



Ohio Legislative Service Commission

Final Analysis

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(As Passed by the General Assembly)

Reps. Brenner and Gerberry, R. Adams, Anielski, Antonio, Baker, Barborak, Beck, Blair, Blessing, Boose, Buchy, Burkley, Carney, Celebrezze, Conditt, Damschroder, Derickson, Driehaus, Duffey, Fedor, Green, Grossman, Hackett, Hayes, Letson, Lundy, Lynch, Mallory, Milkovich, O'Brien, Patterson, Pillich, Ramos, Retherford, Rogers, Ruhl, Sprague, Stebelton, Stinziano, Strahorn, Thompson, Wachtmann, Batchelder

Sens. LaRose, Bacon, Faber, Hite, Lehner, Oelslager, Peterson, Uecker

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ACT SUMMARY

County recorder provisions

- Modernizes terminology in the Revised Code to accurately reflect how the county recorder records and keeps instruments today, for example, by computer and on other media, rather than in record books and on paper.
- Requires that instruments presented for recording be kept in the county recorder's general record series known as the "official records," rather than in six separate sets of records.
- Consolidates separate indexes of instruments into the direct and reverse indexes and repeals the requirement to maintain the "notice index."
- Eliminates obsolete fees for recording certain instruments manually or by typewriter, and requires a fee to be charged for recording notices of possessory interests in land.
- Eliminates a fine on any county recorder who records plats contrary to a municipal corporation's platting laws.
- Makes general recording changes.

- Requires the lessor of natural gas and oil lands, and the owner of surface lands, to file with the county recorder, a notice of a lessee's or mineral interest holder's failure to file a notice that the lease has not been forfeited or the mineral interest has not been abandoned.
- Allows the county recorder 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 schedule accordingly.
- Adds to the requirement that when the county auditor transfers any conveyance of real property presented to the auditor and reviews the conveyance to ensure it complies with the standards that the auditor and county engineer are required to adopt by written agreement, the auditor must also review it to see that it complies with state and local county recorder requirements.
- Makes changes regarding certificates of title affecting registered land and the priority of enforcement of the certificates.
- Repeals statutory authority for a person with registered land in a county that has adopted a resolution abolishing land registration to file a petition to seek a restraining order against its abolition in that county.
- Changes the time period within which implementation of abolition of land registration will occur, from one year following the expiration of the time for filing a petition or when the time for appeals have been exhausted, to no more than one month after the adoption of the resolution of abolition.
- Eliminates the requirement to provide notice by mail to landowners and adverse claimants of the public hearing on a proposal to abolish land registration.
- Eliminates the recording of certain instruments as chattel mortgages and instead requires them to be recorded in the official records.
- Permits a special taxing district, the territory of which is coextensive with the territorial limits of a county, to designate the county records commission as the records commission for the special taxing district.
- Makes other technical changes to the county recorder laws.

Tax-related provisions

- Accelerates application of a commercial activity tax exclusion for receipts of grain handlers from grain sales.



- Authorizes a taxpayer eligible to claim a portion of a corporation franchise tax (CFT) credit for tax year 2014 for rehabilitating historic buildings to instead claim the credit at the end of tax year 2013, before the CFT expires.
- Expressly provides for the continued application of the qualifying pass-through entity withholding tax on entity owners after the CFT expires by specifying that the rate of the withholding tax remains 8.5% after the CFT expires.
- Clarifies that inflation-indexing adjustments to income tax brackets and the personal and dependent exemptions remain effective until the next calendar year in which a new adjustment is made.
- Clarifies that a taxpayer may deduct retirement pay from service in the Commissioned Corps of the National Ocean and Atmospheric Agency or Public Health Service for taxable years beginning on or after January 1, 2013.
- Applies the 10% and 2.5% partial property tax exemptions ("rollbacks") to all inside millage, regardless of the tax year to which the levy of the millage would first apply.
- Authorizes a surviving spouse aged 59 or older whose deceased spouse received the homestead exemption for tax year 2013 to continue to receive the exemption, regardless of the surviving spouse's income.
- Lengthens, to any number of years or for a continuing period of time, the maximum term of a property tax levy benefitting a zoo operated or supported by a county.
- Authorizes a property tax exemption for a convention center or arena owned by a city and located in a county that had a population between 500,000 and 600,000 when the facility was constructed.
- Suspends until July 1, 2015, transfers to the Income Tax Reduction Fund from any use tax collections that may arise from remote sellers, if Congress enacts legislation allowing states to require those sellers to collect use taxes.

