

Summary Contents

Eviction Action, Procedures	1
Eviction Action, Common Defenses	120
Eviction Action, Additional Defenses, Assisted Housing	199
Eviction Action, Additional Defenses, Manufactured Home	284
Ohio Landlord-Tenant Act, General Background	291
Ohio Landlord-Tenant Act, Applicable Tenancies	295
Rental Agreement Provisions	309
Rent Depositing and Related Remedies, R.C. 5321.07-.10	384
Tenant Claims for Defective Condition at the Premises	398
Tenant Claims for Improper Entry, R.C. 5321.04,.05	457
Tenant Claims for Retaliation, R.C. 5321.02,.03	461
Tenant Claims for Lockout or Utility Termination, R.C. 5321.15	465
Tenant Claims for Seizure of Personal Property, R.C. 5321.15	475
Tenant Claims for Wrongful Eviction, Common Law	478
Tenant Claims for Wrongful Eviction, 42 U.S.C. § 1983	483
Security Deposit	486
Landlord Claim for Rent	511
Landlord Claim for Property Damage, R.C. 5321.05(C)	529
Attorney’s Fees	542
Jurisdiction	558
Landlord-Tenant Law for Manufactured Home Parks	566
Miscellaneous Landlord-Tenant Issues	594
Land Installment Contracts, R.C. Chapter 5313	630
HUD-Assisted Rental Housing Programs	648
Table of Cases	673
Index	839

Detailed Contents

I. Eviction Action, Procedures.....	1
A. General Background.....	1
1. Statutory Remedy	1
2. Purpose of an Eviction Action.....	1
3. Parties in an Eviction Action – Not Limited to Landlord Claims Against Tenants.....	2
a. Overview.....	2
b. Applicability to Housing Cooperatives.....	4
4. Action at Law	4
B. Application of the Ohio Rules of Civil Procedure	5
C. Notice to Vacate, R.C. 1923.04.....	10
1. General Background	10
a. Notice for Commencing Eviction Action.....	10
b. Jurisdictional Requirement	11
c. Service of a Second Notice to Vacate.....	12
2. Content.....	13
a. Written Notice	13
b. Name of the Prospective FED Plaintiff	13
c. Statement to Leave – Statutory Language.....	14
d. Reason for the Eviction.....	16
e. Vacation Date.....	17
3. Time of Service	17
a. Three-Day Rule	17
b. Computation of the Three-Day Period.....	17
c. Additional Time – Specified Vacation Date in the Notice.....	19
d. Additional Time – Landlord Delay	19
e. Expiration of Tenancy Prerequisite	20
4. Method of Service.....	23
a. General Rule.....	23
b. Deceased Resident of Manufactured Home Park.....	24
5. Time and Method of Service, Drug-Related R.C. 1923.02(A)(6) Eviction.....	24

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

D. Notices of Termination, R.C. 5321.11, 5321.17	26
1. Introduction	26
2. R.C. 5321.11 Notice of Termination.....	27
a. Materially Affects Health and Safety, Effect of the Limitation	27
b. Written Notice.....	28
c. Statement of the Violation with Specificity	28
d. Statement of a Termination Date, and the Thirty-Day Requirement	29
e. Timely Remedy of the Violation	29
f. Applicability to Written Leases	31
g. Jurisdictional Requirement	32
3. R.C. 5321.17 Notice of Termination.....	33
a. Written or Oral Notice	33
b. Content Requirements	34
c. Time of Service, and the Thirty-Day Requirement	34
4. Rent Payment After Service of the Notice of Termination	36
5. Second Notice of Termination After Voluntary Dismissal	37
E. Content of the Complaint.....	37
1. R.C. 1923.05.....	37
2. Ohio Rules of Civil Procedure.....	38
a. Civil Rule 8(A) – Ground for Eviction Limited by Complaint	38
b. Civil Rule 10(D) – Attachment of Lease	38
c. Civil Rule 11 – Signature of Pro Se Landlord	39
d. Civil Rule 12(E) – More Definite Statement	39
e. Civil Rule 15(B) – Amendment to Allege New Ground for Eviction.....	40
f. Civil Rule 18(A) – Joinder of Claims.....	40
F. Content of the Summons	42
1. R.C. 1923.06.....	42
2. Civil Rule 4(B)	42
G. Service of the Summons and Complaint	43
1. Introduction	43
2. Time of Service	43
3. Method of Service.....	44

