

# AN ACT

To amend sections 5309.24, 5309.25, 5309.95, 5309.96, 5309.98, 5310.03, and 5310.07 and to enact section 5309.031 of the Revised Code to allow a county recorder to maintain registered land records by the use of photographic, magnetic, electronic, or certain other processes, means, or displays.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 5309.24, 5309.25, 5309.95, 5309.96, 5309.98, 5310.03, and 5310.07 be amended and section 5309.031 of the Revised Code be enacted to read as follows:

Sec. 5309.031. (A) Notwithstanding any provision of this chapter or Chapter 5310. of the Revised Code to the contrary, and in accordance with the rules adopted by the county recorder under division (C) of this section, the recorder may perform any of the following functions by nonpaper means:

(1) Transcribe a certified copy of a decree of registration sent by the clerk of a probate court pursuant to section 5309.25 of the Revised Code;

(2) Enter any memorial, notation, or memorandum pertaining to registered land;

(3) Register a subsequent transfer of registered land and carry forward in connection with the registration any memorial, notation, or memorandum;

(4) Enter, index, and, if applicable, file any registered land record, including, but not limited to, documents relating to cancellations, releases, discharges, or satisfactions;

(5) Maintain each of the following:

(a) The register of titles kept pursuant to section 5309.25 of the Revised Code;

(b) The records of surveys of registered land kept pursuant to section 5309.32 of the Revised Code;

(c) The tract indexes, if any, required by the board of county commissioners pursuant to section 5309.33 of the Revised Code and the alphabetical indexes kept pursuant to that section;

(d) The record of trusts and exceptional estates in registered land kept pursuant to section 5309.35 of the Revised Code;

(e) The entry book kept pursuant to section 5309.38 of the Revised Code;

(f) The records of liens on registered land kept pursuant to section 5309.50 of the Revised Code and the record of leases on registered land kept pursuant to that section.

(6) Fulfill any other requirement of this chapter or Chapter 5310. of the Revised Code concerning the recorder's maintenance of registered land records.

(B) If a county recorder maintains registered land records by nonpaper means under division (A) of this section, all of the following shall apply:

(1) The recorder shall keep and have readily available the machines and equipment necessary to permit the inspection of, or to reproduce copies of, the registered land records maintained at the recorder's office, to fulfill requests made under section 149.43 of the Revised Code.

(2) Photographs, microphotographs, films, or microfilms shall be placed and kept in conveniently accessible, fireproof, and insulated files, cabinets, or containers.

(3) Notwithstanding any rules adopted by a county records commission under section 149.38 of the Revised Code specifying the length of time original paper records must be retained in that format, the recorder may dispose of the register of titles kept in book format and any other original paper registered land record provided for in section 5309.25 of the Revised Code after it has been transcribed, registered, entered, indexed, or filed by nonpaper means under division (A) of this section, in accordance with the rules adopted under division (C) of this section. The recorder shall adhere to all other applicable records retention rules adopted by a county records commission under section 149.38 of the Revised Code.

(C)(1) A county recorder choosing to maintain registered land records by nonpaper means under division (A) of this section shall adopt rules for implementing this section. These rules shall be subject to approval by the board of county commissioners and shall do all of the following:

(a) Specify the type of nonpaper means that the county recorder will use to perform registered land functions;

(b) Identify the registered land functions that the county recorder will perform, and the registered land records that the county recorder will maintain, by nonpaper means;

(c) Specify the form of the record maintained by nonpaper means that will be deemed the original certificate of title under division (B) of section

5309.25 of the Revised Code:

(d) Provide for preserving, safekeeping, using, examining, exhibiting, projecting, and enlarging photographs, microphotographs, films, and microfilms;

(e) Provide for secure storage and maintenance of nonpaper records, including, but not limited to, requiring daily backups of records stored on computer to reflect daily changes made to those records;

(f) Specify the manner in which the recorder will sign an original certificate of title or other registered land record that is entered, indexed, or filed by nonpaper means;

(g) Provide for any other policies, procedures, or practices necessary for the maintenance of registered land records by nonpaper means.

(2) All registered land functions of a county recorder and all registered land records maintained by nonpaper means under division (A) of this section shall comply with the otherwise applicable requirements of this chapter and Chapter 5310. of the Revised Code.

(3) Any rules adopted under division (C)(1) of this section dealing with secure storage and computer or other security processes for nonpaper records may be approved in an executive session of a board of county commissioners.

(D) As used in this section and sections 5309.24, 5309.25, 5309.95, 5309.96, and 5309.98 of the Revised Code, "nonpaper means" means at least one process from each of the following categories, which process provides a medium of copying, recording, or reproducing applicable registered land records, including, but not limited to, memoranda, certificates, affidavits, or decrees:

(1) Any photostatic, photographic, miniature photographic, film, microfilm, or microphotographic process;

(2) Perforated tape, magnetic tape, or other magnetic means, electronic data processing or other electronic means, machine readable means, or graphic or video display.

