

Proposed: 10/17/2022

ORDINANCE NO. 158-2022 (AS), *First Reading*

By: President Melody Joy Hart

An Ordinance amending Chapter 767, “Tenant’s Right to Pay to Stay,” of the Codified Ordinances of the City of Cleveland Heights and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, by Ordinance No. 79-2021, this Council adopted an Ordinance providing an affirmative defense for tenants in eviction actions based upon non-payment of rent of the right to tender the entire past-due rent, late fees and court costs; and

WHEREAS, the provisions of Ordinance No. 79-2021 are due to expire on December 31, 2022; and

WHEREAS, the Ordinance was enacted due to the unprecedented economic impacts of the pandemic; and

WHEREAS, the effects of the pandemic continue to cause disruption in the employment and housing markets, particularly for rental housing; and

WHEREAS, this Council believes that the renewal and permanent adoption of the provisions of Ordinance No. 79-2021 will provide stability in the rental housing market in the City and be of benefit to the City and its residents.

BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, State of Ohio, that:

SECTION 1. The following provisions of Ordinance No. 79-2021, presently codified on a temporary basis as Chapter 767 of the Codified Ordinances, shall be and hereby are enacted on a permanent basis with said provisions to read as follows:

Chapter 767 Tenant’s Right to Pay to Stay

767.01 Definition

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

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

- 767.04 Rent receipt required**
- 767.05 Other Causes for Eviction**
- 767.06 Reasonable Fees**
- 767.07 Severability**
- 767.01 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.

767.02 Tenant's right to pay to stay prior to the filing prior to the filing of an eviction action for non-payment of rent (Complaint for Forcible Entry and Detainer)

(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 past due rent and reasonable late fees to the landlord, the landlord shall accept the tendered payment and allow the tenant to maintain the tenancy.

(b) 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.

767.03 Tenant's right to pay to stay prior to an eviction judgment (Judgment for Restitution)

(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) 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.

767.04 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.

767.05 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.

767.06 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.

767.07 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. Cleveland Heights 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. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. It is necessary that this Ordinance become immediately effective as an emergency measure necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the ongoing and continuous need to preserve the faith and credit of the City. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Ordinance shall take

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effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of the Council

ADDIE BALESTAR
Clerk of Council

PASSED:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor