

# AN ACT

To amend section 5301.057 of the Revised Code to provide that a transfer fee for purposes of a transfer fee covenant does not include any payment required pursuant to a conservation easement or agricultural easement, to authorize the conveyance of the water rights of certain state-owned real estate to the Wayne County Board of County Commissioners, and to authorize the conveyance of state-owned real estate in Richland County to the Mansfield Reformatory Preservation Society.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 5301.057 of the Revised Code be amended to read as follows:

Sec. 5301.057. (A) As used in this section:

(1) "Environmental covenant" means a

(a) A servitude that imposes activity and use limitations on real property and meets the requirements of section 5301.82 of the Revised Code;

(b) A conservation easement or agricultural easement as defined in section 5301.67 of the Revised Code.

(2) "Transfer" means the sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property located in this state.

(3) "Transfer fee" means a fee or charge required by a transfer fee covenant and payable upon the transfer of an interest in real property, or payable for the right to make or accept such a transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. The following are not transfer fees for purposes of this section:

(a) Any consideration payable by the grantee to the grantor for the interest in real property being transferred. For the purposes of division (A)(3)(a) of this section, an interest in real property includes a separate mineral estate and its appurtenant surface access rights.

(b) Any commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the grantor or the grantee, including any subsequent additional commission for that transfer payable by the grantor or the grantee based upon any subsequent appreciation, development, or sale of real property;

(c) Any interest, charges, fees, or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property;

(d) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease;

(e) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the property to another person;

(f) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental authority;

(g) Any fee, charge, assessment, fine, or other amount payable to a homeowners, condominium, cooperative, mobile home, or property owners association pursuant to a declaration or covenant or law applicable to the association;

(h) Any payment required pursuant to an environmental covenant.

(4) "Transfer fee covenant" means a declaration or covenant recorded against the title to real property that requires or purports to require the payment of a transfer fee to the declarant or other person specified in the declaration or covenant or to their successors or assigns upon a subsequent transfer of an interest in the real property.

(B) A transfer fee covenant recorded in this state on or after ~~the effective date of this section~~ September 13, 2010, does not run with the title to real property and is not binding on or enforceable against any subsequent owner, purchaser, or mortgagee of any interest in real property as an equitable servitude or otherwise.

(C) Any lien purporting to secure the payment of a transfer fee under a transfer fee covenant that is recorded in this state on or after ~~the effective date of this section~~ September 13, 2010, is void.

SECTION 2. That existing section 5301.057 of the Revised Code is hereby repealed.

SECTION 3. (A) The Governor is authorized to execute a deed in the name of the state conveying to the Wayne County Board of County

Commissioners, and its successors and assigns, the water rights in the following described real estate (hereinafter referred to as the "premises") as retained by the state in the deed filed on August 2, 1995, in the Official Record, Volume 720, Page 772, of the Wayne County Recorder's Office:

Parcel 1

Situated in the Township of East Union, County of Wayne, State of Ohio and known as parts of the Southeast and the Southwest Quarters of Section 16 and the Northwest Quarter of Section 21, T-16N, R-12W and more fully described as follows:

Beginning at an iron pin marking the Northwest Corner of the Southeast Quarter of Section 16 and in a public road T.R. 163 (Ely Road) thence North 89°20'43" East along the Quarter Section Line and in a public road T.R. 163 (Ely Road) a distance of 949.56 feet to a railroad spike;

Thence, South 00°50'35" East, a distance of 800.00 feet to an iron pin;

Thence, South 00°13'49" West, a distance of 1,225.83 feet to an iron pin;

Thence, South 17°31'23" West, a distance of 415.02 feet to an iron pin;

Thence, North 89°00'00" West, a distance of 291.03 feet to an iron pin;

Thence, South 00°36'26" West, a distance of 150.61 feet to an iron pin;

Thence, South 89°18'10" West, a distance of 521.12 feet to an iron pin on the Quarter Section Line;

Thence, South 00°23'47" East, a distance of 113.44 feet to a stone with an iron pin marking the Quarter Corner between Sections 16 and 21;