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CONTENT AND OPERATION

County recorder's "official records"

In general, the act updates the Revised Code to accurately reflect how the county recorder records and maintains instruments filed in the county recorder's office. The act changes archaic terminology to indicate how the county recorder records and keeps instruments in 2013, for example, by computer and on other media, rather than in record books and on paper, and requires the county recorder to record all instruments and maintain them in one general record series known as the "official records."¹ In addition to the official records, the county recorder may elect to keep a separate set of records that contains plats and maps of town lots and their subdivision, and of other divisions or surveys of land, as allowed under continuing law.²

The act eliminates the former requirement for the county recorder to keep the following six separate sets of records, and expunges any terminology in the law that is related to those records:

¹ R.C. 317.08(A).

² R.C. 317.08(C).



(1) A record of deeds;³

(2) A record of mortgages;⁴

(3) A record of powers of attorney and memoranda of trust;⁵

(4) A record of plats;⁶

(5) A record of leases;⁷ and

(6) A record of declarations relating to the use of life-sustaining treatment and durable powers of attorney for health care.⁸

Instead, all of these instruments must be recorded and maintained in the county recorder's official records.⁹

The act also requires the county recorder to record unemployment compensation liens, federal tax liens, and other types of liens, for example, personal tax liens and mechanic's liens, in the official records. Former law allowed, but did not require, the county recorder to index, keep, and record all of these types of liens in one volume.¹⁰

Prior law required the county recorder to keep a separate set of records containing all corrupt activity or Medicaid fraud lien notices. Under the act, these notices, too, must be recorded in the official records.¹¹ Similarly, any notices of payment of workers' compensation contributions by an employer against whom a lien has been filed must be recorded in the official records.¹²

³ R.C. 149.52, 317.08, 317.10, 317.22, 961.02, 961.05, 1701.73, 1701.81, 1701.811, 1702.38, 1702.43, 1702.462, 1705.38, 1705.381, 1729.38, 1776.70, 1776.74, 1782.433, 1782.4310, 2113.62, 5301.14, 5301.255, 5301.52, 5302.17, 5302.171, 5302.222, and 5309.13.

⁴ R.C. 135.807, 317.08, 5301.28, 5301.32, 5301.331, 5301.34, 5301.35, 5302.15, and 5721.35.

⁵ R.C. 317.08, 1337.08, 5301.255, and 5815.15.

⁶ R.C. 317.08, 503.13, and 709.38.

⁷ R.C. 317.08, 4961.39, 5301.33, and 5301.332.

⁸ R.C. 317.08; R.C. 1337.12 and 2133.02, not in the act.

⁹ R.C. 317.08.

¹⁰ R.C. 317.08(B), 317.09, 1513.33, 5715.701, 5719.04, and 5747.451.

¹¹ R.C. 317.08(D).

¹² R.C. 4141.23.



The act requires the county recorder to keep, in the official records, a separate set of records containing all transfers, conveyances, or assignments of tangible or intangible personal property presented for recording. Prior law required the county recorder to keep a separate set of those records.¹³

As part of requiring all instruments to be kept in the county recorder's official records, the act eliminates the book known as the "partition fence record,"¹⁴ and removes terminology relating to recording instruments in the "office of the county recorder," in a "book," in a "suitable book," "on paper," in the "proper record," or in two sets of record books.¹⁵

Indexes

The act does not affect the requirement that the county recorder "make and keep up" direct and reverse indexes of all the names of both parties to all instruments received for record, with the name of each grantor entered in the direct index and the name of each grantee entered in the reverse index. But the act eliminates the requirement that the indexes be made up at the beginning of each day's business, that grantors and grantees be entered on the same line, and that the indexes be kept alphabetically with names entered under the appropriate letter. The act also eliminates the requirement that instruments regarding condominiums be indexed alphabetically and entered in the direct and reverse indexes in a specific manner.¹⁶

The act eliminates the following indexes, the manner for recording instruments in them, and any references in law to these indexes, and instead generally requires the instruments to be indexed in the county recorder's direct and reverse indexes:

- Indexes of notices of liens and notices of discharges.¹⁷
- The "federal tax and other federal lien index."¹⁸

¹³ R.C. 317.08(E).

