



## Ohio House Judiciary Committee

### HB 291 - Opponent Testimony

December 1 2015

Chairman Butler, Vice Chair Manning, Ranking Member Stinziano, and members of the House Judiciary Committee, my name is Dustin Holfinger, I am Vice President of State Government Relations for the Ohio Bankers League. On behalf of the FDIC insured banks and thrifts doing business in Ohio, thank you for allowing the OBL to weigh in as opponents to House Bill 291.

I would like to start by stating that cognovit notes are solely used for commercial customers – business to business transactions, not individual consumers. Also, please remember the goal is to get our depositors' money returned.

This legislation aims to water down Ohio's cognovit note process that has been in place in for many years by requiring a 30-day grace period for a hearing to occur. During that time, it is well-known that the customer could have time to "hide" and shift assets. This clause within loan agreements is not hidden by any means. In all instances the provisions is in all CAPS and **bold** lettering – fully disclosed to the signer. So there is no denying that by signing this provision, the commercial customer is well aware that it is waiving a right to a hearing after default. Lending institutions can only use the clause once the commercial customer is in default, not at the bank's sole discretion.

Cognovit notes are useful tools used by a financial institution to reduce their risk in commercial lending – a very risky venture at times. An elimination or reduction of that power will lead to tighter lending standards and less credit availability as depositor funds will be more at risk. It will also lead to a higher cost for borrowers and less desirable terms as a result of the increased risk to the lender.

In addition, the potential for increased litigation, per the provisions within this bill will drive up costs for the banks. Those costs, as with any business faced with increased costs of operation, will be passed along to all commercial customers not just those that default on their commercial loans.

Should this bill pass, the winners will be the attorneys that push for even more litigation even though the agreement clearly outlines the responsibilities of the borrower before they receive the depositors' money through the bank. Note I said "depositors' money" that is because banks do not just have money sitting around, and obviously cannot print their own - it is the depositors' monies, not the banks', that is being lent to the commercial borrowers.

Currently in Ohio it takes one to two years to complete a foreclosure on a residential property, this bill will make that the case for commercial buildings and construction projects as well.

Thank you for your time and consideration; I will now answer any questions you have.