

As Introduced

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H. B. No. 647

REPRESENTATIVES Metzger, Raga, Flowers

A B I L L

To amend sections 149.30, 149.54, 307.23, 317.08, and 1506.30 and to repeal sections 149.51 and 149.55 of the Revised Code to eliminate the Ohio Historical Society's state registries of historic and archaeological landmarks, to modify Society publication and instructional material requirements, and to authorize counties to fund historic preservation societies.

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

Section 1. That sections 149.30, 149.54, 307.23, 317.08, and 1506.30 of the Revised Code be amended to read as follows:

Sec. 149.30. The Ohio historical society, chartered by this state as a corporation not for profit to promote a knowledge of history and archaeology, especially of Ohio, and operated continuously in the public interest since 1885, may perform public functions as prescribed by law.

The general assembly may appropriate money to the Ohio historical society each biennium to carry out the public functions of the society as enumerated in this section. An appropriation by the general assembly to the society constitutes an offer to contract with the society to carry out those public functions for

which appropriations are made. An acceptance by the society of the appropriated funds constitutes an acceptance by the society of the offer and is considered an agreement by the society to perform those functions in accordance with the terms of the appropriation and the law and to expend the funds only for the purposes for which appropriated. The governor may request on behalf of the society, and the controlling board may release, additional funds to the society for survey, salvage, repair, or rehabilitation of an emergency nature for which funds have not been appropriated, and acceptance by the society of those funds constitutes an agreement on the part of the society to expend those funds only for the purpose for which released by the controlling board.

The society shall faithfully expend and apply all moneys received from the state to the uses and purposes directed by law and for necessary administrative expenses. The society shall perform the public function of sending notice by certified mail to the owner of any property at the time it is listed on the national register of historic places. The society shall accurately record all expenditures of such funds in conformity with generally accepted accounting principles.

The auditor of state shall audit all funds and fiscal records of the society.

The public functions to be performed by the Ohio historical society shall include all of the following:

(A) Creating, supervising, operating, protecting, maintaining, and promoting for public use a system of state memorials, titles to which may reside wholly or in part with this state or wholly or in part with the society as provided in and in conformity to appropriate acts and resolves of the general assembly, and leasing for renewable periods of two years or less, with the advice and consent of the attorney general and the director of administrative services, lands and buildings owned by

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the state which are in the care, custody, and control of the
society, all of which shall be maintained and kept for public use
at reasonable hours;

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(B) Making alterations and improvements, marking, and
constructing, reconstructing, protecting, or restoring structures,
earthworks, and monuments in its care, and equipping such
facilities with appropriate educational maintenance facilities;

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(C) Serving as the archives administration for the state and
its political subdivisions as provided in sections 149.31 to
149.42 of the Revised Code;

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(D) Administering a state historical museum, to be the
headquarters of the society and its principal museum and library,
which shall be maintained and kept for public use at reasonable
hours;

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(E) Establishing a marking system to identify all designated
historic and archaeological sites within the state and marking or
causing to be marked historic sites and communities considered by
the society to be historically or archaeologically significant;

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(F) Publishing books, pamphlets, periodicals, and other
publications about history, archaeology, and natural science and
~~supplying~~ offering one copy of each regular periodical issue to
all public libraries in this state ~~without charge~~ at cost;

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(G) Engaging in research in history, archaeology, and natural
science and providing historical information upon request to all
state agencies;

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(H) Collecting, preserving, and making available by all
appropriate means and under approved safeguards all manuscript,
print, or near-print library collections and all historical
objects, specimens, and artifacts which pertain to the history of
Ohio and its people, including the following original documents:
Ohio Constitution of 1802; Ohio Constitution of 1851; proposed

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Ohio Constitution of 1875; design and the letters of patent and 84
assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 85
53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); 86
S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 87
(1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); 88
S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition 89
form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 90
(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); 91
petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); 92
H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 93
(1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 94
(1947); 95

(I) Encouraging and promoting the organization and 96
development of county and local historical societies; 97

(J) Providing at a reasonable price to Ohio schools with such 98
materials ~~at cost or near cost~~ as the society may prepare to 99
facilitate the instruction of Ohio history; 100

(K) Providing advisory and technical assistance to local 101
societies for the preservation and restoration of historic and 102
archaeological sites; 103

(L) Devising uniform criteria for the designation of historic 104
and archaeological sites throughout the state and advising local 105
historical societies of the criteria and their application; 106
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(M) Taking inventory, in cooperation with the Ohio arts 108
council, the Ohio archaeological council, and the archaeological 109
society of Ohio, of significant designated and undesignated state 110
and local sites and keeping an active registry of all designated 111
sites within the state; 112

