person and address indicated on the Form. The failure of an occupant to return the Tenant Information Disclosure Form does not relieve the owner of any obligation to either: (i) extend or renew the tenant's rental agreement, or provide a rental agreement for a replacement rental unit, whichever is applicable; or (ii) pay the relocation assistance fee.

c) In addition to the notice required in subsection (a), no later than 21 days after a person becomes the owner of a foreclosed rental property, the owner shall post a written notice on the primary entrance of each foreclosed rental property which sets forth the disclosures in subsection (a).

d) Any owner who fails to comply with this section shall not collect rent due and owing from any occupant until the owner has served the notices required by this section.

5-14-050 Qualified tenant relocation assistance.

a) (1) Except as provided in subsection (a)(2), the owner of a foreclosed rental property shall pay a one-time relocation assistance fee of \$10,600 to a qualified tenant unless the owner negotiates in good faith for a new rental agreement that lasts at least 12 months, offers such qualified tenant a new rental agreement according to these terms, and the qualified tenant accepts the owner's offer in writing.

2) For any unlawful hazardous unit or unlawful conversion occupied by a qualified tenant, the owner shall pay a one-time relocation assistance fee of \$10,600 to the qualified tenant unless the owner in good faith offers, and the qualified tenant accepts the owner's offer of, a rental agreement at a replacement rental unit. The replacement rental unit may be located either in the same foreclosed rental property or at another location.

3) No later than 21 days after the date upon which the tenant returns or should have returned the Tenant Information Disclosure Form pursuant to Section 5-14-040, the owner shall: (i) send a written notice to a qualified tenant advising the qualified tenant that the owner is paying the required relocation fee; or (ii) negotiate in good faith and offer to the qualified tenant a new rental agreement or rental agreement for a replacement rental unit, whichever is applicable, which the tenant accepts in writing. All notices or offers shall clearly show the date the offer or notice was sent.

If a qualified tenant fails to respond to, or rejects, the owner's good faith offer of a new rental agreement, or a rental agreement for a replacement rental unit, whichever is applicable, within 21 days of receipt of the offer, or if the qualified tenant meets the criteria for an extended response time, as established by rule, within 42 days of the offer, the owner shall not be liable to such tenant for the offered new rental agreement; provided that a qualified tenant's rejection of or failure to respond to the owner's offer for a replacement rental unit pursuant to subsection (a)(2), or rejection of or failure to respond to a good faith offer pursuant to subsection (a)(1), shall not affect the tenant's right to the payment of a relocation fee.

b) The owner shall pay the relocation fee to the qualified tenant no later than seven days after the day of complete vacation of the rental unit by the qualified tenant. The relocation fee shall be paid by certified or cashier's check payable to the qualified tenant.

c) The relocation fee shall be in addition to any damage, deposit, or other compensation or refund to which the qualified tenant is otherwise entitled.

d) The owner may deduct from the relocation fee all rent due and payable for the rental unit occupied by the qualified tenant prior to the date on which the rental unit is vacated, unless such rent has been validly withheld or deducted pursuant to state, federal, or local law. The owner shall not retain all or any part of the relocation fee for the payment of any other amount, including without limitation, for any damage to the premises or for any other violation or breach of a rental agreement.

The owner shall not be liable to pay the relocation fee to any qualified tenant:

- 1) who accepts a written rental agreement from the owner; or
- 2) against whom the owner has obtained a judgment for possession of the

f) In addition to any other fine or penalty provided and in addition to a relocation assistance fee, if an owner fails to comply with this section, the qualified tenant shall be awarded damages in an amount equal to two times the relocation assistance fee for each violation of this section. This subsection does not preclude the qualified tenant from recovering other damages to which the qualified tenant may be entitled under this chapter.

g) The owner shall comply with this section until the foreclosed rental property is sold or otherwise transferred to a bona fide third-party purchaser or the process required under this section of providing relocation assistance or negotiating a new rental agreement is complete.

h) Nothing in this section shall be construed as prohibiting an owner from exercising any right to evict a tenant for cause. If a qualified tenant is evicted for cause, the owner shall not be liable for any relocation assistance provided under this section.

5-14-060 Registration of foreclosed rental property.

(a) No later than 30 days after becoming the owner of a foreclosed rental property, the owner shall register such property with the Commissioner.