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

a. R.C. 1923.06 Rules.....	44
b. Conflict Between R.C. 1923.06 Rules and Civil Rules 4.1 and 4.6 – Eviction Claim.....	46
c. Conflict Between R.C. 1923.06 Rules and Civil Rules 4.1 and 4.6 – Non-Eviction Claim.....	48
d. R.C. 1923.06 Additional Rules – Deceased Resident of Manufactured Home Park.....	52
4. Time and Method of Service, Drug-Related R.C. 1923.02(A)(6) Eviction.....	52
H. Answer	52
I. Counterclaims.....	53
1. Permissive Counterclaims.....	53
2. Compulsory Counterclaims.....	53
3. Compulsory Joinder – Counterclaims of Tenant’s Non-Party Child.....	55
4. Practice Issues	55
J. Jury Demand	56
1. Party’s Right to a Trial by Jury	56
2. Time Period for Filing a Jury Demand	57
3. Advance Deposit Requirements for Filing a Jury Demand.....	59
a. Introduction.....	59
b. R.C. 1901.26(A)(3) Deposit Requirement.....	60
c. Rent Deposit Requirement.....	61
4. Waiver of the Right to a Trial by Jury	62
5. Withdrawal of a Jury Demand.....	65
K. Continuance and Bond	65
L. Jurisdictional Issues.....	68
1. Certification to a Court of Common Pleas	68
2. Jurisdictional-Priority Rule – Two Pending Cases	71
3. Title Issues	73
4. Domestic Relations Court.....	75
a. Marital Residence.....	75
b. Civil Protection Order.....	76
5. Probate Court.....	77
M. FED Trial Issues.....	77

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

1. Consolidated or Separate Trials.....	77
2. Magistrate, Bench, or Jury Trial.....	79
3. Court Reporter.....	80
4. Witness Testimony Requirement.....	80
5. Hearsay Evidence.....	80
6. Trial – Tenant Not Present.....	82
7. Trial – Unrepresented Party.....	83
8. Collateral Estoppel and Res Judicata.....	84
a. Collateral Estoppel.....	84
b. Res Judicata.....	85
9. Burden of Proof Issues, Assisted Housing.....	87
10. Miscellaneous Evidence and Proof Issues.....	87
N. Magistrate’s Decision and a Party’s Objections.....	88
1. Content of a Magistrate’s Decision.....	88
2. Court Review of a Magistrate’s Decision, Absent Objections.....	89
3. Objections to a Magistrate’s Decision.....	89
4. Stay Pending a Ruling on Objections.....	92
O. Judgment and Writ of Restitution.....	93
1. Introduction.....	93
2. Writ of Restitution.....	94
3. Persons Against Whom an Eviction Judgment May Be Enforced.....	95
4. Manufactured Home Park, Summary Process for Judicial Sale of the Home.....	97
a. Introduction.....	97
b. Procedural Requirements for the Sale.....	98
5. R.C. 1923.15 Remedial Order.....	100
P. Post-Judgment Motions.....	101
1. Civil Rule 59 Motion.....	101
2. Civil Rule 60(B) Motion.....	102
3. Motion to Vacate Judgment.....	105
4. Motion to Amend Agreed Judgment.....	106
Q. Appeal.....	107

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

1. Introduction	107
2. Final Appealable Order	107
3. Stay and Supersedeas Bond.....	108
4. Mootness	113
5. Appeal Time Period, If Post-Judgment Motion or Objection Filed.....	119
II. Eviction Action, Common Defenses	120
A. Deficient Content/Service of Notice to Vacate or Notice of Termination	120
1. R.C. 1923.04 Notice to Vacate	120
2. Notice of Termination, R.C. 5321.11.....	120
3. Notice of Termination, R.C. 5321.17(B)	121
B. Deficient Service of Process	121
C. Waiver of the R.C. 1923.04 Notice to Vacate.....	122
1. General Rule.....	122
2. Assisted Housing Tenancies.....	127
D. Waiver of the R.C. 5321.11 or 5321.17 Notice of Termination	131
E. Waiver of the Breach.....	133
1. Overview	133
2. Waiver of the Breach by Acceptance of Rent	134
a. Nonpayment of Rent Breach	134
b. Other Breach	134
3. Waiver of the Breach by Execution of New Lease.....	135
F. Remedy of the Condition Specified in the R.C. 5321.11 Notice of Termination	137
G. Timely Surrender of Possession.....	138
H. Course of Conduct of Accepting Late Rent Payment.....	138
I. Renewal of Periodic Tenancy Due To Partial Payment of Rent.....	143
J. Timely Tender of Rent Refused	143
K. Tender of Rent Excused	144
1. Vain Act	144
2. Landlord's Instructions	145
L. Absence of Timely Demand – Rent Collection at the Premises.....	146
M. Payment of Rent that Accrued During a Prior Eviction Action	146
N. Accord and Satisfaction.....	148

