



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [Am. H.B. 72 of the 130th G.A.](#)

**Date:** May 21, 2013

**Status:** As Reported by House State and Local Government

**Sponsor:** Reps. Brenner and Gerberry

**Local Impact Statement Procedure Required:** No

**Contents:** Modernizes the county recorders law

### State and Local Fiscal Highlights

- **Impact on Ohio Housing Trust Fund.** The bill eliminates the authority for county recorders to charge fees for manually recording two types of instruments. However, these fees are typically not collected since almost all instruments are now recorded electronically. As a result, eliminating these manual recordation fees will likely have little impact on the portion of recordation fees deposited into the Ohio Housing Trust Fund (Fund 6460).
- **Impact on county recorders.** The bill modernizes terminology in the Revised Code to accurately reflect how county recorders record and keep instruments today. Overall, these changes are unlikely to have more than a minimal impact on the fees collected by or the operating costs of county recorders.
- **Required fee for notices of possessory interest in land.** Under current law, county recorders are permitted but not required to collect fees for recording notices of possessory interest in land. The bill requires these fees to be collected. Because most county recorders already collect these fees, any gain in revenue for county recorders would likely be minimal at most.

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## Detailed Fiscal Analysis

The bill modernizes terminology in the Revised Code to more accurately reflect how county recorders currently record and maintain documents and instruments filed in their offices using computers and other modern media. Additionally, the bill makes changes to certain recording fees, eliminates a specific penalty applicable to recorders who record a plat contrary to the laws of municipal corporations, and makes other general recording changes. Taken together, none of the bill's provisions are likely to have more than a minimal overall fiscal effect on county recorders or on the Ohio Housing Trust Fund (Fund 6460), where a portion of recordation fees are deposited. Details about the bill's provisions along with any fiscal effect they might have are discussed in the sections below.

### County recorder's "official records"

The bill eliminates the current requirement that county recorders keep six separate sets of records including (1) a record of deeds, (2) a record of mortgages, (3) a record of powers of attorney and memoranda of trust, (4) a record of plats, (5) a record of leases, and (6) a record of declarations relating to the use of life-sustaining treatment and durable powers of attorney for health care. Instead the bill requires all of these instruments to be recorded and maintained in one general record series known as the "official records." This change generally reflects the current methods county recorders use to record and maintain documents and instruments filed in their offices. Typically, county recorders use computers and other modern storage media that consolidates this information within a single electronic database with the ability to track the required filings as if they were stored in separate sets of records. As this provision essentially codifies current practice, there is no expected fiscal effect as a result of this change.

Similarly, it is likely that changes made by the bill regarding indices of records made up by county recorders would not result in any fiscal effect. The bill eliminates (1) indices of notices of liens and notices of discharges, (2) the federal tax and other federal lien index, (3) the general index of deeds, (4) the index of powers of attorney, (5) the grantee deed index and grantor deed index, and (6) the notice index. Instead, the bill requires that information contained in these indices be included in the county recorder's direct and reverse index.

### Recording fees

The bill eliminates the fees for two methods of recording instruments: (1) the \$4 base fee and \$4 Housing Trust Fund fee for manual or typewritten recording of an assignment or satisfaction of a mortgage or lease or any other marginal entry, and (2) the \$2 base fee and \$2 Housing Trust Fund fee for recording manually any plat not exceeding six lines, and the related base fee of 10¢ and a Housing Trust Fund fee of 10¢ for each additional line. The electronic means generally employed by county recorders

today have rendered manual recordation of these instruments obsolete. As a result, any revenue lost as a result of eliminating these fees would likely be minimal at most.

In addition, the bill also requires county recorders to charge fees for recording notices of possessory interest in land. Under current law these fees are permissive rather than mandatory. Continuing law specifies that fees for recording notices of possessory interest in land are to be the same as for recording deeds. Generally, recorders already collect fees for this service. As a result, the additional revenue gained by county recorders, or any additional fees remitted to the Ohio Housing Trust Fund, would likely be minimal at most.

### **Elimination of fines**

The bill also repeals a law that requires a county recorder who records a plat contrary to the plat laws of municipal corporations to forfeit and pay not less than \$100 nor more than \$500, to be recovered with costs in a civil action by the prosecuting attorney in the name and for the use of the county. It is not apparent that any such fine under this statute has ever been levied. Consequently, the fiscal effect of eliminating this provision, if any, would be negligible.

### **Other changes**

The bill makes other changes to the law governing county recorders that do not appear to have any fiscal effect. These changes include: (1) eliminating recording of certain instruments as mortgages on real estate and as chattel mortgages, (2) requiring the county recorder to be included when the county auditor and engineer adopt written agreement standards governing conveyances of real property, and (3) allowing county recorders to dispose of paper versions of notices of recognizance liens and of their discharge if the county records commission revises the records retention and disposal policy accordingly. For a more complete description of these various changes, please see the Legislative Service Commission's Bill Analysis for this bill.