¹⁴ R.C. 971.15.

¹⁵ R.C. 317.09, 317.112, 317.13, 317.15, 317.17, 323.43, 503.13, 703.16, 707.09, 709.06, 709.32, 709.39, 1311.06, 1311.35, 1311.42, 1513.37, 2505.13, 2937.27, 5301.21, 5715.701, and 5747.451.

¹⁶ R.C. 317.18 and 317.20.

¹⁷ R.C. 1513.37, 2505.13, 2937.27, 3929.18, 4141.23.

¹⁸ R.C. 317.09.



- The general index of deeds.¹⁹
- The index of powers of attorney.²⁰
- Grantee deed index and grantor deed index.²¹

The act repeals a law that required the county recorder to maintain a book known as the "Notice Index," which contained separate pages headed by the original survey sections or surveys, or parts or subdivisions thereof, or the permanent parcel numbers or lots. The book also contained notices for preservation of claims presented for recording and columns with claimant names, the names of each owner of title, the deed book number and page where the instrument containing the claim had been recorded, and the type of claim asserted designated on the left-hand page, and on the opposite page on the corresponding line, had a pertinent description of the property affected as it appeared in the notice.²²

Recording fees

The act eliminates the fees for two methods of recording instruments that appear to be obsolete: 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 the \$2 base fee and \$2 housing trust fund fee for recording manually any plat not exceeding six lines, and a base fee of 10¢ and a housing trust fund fee of 10¢ for each additional line.²³

The act requires the county recorder to charge fees for recording notices of a possessory interest in land. Prior law provided that charging a fee for recording the notices was permissive.²⁴

Elimination of fine

The act repeals a law that required a county recorder who recorded a plat contrary to the platting laws of municipal corporations to forfeit and pay not less than

¹⁹ R.C. 317.22, 2113.62, 5302.17, 5302.171, 5302.222, and 5309.13.

²⁰ R.C. 1337.08.

²¹ R.C. 5301.52 and 5302.15.

²² Repeal of R.C. 317.201; R.C. 5301.52 and 5301.56.

²³ R.C. 317.32.

²⁴ R.C. 5301.52.



\$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.²⁵

General recording changes

The act eliminates a requirement that an instrument regarding real estate or personal property be of a quality of paper that permits the legible reproduction of the instrument by photographic or microphotographic processes; instead, the instrument must be of a quality that permits its legible reproduction.²⁶

The act refers to recording "instruments" rather than "papers." The act allows a county recorder to transcribe defaced or injured records not only into new books, as allowed by continuing law, but also in other media.²⁷

The act eliminates requirements to record the name of a person who prepared an instrument at the conclusion of the instrument (upon the instrument is sufficient), and to enter the fee charged on the margin of the folio upon which the filing or recording of an instrument is entered.²⁸ The act also eliminates requirements that each instrument must have a separate series of file numbers and be filed separately, must be kept on file in the same numerical order for easy reference, and that the county recorder must give to a person presenting a deed or other written instrument for recording, without charging a fee, a brief description of the premises.²⁹

Notices of failure to file

Any time a lessee of natural gas and oil lands fails to give notice to the lessor that the lease has not been forfeited by the lessee for failure to abide by the lease's terms, the act requires the lessor to file with the county recorder a notice of the lessee's failure to file. The act requires that the notice of failure to file contain a statement that the person filing the notice is the lessor or the lessor's successors or assigns, the document number or volume and page of the lease record where the oil or gas lease is recorded, a general description of the land, and a statement on the notice that the lease is cancelled pursuant to an affidavit of forfeiture recorded as a specific document number or in the official record/lease volume, indicating the page. Prior law required only that the lessor

²⁵ Repeal of R.C. 711.12.

²⁶ R.C. 317.112.

²⁷ R.C. 317.07 and 317.29.

²⁸ R.C. 317.111 and 317.26.