Thence, South 00°59'39" West, a distance of 240.00 feet to an iron pin;

Thence, South 89°18'59" West, a distance of 550.13 feet to an iron pin;

Thence, North 00°40'22" West, a distance of 240.00 feet to a stone marking the Quarter Section Line;

Thence, and continuing North 00°40'22" West, a distance of 2,676.16 feet to an iron pin on the Quarter Section Line and in a public road T.R. 163 (Ely Road);

Thence, North 89°20'43" East, along the Quarter Section Line and in a public road, T.R. 163 (Ely Road) a distance of 570.02 feet to the PLACE OF BEGINNING and containing 91.504 acres, more or less, of which 34.622 acres are in the Southwest Quarter of Section 16, and 53.833 acres are in the Southeast Quarter of Section 16, and 3.049 acres are in the Northwest Quarter of Section 21.

Basis of Bearings: Survey "JJ" 200, North 89°20'43" East on the Quarter Section Line and T.R. 163 (Ely Road).

All iron pins set are a 5/8 inch iron bar, 30 inches in length, with a

yellow plastic cap marked "RUDOLPH 6449".

This description prepared from a field survey by: R.G. Rudolph Surveying, Inc. by: Ronald G. Rudolph P.S. 6449 on January 5, 1995.

Parcel 2

Situated in the Township of East Union, County of Wayne, State of Ohio and known as being part of the Southwest Quarter of Section 21 and part of the Northwest Quarter of Section 28, T-16N, R-12W, and more fully described as follows:

COMMENCING at an iron pin marking the Southwest Corner of the Southwest Quarter of Section 21;

Thence, North 89°42'44" East along the Section Line, a distance of 882.84 feet to an iron pin and the TRUE PLACE OF BEGINNING;

Thence, North 13°49'14" East, a distance of 145.87 feet to an iron pin;

Thence, South 89°42'44" West, a distance of 471.42 feet to an iron pin;

Thence, North 00°57'10" East, a distance of 549.60 feet to an iron pin;

Thence, North 89°22'50" West, a distance of 442.14 feet to a railroad spike in a public road, C.R. 44 (Apple Creek Road) and on the Section Line;

Thence, North 00°57'10" East along the Section Line, a distance of 60.00 feet to a railroad spike;

Thence, South 89°22'50" East, a distance of 974.12 feet to an iron pin;

Thence, South 00°57'10" West, a distance of 742.57 feet to an iron pin on the Section Line;

Thence, and continuing South 00°57'10" West, a distance of 69.34 feet to a railroad spike set in a public road (Church Street);

Thence, South 78°09'04" West and in a public road (Church Street) a distance of 117.39 feet to a railroad spike;

Thence, North 13°49'14" East, a distance of 95.74 feet to the PLACE OF BEGINNING and containing 8.441 acres, more or less, of which 8.251 acres are in the Southwest Quarter of Section 21 and 0.190 acres are in the Northwest Quarter of Section 28.

All iron pins set are a 5/8 inch iron bar, 30 inches in length, with a yellow plastic cap marked "RUDOLPH 6449".

Basis of Bearings: Survey "JJ" 200, North 89°42'44" East on the south line of the Southwest Quarter of Section 21, East Union Township.

This description prepared from a field survey by: R.G. Rudolph Surveying, Inc. by: Ronald G. Rudolph P.S. 6449 on January 5, 1995.

Parcel 3

Situated in the Township of East Union, County of Wayne, State of Ohio and known as part of the Southeast Quarter of Section 16, T-16N, R-12W, and more fully described as follows:

Beginning at an iron pin marking the Northeast Corner of the Southeast Quarter of Section 16, and in a public road T.R. 163 (Ely Road); Thence, South 89°20'43" West along the Quarter Section Line and in a public road T.R. 163 (Ely Road) a distance of 1,819.86 feet to an iron pin;

Thence, South 00°50'35" East, a distance of 800.00 feet to an iron pin;

Thence, South 00°13'49" West, a distance of 1,225.83 feet to an iron pin;

Thence, North 80°39'10" East, a distance of 519.66 feet to an iron pin;

Thence, South 68°41'33" East, a distance of 462.20 feet to an iron pin;

Thence, South 86°41'11" East, a distance of 857.39 feet to an iron pin in a public road C.R. 142 (Millborne Road);

Thence, North 00°21'22" East along the Section Line and in a public road C.R. 142 (Millborne Road), a distance of 2,179.69 feet to the PLACE OF BEGINNING and containing 86.019 acres, more or less.

