

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 237**

**Representative Hillyer**

**Cosponsors: Representatives Zeltwanger, Bird, Ray, Seitz, Kick**



**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 accessing them, to allow county recorders to charge a document preservation surcharge, to increase recording fees for certain instruments, 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

presentation, and shall enter the file number at the beginning 19  
of the record. On the record of each instrument, the county 20  
recorder shall record the date and precise time the instrument 21  
was presented for record. All records made, prior to July 28, 22  
1949, by means authorized by this section or by section 9.01 of 23  
the Revised Code shall be deemed properly made. 24

(B) The county recorder may refuse to record an instrument 25  
of writing presented for recording if the instrument is not 26  
required or authorized by the Revised Code to be recorded or the 27  
county recorder has reasonable cause to believe the instrument 28  
is materially false or fraudulent. This division does not create 29  
a duty upon a recorder to inspect, evaluate, or investigate an 30  
instrument of writing that is presented for recording. 31

(C) If a person presents an instrument of writing to the 32  
county recorder for recording and the county recorder, pursuant 33  
to division (B) of this section, refuses to record the 34  
instrument, the person has a cause of action for an order from 35  
the court of common pleas in the county that the county recorder 36  
serves, to require the county recorder to record the instrument. 37  
If the court determines that the instrument is required or 38  
authorized by the Revised Code to be recorded and is not 39  
materially false or fraudulent, it shall order the county 40  
recorder to record the instrument. 41

(D) (1) Not later than January 1, 2024, each county 42  
recorder, county auditor, and county engineer shall make 43  
available to the public a method for electronically recording 44  
instruments related to conveyances of real property that adheres 45  
to the standards governing conveyances of real property adopted 46  
by a county in accordance with section 319.203 of the Revised 47  
Code. 48

(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. 49  
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(3) Divisions (D)(1) and (2) of this section do not apply to instruments specifically exempt from recording under either of the following: 55  
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(a) The standards governing conveyances of real property adopted by a county in accordance with section 319.203 of the Revised Code; or 58  
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(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. 61  
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(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. 64  
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**Sec. 317.32.** The county recorder shall charge and collect the following fees and surcharges, to include, except as otherwise provided in division (A)(2) of this section, base fees 75  
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for the recorder's services, a document preservation surcharge, 78  
and housing trust fund fees collected pursuant to section 317.36 79  
of the Revised Code: 80

(A) (1) Except as otherwise provided in division (A) (2) of 81  
this section, for recording and indexing an instrument if the 82  
photocopy or any similar process is employed, ~~a:~~ 83

(a) A base fee of seventeen dollars for the first two 84  
pages and a housing trust fund fee of seventeen dollars, and a 85  
base fee of four dollars and a housing trust fund fee of four 86  
dollars for each subsequent page, size eight and one-half inches 87  
by fourteen inches, or fraction of a page, including the caption 88  
page, of such instrument; and 89

(b) A document preservation surcharge of ten dollars. Of 90  
the ten dollars, five dollars shall be deposited in the county 91  
treasury to the credit of the county general fund and five 92  
dollars shall be deposited in the county treasury as housing 93  
trust fund fees to be paid to the treasurer of state pursuant to 94  
section 319.63 of the Revised Code. 95

(2) For recording and indexing an instrument described in 96  
division (D) of section 317.08 of the Revised Code if the 97  
photocopy or any similar process is employed, a fee of ~~twenty-~~ 98  
~~eight-thirty-four~~ dollars for the first two pages to be 99  
deposited as specified elsewhere in this division, and a fee of 100  
eight dollars to be deposited in the same manner for each 101  
subsequent page, size eight and one-half inches by fourteen 102  
inches, or fraction of a page, including the caption page, of 103  
that instrument. If the county recorder's technology fund has 104  
been established under section 317.321 of the Revised Code, of 105  
the ~~twenty-eight-thirty-four~~ dollars, ~~fourteen-seventeen~~ dollars 106  
shall be deposited into the county treasury to the credit of the 107

county recorder's technology fund and ~~fourteen-seventeen~~ dollars 108  
shall be deposited into the county treasury to the credit of the 109  
county general fund. If the county recorder's technology fund 110  
has not been established, the ~~twenty-eight-thirty-four~~ dollars 111  
shall be deposited into the county treasury to the credit of the 112  
county general fund. 113