²⁹ R.C. 317.12.



cause the county recorder to note upon the margin of the record of the lease a statement that the lease was cancelled pursuant to an affidavit of forfeiture recorded in a lease volume, indicating the page. The act eliminates the requirements that certain notations be entered on affidavits of forfeiture in a county in which the county recorder uses the microfilm process and that the affidavit be recorded in the record of leases. The act also eliminates the county recorder's authority to charge a fee for recording these notations, and a provision stating that the record of the lease cannot be received in evidence in any Ohio court.³⁰

Likewise, if the holder of a mineral interest fails to notify the owner of surface lands that the mineral interest has not been abandoned, the act requires the owner of the surface lands who is seeking to have the mineral interest deemed abandoned and vested in the owner to file in the office of the county recorder a notice of failure to file. The notice must contain a statement that the person filing the notice is the owner of the surface of the lands subject to the mineral interest, a description of the surface of the land that is subject to the mineral interest, and a statement that the mineral interest is abandoned pursuant to an affidavit of abandonment, referring to the volume and page wherein the affidavit is recorded. Prior law required only that the owner cause the county recorder to memorialize the record on which the severed mineral interest was based with a statement that the mineral interest was abandoned pursuant to an affidavit of abandonment, referring to the volume and page wherein the affidavit was recorded. The act eliminates the requirement for memorials to appear on affidavits of abandonment in a county in which the county recorder uses the microfilm process, instead of on the record on which the severed mineral interest is based.³¹

Notices or discharges of recognizance liens; disposal of paper versions

The act authorizes the county recorder to use any nonpaper electronic or magnetic medium specified in continuing law³² to record notices of recognizance liens (bail) and notices of their discharge. If the county recorder wishes to dispose of paper versions of the notices because they are no longer needed in that format, the county recorder must request the county records commission to revise the county's schedule of records retention and disposal to provide for the disposal of the paper records. Prior

³⁰ R.C. 5301.332.

³¹ R.C. 5301.56.

³² R.C. 9.01. The media specified are any photostatic, photographic, miniature photographic, film, microfilm, or microphotographic process; perforated tape, magnetic tape, other magnetic means, electronic data processing, or machine readable means; graphic or video display; or any combination of those processes, means, or displays.

law required the county recorder to record the notices in a book or record in which the notices were indexed, and did not address disposal of the paper version of the notices.³³

Adoption of standards for conveyances

The act changes the requirements by which the county auditor and county engineer, by written agreement, adopt standards governing conveyances of real property in the county. The act requires that a conveyance must not only comply with their standards, but also must comply with R.C. Chapter 317. (the County Recorder's Law) and the local county recorder requirements. The county auditor cannot transfer, and the county recorder cannot record, any conveyance that does not comply with those standards and requirements. Formerly, the county auditor and county engineer adopted property conveyance standards without input from the county recorder, and the county auditor was prohibited from transferring any conveyance that did not meet those standards.³⁴

Registered land

Process for registering land

In 1913, laws were enacted in Ohio, pursuant to the authorization provided by Article II, section 40 of the Ohio Constitution, whereby land titles could be registered.³⁵ Those laws are collectively and commonly called the Torrens Act, after Sir Robert Richard Torrens of Australia, who introduced the land registration system to the world in the mid-1800s. The Torrens Act established a method whereby the title to a tract of land is determined by a judicial proceeding and the title is then ascertainable by referring to a register of conclusive veracity, maintained by a county recorder. Rather than registering evidence of title to land, e.g., a deed, the Torrens Act requires registration of the title, with notations on the certificate of title about the ownership of the tract of land.

An owner of land may register the land by filing a petition in the probate court or court of common pleas of the county in which the land is situated. The petitioner obtains a conclusive determination of the status of the title to the land. The court's decree of registration determines all ownership interests in the land, and all claims, liens, or charges against it. The decree is recorded in the county recorder's office in the registered land records. Thereafter, the land may be transferred or otherwise dealt with

³³ R.C. 2937.27.

³⁴ R.C. 319.203.

³⁵ Those laws are found throughout R.C. Chapters 5309. and 5310.



only on the registered land records and in the manner provided by law. The county recorder maintains on file in the recorder's office an original certificate of title that shows all interests in and against the land. The recorder issues a duplicate certificate of title to the owner, and also to any holder of an interest against the land who requests a duplicate for the holder's particular interest.

