



## Ohio Revised Code

### Section 5301.07 Delivery and acceptance of real property instrument; presumptions.

Effective: April 6, 2017

Legislation: Senate Bill 257 - 131st General Assembly

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(A) As used in this section, "real property instrument" means a deed, mortgage, and installment contract, lease, memorandum of trust, power of attorney, or any instrument accepted by the county recorder under section 317.08 of the Revised Code.

(B)(1) When a real property instrument is delivered to and accepted by the county recorder of the county in which the real property is situated, and is signed and acknowledged by a person with an interest in the real property that is described in the instrument, the instrument raises both of the following:

(a) A rebuttable presumption that the instrument conveys, encumbers, or is enforceable against the interest of the person who signed the instrument;

(b) A rebuttable presumption that the instrument is valid, enforceable, and effective as if in all respects the instrument was legally made, executed, acknowledged, and recorded.

(2) The presumptions described in division (B)(1) of this section may be rebutted by clear and convincing evidence of fraud, undue influence, duress, forgery, incompetency, or incapacity.

(C) When a real property instrument is of record for more than four years from the date of recording of the instrument, and the record shows that there is a defect in the making, execution, or acknowledgment of the instrument, the instrument and the record thereof shall be cured of the defect and be effective in all respects as if the instrument had been legally made, executed, acknowledged, and recorded. The defects may include but are not limited to the following:

(1) The instrument was not properly witnessed.

(2) The instrument contained no certificate of acknowledgment.



(3) The certificate of acknowledgment is defective in any respect.

(4) The name of the person with an interest in the real property does not appear in the granting clause of the instrument, but the person signed the instrument without limitation.

(D) A real property instrument when delivered to the county recorder of the county in which the real property is situated and filed in the chain of title to the real property provides constructive notice to all third parties of the instrument notwithstanding any defect in the making, execution, or acknowledgment of the real property instrument.

(E) Nothing contained in this section operates to discharge the obligation to comply with all provisions of sections 5301.47 to 5301.56 and section 5301.332 of the Revised Code before the extinguishment, abandonment, or forfeiture of an interest in real estate as may be authorized by those sections.

(F) Except as otherwise provided in division (E) of this section, this section applies to all real property instruments notwithstanding any other provision of the Revised Code. To the extent that a conflict exists between this section and any other section of the Revised Code, including but not limited to section 1301.401 of the Revised Code, this section controls with respect to any matters addressed in this section.

(G) This section shall be given retroactive effect to the fullest extent permitted under Section 28 of Article II, Ohio Constitution. This section shall not be given retroactive effect if to do so would affect any accrued substantive right or vested rights in any person or in any real property instrument.