Sec. 5309.24. (A) Every decree of registration in land registration cases shall bear the year, month, day, hour, and minute of its entry and shall be signed by the clerk of the probate court. It shall give the place of residence and post-office address of the owner of the land registered, state whether the owner is married or unmarried, and, if the owner is married, state the name of the owner's spouse. If the owner is under disability, the decree shall state the nature of the disability and, if the owner is a minor, shall state the minor's age. The decree shall contain an accurate description and plat of each separate parcel of the land as finally determined and adopted by the

probate court, shall set forth the estate of the owner, and, in a manner that shows their relative priority, but subject to division (B) of this section, shall set forth all particular estates, mortgages, easements, liens, attachments, and other encumbrances, including rights of spouses, to which the land or the owner's estate is subject, all suits pending by or against the owner or any of the owner's predecessors in title in any court of record in the county the judgments in which might affect the land or the owner's title to the land, and all suits of that nature elsewhere pending if they were brought to the attention of the probate court by the pleadings or evidence in the case. The decree may contain any other matter properly to be determined by the court under this chapter and Chapter 5310. of the Revised Code. The decree shall be stated in a form convenient for physical transcription upon, transcription by any of the applicable nonpaper means referred to in division (D) of section 5309.031 of the Revised Code upon, or binding in the register of ~~certificates of title~~ titles described in section 5309.25 of the Revised Code, shall be in a form suitable to constitute the decree as a certificate of title, and shall give insofar as possible the full name, place of residence, and post-office address of each owner and holder of any interest in or lien, charge, or encumbrance upon the lands or any part of the lands, except as provided in division (B) of this section. The clerk, under the direction of the court, shall make and keep indexes of all applications and of all decrees of registration.

(B) On and after ~~the effective date of this amendment~~ March 30, 1999, a decree of registration in a land registration case shall not set forth pursuant to division (A) of this section any restrictive covenant that appears to apply to the land or any part of the land, if any inclusion of the restrictive covenant in a transfer, rental, or lease of housing accommodations, any honoring or exercising of the restrictive covenant, or any attempt to honor or exercise the restrictive covenant constitutes an unlawful discriminatory practice under division (H)(9) of section 4112.02 of the Revised Code.

Sec. 5309.25. (A) Immediately upon the entry of the decree of registration as provided in sections 5309.23 and 5309.24 of the Revised Code, the clerk of the probate court or the clerk of the court of common pleas shall send a certified copy ~~thereof of the decree,~~ under the seal of the court, to the county recorder for the county in which the land or any part ~~thereof of the land~~ lies, ~~and the~~. The recorder shall transcribe or bind the decree in a book to be called the register of titles, in which leaves in consecutive order shall be devoted exclusively to each title, with appropriate blanks for the entry of memorials and notations. ~~Such~~ The recorder shall note in ~~such~~ the register the day, hour, and minute when ~~said~~ the decree is

filed with ~~him~~ the recorder. ~~The~~

The entry made by the recorder in ~~such~~ the register in each case shall be the original certificate of title; and shall be signed by ~~him~~ the recorder. Each certificate of title with ~~such~~ its blanks for memorials and notations shall constitute a separate folium of ~~such~~ the register. All memorials and notations that may be entered upon the register under ~~sections 5309.02 to 5310.21, inclusive,~~ this chapter or Chapter 5310. of the Revised Code, shall be entered upon the folium constituted by the last certificate of title of the land to which they relate.

All certificates of title shall be numbered consecutively, beginning with number one. The recorder shall in each case make an exact physical duplicate of the original certificate, ~~but shall~~ put on ~~such~~ the duplicate "Owner's duplicate certificate," and deliver it to the owner or to ~~his~~ the owner's authorized attorney. In case of a variance between the owner's duplicate certificate and the original certificate, the original shall prevail. ~~The~~

The certified copy of the decree of registration shall, in case it is transcribed into the ~~registration book~~ register, be filed and numbered by the recorder, with a reference noted on it to the place of record of the original certificate of title. The recorder may rebind or retranscribe the certificates in new volumes of ~~registration books~~ the register containing respectively canceled and uncanceled certificates and prepare new indexes for the uncanceled certificates. ~~If~~

If an application includes land lying in more than one county, the court shall cause the part lying in each county to be platted and described separately by metes and bounds or other definite description in the decree of registration, ~~and;~~ the clerk shall send to the recorder for each county a copy of the decree containing a plat and description of the land within that county; and the recorder shall register it and issue an owner's duplicate ~~therefor~~ certificate of title; ~~and~~ thereafter, for all matters pertaining to registration, the portion in each county shall be treated as a separate parcel of land. If more than one entire and distinct parcel of land lying wholly in the county is included in the application and decree, the clerk shall, if required by the applicant, send ~~such~~ the recorder certified copies of the decree ~~so far~~ insofar as it relates to each of ~~said~~ the separate and distinct parcels, giving plat and description ~~thereof, and~~ of each parcel; separate registration of each parcel shall be made accordingly by the recorder. ~~The~~

The clerk shall, at once in every cause, make a final record of ~~such~~ the cause and immediately thereafter deliver to the recorder all papers in the case, taking ~~his~~ the recorder's receipt ~~therefor, which~~ for those papers ~~the~~.

