

As Re-Referred by the House Rules and Reference Committee

134th General Assembly

Regular Session

2021-2022

Sub. H. B. No. 237

Representative Hillyer

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

A BILL

To amend sections 317.13, 317.32, 317.36, and 1
1337.04 of the Revised Code to require counties 2
to provide an electronic means of recording 3
instruments and accessing them, to allow county 4
recorders to charge a document preservation 5
surcharge, to make other changes regarding 6
recorded instruments, and to make an 7
appropriation. 8

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

Section 1. That sections 317.13, 317.32, 317.36, and 9
1337.04 of the Revised Code be amended to read as follows: 10

Sec. 317.13. (A) Except as otherwise provided in division 11
(B) of this section, the county recorder shall record in the 12
official records, in legible handwriting, typewriting, or 13
printing, or by any authorized photographic or electronic 14
process, all deeds, mortgages, plats, or other instruments of 15
writing that are required or authorized by the Revised Code to 16
be recorded and that are presented to the county recorder for 17
that purpose. The county recorder shall record the instruments 18

in regular succession, according to the priority of 19
presentation, and shall enter the file number at the beginning 20
of the record. On the record of each instrument, the county 21
recorder shall record the date and precise time the instrument 22
was presented for record. All records made, prior to July 28, 23
1949, by means authorized by this section or by section 9.01 of 24
the Revised Code shall be deemed properly made. 25

(B) The county recorder may refuse to record an instrument 26
of writing presented for recording if the instrument is not 27
required or authorized by the Revised Code to be recorded or the 28
county recorder has reasonable cause to believe the instrument 29
is materially false or fraudulent. This division does not create 30
a duty upon a recorder to inspect, evaluate, or investigate an 31
instrument of writing that is presented for recording. 32

(C) If a person presents an instrument of writing to the 33
county recorder for recording and the county recorder, pursuant 34
to division (B) of this section, refuses to record the 35
instrument, the person has a cause of action for an order from 36
the court of common pleas in the county that the county recorder 37
serves, to require the county recorder to record the instrument. 38
If the court determines that the instrument is required or 39
authorized by the Revised Code to be recorded and is not 40
materially false or fraudulent, it shall order the county 41
recorder to record the instrument. 42

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

Code. 49

(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. 50
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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: 56
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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 59
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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. 62
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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. 65
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Sec. 317.32. The county recorder shall charge and collect the following fees and surcharges, to include, except as 76
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otherwise provided in division (A) (2) of this section, base fees 78
for the recorder's services, a document preservation surcharge, 79
and housing trust fund fees collected pursuant to section 317.36 80
of the Revised Code: 81

(A) (1) Except as otherwise provided in division (A) (2) of 82
this section, for recording and indexing an instrument if the 83
photocopy or any similar process is employed, ~~a:~~ 84

(a) A base fee of seventeen dollars for the first two 85
pages and a housing trust fund fee of seventeen dollars, and a 86
base fee of four dollars and a housing trust fund fee of four 87
dollars for each subsequent page, size eight and one-half inches 88
by fourteen inches, or fraction of a page, including the caption 89
page, of such instrument; and 90

(b) A document preservation surcharge of five dollars, to 91
be deposited in the county treasury to the credit of the county 92
general fund. 93

(2) For recording and indexing an instrument described in 94
division (D) of section 317.08 of the Revised Code if the 95
photocopy or any similar process is employed, a fee of ~~twenty-~~ 96
~~eight-thirty-four~~ dollars for the first two pages to be 97
deposited as specified elsewhere in this division, and a fee of 98
eight dollars to be deposited in the same manner for each 99
subsequent page, size eight and one-half inches by fourteen 100
inches, or fraction of a page, including the caption page, of 101
that instrument. If the county recorder's technology fund has 102
been established under section 317.321 of the Revised Code, of 103
the ~~twenty-eight-thirty-four~~ dollars, fourteen-seventeen dollars 104
shall be deposited into the county treasury to the credit of the 105
county recorder's technology fund and fourteen-seventeen dollars 106
shall be deposited into the county treasury to the credit of the 107

