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Office

H.B. 237
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Rep. Hillyer

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill requires county recorders to make electronic indexes and electronic versions of instruments available to the public via the county recorder's website not later than January 1, 2024. The bill specifies all instruments recorded on or after January 1, 1980, must be included. Counties that do not already provide these documents on the recorder's website may incur tens of thousands of dollars to digitize the required records.
- The bill requires counties to provide an electronic method of recording instruments, including instruments related to the conveyance of property, by January 1, 2024. This could be achieved by adopting solutions provided by outside vendors that offer this service to counties at little or no cost.
- Costs incurred by counties could be offset by grants via the County Recorder Electronic Record Modernization Program, which the bill creates. The bill makes GRF appropriations of \$15.0 million in FY 2022 under the Department of Development to support the program, which would make grants to counties to assist with the costs of digitizing records and providing methods for electronic recording of instruments.
- The bill creates a document preservation surcharge of \$10 to be collected by county recorders to support the preservation and digitization of documents and ongoing costs incurred by a county recorder's office. Under the bill, proceeds of the surcharge would be split evenly between the county general fund and the Housing Trust Fund.

Detailed Analysis

Overview

Counties affected by the bill could incur initial costs totaling tens of thousands of dollars to comply with the bill's requirements to provide an electronic method of recording specified instruments and to make specified indexes and documents available on the county recorder's website. Under the bill, these costs could be offset via state-funded grants and increased fees for recording instruments. The bill requires counties to provide an electronic method for recording instruments, including instruments related to the conveyance of property, not later than January 1, 2024. County recorders must also make electronic indexes and electronic instruments recorded on or after January 1, 1980, available on the county recorder's website by January 1, 2024. The bill also specifies that a subsidiary or electing subdivision is only exempt from county recorder fees when it is acting in a capacity consistent with the purpose of the land reutilization program. A discussion of the potential fiscal effects of these changes and offsetting revenue sources is provided under the headings below.

Indexes and instruments available online

Counties may incur initial costs totaling tens of thousands of dollars to comply with the bill's requirements to make electronic indexes and electronic versions of instruments available to the public via the county recorder's website. The indexes and instruments must be available not later than January 1, 2024, and must include all instruments recorded on or after January 1, 1980. Digitizing these records is a labor intensive process and may require counties to incur additional payroll and overtime or to contract with outside services to meet the bill's requirements. According to the Ohio Recorder's Association, 39 counties have not fully digitized the required documents. The Association estimates these counties have a combined total of approximately seven million documents that must be digitized in order to meet the bill's requirements. Costs to fully digitize the remaining documents are estimated to total approximately \$2.8 million, or 40¢ per document.

Electronic recording of instruments

In contrast to the costly nature of digitizing documents for inclusion on the county recorders' websites, compliance with the bill's requirements to provide an electronic method for recording specified instruments, including instruments related to the conveyance of property, may be achieved at little or no cost. Software and web-based solutions that use existing county computer systems are available through vendors who provide their services to counties at little or no cost. Rather than charging counties for the services, these vendors receive revenue through fees charged to banks, title agents, and others submitting documents for recording. Counties may incur a slight uptick in payroll costs for initial set up of these software and web-based solutions. Under the bill, counties must provide an electronic method for recording these instruments not later than January 1, 2024. As of May 11, 2021, the Ohio Recorder's Association estimates one-half of Ohio's counties have implemented electronic recording methods for nonconveyance-related instruments, and one-quarter of Ohio's counties are in full compliance with the bill's electronic recording requirements.

County Recorder Electronic Record Modernization Program grants

Costs incurred by counties to meet the bill's electronic recording and document retrieval requirements could be offset by grants from the Department of Development (DEV). The bill appropriates \$15.0 million to DEV in FY 2022 under GRF appropriation item 195564, County Recorder Electronic Record Modernization Program. Under the bill, DEV must distribute this funding via grants to counties to implement the bill's requirements for electronic recordation of instruments and to make recorded instruments available via the county recorder's website. The bill specifies that counties that meet the bill's requirements on the bill's effective date are ineligible for the grants. The bill reappropriates the unexpended, unencumbered portion of appropriation item 195564, County Recorder Electronic Record Modernization Program remaining at the end of FY 2022 for the same purposes in FY 2023.

Document preservation surcharge

Electronic recording of instruments may result in a decrease in recording fees collected by county recorders that support the recorders' operations and provide revenue to the Housing Trust Fund. Under current law, a county recorder charges the following fees for recording and indexing most instruments using a photocopy or similar process: (1) for the first two pages, a base fee of \$17 and a Housing Trust Fund fee of \$17, and (2) for each subsequent page, a base fee of \$4 and a Housing Trust Fund fee of \$4. Because electronic recording of instruments does not involve photocopying or a similar process, county recorders would not be able to collect these fees for instruments recorded electronically. This loss of revenue could be at least partially offset by a \$10 document preservation surcharge, which the bill creates. The surcharge would be applied to both electronic recording and traditional recording methods. Under the bill, proceeds would be split evenly between a county's general fund and the Housing Trust Fund.

Fee changes

The bill makes fee changes that may further offset costs or replace any revenue loss as a result of electronic recording methods. The bill increases the minimum amount a county recorder charges for recording living wills and health care powers of attorney. Under current law, a recorder charges a base fee of between \$14 and \$20 and a Housing Trust Fund fee of between \$14 and \$20. The bill changes these fees to between \$17 and \$20.

The bill makes other changes to other fees collected by county recorders including fees for certifying previously recorded records, fees for entering any marginal reference by a separate recorded instrument, and fees for transmitting recorded instruments. Although the bill does not change the amount of the fees, the bill does provide for collection of these fees when dealing with electronic records. Please see the LSC bill analysis for additional details.

Land reutilization corporations – clarification of recorder fee exemptions

The bill specifies that a subsidiary or electing subdivision is only exempt from county recorder fees when it is acting in a capacity consistent with the purpose of the land reutilization program.