



## Ohio Revised Code

### Section 5301.35 Waiver of priority of mortgages - execution and recording - fees.

Effective: January 30, 2014

Legislation: House Bill 72 - 130th General Assembly

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The priority of the lien of a mortgage may be waived to the extent specified by the holder of the lien in favor of any lien, mortgage, lease, easement, or other interest in the property covered by the mortgage, by writing the waiver of priority on the original mortgage and signing it, by writing the waiver of priority upon the margin of the record of that mortgage and signing it, or by a separate instrument acknowledged as provided by section 5301.01 of the Revised Code. That waiver, when recorded upon the margin of the record of the mortgage, or when recorded as a separate instrument, is constructive notice to all persons dealing with either the property described in that mortgage or the mortgage itself from the date of filing the waiver for record. The waiver, if written upon the mortgage or upon the margin of the record of the mortgage, need not be acknowledged, but if written upon the margin of the record, the signing shall be attested by the county recorder.

If the waiver of priority is by separate instrument, it shall be recorded in the official records of the county recorder. For the recording, the county recorder may charge the fee as provided by section 317.32 of the Revised Code for recording deeds. For entering any waiver of priority upon the margin of the record of the mortgage, or for attesting it, the county recorder is entitled to the fees for recording those waivers of priority that are charged for assignments or satisfactions of mortgages under section 317.32 of the Revised Code.

In a county in which the county recorder has determined to use the microfilm process as provided by section 9.01 of the Revised Code, the county recorder may require that all waivers of priority of mortgages be made by separate instrument. The original instrument bearing the proper endorsement may be used as such separate instrument.

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