

# ***Fiscal Note & Local Impact Statement***

*127<sup>th</sup> General Assembly of Ohio*

Ohio Legislative Service Commission  
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BILL: **S.B. 134** DATE: **October 2, 2007**  
STATUS: **As Reported by House Civil and Commercial Law** SPONSOR: **Sen. Faber**  
LOCAL IMPACT STATEMENT REQUIRED: **No — Offsetting revenues**  
CONTENTS: **Memorandum of trust**

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## ***State Fiscal Highlights***

- The bill has no readily discernible fiscal implications for state revenues and expenditures.

## ***Local Fiscal Highlights***

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
<b>Counties</b>			
Revenues	Potential, at most minimal, increase in filing fees	Potential, at most minimal, increase in filing fees	Potential, at most minimal, increase in filing fees
Expenditures	Negligible impact on county recorder workload and related operating costs	Negligible impact on county recorder workload and related operating costs	Negligible impact on county recorder workload and related operating costs

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***Counties.*** Legal experts have indicated to LSC fiscal staff that the bill may result in several dozen additional memoranda of trust, of up to ten pages each, being filed annually with county recorders statewide. For any given county, such an increase in the number of memorandum of trust filed annually with the county recorder appears likely to be extremely small. Assuming that were true, then any filing fee revenues generated would not be likely to exceed minimal, which for purposes of this analysis means an estimated gain of no more than \$5,000 per county per year. Relative to the administrative burden and related expenses, it would seem likely that a county recorder should be able to incorporate a few additional memorandum of trust filings into their daily operations with little to no readily discernible cost.



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## ***Detailed Fiscal Analysis***

### **Memorandum of trust**

Current law requires that both the settlor (the party creating the trust) and trustee of the trust sign a memorandum of trust if it is to be filed with the county recorder. The signing must be acknowledged by the settlor and trustee before a judge or clerk of a court of record in Ohio or a county auditor, county engineer, notary public, or mayor, who must then certify the acknowledgement. Legal experts have indicated to LSC fiscal staff that some memoranda of trust involving real property are not being filed with the county recorder (there is no legal requirement to do so) because some settlors wish not to make known their ownership interest in the real estate referenced in the trust.

The bill provides that only the trustee of a trust, and not both the settlor and the trustee, must sign, acknowledge, and execute a memorandum of trust, and that the name and address of only the trustee of the trust, and not of both the settlor and the trustee, must be stated on the memorandum of trust.

### **State fiscal effects**

The bill has no readily discernible fiscal implications for state revenues and expenditures.

### **Local fiscal effects**

Legal experts knowledgeable in this field have indicated to LSC fiscal staff that the bill may encourage more parties to a trust involving real estate to file a memorandum of trust with the county recorder, and that subsequent to its enactment, several dozen additional memoranda of trust, of up to ten pages each, may be filed annually with county recorders statewide.

The Revised Code sets the filing fee for such a document at \$28 for the first two pages and \$8 for each subsequent page. Thus, if a memorandum of trust is filed with the county recorder, the potential increase in filing fee revenues would likely range somewhere between \$28 and \$100 per filing, depending on the length of the memorandum. For any given county, such an increase in the number of memoranda of trust filed annually with the county recorder appears likely to be extremely small. Assuming that were true, then any filing fee revenues generated would not be likely to exceed minimal, which for purposes of this analysis means an estimated gain of no more than \$5,000 per county per year. Relative to the administrative burden and related expenses, it would seem likely that a county recorder should be able to incorporate a few additional memorandum of trust filings into their daily operations with little to no readily discernible cost.

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