

**As Reported by the House State and Local Government Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. H. B. No. 237**

**Representative Hillyer**

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

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**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

<u>Code.</u>	49
<u>(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.</u>	50 51 52 53 54 55
<u>(3) Divisions (D) (1) and (2) of this section do not apply to instruments specifically exempt from recording under either of the following:</u>	56 57 58
<u>(a) The standards governing conveyances of real property adopted by a county in accordance with section 319.203 of the Revised Code; or</u>	59 60 61
<u>(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.</u>	62 63 64
<u>(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.</u>	65 66 67 68 69 70 71 72 73 74 75
<b>Sec. 317.32.</b> The county recorder shall charge and collect the following fees <u>and surcharges</u> , to include, except as	76 77

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 <del>fourteen</del>	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~~7~~ 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