(3) The document preservation surcharge is intended to 114  
support the preservation and digitization of documents and 115  
ongoing costs incurred by a county recorder's office to make 116  
available to the public a web site with appropriate security 117  
features, electronic document hosting, online viewing, print and 118  
download features that enable an individual to print or download 119  
a copy of a public record from the web site. 120

(B) For certifying a ~~photocopy copy or electronic record~~ 121  
from the record previously recorded, a base fee of one dollar 122  
and a housing trust fund fee of one dollar per page, size eight 123  
and one-half inches by fourteen inches, or fraction of a page; 124  
for each certification if the recorder's seal is required, 125  
except as to instruments issued by the armed forces of the 126  
United States, a base fee of fifty cents and a housing trust 127  
fund fee of fifty cents; 128

(C) For entering or indexing any ~~marginal~~-reference by 129  
separate recorded instrument, a base fee of two dollars and a 130  
housing trust fund fee of two dollars for each ~~marginal~~- 131  
reference set out in that instrument, in addition to the fees 132  
set forth in division (A) (1) of this section; 133

(D) For indexing in the real estate mortgage records, 134  
pursuant to section 1309.519 of the Revised Code, financing 135  
statements covering crops growing or to be grown, timber to be 136  
cut, minerals or the like, including oil and gas, accounts 137

subject to section 1309.301 of the Revised Code, or fixture	138
filings made pursuant to section 1309.334 of the Revised Code, a	139
base fee of two dollars and a housing trust fund fee of two	140
dollars for each name indexed;	141
(E) For filing zoning resolutions, including text and	142
maps, in the office of the recorder as required under sections	143
303.11 and 519.11 of the Revised Code, a base fee of twenty-five	144
dollars and a housing trust fund fee of twenty-five dollars,	145
regardless of the size or length of the resolutions;	146
(F) For filing zoning amendments, including text and maps,	147
in the office of the recorder as required under sections 303.12	148
and 519.12 of the Revised Code, a base fee of ten dollars and a	149
housing trust fund fee of ten dollars regardless of the size or	150
length of the amendments;	151
(G) For photocopying a document, other than at the time of	152
recording and indexing as provided for in division (A)(1) or (2)	153
of this section, a base fee of one dollar and a housing trust	154
fund fee of one dollar per page, size eight and one-half inches	155
by fourteen inches, or fraction thereof;	156
(H) For local facsimile <u>or electronic</u> transmission of a	157
document, a base fee of one dollar and a housing trust fund fee	158
of one dollar per page, size eight and one-half inches by	159
fourteen inches, or fraction thereof; for long distance	160
facsimile transmission of a document, a base fee of two dollars	161
and a housing trust fund fee of two dollars per page, size eight	162
and one-half inches by fourteen inches, or fraction thereof;	163
(I) For recording a declaration executed pursuant to	164
section 2133.02 of the Revised Code or a durable power of	165
attorney for health care executed pursuant to section 1337.12 of	166

the Revised Code, or both a declaration and a durable power of attorney for health care, a base fee of at least ~~fourteen~~ seventeen dollars but not more than twenty dollars and a housing trust fund fee of at least ~~fourteen~~ seventeen dollars but not more than twenty dollars.