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

O. Rent Abatement, R.C. 1923.061(B)	149
1. Overview	149
2. Deposit of Rent with the Court.....	150
3. Net Judgment.....	154
4. Written Counterclaim.....	155
5. Notice.....	155
6. Payment of Deficiency	155
P. Implied Warranty of Habitability, Common Law.....	157
Q. Set-Off Against Rent, Common Law	158
R. Tenant Repairs in Lieu of Rent, Agreement	159
S. Rent Adjustment – Tenant on Active Duty, R.C. 1923.062	160
T. Retaliation, R.C. 5321.02,.03	160
1. Scope of the Retaliation Defense.....	160
2. Proof Issues	161
3. R.C. 5321.03 Exceptions.....	164
4. Dual Motive Issue.....	167
U. Discrimination	168
1. Federal and Ohio Statutes	168
2. Reasonable Accommodation Requirements.....	170
V. Lease, Procedures for Termination	173
W. Lease, Non-Material Breach	174
X. Lease, Ambiguous Forfeiture Provision.....	175
Y. Lease, Unconscionable Provision, R.C. 5321.14	176
Z. Lease, Landlord Prevents Performance	176
AA. Repayment Agreement, Contract of Adhesion.....	177
BB. Equity.....	178
1. Overview	178
2. Project-Based Assisted Housing.....	182
3. Manufactured Home Park	186
CC. Real Party in Interest.....	186
DD. Fictitious Name Registration	189
EE. Unauthorized Practice of Law.....	191
1. Corporation Without Counsel.....	191
2. Limited Liability Company Without Counsel.....	192

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

3. Partnership Without Counsel..... 193

4. Non-Attorney Practicing Law, R.C. 4705.01 194

 a. General Rule..... 194

 b. Picklo Rule..... 195

 c. Power of Attorney Rule 196

FF. Co-Tenant Versus Co-Tenant..... 196

GG. Statute of Limitations, R.C. 1923.01(B)..... 196

HH. Defense for Drug-Related R.C. 1923.02(A)(6) Eviction 197

III. Eviction Action, Additional Defenses, Assisted Housing 199

A. Introduction, Federal Notice of Termination and Good Cause..... 199

B. Strict Compliance with Federal Notice Rules, Ohio Case Law 201

C. Federal Notice of Termination (Content), Ohio Case Law 203

 1. Omission or Misstatement of a Required Element 203

 2. Statement of Reason with Specificity 206

 3. Eviction Solely for Reason(s) in the Notice 213

 4. Consolidation of Federal Notice of Termination and State Notice to Vacate 214

D. Federal Notice of Termination (Service), Ohio Case Law 215

 1. Time of Service 215

 a. Public Housing 215

 b. Project-Based Subsidized Housing..... 217

 c. HCVP..... 218

 2. Method of Service..... 219

 3. Service of a Second Notice of Termination 220

E. Federal Notice of Termination, Opportunity to Cure the Breach..... 220

F. Administrative Hearing/Meeting, Ohio Case Law 223

G. Good Cause, Ohio Case Law 227

 1. Nonpayment of Rent..... 227

 a. Circumstances Beyond Tenant’s Control..... 227

 b. Improperly Calculated Rent 228

 c. Improper Rent Deposit..... 229

 d. Rent Refused Due to Unpaid Charge..... 230

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

2. Late Tender of Rent	231
3. Nonpayment of a Charge	232
4. Recertification – Failure to Furnish Information.....	233
a. Project-Based Assisted Housing – Termination or Market Rent.....	233
b. Housing Choice Voucher Program.....	235
5. Unauthorized Occupant/Authorized Guest	236
6. Non-Criminal Conduct of Tenant’s Child.....	236
7. Non-Criminal Conduct of Guest.....	238
8. Criminal Conduct of Tenant, Household Member, or Guest.....	240
a. HUD Regulations	240
b. On or Near the Premises	242
c. Threat to Health, Safety, or Peaceful Enjoyment of Premises	243
d. Innocent Tenant Issue, Public Housing	243
e. Innocent Tenant Issue, Project-Based Subsidized Housing	248
f. Drug-Related Criminal Activity.....	249
g. Misdemeanor.....	250
h. Conduct of Minor, Juvenile Court.....	250
i. Violation of Condition of Probation or Parole.....	250
j. Absence of Criminal Conviction.....	251
k. Self-Defense.....	251
l. Pre-Admission Criminal Conduct	251
m. Ohio Case Law Finding Good Cause	252
9. Violence Against Women Act.....	253
10. Conduct of Uninvited Person	254
11. Forbearance Agreement to Vacate, Breach	255
12. Minor Violation of Lease	256
13. Other Grounds	258
H. Housing Choice Voucher Program Issues	261
1. Service of Notice to Vacate on the PHA.....	261
2. Abatement/Termination of Payments Based on Landlord’s Failure to Make Repairs.....	262
3. Excess Tenant Rent Demanded by Landlord	265
4. Sale of the Premises During the Tenancy	266
5. Foreclosure of a Mortgage on the Premises During the	