The certificate of title is exclusive and conclusive proof of the ownership of the land. It is similar in this respect to an automobile certificate of title or a stock certificate. A landowner holds registered land free and clear of all other interests, except as noted on the registration certificate or otherwise preserved by statute. No interest in the land can be transferred voluntarily unless the owner, or holder of an interest, surrenders the duplicate certificate of title. An involuntary lien, such as a judgment or mechanic's lien, is effective only when noted on the original certificate in the recorder's office in the manner provided by the Torrens Act.

Any person owning real estate for which the title is registered may request that the real estate be withdrawn from registration by presenting to the county recorder an affidavit of intention to withdraw, with the duplicate certificate of title attached. The county recorder must "register or record" the affidavit and, upon "order of the court," cancel the certificate of record. Thereafter, title to the real estate is to be considered "the same as other unregistered lands."

Title examiner's report

Under continuing law, whenever registered land is sold to satisfy any judgment or order of a court, or title is transferred by judgment of a court, if the purchaser files a certificate of sale and a certified copy of the order of sale with the county recorder, the purchaser is entitled to have the property transferred to the purchaser and a new certificate of title issued for the land. When registered land is sold by the sheriff under order of a court, the sheriff must file a certificate of sale and a certified copy of the order of sale and return thereof with the county recorder. In this case, the purchaser is entitled to have the property transferred to the purchaser and a new certificate of title issued for the land. The act provides that this continuing law and its applications are not superseded, negated, or amended, in whole or in part, by an existing law that provides that no confirmation of the partition, sale, or transfer of, or decree affecting the title to, registered land can be entered by a court until the title examiner's report is filed, showing that all persons necessary to the suit or proceeding have been made parties and properly brought before the court, and that the proceedings and sale have in all respects been pursuant to law and the court's orders.³⁶

³⁶ R.C. 5309.64; R.C. 5309.61, not in the act.



Partial transfers of registered land

When part of the land described in a certificate of title affecting registered land is transferred, the act requires the county recorder to issue a new certificate of title to the transferee for the part transferred, and to indorse on the transferor's registered and duplicate certificates, a notation partially canceling the same, and the reasons therefor, stating the number of the new certificate for the transferred land. Under the act, the county recorder must maintain as active the transferor's registered and duplicate certificates for the residue of the land not transferred without issuing a new certificate to the transferor for the residue.

Prior law required that when land described in a certificate of title was only partially transferred, the county recorder had to issue a new certificate of title to the registered owner for the part not transferred, and had to indorse on the registered and duplicate certificates a memorial canceling the same, and the reasons therefor, giving the volume and folium of the register where the new title was registered and the new certificate's number. The recorder could cancel the property or estate transferred on the registered and duplicate certificates without issuing a new certificate to the transferor for the residue.³⁷

Abolishing land registration

The land registration law³⁸ generally allows boards of county commissioners, after holding a public hearing and following other procedures, to abolish land registration in their counties; it also permits persons with registered land in a county to seek a restraining order against the abolition of the land registration system in that county, and prescribes the effects of abolishing land registration. The authority for counties to abolish land registration became effective in 1991.

The act eliminates the authority for a person with registered land in the county to seek a restraining order against the abolition of the county's land registration system, by repealing the law that authorizes the civil cause of action.³⁹ Under prior law, the cause of action had to be brought by any person having registered land in the county, not later than two months after the adoption of a resolution of abolition. The board of county commissioners and the county recorder were named as defendants. The plaintiff had to describe with particularity in the complaint the error in the proceedings before the board, how the findings of the board resulting in adoption of the resolution of

³⁷ R.C. 5309.41.

³⁸ R.C. 5310.31 to 5310.38.

³⁹ R.C. 5310.37, repealed.



abolition were unreasonable, or why abolition of land registration was constitutionally invalid.

Because the civil action will no longer exist, the act amends the law concerning the timing of implementing the abolishment of land registration. The act removes the time otherwise allowed under prior law to commence the civil action and its appeal, and establishes the date of implementation of abolishment as no later than one month after the date of the adoption of the resolution of abolition.⁴⁰

The act eliminates the current requirement for notice by mail to property owners and adverse claimants of the public hearing on the proposal to abolish land registration in the county. The act retains notice by publication in a newspaper of general circulation in the county or the general notice provision in current law that also contemplates Internet publication.⁴¹

