

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

H. B. No. 797

Representative Hillyer

A BILL

To amend sections 317.13, 317.32, and 317.36 of the Revised Code to require counties to provide an electronic means of recording instruments and of accessing recorded instruments, to allow county recorders to charge a document preservation surcharge, to increase the recording fee for living wills, health care powers of attorney, and instruments related to personal property, and to make an appropriation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 317.13, 317.32, and 317.36 of the Revised Code be amended to read as follows:

Sec. 317.13. (A) Except as otherwise provided in division (B) of this section, the county recorder shall record in the official records, in legible handwriting, typewriting, or printing, or by any authorized photographic or electronic process, all deeds, mortgages, plats, or other instruments of writing that are required or authorized by the Revised Code to be recorded and that are presented to the county recorder for that purpose. The county recorder shall record the instruments

in regular succession, according to the priority of 20
presentation, and shall enter the file number at the beginning 21
of the record. On the record of each instrument, the county 22
recorder shall record the date and precise time the instrument 23
was presented for record. All records made, prior to July 28, 24
1949, by means authorized by this section or by section 9.01 of 25
the Revised Code shall be deemed properly made. 26

(B) The county recorder may refuse to record an instrument 27
of writing presented for recording if the instrument is not 28
required or authorized by the Revised Code to be recorded or the 29
county recorder has reasonable cause to believe the instrument 30
is materially false or fraudulent. This division does not create 31
a duty upon a recorder to inspect, evaluate, or investigate an 32
instrument of writing that is presented for recording. 33

(C) If a person presents an instrument of writing to the 34
county recorder for recording and the county recorder, pursuant 35
to division (B) of this section, refuses to record the 36
instrument, the person has a cause of action for an order from 37
the court of common pleas in the county that the county recorder 38
serves, to require the county recorder to record the instrument. 39
If the court determines that the instrument is required or 40
authorized by the Revised Code to be recorded and is not 41
materially false or fraudulent, it shall order the county 42
recorder to record the instrument. 43

(D) (1) Not later than January 1, 2024, each county 44
recorder, county auditor, and county engineer shall make 45
available to the public a method for electronically recording 46
instruments related to conveyances of real property that adheres 47
to the standards governing conveyances of real property adopted 48
by a county in accordance with section 319.203 of the Revised 49

Code. 50

(2) Not later than January 1, 2024, a county recorder shall make available to the public a method for electronically recording instruments, other than those related to conveyances of real property, specified in division (A) or (D) of section 317.08 of the Revised Code, except division (A) (24) of that section. 51
52
53
54
55
56

(3) Divisions (D) (1) and (2) of this section do not apply to instruments specifically exempt from recording under either of the following: 57
58
59

(a) The standards governing conveyances of real property adopted by a county in accordance with section 319.203 of the Revised Code; or 60
61
62

(b) The minimum standards for boundary surveys promulgated by the board of registration for professional engineers and surveyors pursuant to Chapter 4733. of the Revised Code. 63
64
65

(E) Not later than January 1, 2024, a county recorder shall make available to the public on the county recorder's web site electronic indexes for, and electronic versions of, all instruments recorded on or after January 1, 1980, except veteran discharge papers recorded under section 317.24 of the Revised Code or any instrument or portion thereof prohibited from being disclosed under federal or state law. A county recorder may require a username and password to access the electronic indexes and instruments, but may not require a fee to create a username and password or to otherwise access the electronic indexes and instruments. 66
67
68
69
70
71
72
73
74
75
76

Sec. 317.32. The county recorder shall charge and collect the following fees and surcharges, to include, except as 77
78

otherwise provided in division (A) (2) of this section, base fees 79
for the recorder's services, a document preservation surcharge, 80
and housing trust fund fees collected pursuant to section 317.36 81
of the Revised Code: 82

(A) (1) Except as otherwise provided in division (A) (2) of 83
this section, for recording and indexing an instrument if the 84
photocopy or any similar process is employed, ~~a:~~ 85

(a) A base fee of seventeen dollars for the first two 86
pages and a housing trust fund fee of seventeen dollars, and a 87
base fee of four dollars and a housing trust fund fee of four 88
dollars for each subsequent page, size eight and one-half inches 89
by fourteen inches, or fraction of a page, including the caption 90
page, of such instrument; and 91

(b) A document preservation surcharge of ten dollars. Of 92
the ten dollars, five dollars shall be deposited in the county 93
treasury to the credit of the county general fund and five 94
dollars shall be deposited in the county treasury as housing 95
trust fund fees to be paid to the treasurer of state pursuant to 96
section 319.63 of the Revised Code. 97