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

Tenancy – Preemption	267
I. Additional Retaliation Defenses	268
1. First and Fourteenth Amendments.....	268
2. HUD Regulations.....	269
J. Bankruptcy	269
1. Overview	269
2. Stoltz Analysis of Chapter 7, § 525(a) Issue	271
3. Unexpired Lease Term, Chapters 13 and 7	273
4. Prompt Cure, Chapter 13.....	275
5. Automatic Stay	275
K. Public Housing Turnkey III (Homeownership)	277
L. Low Income Housing Tax Credit Program	278
1. Introduction	278
2. Set-Aside of Low-Income Units.....	278
3. Rent for Low-Income Units	279
4. Eviction Rules for Low-Income Units	280
a. Notice of Termination.....	280
b. Good Cause.....	282
IV. Eviction Action, Additional Defenses, Manufactured Home.....	284
A. Introduction	284
B. Conventional Defenses	285
C. Additional Defenses	286
1. Cause Requirement.....	286
2. Unlawful Rent Increase.....	288
3. Nondisclosure of Fees.....	289
4. Sale/Purchase of the Home.....	289
V. Ohio Landlord-Tenant Act, General Background	291
A. Remedial.....	291
B. Purpose	291
C. Effect on Common Law.....	292
D. Effect on Local Ordinances	293

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

VI. Ohio Landlord-Tenant Act, Applicable Tenancies295

A. Overview	295
B. Rental Agreement.....	295
C. Tenant.....	296
D. Landlord	299
E. Residential Premises.....	299
F. Transient Occupancy, for Residential Premises Exclusions.....	301
1. Introduction.....	301
2. Application of the Rule of Statutory Construction for the Use of Identical Words in the Same Statute.....	301
3. Transient Occupancy Means up to Thirty Days	303
G. Employee Tenant	306

VII. Rental Agreement Provisions309

A. Contract Law Governs Leases	309
B. Incorporation of R.C. Chapter 5321 Provisions.....	310
C. Landlord Duty to Maintain and Provide Services for the Premises	311
1. Scope of the R.C. 5321.04 Duty.....	311
a. Summary of the Statutory Requirements	311
b. Duty to a Tenant’s Social Guest.....	312
c. Prohibition Against Waiver.....	313
2. Comply with the Building, Housing, Health, and Safety Codes, R.C. 5321.04(A)(1).....	314
3. Put and Keep the Premises in Fit and Habitable Condition, R.C. 5321.04(A)(2).....	315
a. Introduction.....	315
b. General Factors for Determining Whether a Defective Condition Violates the Duty.....	316
c. Court Decisions on Whether Particular Structural Defects Violate the Duty	317
d. Bed Bugs – Duty and Liability Issues	319
4. Keep the Common Areas in Safe and Sanitary Condition, R.C. 5321.04(A)(3).....	321
a. Introduction.....	321

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

b. Open and Obvious Doctrine Inapplicable.....	322
c. Removal of Ice/Snow from Common Areas	323
d. Other Court Decisions	325
5. Maintain Fixtures/Appliances in Good and Safe Working Order, R.C. 5321.04(A)(4).....	327
6. Supply Water, Hot Water, and Heat, R.C. 5321.04(A)(6), PUCO Rule, and Other Sources.....	328
a. R.C. 5321.04(A)(6).....	328
b. PUCO Rule	329
c. Other Sources of Landlord Duty to Provide Water Service	330
7. No Affirmative Duty Under R.C. 5321.04(A) to Inspect the Premises	330
8. Reasonable Security Measures Against Criminal Activity	331
9. Implied Covenant of Quiet Enjoyment, Common Law	332
10. Additional Terms of Rental Agreement	335
D. Tenant Duty to Maintain and Properly Use the Premises.....	336
1. Summary of the R.C. 5321.05(A) Duties.....	336
2. Keep the Dwelling Safe and Sanitary, R.C. 5321.05(A)(1)	337
3. Duty Relative to Damage to the Premises, R.C. 5321.05(A)(6).....	337
a. General Background	337
b. Damage by Third-Party	338
4. Do Not Disturb Neighbors' Peaceful Enjoyment, R.C. 5321.05(A)(8).....	340
5. Non-R.C. 5321.05(A) Duties Under the Rental Agreement.....	341
a. Introduction.....	341
b. Exterior Maintenance for Single-Family Dwellings.....	341
c. Other Provisions	342
E. Landlord Access to the Premises.....	343
F. Rent.....	345
1. Definition	345
2. Form of Payment.....	347
3. Prerequisite to Landlord-Tenant Relationship.....	347
4. Amount of Obligation, Initial or Increase	348
5. Place for Payment.....	349