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

(3) The document preservation surcharge is intended to 112
support the preservation and digitization of documents and 113
ongoing costs incurred by a county recorder's office to make 114
available to the public a web site with appropriate security 115
features, electronic document hosting, online viewing, print and 116
download features that enable an individual to print or download 117
a copy of a public record from the web site. 118

(B) For certifying a ~~photocopy~~ copy or electronic record 119
from the record previously recorded, a base fee of one dollar 120
and a housing trust fund fee of one dollar per page, size eight 121
and one-half inches by fourteen inches, or fraction of a page; 122
for each certification if the recorder's seal is required, 123
except as to instruments issued by the armed forces of the 124
United States, a base fee of fifty cents and a housing trust 125
fund fee of fifty cents; 126

(C) For entering or indexing any ~~marginal~~-reference by 127
separate recorded instrument, a base fee of two dollars and a 128
housing trust fund fee of two dollars for each ~~marginal~~- 129
reference set out in that instrument, in addition to the fees 130
set forth in division (A) (1) of this section; 131

(D) For indexing in the real estate mortgage records, 132
pursuant to section 1309.519 of the Revised Code, financing 133
statements covering crops growing or to be grown, timber to be 134
cut, minerals or the like, including oil and gas, accounts 135
subject to section 1309.301 of the Revised Code, or fixture 136
filings made pursuant to section 1309.334 of the Revised Code, a 137

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

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 corporation's wholly owned subsidiary or any other electing

subdivision, as defined in section 5722.01 of the Revised Code, 197
if the subsidiary or other electing subdivision is acting in a 198
capacity consistent with the purpose of the land reutilization 199
program. 200

Sec. 317.36. (A) The county recorder shall collect the 201
low- and moderate-income housing trust fund fee as specified in 202
sections 317.114, 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 203
4509.60, 5164.56, 5310.15, 5703.93, 5719.07, 5727.56, 5733.22, 204
6101.09, and 6115.09 of the Revised Code. The amount of any 205
housing trust fund fee the recorder is authorized to collect is 206
equal to the amount of any base fee the recorder is authorized 207
to collect for services. The housing trust fund fee shall be 208
collected in addition to the base fee. 209

(B) The recorder shall certify the amounts collected as 210
housing trust fund fees pursuant to division (A) of this section 211
into the county treasury as housing trust fund fees to be paid 212
to the treasurer of state pursuant to section 319.63 of the 213
Revised Code. 214

(C) The document preservation surcharge collected under 215
section 317.32 of the Revised Code is not a base fee under this 216
section. 217

Sec. 1337.04. ~~A power of attorney for the conveyance, (A)~~ 218
As used in this section, "real property interest" means a deed, 219
mortgage, land installment contract, or lease of an interest in 220
real property must. 221

(B) A power of attorney used for the execution of a real 222
property instrument shall be properly executed and acknowledged 223
by the principal before the execution and acknowledgement of 224
such real property instrument executed by virtue of such power 225

of attorney. 226

For purposes of this section, if the execution and 227
acknowledgement of the power of attorney is dated the same date 228
as the execution and acknowledgment of the real property 229
instrument, the power of attorney shall be presumed to have been 230
executed and acknowledged before the execution and 231
acknowledgment of the real property instrument. 232

(C) A power of attorney used for the execution of a real 233
property instrument shall be recorded in the office of the 234
county recorder of the county in which such property is 235
situated, ~~previous to~~ before the recording of a deed, mortgage, 236
~~or lease~~ the real property instrument executed by virtue of such 237
power of attorney. 238

For purposes of this section, a power of attorney recorded 239
the same day, but after, the recording of the real property 240
instrument shall be considered to have been recorded before the 241
real property instrument. 242

If a power of attorney is not recorded before, or is not 243
recorded on the same day as, the recording of the real property 244
instrument executed by virtue of such power of attorney, the 245
power of attorney may be subsequently placed of record as an 246
attachment to a supporting affidavit made by any person having 247
knowledge of the facts or competent to testify concerning them 248
in open court. The supporting affidavit shall include all of the 249
following: 250