(2) For recording and indexing an instrument described in 98
division (D) of section 317.08 of the Revised Code if the 99
photocopy or any similar process is employed, a fee of ~~twenty-~~ 100
~~eight-thirty-four~~ dollars for the first two pages to be 101
deposited as specified elsewhere in this division, and a fee of 102
eight dollars to be deposited in the same manner for each 103
subsequent page, size eight and one-half inches by fourteen 104
inches, or fraction of a page, including the caption page, of 105
that instrument. If the county recorder's technology fund has 106
been established under section 317.321 of the Revised Code, of 107
the ~~twenty-eight-thirty-four~~ dollars, ~~fourteen-seventeen~~ dollars 108

shall be deposited into the county treasury to the credit of the 109
county recorder's technology fund and ~~fourteen~~seventeen dollars 110
shall be deposited into the county treasury to the credit of the 111
county general fund. If the county recorder's technology fund 112
has not been established, the ~~twenty-eight~~thirty-four dollars 113
shall be deposited into the county treasury to the credit of the 114
county general fund. 115

(3) The document preservation surcharge is intended to 116
support the preservation and digitization of documents and 117
ongoing costs incurred by a county recorder's office to make 118
available to the public a web site with appropriate security 119
features, electronic document hosting, online viewing, print and 120
download features that enable an individual to print or download 121
a copy of a public record from the web site. 122

(B) For certifying a ~~photocopy~~copy or electronic record 123
from the record previously recorded, a base fee of one dollar 124
and a housing trust fund fee of one dollar per page, size eight 125
and one-half inches by fourteen inches, or fraction of a page; 126
for each certification if the recorder's seal is required, 127
except as to instruments issued by the armed forces of the 128
United States, a base fee of fifty cents and a housing trust 129
fund fee of fifty cents; 130

(C) For entering or indexing any ~~marginal~~-reference by 131
separate recorded instrument, a base fee of two dollars and a 132
housing trust fund fee of two dollars for each ~~marginal~~- 133
reference set out in that instrument, in addition to the fees 134
set forth in division (A) (1) of this section; 135

(D) For indexing in the real estate mortgage records, 136
pursuant to section 1309.519 of the Revised Code, financing 137
statements covering crops growing or to be grown, timber to be 138

cut, minerals or the like, including oil and gas, accounts	139
subject to section 1309.301 of the Revised Code, or fixture	140
filings made pursuant to section 1309.334 of the Revised Code, a	141
base fee of two dollars and a housing trust fund fee of two	142
dollars for each name indexed;	143
(E) For filing zoning resolutions, including text and	144
maps, in the office of the recorder as required under sections	145
303.11 and 519.11 of the Revised Code, a base fee of twenty-five	146
dollars and a housing trust fund fee of twenty-five dollars,	147
regardless of the size or length of the resolutions;	148
(F) For filing zoning amendments, including text and maps,	149
in the office of the recorder as required under sections 303.12	150
and 519.12 of the Revised Code, a base fee of ten dollars and a	151
housing trust fund fee of ten dollars regardless of the size or	152
length of the amendments;	153
(G) For photocopying a document, other than at the time of	154
recording and indexing as provided for in division (A) (1) or (2)	155
of this section, a base fee of one dollar and a housing trust	156
fund fee of one dollar per page, size eight and one-half inches	157
by fourteen inches, or fraction thereof;	158
(H) For local facsimile <u>or electronic</u> transmission of a	159
document, a base fee of one dollar and a housing trust fund fee	160
of one dollar per page, size eight and one-half inches by	161
fourteen inches, or fraction thereof; for long distance	162
facsimile transmission of a document, a base fee of two dollars	163
and a housing trust fund fee of two dollars per page, size eight	164
and one-half inches by fourteen inches, or fraction thereof;	165
(I) For recording a declaration executed pursuant to	166
section 2133.02 of the Revised Code or a durable power of	167

attorney for health care executed pursuant to section 1337.12 of 168
the Revised Code, or both a declaration and a durable power of 169
attorney for health care, a base fee of at least ~~fourteen~~ 170
seventeen dollars but not more than twenty dollars and a housing 171
trust fund fee of at least ~~fourteen~~seventeen dollars but not 172
more than twenty dollars. 173