All iron pins set are a 5/8 inch iron bar, 30 inches in length, with a yellow plastic cap marked "RUDOLPH 6449".

Basis of Bearings: Survey "JJ" 200, North 89°20'43" East on the Quarter Section Line and T.R. 163 (Ely Road).

This description prepared from a field survey by: R.G. Rudolph Surveying Inc. by: Ronald G. Rudolph P.S. 6449 on January 5, 1995.

Parcel 4

Situated in the Township of East Union, County of Wayne, State of Ohio and known as part of the Southwest Quarter of Section 21 and part of the Northwest Quarter of Section 28, T-16N, R-12W and more fully described as follows:

COMMENCING at an iron pin marking the Southwest Corner of the Southwest Quarter of Section 21;

Thence, North 89°42'44" East along the Section Line, a distance of 976.01 feet to an iron pin, the TRUE PLACE OF BEGINNING of the herein described tract;

Thence, North 00°57'10" East, a distance of 400.00 feet to an iron pin;

Thence, South 89°22'50" East, a distance of 1,416.29 feet to an iron pin;

Thence, South 00°17'16" East, a distance of 377.48 feet to an iron pin on the Section Line;

Thence, South 89°42'44" West, along the Section Line a distance of 1,087.40 feet to a railroad spike;

Thence, South 78°09'04" West, a distance of 345.89 feet to a railroad spike;

Thence, North 00°57'10" East, a distance of 69.34 feet to the TRUE PLACE OF BEGINNING and containing 12.944 acres, more or less, of

which 12.676 acres are in the Southwest Quarter of Section 21, and 0.268 acres are in the Northwest Quarter of Section 28.

All iron pins set are a 5/8 inch iron bar, 30 inches in length, with a yellow plastic cap marked "RUDOLPH 6449".

Basis of Bearings: Survey "JJ" 200, North 89°42'44" East on the south line of the Southwest Quarter of Section 21, East Union Township.

This description prepared from a field survey by: R.G. Rudolph Surveying, Inc. by: Ronald G. Rudolph P.S. 6449 on January 5, 1995.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, may modify the foregoing descriptions insofar as necessary to bring each one into conformity with the actual bounds of the real estate being described.

(B) Conveyance of the premises to the Wayne County Board of County Commissioners shall be upon such consideration as shall be determined by the Director of Administrative Services to be fair and reasonable.

(C) The Wayne County Board of County Commissioners shall pay all costs associated with the purchase and conveyance of the premises, which costs shall include, but are not limited to, the following: surveying costs, title costs, preparation of metes and bounds property descriptions, appraisals, and recordation costs of the deed.

(D) The deed may contain any terms and conditions the Director determines to be in the best interest of the state. The deed may contain restrictions that the Director determines are reasonably necessary to protect the state's interest in any of its remaining interests in the premises, including its gas and mineral rights.

(E) Upon receipt of the consideration, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the premises. The deed shall state the consideration, and also shall state any terms or conditions and any restrictions. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State of Ohio, presented in the Office of the Auditor of State for recording, and delivered to the Wayne County Board of County Commissioners. The Board shall present the deed for recording in the Office of the Wayne County Recorder.

(F) This section expires two years after its effective date.