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

6. Acceptance of Payment.....	350
a. Payment by Check or Money Order	350
b. Payment by Third Party	352
c. Payment by Bank Deposit.....	352
d. Payment by Mail	353
7. Month to Which Payment Applies.....	353
8. Due Date of Payment.....	354
9. Late Payment Fee	355
a. Written Authorization Prerequisite.....	355
b. Liquidated Damages or Penalty	355
c. Unconscionability, R.C. 5321.14.....	358
d. Actual Damages, Absent Late Payment Fee	360
e. Discount Rent or Late Payment Fee	360
f. Nonpayment of a Late Payment Fee	360
10. Sale of Rental Premises, Rent Payments.....	361
11. Pending Eviction Action, Rent Payments	362
G. Guests.....	363
1. Tenant’s Right to Invite Guests.....	363
2. Registration/Approval of Overnight Guests.....	364
3. Guest or Unauthorized Occupant.....	364
4. Ban Lists and Trespass Policies.....	366
H. Spouse, Not Named on Lease.....	368
I. Landlord, Name and Address.....	369
J. Renewal Provisions	369
K. Prohibited Provisions	372
1. Unconscionable Provisions, R.C. 5321.14.....	372
2. Other Prohibited Provisions, R.C. 5321.06, 5321.13, and 5321.131	378
L. Prohibited Occupancy – Sex Offenders, R.C. 2950.034, 5321.051.....	383
VIII. Rent Depositing and Related Remedies, R.C.	
5321.07-.10	384
A. Requirements and Procedures for Rent Depositing	384
B. Release of the Rent Deposits to the Landlord, R.C. 5321.09,.10.....	387

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

C. Release of the Rent Deposits to the Tenant 390
D. Fee of Clerk of Court on Release of Rent Deposits, R.C. 5321.08(D)..... 391
E. Bad Faith Rent Depositing, R.C. 5321.09(D) 392
F. Interplay Between Improper Rent Depositing and an Eviction Action..... 392
G. Constitutionality of the Rent Deposit Procedure..... 393
H. Tenant Claim for Repair, Reduced Rent, and Rent Release, R.C.
5321.07(B)(2) 394
I. Tenant Termination of the Rental Agreement, R.C. 5321.07(B)(3)..... 396

**IX. Tenant Claims for Defective Condition at the
Premises398**

A. R.C. 5321.04 Contract Claim..... 398
1. Introduction 398
2. Notice Requirement 399
3. Reasonable Time to Remedy Issue..... 400
4. Landlord Fault Issues 401
5. Subtenant Issues 402
6. Tenant Cooperation Issues 402
7. Injunctive Relief, and Contempt Enforcement 403
8. Monetary Relief..... 404
a. General Damages – General Rule..... 404
b. General Damages – Assisted Housing..... 406
c. General Damages – Amounts Awarded..... 408
d. Special Damages 418
e. Punitive Damages, Unavailable..... 420
9. Attorney’s Fees, Unavailable 421
10. Waiver Issues..... 421
11. Proof Issues – Tenant Testimony..... 422
a. Introduction..... 422
b. Owner Opinion Rule..... 422
c. Rental Value Testimony Not Required..... 424

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

d. Use of a Diary	424
e. Use of Photographs.....	424
f. Corroboration Via a Viewing of the Premises.....	425
12. Proof Issues – R.C. 5321.04(A)(1) Code Violation.....	425
a. No Requirement for Code Violation Citation.....	425
b. Code Inspector Testimony	425
B. R.C. 5321.04 Negligence Per Se Claim.....	427
1. Overview	427
2. Notice.....	428
a. General Rule.....	428
b. Constructive Notice	429
c. Specificity of the Notice – General Rule	433
d. Specificity of the Notice – Lead Paint	434
e. Rule for the R.C. 5321.04(A)(4) Duty to Maintain, Latent Defects	435
f. Rule for the R.C. 5321.04(A)(1) Duty to Comply With Applicable Codes.....	437
g. Social Guest of Tenant.....	438
3. Proximate Cause	438
4. Types of Damages	440
a. Compensatory Damages.....	440
b. Punitive Damages.....	441
5. Independent Contractor.....	442
6. Sale of Property, Seller’s Liability for Existing Defective Conditions	442
7. Defense Issues	443
a. Open and Obvious Doctrine	443
b. Comparative Negligence.....	444
c. Implied Assumption of Risk.....	444
d. Primary Assumption of Risk.....	444
C. Common Law Negligence, Premises Liability	445