Eliminate requirement to record instrument as a chattel mortgage

Continuing law requires the Bureau of Workers' Compensation to file with the county recorder an affidavit showing when an application for compensation or benefits is filed with the Bureau or the Industrial Commission against an employer who has not complied with the Worker's Compensation Law. The affidavit constitutes a lien upon the employer's real property and tangible personal property. The county recorder must accept and file the affidavit, and the act requires that it be recorded and indexed in the official records, rather than filing the affidavit as a chattel mortgage and indexing it as a mortgage on real estate and as a chattel mortgage. The act eliminates the term "tangible" so that the lien is on the employer's real estate and personal property.⁴²

The Administrator of Workers' Compensation must file with the county recorder a certificate of the amount of premium due from an employer, and that amount is a lien against the employer's real and personal property in the county. The act requires the county recorder to record and index the certificate in the official records. Former law required the county recorder to record the certificate as a mortgage on real estate, file it as a chattel mortgage, and index it as a mortgage on real estate and as a chattel mortgage.⁴³

⁴⁰ R.C. 5310.38.

⁴¹ R.C. 5310.35.

⁴² R.C. 4123.76.

⁴³ R.C. 4123.78.

Special taxing district records commission

A special taxing district is required to have a special taxing district records commission that reviews applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by the district's employees. Under the act, a special taxing district, the territory of which is coextensive with the territorial limits of a county, upon mutual assent between the special taxing district and the board of county commissioners, can designate the county records commission as the records commission for the special taxing district. The designation authorizes the county records commission to exercise all of the duties and responsibilities of a special taxing district records commission. The mutual assent can be manifested in an agreement defining the terms and conditions under which the county records commission is to perform public records-related functions, including establishing records retention and destruction schedules, on behalf of the special taxing district.⁴⁴

Miscellaneous revisions

Under continuing law, the legislative authority of a municipal corporation may, upon petition of a property owner and following a hearing, by ordinance, declare a street or alley vacated or narrowed, or change its name; if two or more streets, avenues, or alleys have the same name, the municipal corporation, may, by ordinance, and without petition therefor, change their names so as to leave only one to be designated by the original name. The act requires that the legislative authority's original ordinance, or a certified copy of it, be recorded in the official records of the county recorder.⁴⁵

Continuing law requires the clerk of court to issue a notice of discharge of a supersedeas bond that is issued as a certificate of lien on land. The act requires the clerk of court to file the notice of discharge in the county recorder's office, rather than merely authorizing the clerk to do so. The act eliminates language stating that the fee charged for filing and indexing the certificate covers the filing and indexing of the notice of discharge.⁴⁶

Technical revisions

The act amends various Revised Code sections to change division references, to gender neutralize the law, and to eliminate references to two of the laws repealed by the

⁴⁴ R.C. 149.412.

⁴⁵ R.C. 723.04 and 723.05.

⁴⁶ R.C. 2505.13.



act.⁴⁷ The act also eliminates an obsolete reference to collecting low-and moderate-income housing trust fund fees under a corporation franchise tax provision that has been repealed.⁴⁸

Commercial activity tax

Grain handler exclusion

The act accelerates the application date of a commercial activity tax exclusion for gross receipts of grain handlers from the sale of grain. The act allows grain handlers to exclude such receipts for tax periods beginning on or after January 1, 2014.⁴⁹ Under H.B. 59 of the 130th General Assembly, grain handlers were authorized to exclude such receipts for tax periods beginning on or after July 1, 2014.

Corporation franchise tax

Historic rehabilitation tax credit claims

Continuing law establishes the historic building rehabilitation tax credit, which is a refundable credit equal to 25% of the qualified expenditures made for rehabilitating a building of historical significance in accordance with preservation criteria, as determined by the State Historic Preservation Officer. A person seeking the credit is required to apply to the Director of Development Services, who evaluates the application and may approve a credit by issuing a tax credit certificate. The credit may be awarded and claimed against the corporation franchise tax (CFT).

The CFT and the accompanying CFT forms necessary for a CFT taxpayer to claim the historic rehabilitation tax credit expire in tax year 2014 (CFT tax years correspond to calendar years). A taxpayer that had a taxable year – which is not a tax year, but a 12-month accounting period – that began in the middle of 2013 would not be able to claim the historic rehabilitation tax credit for tax year 2014. Since the CFT no longer exists after tax year 2013, the act authorizes such a taxpayer whose credit certificate was effective before 2013 to claim the credit by the end of 2013 as though the taxpayer were claiming the credit for tax year 2014 or thereafter.⁵⁰

⁴⁷ R.C. 317.02, 317.04, 317.05, 317.07, 317.17, 317.19, 317.28, 317.31, 317.35, 707.09, 1311.06, 1311.35, 5301.01, 5301.25, 5301.332, 5301.56, and 5721.35.