(N) Contracting with the owners or persons having an interest 113
in designated historic or archaeological sites or property 114

adjacent or contiguous to those sites, or acquiring, by purchase, 115
gift, or devise, easements in those sites or in property adjacent 116
or contiguous to those sites, in order to control or restrict the 117
use of those historic or archaeological sites or adjacent or 118
contiguous property for the purpose of restoring or preserving the 119
historical or archaeological significance or educational value of 120
those sites; 121

(O) Constructing a monument honoring Governor James A. 122
Rhodes, which shall stand on the northeast quadrant of the grounds 123
surrounding the capitol building. The monument shall be 124
constructed with private funds donated to the Ohio historical 125
society and designated for this purpose. No public funds shall be 126
expended to construct this monument. The department of 127
administrative services shall cooperate with the Ohio historical 128
society in carrying out this function and shall maintain the 129
monument in a manner compatible with the grounds of the capitol 130
building. 131

(P) Commissioning a portrait of each departing governor, 132
which shall be displayed in the capitol building. The Ohio 133
historical society may accept private contributions designated for 134
this purpose and, at the discretion of its board of trustees, also 135
may apply for the same purpose funds appropriated by the general 136
assembly to the society pursuant to this section. 137

(Q) Planning and developing a center at the capitol building 138
for the purpose of educating visitors about the history of Ohio, 139
including its political, economic, and social development and the 140
design and erection of the capitol building and its grounds. The 141
Ohio historical society may accept contributions of private moneys 142
and in-kind services designated for this purpose and may, at the 143
discretion of its board of trustees, also apply, for the same 144
purpose, personnel and other resources paid in whole or in part by 145
its state subsidy. 146

(R) Submitting an annual report of its activities, programs, 147
and operations to the governor within two months after the close 148
of each fiscal year of the state. 149

The society shall not sell, mortgage, transfer, or dispose of 150
historical or archaeological sites to which it has title and in 151
which the state has monetary interest except by action of the 152
general assembly. 153

In consideration of the public functions performed by the 154
Ohio historical society for the state, employees of the society 155
shall be considered public employees within the meaning of section 156
145.01 of the Revised Code. 157

Sec. 149.54. In order to ensure that archaeological survey 158
and salvage work on public lands, and dedicated archaeological 159
~~preserves, and registered state archaeological landmarks~~ is 160
conducted in a scientific manner, the director of the Ohio 161
historical society shall, in consultation with the Ohio 162
archaeological council and the archaeological society of Ohio, 163
adopt and may amend or rescind rules, in accordance with Chapter 164
119. of the Revised Code, prescribing minimum education, training, 165
and experience requirements for personnel in charge of or 166
otherwise engaging in archaeological survey and salvage work, and 167
prescribing scientific methods for undertaking such activities. 168

No person shall engage in archaeological survey or salvage 170
work on any land that is owned, controlled, or administered by the 171
state or any political subdivision of the state, or at any 172
archaeological preserve, dedicated under section 149.52 of the 173
Revised Code, ~~or at any state archaeological landmark registered~~ 174
~~under section 149.51 of the Revised Code,~~ without first obtaining 175
the written permission of the director. To obtain permission, the 176
applicant shall submit written application to the director, which 177

application shall indicate the proposed location, the 178
qualifications of personnel who will be engaged in the 179
archaeological survey or salvage work, the proposed methods of 180
survey or salvage, and such other information as the director 181
requires by rule. 182

The director shall deny the applicant permission to engage in 183
archaeological survey or salvage work at the proposed location if 184
the applicant's proposed undertaking will not comply with the 185
rules adopted under this section. The director shall by written 186
order approve or deny permission to disturb the site. If the 187
director decides to deny permission, the order shall state the 188
reasons for denial, and the director shall afford the applicant an 189
adjudication hearing under Chapter 119. of the Revised Code. The 190
requirements of this section and of any rule adopted pursuant to 191
this section shall not apply to any department, agency, unit, 192
instrumentality, or political subdivision of the state. 193

Whoever violates this section is guilty of a misdemeanor of 194
the second degree. Whoever violates or threatens to violate this 195
section may be enjoined from violation. 196

Sec. 307.23. The board of county commissioners of any county 197
~~having a population of less than twenty-five thousand, according~~ 198
~~to the most recently completed United States decennial census, may~~ 199
appropriate, out of the revenue fund not otherwise appropriated, a 200
~~sum not exceeding twenty thousand dollars annually; in counties~~ 201
~~having a population of more than twenty-five thousand and not more~~ 202
~~than one hundred thousand, according to such census, the board may~~ 203
~~appropriate a sum not exceeding thirty-two thousand dollars~~ 204
~~annually; in counties having a population of more than one hundred~~ 205
~~thousand and not more than three hundred thousand, according to~~ 206
~~such census, the board may appropriate a sum not exceeding sixty~~ 207
~~thousand dollars annually; in counties having a population of more~~ 208
~~than three hundred thousand, according to such census, the board~~ 209