(1) The name of the current title holder of the property 251
described in the real property instrument executed by virtue of 252
the power of attorney; 253

(2) The permanent parcel number of the property; 254

(3) The legal description of the property subject to the 255
real property instrument executed by virtue of the power of 256
attorney; 257

(4) The official record reference of the real property 258
instrument executed by virtue of the power of attorney. 259

(D) Notwithstanding any contrary provision set forth in 260
this section, a real property instrument executed by virtue of a 261
power of attorney that has been of record for a period of ten 262
years or more shall be presumed valid and of full force and 263
effect if the power of attorney has not been placed of record. 264

(E) The amendments to this section by H.B. 237 of the 265
134th general assembly shall be given retroactive effect to the 266
fullest extent permitted under Section 28 of Article II, Ohio 267
Constitution. The amendments to this section shall not be given 268
retroactive effect if to do so would affect any accrued 269
substantive right or vested rights in any person or in any real 270
property instrument. 271

Section 2. That existing sections 317.13, 317.32, 317.36, 272
and 1337.04 of the Revised Code are hereby repealed. 273

Section 3. All items in this section are hereby 274
appropriated as designated out of any moneys in the state 275
treasury to the credit of the designated fund. For all 276
appropriations made in this act, those in the first column are 277
for fiscal year 2022 and those in the second column are for 278
fiscal year 2023. The appropriations made in this act are in 279
addition to any other appropriations made for the FY 2022-FY 280
2023 biennium. 281

	1	2	3	4	5
A			DEV DEPARTMENT OF DEVELOPMENT		
B			Dedicated Purpose Fund Group		
C	5CV3	195623	County Recorder Electronic Record Modernization Program	\$10,000,000	\$0
D	TOTAL DPF	Dedicated Purpose Fund Group		\$10,000,000	\$0
E	TOTAL ALL BUDGET FUND GROUPS			\$10,000,000	\$0
			COUNTY RECORDER ELECTRONIC RECORD MODERNIZATION PROGRAM		283
			The foregoing appropriation item 195623, County Recorder		284
			Electronic Record Modernization Program, shall be used to		285
			distribute grants to counties under the County Recorder		286
			Electronic Record Modernization Program for use by county		287
			recorder's offices to implement the requirements set forth in		288
			divisions (D) and (E) of section 317.13 of the Revised Code,		289
			upon the effective date of that section, as amended by this act.		290
			Counties that meet the requirements set forth in divisions (D)		291
			and (E) of section 317.13 of the Revised Code on the effective		292
			date of section 317.13 of the Revised Code, as amended by this		293
			act, are ineligible for grants under the County Recorder		294
			Electronic Record Modernization Program.		295
			An amount equal to the unexpended, unencumbered portion of		296
			the foregoing appropriation item 195623, County Recorder		297
			Electronic Record Modernization Program, at the end of fiscal		298
			year 2022 is hereby reappropriated to the Department of		299
			Development for the same purpose in fiscal year 2023.		300

Section 4. Within the limits set forth in this act, the 301
Director of Budget and Management shall establish accounts 302
indicating the source and amount of funds for each appropriation 303
made in this act, and shall determine the form and manner in 304
which appropriation accounts shall be maintained. Expenditures 305
from appropriations contained in this act shall be accounted for 306
as though made in H.B. 110 of the 134th General Assembly. 307

The appropriations made in this act are subject to all 308
provisions of H.B. 110 of the 134th General Assembly that are 309
generally applicable to such appropriations. 310

Section 5. If a county utilizes funds received under the 311
"American Rescue Plan Act of 2021," Pub. L. No. 117-2, to 312
implement the requirements set forth in divisions (D) and (E) of 313
section 317.13 of the Revised Code as amended by this act, it 314
shall be within the county recorder's discretion whether to hire 315
new staff or enter into a contract with a private entity in 316
order to implement those requirements. 317