⁴⁸ R.C. 317.36.

⁴⁹ Section 3 of the act (Section 803.90 of H.B. 59 of the 130th General Assembly).

⁵⁰ Section 5 of the act.



Continuation of qualifying pass-through entity withholding tax

Continuing law imposes a withholding tax on pass-through entities having at least one investor that is not an individual and that may not have any taxable nexus with Ohio other than an interest in the entity ("qualifying investor"). The purpose of the tax is to ensure compliance by requiring the entity to pay tax on behalf of the investors; investors receive a credit against their separate liabilities for the withholding tax that the entity pays. The tax is computed on the basis of the total ownership share of the qualifying investors. The tax applies to the net sum of such investors' distributive shares of the pass-through entity's income, gain, expense, and loss apportioned to Ohio.

Under prior law, the rate of the withholding tax cross-referenced the former rate of the CFT for nonfinancial corporations, which was 8.5%. But H.B. 510 of the 129th General Assembly repealed the CFT for all taxpayers for tax years 2014 and thereafter. The act allows the qualifying pass-through entity withholding tax to continue after the CFT expires by removing the soon-to-expire cross reference and specifying that the rate of the withholding tax remains 8.5%. The act exempts this revision from the referendum and sets an immediate effective date for the statute.⁵¹

Income tax

Bracket and exemption inflation adjustment

Under continuing law, personal income tax brackets and the amount of the personal and dependent income tax exemptions are adjusted each taxable year according to the increase or decrease in the inflation rate as measured by the GDP deflator. The act clarifies that, for each taxable year that the inflation indexing mechanism is statutorily suspended or does not increase as a result of stagnant or decreasing inflation, the brackets and exemptions remain at the amount the brackets and exemptions were in the preceding taxable year rather than returning to the amounts prescribed by statute during those taxable years.⁵² Returning the brackets and exemptions to those statutorily prescribed amounts would have reduced the income necessary to qualify for each tax bracket and the amount of the personal and dependent exemptions, thus causing taxes to increase in many cases.⁵³

⁵¹ R.C. 5733.41 and Section 8 of the act.

⁵² H.B. 59 of the 130th General Assembly suspended indexing for taxable years 2013, 2014, and 2015.

⁵³ R.C. 5747.02 and 5747.025.



The act exempts this clarification from the referendum and sets an immediate effective date for the personal and dependent exemption statutes.⁵⁴

NOAA and PHS income tax deduction

H.B. 59 of the 130th General Assembly authorized an income tax deduction for the retirement pay of a taxpayer who served in the Commissioned Corps of the National Oceanic and Atmospheric Administration or the Public Health Services. That act gave two apparently conflicting taxable years for which the deduction would begin to apply – taxable years beginning after January 1, 2013, and taxable years beginning after January 1, 2014. The act resolves the conflict by authorizing a taxpayer to take the deduction for taxable years beginning on or after January 1, 2013.⁵⁵

Property tax

Application of partial property tax "rollbacks"

Continuing law provides a 10% partial property tax reduction, commonly called a "rollback," on all real property that is not intended primarily for use in a business activity, and a 2.5% rollback on any homestead that is occupied by the homeowner. The state is required to reimburse local governments and schools for the revenue lost because of the rollbacks. H.B. 59 limited the application of the 10% and 2.5% rollbacks by specifying that they could not be applied to reduce the taxes due on new or replacement levies approved at elections held on or after September 29, 2013 (that act's 90-day effective date) or taxes due on taxes levied within the 10-mill limitation ("inside millage") levied for the first time after tax year 2013.

The act requires that the 2.5% and 10% real property tax rollbacks be applied to taxes due on all inside millage levied at any time; in other words, the act reverts to the law as it appears to inside millage before H.B. 59 limited the application of the rollbacks.⁵⁶

Homestead exemption

Overview of homestead exemption

Under continuing law, the homestead exemption is a property tax credit equal to the taxes that would be charged on up to \$25,000 of the true value of the property of qualified homeowners. ("True value" is the appraised fair market value.) The credit

⁵⁴ Section 8 of the act.