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

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

The fees provided for in this section shall not apply to the recording, indexing, or making of a certified copy or to the filing of any instrument by a county land reutilization

corporation, ~~its~~ or by a county land reutilization 197  
corporation's wholly owned subsidiary ~~7~~ or any other electing 198  
subdivision, as defined in section 5722.01 of the Revised Code, 199  
if the subsidiary or other electing subdivision is acting in a 200  
capacity consistent with the purpose of the land reutilization 201  
program. 202

**Sec. 317.36.** ~~(A)~~ (A) (1) The county recorder shall collect 203  
the low- and moderate-income housing trust fund fee as specified 204  
in sections 317.114, 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 205  
4509.60, 5164.56, 5310.15, 5703.93, 5719.07, 5727.56, 5733.22, 206  
6101.09, and 6115.09 of the Revised Code. The amount of any 207  
housing trust fund fee the recorder is authorized to collect is 208  
equal to either of the following, as applicable: 209

(a) The amount of any base fee the recorder is authorized 210  
to collect for services; 211

(b) The portion of a document preservation surcharge the 212  
recorder is required to deposit into the county treasury to the 213  
credit of the general fund. ~~The~~ 214

(2) The housing trust fund fee shall be collected in 215  
addition to the base fee or retained portion of the document 216  
preservation surcharge. 217

(B) The recorder shall certify the amounts collected as 218  
housing trust fund fees pursuant to division (A) of this section 219  
into the county treasury as housing trust fund fees to be paid 220  
to the treasurer of state pursuant to section 319.63 of the 221  
Revised Code. 222

**Section 2.** That existing sections 317.13, 317.32, and 223  
317.36 of the Revised Code are hereby repealed. 224

**Section 3.** All items in this section are hereby 225

appropriated as designated out of any moneys in the state 226  
 treasury to the credit of the designated fund. For all 227  
 appropriations made in this act, those in the first column are 228  
 for fiscal year 2022 and those in the second column are for 229  
 fiscal year 2023. The appropriations made in this act are in 230  
 addition to any other appropriations made for the FY 2022-FY 231  
 2023 biennium. 232

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A	DEV DEPARTMENT OF DEVELOPMENT				
B	General Revenue Fund				
C	GRF	195564	County Recorder	\$15,000,000	\$0
			Electronic Record		
			Modernization Program		
D	TOTAL	GRF	General Revenue Fund	\$15,000,000	\$0
E	TOTAL	ALL BUDGET	FUND GROUPS	\$15,000,000	\$0

COUNTY RECORDER ELECTRONIC RECORD MODERNIZATION PROGRAM 234

The foregoing appropriation item 195564, County Recorder 235  
 Electronic Record Modernization Program, shall be used to 236  
 distribute grants to counties under the County Recorder 237  
 Electronic Record Modernization Program for use by county 238  
 recorder's offices to implement the requirements set forth in 239  
 divisions (D) and (E) of section 317.13 of the Revised Code, 240  
 upon the effective date of that section, as amended by this act. 241  
 Counties that meet the requirements set forth in divisions (D) 242

and (E) of section 317.13 of the Revised Code on the effective 243  
date of section 317.13 of the Revised Code, as amended by this 244  
act, are ineligible for grants under the County Recorder 245  
Electronic Record Modernization Program. 246

An amount equal to the unexpended, unencumbered portion of 247  
the foregoing appropriation item 195564, County Recorder 248  
Electronic Record Modernization Program, at the end of fiscal 249  
year 2022 is hereby reappropriated to the Department of 250  
Development for the same purpose in fiscal year 2023. 251

**Section 4.** Within the limits set forth in this act, the 252  
Director of Budget and Management shall establish accounts 253  
indicating the source and amount of funds for each appropriation 254  
made in this act, and shall determine the form and manner in 255  
which appropriation accounts shall be maintained. Expenditures 256  
from appropriations contained in this act shall be accounted for 257  
as though made in H.B. 110 of the 134th General Assembly. 258

The appropriations made in this act are subject to all 259  
provisions of H.B. 110 of the 134th General Assembly that are 260  
generally applicable to such appropriations. 261