The registration shall be in a form and manner prescribed by the Commissioner and shall contain the following information:

- 1) name, address, and telephone number of the owner;
- 2) address of the foreclosed rental property;
- 3) if more than one rental unit is located in the foreclosed rental property, the number of rental units in the property, and whether each rental unit was occupied by a known tenant at the time the person became the owner. If occupied by a known tenant, the name and address of each known tenant;
- 4) if the foreclosed rental property consists of only one rental unit, the name of the known tenant at the time the person became the owner;
- 5) name, address, and telephone number of the owner's agent for the purpose of managing, controlling or collecting rents and any other person not an owner who is controlling such property, if any;
- 6) name, address, and telephone number of a natural person 21 years of age or older, designated by the owner as the authorized agent for receiving notices of Code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of such owner in connection with the enforcement of this Code. This person must maintain an office or actually reside in Cook County, Illinois. An owner who is a natural person and who meets the requirements of this subsection as to location of residence or office may designate himself as agent;
- 7) an affidavit signed by the owner which lists, by rental unit, all the qualified tenants at the time the person became the owner; and
- (8) any other pertinent information reasonably required by the Commissioner.

The owner shall make available within 10 business days all information requested by the Commissioner.

By designating an authorized agent under the provisions of this section, the owner is consenting to receive any and all notices of Code violations concerning the property and all

process in any court proceeding or administrative enforcement proceeding brought to enforce Code provisions concerning the property by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under this section shall be deemed to consent to the continuation of the

agent's designation for the purposes of this section until the owner notifies the Commissioner of a change of authorized agent or until a change in information pursuant to subsection (c). Any owner who fails to register under this section shall further be deemed to consent to receive, by posting at the foreclosed rental property, any and all notices of Code violations and all process in an administrative proceeding brought to enforce Code provisions concerning the property.

b) If any other change in any information required under this section occurs at any time, the owner shall file with the Commissioner a statement indicating the nature and effective date of the change within 10 days after the change takes effect.

c) If the foreclosed rental property is sold or otherwise transferred to a bona fide third-party purchaser, the owner shall, within 10 days of such sale or transfer, notify the Commissioner in writing in a form and manner prescribed by the Commissioner.

d) The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner.

e) In the event that the foreclosed rental property becomes vacant after registration pursuant to this section, the owner shall comply with the vacant building registration requirements of Chapter 14X-12.

5-14-070 Rights, obligations, and remedies.

A tenant may bring a private cause of action in a court of competent jurisdiction seeking compliance with Sections 5-14-040 and 5-14-050 and the prevailing plaintiff shall be entitled to recover, in addition to any other remedy available, his damages and reasonable attorney's fees; provided, however, that only the City of Chicago may enforce Section 5-14-060.

The rights, obligations, and remedies set forth in this chapter shall be cumulative and in addition to any others available at law or in equity.

5-14-080 Waiver of rights in rental agreements - Prohibited.

No rental agreement offered or entered into by an owner after the effective date of this chapter for a rental unit located in a foreclosed rental property may provide that a tenant agrees to waive or forego the rights and remedies provided under this chapter and any such provision included in a rental agreement is unenforceable.

5-14-090 Administration and enforcement of chapter.

The Commissioner and the Commissioner of Business Affairs and Consumer Protection shall administer this chapter and may adopt rules for the effective administration of this chapter. The Commissioner and the Commissioner of Business Affairs and Consumer Protection shall consult and cooperate with each other in the implementation, administration, and enforcement of this chapter.

The Commissioner or the Commissioner of Business Affairs and Consumer Protection shall enforce any provision of this chapter by instituting an action with Department of

Administrative Hearings or by the Corporation Counsel through an injunction or any other suit, action, or proceeding at law or in equity in a court of competent jurisdiction.

The Commissioner shall prescribe by rule a Tenant Information Disclosure Form and develop a summary which clearly explains a tenant's rights and obligations under this chapter. The summary shall be posted on the Department of Housing's website.

Any information, receipt, notice, or other document required under this chapter shall be open for inspection and review by the Commissioner or the Commissioner of Business Affairs and Consumer Protection at any reasonable time.

5-14-100 Violation - Penalties - Liability.

Unless otherwise provided, any person found guilty of violating this chapter, or any rule promulgated hereunder, shall be fined not less than \$500.00 nor more than \$1,000.00. Each failure to comply with this chapter with respect to each person shall be considered a separate offense. Each day that a violation exists shall constitute a separate and distinct offense.

With regard to any violation of this chapter by a corporation, all officers and directors thereof who may be responsible for any violation of this chapter shall, except as otherwise specifically prohibited or negated by law, be liable as provided in Section 1-4-090(e) of this Code for all fines, costs, fees, and penalties imposed on a corporation pursuant to this chapter.

Liability for violations of this chapter shall be joint and several.

SECTION 3. This ordinance shall take full force and effect upon passage and approval.