SECTION 4. (A) The Governor is authorized to execute a Deed in the name of the state conveying to the Mansfield Reformatory Preservation Society, its successors and assigns, all of the state's right, title, and interest in the following described real estate (hereinafter referred to as the "state

premises"):

Situated in the Township of Madison, County of Richland, State of Ohio and being a part of the Northeast Quarter of Section 15, Township 21, Range 18 and being more particularly described as follows:

1. Beginning at a 2" Mag Nail set at the intersection of the centerline of State Route 545 (width varies) and the centerline of Reformatory Road (60');

2. Thence South 35°11'23" West along the centerline of State Route 545 (width varies), a distance of 130.40 feet to a drill hole found;

3. Thence South 34°41'11" West along the centerline of State Route 545 (width varies), a distance of 126.03 feet to a drill hole found;

4. Thence southwesterly along a curve to the left, along the centerline of State Route 545 (width varies), an arc length of 95.93 feet, delta angle of 00°02'53", a radius of 114,591.26 feet, a chord bearing South 34°39'44" West, a chord distance of 95.93 feet to a drill hole set;

5. Thence North 86°46'44" West along the north line of lands now or formerly owned by Ohio Edison Company as recorded in Deed Volume 342, Page 151 of the Richland County Recorder's records, passing thru a survey marker set at a distance of 93.73 feet, a total distance of 593.71 feet to a survey marker set on the east right of way line of Crawford Avenue (T.H. 1116) (60'), also being the west line of the Northeast Quarter of Section 15;

6. Thence North 04°07'51" East along the east right of way line of said Crawford Avenue (Tu. 1116) (60') and the west line of the Northeast Quarter of Section 15, passing thru a 2" Mag Nail set at a distance of 270.00 feet, a total distance of 300.00 feet to a 2" Mag Nail set on the centerline of Reformatory Road (60');

7. Thence South 86°46'44" East along the centerline of Reformatory Road (60'), a distance of 773.81 feet to the 2" mag nail set at the Point of Beginning and containing 4.705 acres of land, more or less, subject to all highways, easements and use restrictions of record.

This description is based on an actual field survey performed by Richland Engineering Limited in August 2011. Bearings are based on Official Record Volume 857, Page 788 and are for the determination of angular measurement only.

Survey markers set are 5/8" diameter by 30" long rebar with cap stamped "Richland Eng RLS 7209".

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, may modify the foregoing description insofar as

necessary to bring it into conformity with the actual bounds of the real estate being described.

The state premises shall be sold as an entire tract and not in parcels.

(B) Consideration for conveyance of the state premises is two parcels of land conveyed to the state by the grantee, the first parcel consisting of approximately 1.865 acres, and the second parcel consisting of approximately 2.037 acres, for an approximate total of 3.902 acres, described as follows:

**Parcel 1**

**LEGAL DESCRIPTION of 1.865 Acres**

Situated in the City of Mansfield, Township of Madison, County of Richland, State of Ohio and being part of the Northwest Quarter of Section 10, Township 21, Range 18 and being more particularly described as follows:

Commencing at a railroad spike set at the northeast corner of the Northwest Quarter of Section 10;

Thence South 00°11'58" East along the east line of the Northwest Quarter of Section 10 and the east line of lands now or formerly owned by J. & D. Building Enterprises as recorded in Official Record Volume 647, Pages 879 and 881 of the Richland County Recorder's records, passing through a "Cunning" survey marker found at 30.01 feet, a total distance of 355.04 feet to a "Cunning" survey marker found at the Point of Beginning of the parcel herein described;

1, Thence South 00°11'58" East continuing along the east line of the Northwest Quarter of Section 10, a distance of 325.03 feet to a survey marker found at the northeast corner of lands now or formerly owned by Studio 101 Inc. as recorded in Official Record Volume 840, Page 386 of the Richland County Recorder's records;

2. Thence South 88°31'37" West along the north line of said Studio 101 Inc. lands, a distance of 250.00 feet to a survey marker set;

3. Thence North 00°11'58" West a distance of 325.03 feet to a survey marker set on the south line of said J. & D. Building Enterprises lands;

4. Thence North 88°31'37" East along the south line of said J. & D. Building Enterprises lands, a distance of 250.00 feet to the "Cunning" survey marker found at the Point of Beginning, and containing 1.865 acres of land, more or less, subject to all highways, easements, and use restrictions of record.