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

1. Overview	445
2. Open and Obvious Doctrine	446
3. Supplement to R.C. 5321.04 Negligence Per Se Claim	447
D. Common Law Negligence, Criminal Activity of Third Party.....	448
E. R.C. 5321.04 Emotional Distress Claims.....	450
F. R.C. 5321.12 Claim	452
G. Receivership Claims.....	452
1. Receiver to Abate Public Nuisance, R.C. 3767.41 – General Rule	452
2. Receiver to Abate Public Nuisance, R.C. 3767.41 – Subsidized Housing	454
3. Receiver to Manage Premises Due to Landlord’s Noncompliance with Court Order, R.C. 2735.01	455
H. Restitution, Housing Code Cases.....	456
X. Tenant Claims for Improper Entry, R.C. 5321.04,.05.....	457
A. Rights and Duties Relative to any Landlord Entry Upon the Premises.....	457
B. R.C. 5321.04(B) Remedies	457
C. Common Law Remedies.....	459
XI. Tenant Claims for Retaliation, R.C. 5321.02,.03.....	461
A. Types of Retaliation Prohibited	461
B. R.C. 5321.02(B) Remedies	461
C. R.C. 5321.03 Exceptions	463
D. Common Law Remedies	464
XII. Tenant Claims for Lockout or Utility Termination R.C. 5321.15.....	465
A. Type of Conduct Prohibited.....	465
B. R.C. 5321.15(C) Remedies	466
1. Monetary Relief.....	466
2. Attorney’s Fees.....	471
3. Injunctive Relief	472
C. Additional Remedies	474
XIII. Tenant Claims for Seizure of Personal Property,	

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

R.C. 5321.15.....	475
A. Type of Conduct Prohibited.....	475
B. R.C. 5321.15(C) Remedies	475
C. Additional Remedies	476
XIV. Tenant Claims for Wrongful Eviction, Common Law	478
A. Introduction	478
B. Contract Claim, Landlord Removal of Tenant Forcibly or by Demand	478
C. Contract Claim, Constructive Eviction.....	479
D. Tort Claim, Fraud and Deceit	481
E. Tort Claim, Malicious Prosecution.....	482
XV. Tenant Claims for Wrongful Eviction, 42 U.S.C. § 1983	483
A. Police Assisting Landlord.....	483
B. City Code Enforcement	484
XVI. Security Deposit	486
A. Definition and Legal Status of Security Deposits	486
B. Distinction Between a Security Deposit and Other Deposits/Fees.....	486
1. Pet Deposits and Pet Fees.....	486
2. Advance Payment of Last Month’s Rent	487
3. Application Payments	487
4. Non-Refundable Redecorating or General Maintenance Fee.....	489
5. Non-Refundable Premium for Surety Bond.....	489
6. Deposit for Option to Purchase	490
C. Tenant Cancels Agreement Before Occupancy, Security Deposit Rights	490
D. Amount of the Security Deposit.....	492
E. Interest on the Security Deposit Payable to the Tenant	492
F. Maintenance/Use of the Security Deposit, During the Tenancy.....	493

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

G. Use/Return of the Security Deposit, After the Tenancy	493
1. General Rule.....	493
2. Landlord Option on Applying the Deposit.....	494
3. Written Itemization.....	494
4. Thirty-Day Period.....	496
5. Forwarding Address.....	496
H. Tenant Claim for the Security Deposit and Related Relief.....	500
1. Overview.....	500
2. Wrongful Withholding.....	501
3. Statutory Damages.....	502
4. Reasonable Attorney’s Fees	503
5. Practice Issues	507
a. Compulsory Counterclaims.....	507
b. Burden of Proof.....	507
c. Accord and Satisfaction	508
d. Improper Parties, R.C. 5321.16(C).....	508
e. R.C. 5321.07 Deposits Constitute Rent Paid.....	509
f. Agreements Between Tenants Cannot Waive Landlord’s Duty	509
6. Third-Party Purchaser of the Premises.....	509
7. Conflict Between R.C. 5321.16 and the Rental Agreement.....	510
XVII. Landlord Claim for Rent	511
A. End Date of Rental Obligation.....	511
1. Month-to-Month Tenant.....	511
2. Remainder of Lease Term, Post-Service of the Notice to Vacate	513
3. Remainder of Lease Term, Post-Death of the Tenant.....	514
4. Holdover Tenant.....	514
5. Rent Accrual During an Eviction Action	517
6. Landlord Divested of Ownership.....	518
B. Landlord Duty to Mitigate	518
C. Defense Issues.....	521
1. Collateral Estoppel.....	521
2. Compulsory Counterclaim/Res Judicata	521
3. Security Deposit as Set-Off.....	522

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

4. Untimely Rent Refused.....	522
5. Unaccrued Rent	522
6. Preclusion of Additional Claim for Unpaid Security Deposit.....	523
7. Preclusion of Additional Claim for Late Payment Fee	523
8. Noncompliance with R.C. 5321.16(B) Itemization Rule	524
9. Preclusion of Award of Both Liquidated and Actual Damages.....	525
10. Fictitious Name (Landlord).....	525
D. Practice and Procedure Issues.....	525
1. Default Judgment, Complaint for Eviction Claim and Monetary Claim.....	525
a. Application of Civil Rule 55	525
b. Application of Civil Rule 54(C).....	526
2. Joinder of Parties, Civil Rule 19(A)	527
a. Co-Tenant Owners.....	527
b. Guarantor of Lease	527
3. Interest Award on Judgments	528
XVIII. Landlord Claim for Property Damage, R.C. 5321.05(C).....	529
A. Introduction	529
B. Normal Wear and Tear	529
C. Measure of Damages	533
1. Real Property.....	533
2. Personal Property.....	534
D. Reasonable Attorney’s Fees.....	535
E. Defense Issues	536
1. Collateral Estoppel.....	536
2. Required Link Between the Damage and an R.C. 5321.05(A) Violation.....	537
3. Proof of Damage Amount	538
4. Damage Claim Less Than the Security Deposit.....	539
5. Preclusion of Additional Claim for Unpaid Security Deposit.....	539