The recorder shall file, index, and carefully preserve, and note on the original certificate in his the recorder's office such, the filing and the number or other designation under which they those papers may be found.

(B) If the county recorder maintains registered land records by nonpaper means under section 5309.031 of the Revised Code, the record that the recorder designates under division (C)(1)(c) of that section shall be deemed the original certificate of title for the registered land.

Sec. 5309.95. All books, blanks, papers, and other things necessary for administering sections 5309.02 to 5310.21, inclusive, this chapter and Chapter 5310, of the Revised Code, including, but not limited to, equipment, machines, and materials related to the registered land functions of a county recorder and the maintenance of registered land records by nonpaper means under division (A) of section 5309.031 of the Revised Code, shall be furnished by the board of county commissioners.

Sec. 5309.96. No record, instrument or papers, paper, or other document required by sections 5309.02 to 5310.21, inclusive, this chapter or Chapter 5310, of the Revised Code, to be filed or kept in the office of the county recorder, including, but not limited to, any registered land record maintained by nonpaper means under division (A) of section 5309.031 of the Revised Code, shall be taken or otherwise caused to be removed from such the recorder's office except by a subpoena duces tecum issued for and served upon the recorder by a court of record. When any record, instrument, paper, or other document is registered, the recorder, on demand, and the tendering of the proper fee being tendered therefor for it, shall deliver to any person certified copies a copy of such the record, instrument, paper, or other document with, when applicable, all memorandums memoranda, memorials, and indorsements thereon notations on it, certified under his the recorder's hand and seal of office. The recorder shall indorse endorse, in writing, across the face of all such copies, in red ink, "copy; no rights conveyed hereby."

Every copy of original records, instruments, papers, or other documents, certified as provided for in this section, shall be received in all cases in place of the original record, instrument, paper, or other document and shall have the same effect in evidence as the original record, instrument, paper, or other document.

Sec. 5309.98. The Except for registered land records maintained by nonpaper means under division (A) of section 5309.031 of the Revised Code, which shall be governed by the rules adopted under division (C) of that section, the court of appeals in any appellate district may prescribe rules of practice and procedure for the guidance of the each county recorder, and

the conduct of proceedings in the probate courts or courts of common pleas, within ~~such districts~~ the district, in any matter arising under ~~sections 5309.02 to 5310.21, inclusive,~~ this chapter or Chapter 5310. of the Revised Code.

Sec. 5310.03. The original certificate of title in the ~~registration book~~ register of titles, any copy ~~thereof~~ of it certified under the signature of the county recorder, and the owner's duplicate of the original certificate of title, shall be received as evidence in all the courts of the state and shall be conclusive as to all matters contained ~~therein in it~~, except as provided in ~~sections 5309.02 to 5310.21, inclusive,~~ this chapter or Chapter 5309. of the Revised Code. All subsequent certificates of title and memorials ~~thereon~~ on them shall be conclusive in favor of bona fide owners and holders except subsequent certificates and memorials ~~thereon~~ on them procured by forgery.

Sec. 5310.07. A person who, without negligence on ~~his~~ the person's part, sustains loss or damage; or is deprived of land or of any interest ~~therein in land~~, after the original registration of land, by the registration of another person as owner of ~~such the~~ the land or of any interest ~~therein in the land~~, through fraud, or in consequence of any error, omission, mistake, or misdescription in any certificate of title or in any entry or memorandum in the ~~registration book~~ register of titles, may bring an action in the court of common pleas of the county in which the land is situated against the treasurer of state for the recovery of compensation for ~~such that~~ that loss or damage, or for ~~such that~~ that land or interest ~~therein in land~~, from the assurance fund. If the person who is deprived of land or of any interest ~~therein in land~~ in the manner stated in this section has a right of action; or ~~other another~~ another remedy for the recovery of the land; or ~~of the interest therein in land,~~ he the person shall exhaust ~~such that~~ that remedy before resorting to the action of contract provided in this section. This section does not deprive the plaintiff of any action ~~of in~~ in tort ~~which he~~ that the plaintiff may have against any person for ~~such the~~ the loss or damage; or the deprivation of any land or of any interest ~~therein in land~~.

SECTION 2. That existing sections 5309.24, 5309.25, 5309.95, 5309.96, 5309.98, 5310.03, and 5310.07 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 53

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_