

**Ohio Association of REALTORS®**  
**Commercial Broker Lien Law Working Group**

**REPORT**

Chairman: Joseph P. Ditchman, Jr. Monday, January 23, 2012  
Staff Liaisons: Scott Williams & Lorie Garland  
Members: Chair Joseph P. Ditchman, Larry Bergman, Rob Calabrese, Robert Click, Greg Hrabcak, Danielle Kuehnle, Phil Morriscal III, Mark Quarry, Gene Snavley and Mike Tabor

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The Commercial Broker Lien Law Working Group met on December 8, 2011 and January 11, 2012 via conference call. The Working Group members discussed the potential revisions to the commercial broker lien law.

After discussion, the Working Group recommended the following changes be made to the commercial broker lien law:

**1) Sales Transactions – Commission Paid by Buyer**

If the buyer is to pay commission in a sales transaction, the broker must file the lien within 90 days of conveyance (closing). (Ohio law currently does not provide a broker who is to be paid by the buyer the right to file a lien, as any lien filed in a sales transaction, must be filed prior to closing.)

**2) Lease Transactions – Filing Lien Affidavit for Initial Lease, Lease Renewal or Expansion of the Leased Space**

The broker must file the lien affidavit in the County Recorder's office within 90 days of a default by the owner in the payment of fees due under a written contract with a broker for services related to leasing commercial real estate. (Ohio law currently provides that the lien affidavit be filled within 30 days after the first rental payment is due unless the broker is notified of the date of the lease signing and then prior to that date.)

**3) Leasing Commission Paid in Installments**

When the landlord is paying a leasing commission in installments, a lien affidavit may be filed in the amount of any installment payment due within 90 days of a default by the landlord in the payment of fees due under a written contract with a broker for services related to leasing commercial real estate. (Due to the timing of filing the lien affidavit, Ohio law currently would limit the lien to the amount of the first installment. No lien right is provided for subsequent payments.)

**4) Timeframe to Initiate the Common Pleas Court Proceeding to Enforce the Lien**

An action to enforce a broker's lien must be commenced within six years of filing the lien affidavit. (Ohio law currently provides that the action must be commenced within one year of filing the lien affidavit.)

In conclusion, staff will ensure that the terminology used in drafting the changes to the commercial broker lien law will cover any fee for services owed the broker related to selling, leasing or conveying any interest in commercial real estate.

Respectfully submitted,

Lorie Garland  
LG/arj

01/18/12