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

6. Noncompliance with R.C. 5321.16(B) Itemization Rule	539
7. Joint and Several Liability.....	539
F. Practice and Procedure Issues.....	540
1. Default Judgment, Complaint for Eviction Claim and Monetary Claim.....	540
a. Application of Civil Rule 55	540
b. Application of Civil Rule 54(C).....	540
2. Joinder of Parties, Civil Rule 19(A)	540
3. Owner Opinion Rule.....	540
4. Admissibility of Estimates	541
5. Admissibility of Photographs.....	541
XIX. Attorney's Fees	542
A. Authority Under R.C. Chapter 5321	542
B. Authority Under Common Law	542
C. Attorney's Fees Taxed as Costs	544
D. Absence of Attorney Fee Demand in the Pleadings.....	545
E. Time Period for Filing a Motion for Attorney's Fees.....	546
F. Standards for Computing the Amount of an Attorney Fee Award	547
1. General Standard	547
2. Inclusion of Time Spent Litigating the Attorney Fee Award.....	549
3. Inclusion of Time of Legal Intern.....	549
4. Exclusion of Time Spent on Other Claims.....	549
5. Limitation Based on the Amount of the Underlying Judgment.....	549
6. Limitation Based on the Absence of Difficulty	551
7. No Limitation Based on Contingency Agreement.....	552
8. No Limitation Based on Free Legal Services.....	552
G. Evidence in Support of the Motion for Attorney's Fees.....	553
1. Time for Presenting the Evidence.....	553
2. Presentation of the Evidence Via Affidavits or a Hearing	553
3. Burden of Proof	554
H. Attorney's Fees for Time Spent Litigating an Appeal	556

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

I. Jury Trial.....	557
XX. Jurisdiction	558
A. Introduction	558
B. Monetary Jurisdiction.....	558
1. County Court.....	558
2. Municipal Court.....	558
3. Court of Common Pleas	559
C. Equity Jurisdiction.....	559
1. County Court.....	559
2. Municipal Court.....	560
3. Court of Common Pleas	561
D. Subject-Matter Jurisdiction.....	561
1. County Court.....	561
2. Municipal Court.....	562
3. Court of Common Pleas	562
E. Housing Division, Cleveland and Toledo Municipal Courts	563
XXI. Landlord-Tenant Law for Manufactured Home Parks	566
A. Introduction	566
B. Parallel Provisions – R.C. Chapters 4781, Former 3733, and 5321	567
C. Additional Rights and Obligations, and Court Decisions, R.C. Chapter 4781.....	568
1. Introduction.....	568
2. Definitions of Relevant Parties.....	568
3. Summary of R.C. 4781.40 Rights and Obligations	569
4. Summary of Court Decisions, R.C. 4781.36-.52 (Former R.C. 3733.09-.17)	570
a. R.C. 4781.36 (Former R.C. 3733.09).....	570
b. R.C. 4781.37 (Former R.C. 3733.091)	571
c. R.C. 4781.38 (Former R.C. 3733.10).....	572
d. R.C. 4781.40 (Former R.C. 3733.11)	577
e. R.C. 4781.41-43 (Former R.C. 3733.12-.122).....	586
f. R.C. 4781.45 (Former R.C. 3733.13).....	588

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

g. R.C. 4781.46 (Former R.C. 3733.14) 591
h. R.C. 4781.47 (Former R.C. 3733.15) 591
i. R.C. 4781.48 (Former R.C. 3733.16) 592
j. R.C. 4781.49 (Former R.C. 3733.17) 592

XXII. Miscellaneous Landlord-Tenant Issues.....594

A. Statute of Conveyances, Statute of Frauds, and Related Matters..... 594
 1. Statute of Conveyances – Defectively Executed Leases 594
 2. Statute of Frauds – Oral Rental Agreements 596
 3. Partial Performance Exception 597
 4. Oral Condition Precedent, Written Rental Agreement..... 599
 5. Oral Modification, Written Rental Agreement..... 599
B. Purchase of Premises Subject to Existing Tenancy 600
C. Foreclosure of a Mortgage on Tenant- Occupied Property 600
 1. Introduction 600
 2. Ohio Common Law 601
 a. Pending Foreclosure Action, Effect on Tenancy 601
 b. Foreclosure Sale, Effect on Tenancy 602

