



**William J. Seitz**

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**Committees**

Public Utilities, *Chair*  
State Government Oversight and Reform,  
*Vice Chair*

Civil Justice  
Criminal Justice  
Energy and Natural Resources  
State and Local Government  
Finance – Corrections Subcommittee

**MEMORANDUM**

**To: Senate State and Local Government Committee Members**  
**From: Senator Bill Seitz**  
**Date: 2/23/16**  
**Re: Sponsor Testimony for Senate Bill 257**

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Chairman LaRose, Vice Chairman Hottinger, and members of the State and Local Government committee:

Thank you for the opportunity to provide sponsor testimony on Senate Bill 257.

This bill was brought to the attention of Senator Skindell and myself by the Ohio State Bar Association in order to modernize Ohio's curative statute, which is out of touch with the curative statutes in other states throughout the country. The result of this outdated language has been cumbersome transactions and litigation involving Ohio real property instruments (e.g., a deed, mortgage, memorandum of trust, power of attorney, and any other instrument accepted by the county recorder).

The current curative statute in Ohio, as passed over 50 years ago, is 21 years. This means that technical defects in a recorded instrument of record can be challenged at any time during 21 years after its recordation. Some examples of these technical defects are:

- the instrument was not properly witnessed;
- there was no certificate of acknowledgement; or
- the certificate of acknowledgement is defective in any respect

Due to the lengthy 21 year time period (the next closest state has a 10 year cure period), the current statute creates undue incentives for delay in challenging mere technical defects in recorded documents. To correct this, Senate Bill 257 amends the Revised Code by doing the following:

1. Reinforcing the presumption of validity of instruments of record as between the parties to instruments;
2. Reducing the time period for curing certain defects in the instruments to four years; and
3. Affording constructive notice to the world of the contents of instruments of record.

These changes to the language will provide that when a real property instrument has been of record for four years, certain defects will be deemed cured. This will put Ohio in line with the national average for the cure period of real property which is less than four years.

This bill creates a balance of reducing hyper-technical attacks on recorded instruments while maintaining certain substantive formalities that serve a valuable purpose. SB 257 ensures the validity of recorded Ohio real property instruments and reduces unnecessary legal actions that may currently be pursued to invalidate instruments based on purely technical defects.

Senate Bill 257 has the support of all the following: Ohio State Bar Association (OSBA); Ohio Association of Realtors (OAR); Ohio Land Title Association (OLTA); and the Commercial Real Estate Developers Association (NAIOP).

Thank you for the opportunity to provide sponsor testimony for Senate Bill 257 and I am now happy to answer any questions that the committee may have.