In any county in which the recorder employs the 174
photostatic or any similar process for recording maps, plats, or 175
prints the recorder shall determine, charge, and collect for the 176
recording or rerecording of any map, plat, or print, a base fee 177
of five cents and a housing trust fund fee of five cents per 178
square inch, for each square inch of the map, plat, or print 179
filed for that recording or rerecording, with a minimum base fee 180
of twenty dollars and a minimum housing trust fund fee of twenty 181
dollars; for certifying a copy from the record, a base fee of 182
two cents and a housing trust fund fee of two cents per square 183
inch of the record, with a minimum base fee of two dollars and a 184
minimum housing trust fund fee of two dollars. 185

The fees provided in this section shall be paid upon the 186
presentation of the instruments for record or upon the 187
application for any certified copy of the record, except that 188
the payment of fees for providing copies of instruments 189
conveying or extinguishing agricultural easements to the office 190
of farmland preservation in the department of agriculture under 191
division (H) of section 5301.691 of the Revised Code shall be 192
governed by that division, and payment of fees for electronic 193
recording may be made by electronic funds transfer, automated 194
clearing house, or other electronic means after presentation. 195

The fees provided for in this section shall not apply to 196
the recording, indexing, or making of a certified copy or to the 197

filing of any instrument by a county land reutilization 198
corporation, ~~its~~ or by a county land reutilization 199
corporation's wholly owned subsidiary~~7~~ or any other electing 200
subdivision, as defined in section 5722.01 of the Revised Code, 201
if the subsidiary or other electing subdivision is acting in a 202
capacity consistent with the purpose of the land reutilization 203
program. 204

Sec. 317.36. ~~(A)~~ (A) (1) The county recorder shall collect 205
the low- and moderate-income housing trust fund fee as specified 206
in sections 317.114, 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 207
4509.60, 5164.56, 5310.15, 5703.93, 5719.07, 5727.56, 5733.22, 208
6101.09, and 6115.09 of the Revised Code. The amount of any 209
housing trust fund fee the recorder is authorized to collect is 210
equal to either of the following, as applicable: 211

(a) The amount of any base fee the recorder is authorized 212
to collect for services; 213

(b) The portion of a document preservation surcharge the 214
recorder is required to deposit into the county treasury to the 215
credit of the general fund. ~~The~~ 216

(2) The housing trust fund fee shall be collected in 217
addition to the base fee or retained portion of the document 218
preservation surcharge. 219

(B) The recorder shall certify the amounts collected as 220
housing trust fund fees pursuant to division (A) of this section 221
into the county treasury as housing trust fund fees to be paid 222
to the treasurer of state pursuant to section 319.63 of the 223
Revised Code. 224

Section 2. That existing sections 317.13, 317.32, and 225
317.36 of the Revised Code are hereby repealed. 226

Section 3. All items in this section are hereby 227
 appropriated as designated out of any moneys in the state 228
 treasury to the credit of the designated fund. For all 229
 appropriations made in this act, those in the first column are 230
 for fiscal year 2020 and those in the second column are for 231
 fiscal year 2021. The appropriations made in this act are in 232
 addition to any other appropriations made for the FY 2020-FY 233
 2021 biennium. 234

235

	1	2	3	4	5
A			DEV DEVELOPMENT SERVICES AGENCY		
B	General Revenue Fund				
C	GRF	195XXX	County Recorder Electronic Record Modernization Program	\$ 0	\$ 15,000,000
D	TOTAL	GRF General Revenue Fund		\$ 0	\$ 15,000,000
E	TOTAL ALL BUDGET FUND GROUPS			\$ 0	\$ 15,000,000

COUNTY RECORDER ELECTRONIC RECORD MODERNIZATION PROGRAM 236

The foregoing appropriation item 195XXX, County Recorder 237
 Electronic Record Modernization Program, shall be used to 238
 distribute grants to counties under the County Recorder 239
 Electronic Record Modernization Program for use by county 240
 recorder's offices to implement the requirements set forth in 241
 divisions (D) and (E) of section 317.13 of the Revised Code, 242
 upon the effective date of that section, as amended by this act. 243

Counties that meet the requirements set forth in divisions (D) 244
and (E) of section 317.13 of the Revised Code on the effective 245
date of section 317.13 of the Revised Code, as amended by this 246
act, are ineligible for grants under the County Recorder 247
Electronic Record Modernization Program. 248

Section 4. Within the limits set forth in this act, the 249
Director of Budget and Management shall establish accounts 250
indicating the source and amount of funds for each appropriation 251
made in this act, and shall determine the form and manner in 252
which appropriation accounts shall be maintained. Expenditures 253
from appropriations contained in this act shall be accounted for 254
as though made in H.B. 166 of the 133rd General Assembly. 255

The appropriations made in this act are subject to all 256
provisions of H.B. 166 of the 133rd General Assembly that are 257
generally applicable to such appropriations. 258