~~may appropriate a sum not exceeding one hundred thousand dollars~~ 210
~~annually, money~~ to be paid to the historical society of ~~such~~ 211
~~counties respectively, to the county or to local societies for the~~ 212
~~preservation and restoration of historic and archaeological sites~~ 213
~~located in the county. The money may~~ be used for the promotion of 214
historical work within the borders of the county, ~~and~~ for the 215
restoration or reconstruction of historic buildings, for the 216
collection, preservation, and publication of historical material, 217
~~and~~ to disseminate historical information of the county, and in 218
general to defray the expense of carrying on historical work in 219
~~such the~~ county. 220

~~Such~~ Other than for the restoration or reconstruction of 221
historic buildings, funds appropriated under this section may not 222
be used for the construction of buildings. No board may 223
appropriate any funds for the benefit of any county historical 224
society or preservation and restoration society unless such 225
society is incorporated not for profit under the laws of this 226
state. Application for the funds shall be made in the form of a 227
certified copy of a resolution adopted by the applicant society. 228

Sec. 317.08. Except as provided in division (F) of this 229
section, the county recorder shall keep six separate sets of 230
records as follows: 231

(A) A record of deeds, in which shall be recorded all deeds 232
and other instruments of writing for the absolute and 233
unconditional sale or conveyance of lands, tenements, and 234
hereditaments; all notices as provided for in sections 5301.47 to 235
5301.56 of the Revised Code; all judgments or decrees in actions 236
brought under section 5303.01 of the Revised Code; all 237
declarations and bylaws as provided for in Chapter 5311. of the 238
Revised Code; affidavits as provided for in section 5301.252 of 239
the Revised Code; all certificates as provided for in section 240
5311.17 of the Revised Code; all articles dedicating 241

archaeological preserves accepted by the director of the Ohio 242
historical society under section 149.52 of the Revised Code; all 243
articles dedicating nature preserves accepted by the director of 244
natural resources under section 1517.05 of the Revised Code; ~~all~~ 245
~~agreements for the registration of lands as archaeological or~~ 246
~~historic landmarks under section 149.51 or 149.55 of the Revised~~ 247
~~Code;~~ all conveyances of conservation easements and agricultural 248
easements under section 5301.68 of the Revised Code; all 249
instruments extinguishing agricultural easements under section 250
901.21 or 5301.691 of the Revised Code or pursuant to terms of 251
such an easement granted to a charitable organization under 252
section 5301.68 of the Revised Code; all instruments or orders 253
described in division (B)(1)(c)(ii) of section 5301.56 of the 254
Revised Code; all no further action letters issued under section 255
122.654 or 3746.11 of the Revised Code; all covenants not to sue 256
issued under section 3746.12 of the Revised Code, including all 257
covenants not to sue issued pursuant to section 122.654 of the 258
Revised Code; any restrictions on the use of property contained in 259
a no further action letter issued under section 122.654 of the 260
Revised Code and any restrictions on the use of property 261
identified pursuant to division (C)(3) of section 3746.10 of the 262
Revised Code; all memoranda of trust, as described in division (A) 263
of section 5301.255 of the Revised Code, that describe specific 264
real property; and all agreements entered into under division (A) 265
of section 1521.26 of the Revised Code; 266

(B) A record of mortgages, in which shall be recorded all of 267
the following: 268

(1) All mortgages, including amendments, supplements, 269
modifications, and extensions of mortgages, or other instruments 270
of writing by which lands, tenements, or hereditaments are or may 271
be mortgaged or otherwise conditionally sold, conveyed, affected, 272
or encumbered; 273

(2) All executory installment contracts for the sale of land 274
executed after September 29, 1961, that by their terms are not 275
required to be fully performed by one or more of the parties to 276
them within one year of the date of the contracts; 277

(3) All options to purchase real estate, including 278
supplements, modifications, and amendments of the options, but no 279
option of that nature shall be recorded if it does not state a 280
specific day and year of expiration of its validity; 281

(4) Any tax certificate sold under section 5721.33 of the 282
Revised Code, or memorandum thereof, that is presented for filing 283
of record. 284

(C) A record of powers of attorney, including all memoranda 285
of trust, as described in division (A) of section 5301.255 of the 286
Revised Code, that do not describe specific real property; 287

(D) A record of plats, in which shall be recorded all plats 288
and maps of town lots, of the subdivision of town lots, and of 289
other divisions or surveys of lands, any center line survey of a 290
highway located within the county, the plat of which shall be 291
furnished by the director of transportation or county engineer, 292
and all drawings as provided for in Chapter 5311. of the Revised 293
Code; 294

(E) A record of leases, in which shall be recorded all 295
leases, memoranda of leases, and supplements, modifications, and 296
amendments of leases and memoranda of leases; 297