 3. Protecting Tenants at Foreclosure Act 603
 a. Preemption of Ohio Common Law..... 603
 b. Applicable Tenancies..... 604
 c. PTFA – General Requirements..... 604
 d. PTFA – Rent Payment Issues..... 605
 e. PTFA – Eviction Issues..... 605
 f. PTFA – Deed-in-Lieu of Foreclosure..... 606
 g. PTFA – Sale by Initial Successor-in-Interest to Third Party..... 606
 4. FHA-Insured Mortgages – PTFA and the Occupied Conveyance Rule..... 607
D. Utility Termination for Landlord Nonpayment, Tenant Rights 607
 1. PUCO Regulated Utility Company..... 607
 2. Governmental Utility Supplier – Equal Protection and Due Process 608
E. Utility Submeter Issues 612

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

F. Ohio Consumer Sales Practices Act 614

G. Statute of Limitations, R.C. Chapter 5321 Claims..... 615

H. Recoupment, R.C. Chapter 5321 Claims..... 617

I. PHA Sovereign Immunity, R.C. Chapter 2744 617

 1. Overview 617

 2. Negligence Per Se Claims 619

 3. Contract Claims 620

 4. Practice Issues 621

J. Municipal Ordinances and Court Rules: Six Examples of Local Tenant Rights 622

 1. Introduction 622

 2. Pay to Stay Defense in Eviction Actions 622

 3. Limit on Late Payment Fees..... 624

 4. Right to Counsel in Eviction Actions 624

 5. Sealing Records of an Eviction Action 625

 a. Introduction 625

 b. Rule 45(E) of the Rules of Superintendence for the Courts of Ohio 625

 c. Local Court Rules 626

 d. Court’s Inherent Authority..... 627

 6. Source of Income Protection 627

 7. Lead Safe Rental Housing..... 628

XXIII. Land Installment Contracts, R.C. Chapter 5313630

A. Introduction 630

 1. Definition of Land Installment Contract 630

 2. Purpose and Scope of R.C. Chapter 5313 630

 3. Distinction Between a Land Installment Contract and a Lease with Option to Purchase..... 631

B. Contract Requirements and Related Matters..... 634

 1. Statutory Requirements..... 634

 2. Substantial Compliance..... 635

 3. Recording of the Contract 636

 4. Oral Agreement, Partial Performance 637

 5. Enforcement of R.C. 5313.02(A) Requirements 637

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

6. Prepayment of Contract 638

C. Vendee Rights Against Third-Party Purchaser 638

D. Vendor Breach of the Land Installment Contract 639

E. Vendee Breach of the Land Installment Contract..... 639

 1. Introduction 639

 2. Vendor Action for Possession 639

 a. Standard for Selection Between Eviction and Foreclosure 639

 b. Eviction Action – Notices, Right to Cure, and Equity 641

 c. Vendee Claim for Payments in Excess of Fair Rental Value 644

 3. Vendor Action for Damages..... 644

 a. Overview 644

 b. Fair Rental Value Claim 646

 c. Practice Issues 646

 d. Bar on a Deficiency Judgment – Applicability Issues 646

 4. Vendor Action for Specific Performance for the Purchase Price 647

XXIV. HUD-Assisted Rental Housing Programs 648

A. Introduction 648

B. Index of HUD Regulations 648

 1. Overall Program Rules..... 648

 2. Selection of Tenants..... 649

 3. Leases..... 650

 4. Rent Formula..... 650

 5. Interim Rent Reduction..... 651

 6. Termination of Tenancy and Eviction 652

C. Appeal from PHA Decision Terminating HCVP Participation, R.C. Chapter 2506..... 653

 1. Jurisdiction 653

 2. Notice of Appeal..... 654

 a. Method for Perfecting the Appeal 654

 b. Time Period for Perfecting the Appeal 655

 3. Bond and Stay Issues 656

 a. R.C. 2505.06 Bond to Perfect Appeal, Inapplicable 656

 b. Stay Without R.C. 2505.09 Bond..... 657

Ohio Eviction and Landlord-Tenant Law (6th Edition, 2022)
Summary and Detailed Table of Contents

4. Appeal Record.....	658
a. Administrative Hearing Record.....	658
b. Additional Evidentiary Hearing, R.C. 2506.03	659
5. Standard of Review.....	660
6. Evidentiary Issues.....	661
a. Burden of Proof.....	661
b. Hearsay Evidence	662
c. Criminal Conviction or Arrest Evidence.....	663
d. Evidence Outside the Hearing.....	664
7. Ohio Rules of Civil Procedure, Applicability	665
8. Summary of HCVP Court Decisions, R.C. Chapter 2506 Appeals	665
a. PHA Termination Decision Reversed, Substantive Grounds.....	665
b. PHA Termination Decision Reversed, Procedural Grounds.....	670
c. PHA Termination Decision Upheld, Substantive Grounds.....	671
9. Federal Court Action.....	671
Table of Cases	673
Index.....	839