This description is based upon an actual field survey made in 2011 by Richland Engineering Limited. All bearings are based on the O.D.O.T. centerline of State Route 13 bearings being North 40°30'00" East as shown

in Richland County Recorder's records Plat Book 16, Page 35 and are for the determination of angular measurement only.

The grantees, his heirs and assigns do hereby covenant and agree that the parcel of land described in this instrument or any portion thereof does not constitute a principal building site under applicable zoning and will not be conveyed by said grantees, heirs and assigns independent and separate from any adjoining or contiguous parcel fronting on a public highway or street.

Survey markets set and found are 5/8 inch in diameter by 30 inch long rebar with a plastic cap stamped "RICHLAND ENG. 7209".

Deed Reference: Official Record Volume 364, Page 155

Official Record Volume 364, Page 160

### **Parcel 2**

#### **LEGAL DESCRIPTION of 2.037 Acres**

Situated in the City of Mansfield, Township of Madison, County of Richland, State of Ohio and being part of the Northwest Quarter of Section 10, Township 21, Range 18 and being more particularly described as follows:

Beginning at a railroad spike set at the northeast corner of the Northwest Quarter of Section 10;

1. Thence South  $00^{\circ}11'58''$  East along the east line of the Northwest Quarter of Section 10 and the east line of lands now or formerly owned by J. & D. Building Enterprises as recorded in Official Record Volume 647, Pages 879 and 881 of the Richland County Recorder's records, passing through a "Cunning" survey marker found at 30.01 feet, a total distance of 355.04 feet to a "Cunning" survey marker found;

2. Thence South  $88^{\circ}31'37''$  West along the south line of said J. & D. Building Enterprises lands, a distance of 250.00 feet to a survey marker set;

3. Thence North  $00^{\circ}11'58''$  West passing through a survey marker set at 325.03 feet, a total distance of 355.04 feet to a 2 inch MAG Nail set on the centerline of Piper Road and the north line of the Northwest Quarter of Section 10;

4. Thence North  $88^{\circ}31'37''$  East along the centerline of Piper Road and the north line of the Northwest Quarter of Section 10, a distance of 250.00 feet to the railroad spike set at the Point of Beginning, and containing 2.037 acres of land, more or less, subject to all highways, easements, and use restrictions of record.

This description is based upon an actual field survey made in 2011 by Richland Engineering Limited. All bearings are based on the O.D.O.T centerline of State Route 13 bearing being North  $40^{\circ}30'00''$  East as shown in

Richland County Recorder's records Plat Book 16, Page 35 and are for the determination of angular measurement only.

Survey markers set are 5/8 inch diameter by 30 inch long rebar with a plastic cap stamped "RICHLAND ENG. 7209".

Deed Reference: Official Record Volume 647, Pages 879 and 881

(C) The conveyance from the state to the grantee is subject to the following restrictions:

(1) The grantee agrees that it shall not use or develop the state premises such that it will interfere with the quiet enjoyment of the neighboring state-owned land.

(2) The grantee shall use, develop, and occupy the state premises for historic preservation purposes only, including a parking lot, public tours, and other uses incidental to these purposes. If the grantee ceases to use the state premises for these purposes, all right, title, and interest in the state premises revert back to the state, at the state's discretion, and without the need for any further action by the state. If reversion of the state premises takes place, title to the land described in division (B) of this section simultaneously reverts back to the grantee.

(D) Upon receipt of the consideration, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the state premises. The deed shall state the restrictions in division (C) of this section. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Richland County Recorder.

(E) The grantee shall pay all costs associated with the purchase and conveyance of the state premises, as well as all costs associated with the sale and conveyance of the real estate described in division (B) of this section, which costs include, but are not limited to, the following: surveying costs; title costs; preparation of metes and bounds property descriptions; appraisals; environmental studies, assessments, and remediation; and recordation costs.

(F) This section expires two years after its effective date.

Sub. H. B. No. 274

129th G.A.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 274

129th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_