(F) A record of declarations executed pursuant to section 298
2133.02 of the Revised Code and durable powers of attorney for 299
health care executed pursuant to section 1337.12 of the Revised 300
Code. 301

All instruments or memoranda of instruments entitled to 302
record shall be recorded in the proper record in the order in 303
which they are presented for record. The recorder may index, keep, 304

and record in one volume unemployment compensation liens, internal 305
revenue tax liens and other liens in favor of the United States as 306
described in division (A) of section 317.09 of the Revised Code, 307
personal tax liens, mechanic's liens, agricultural product liens, 308
notices of liens, certificates of satisfaction or partial release 309
of estate tax liens, discharges of recognizances, excise and 310
franchise tax liens on corporations, broker's liens, and liens 311
provided for in sections 1513.33, 1513.37, 3752.13, 5111.021, and 312
5311.18 of the Revised Code. 313

The recording of an option to purchase real estate, including 314
any supplement, modification, and amendment of the option, under 315
this section shall serve as notice to any purchaser of an interest 316
in the real estate covered by the option only during the period of 317
the validity of the option as stated in the option. 318

(G) In lieu of keeping the six separate sets of records 319
required in divisions (A) to (F) of this section and the records 320
required in division (H) of this section, a county recorder may 321
record all the instruments required to be recorded by this section 322
in two separate sets of record books. One set shall be called the 323
"official records" and shall contain the instruments listed in 324
divisions (A), (B), (C), (E), (F), and (H) of this section. The 325
second set of records shall contain the instruments listed in 326
division (D) of this section. 327

(H) Except as provided in division (G) of this section, the 328
county recorder shall keep a separate set of records containing 329
all corrupt activity lien notices filed with the recorder pursuant 330
to section 2923.36 of the Revised Code and a separate set of 331
records containing all medicaid fraud lien notices filed with the 332
recorder pursuant to section 2933.75 of the Revised Code. 333

Sec. 1506.30. As used in sections 1506.30 to 1506.37 of the 334
Revised Code: 335

(A) "Abandoned property" means a submerged aircraft; a 336
submerged watercraft, including a ship, boat, canoe, skiff, raft, 337
or barge; the rigging, gear, fittings, trappings, and equipment of 338
a submerged aircraft or watercraft; the personal property of the 339
officers, crew, and passengers of a submerged aircraft or 340
watercraft; the cargo of a submerged aircraft or watercraft that 341
has been deserted, relinquished, cast away, or left behind and for 342
which attempts at reclamation have been abandoned by the owners 343
and insurers; and submerged materials resulting from activities of 344
prehistoric and historic native Americans. 345

(B) "Lake Erie" means that portion of the waters and lands of 346
Lake Erie belonging to the state as provided in section 1506.10 of 347
the Revised Code. 348

(C) "Historical value" means the quality of significance 349
exemplified by an object, structure, site, or district that is 350
included in or eligible for inclusion in ~~the state registry of~~ 351
~~archaeological landmarks authorized under section 149.51 of the~~ 352
~~Revised Code, the state registry of historic landmarks authorized~~ 353
~~under section 149.55 of the Revised Code, or the national register~~ 354
of historic places. 355

(D) "Marine surveyor" means a person engaged in the business 356
of mapping or surveying submerged lands and abandoned property. 357

(E) "Mechanical or other assistance" means all ~~manmade~~ 358
artificial devices used to raise or remove artifacts from 359
abandoned property, including pry bars, wrenches and other hand or 360
power tools, cutting torches, explosives, winches, flotation bags, 361
lines to surface, extra divers buoyancy devices, and other 362
buoyancy devices. 363

(F) "Recreational value" means value relating to an activity 364
in which the public engages or may engage for recreation or sport, 365
including scuba diving and fishing, as determined by the director 366

of natural resources.

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Section 2. That existing sections 149.30, 149.54, 307.23, 317.08, and 1506.30 and sections 149.51 and 149.55 of the Revised Code are hereby repealed.

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Section 3. Upon the effective date of this section, an agreement entered into between the Ohio Historical Society and a landowner under section 149.51 or 149.55 of the Revised Code as those sections existed prior to the effective date of this section is terminated. With respect to the real property that was the subject of the agreement, the Society shall file with the county recorder of the county in which the property is located both of the following:

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(A) An affidavit terminating the agreement that adequately identifies the property;

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(B) A release of all rights afforded the Society under sections 149.51 and 149.55 of the Revised Code as those sections existed prior to the effective date of this section.

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The county recorder shall record in the record of deeds the affidavit and the release in the manner provided in section 317.08 of the Revised Code for recording other instruments. In addition, the Society shall provide a copy of the affidavit and release required under divisions (A) and (B) of this section to the landowner that was a party to the agreement.

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