⁵⁵ Section 3 (Section 803.80 of H.B. 59 of the 130th General Assembly).

⁵⁶ R.C. 319.302 and 323.152(B).



essentially exempts \$25,000 of the value of a homestead from taxation. It also applies to manufactured and mobile homes regardless of whether they are taxed as real property or taxed under the manufactured homes tax (except that manufactured and mobile homes are assessed at 40% of cost or market value and are depreciated). The amount of the tax reduction for a homestead depends on the local tax rate: the higher the tax rate, the greater the tax reduction. The homestead exemption is available only to homeowners who are 65 years of age or older, or permanently and totally disabled, or at least 59 years old and the surviving spouse of an individual who previously received the exemption.

Surviving spouse exclusion from income limit

Under changes made by H.B. 59, the homestead exemption is available to homeowners who have an Ohio adjusted gross income of \$30,000 or less, as computed for state income tax purposes. However, elderly or disabled homeowners who received the exemption for tax year 2013 (or tax year 2014 for homeowners who live in a manufactured home taxed under the manufactured home tax) are "grandfathered" and may continue to claim the homestead exemption even if the homeowner's income exceeds \$30,000.

The act additionally excludes from the \$30,000 income limitation a surviving spouse of any "grandfathered" individual, provided the surviving spouse is aged 59 or older at the time the deceased spouse dies.⁵⁷

Term of tax levies benefitting county zoos

Continuing law allows a board of county commissioners to propose and, with the approval of voters, levy a property tax for the benefit of a zoo. The zoo may be operated and maintained by the county itself or by a nonprofit corporation organized to promote the natural sciences.

Under prior law, the board of county commissioners could propose a zoo levy for a term of up to ten years. The act instead allows the board to propose the levy for any number of years, or for a continuing period of time.⁵⁸

Convention center property tax exemption

The act authorizes a property tax exemption for a convention center or arena located in, and owned by, a city in a county with a population of between 500,000 and

⁵⁷ R.C. 323.152 and 4503.065.

⁵⁸ R.C. 307.76, not in the act, and 5705.19.



600,000. Under the act, the convention center or arena may be leased to or operated or managed by another person and still qualify for the exemption, as long as it is owned by the qualifying city. For purposes of the exemption, the population of a county is determined by reference to the most recent federal decennial census at the time of the construction of the convention center or arena. The exemption applies in tax year 2013 and every tax year thereafter.⁵⁹

Continuing law exempts certain convention centers and arenas from property taxes, with the exemption depending on the population of the county or city in which it is located and whether it is owned or leased by a city, county, or convention facilities authority.

Sales and use tax

Transfers of remote seller use tax collections to Income Tax Reduction Fund

H.B. 59 earmarked any new Ohio use tax collections that might come from "remote sellers" – generally online and catalog retailers – for deposit in the Income Tax Reduction Fund (ITRF). Under continuing law, "surplus revenue" that is available after the balance in the Budget Stabilization Fund equals 5% of annual General Revenue Fund expenditures and certain inter-year fund carryovers and reserves are made is credited to the ITRF, which is used to fund temporary income tax rate reductions. The "new" use tax collections are those that would ensue if Congress enacts pending "Marketplace Fairness" legislation to let qualifying states compel remote sellers to collect use taxes from customers. The remote seller use tax collections are the collections that would be remitted by remote sellers in excess of (1) remittances by sellers that collect use taxes under the Streamlined Sales and Use Tax Agreement and (2) refunds issued to remote sellers.

As required by H.B. 59, these transfers to the ITRF would be made twice per year. The act suspends any such transfer until July 1, 2015.⁶⁰

⁵⁹ R.C. 5709.084 and Section 6 of the act.

⁶⁰ R.C. 5741.03.



HISTORY

| ACTION | DATE |
|---|----------|
| Introduced | 02-20-13 |
| Reported, H. State and Local Government | 05-15-13 |
| Passed House (95-0) | 06-05-13 |
| Reported, S. Public Safety, Local Gov't & Veterans Affairs | 10-16-13 |
| Passed Senate (27-1) | 10-16-13 |
| House concurred in Senate amendments (97-0) | 10-30-13 |

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