



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Aida S. Montano

### **H.B. 407**

132nd General Assembly  
(As Reported by H. Civil Justice)

**Reps.** Dever and Seitz, Manning

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### **BILL SUMMARY**

- Provides that current law providing generally that a spouse has a dower interest in real property, the termination of such interest, the exceptions to such termination, and other dower provisions apply only to a dower interest that vested before the bill's effective date.
  - Abolishes the estate of dower, but specifies that its abolition does not affect the dower interest of a surviving spouse that vested before the bill's effective date and that a surviving spouse is entitled to such spouse's statutory rights, including dower rights that vested before that date.
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### **CONTENT AND OPERATION**

#### **Applicability of dower interest laws**

The bill provides that current law's provisions pertaining to a spouse's dower interest in real property apply only to a dower interest that vested before the bill's effective date.<sup>1</sup> These current provisions endow a spouse who has not relinquished or been barred from it, an estate for life in  $\frac{1}{3}$  of the real property of which the consort was seized as an estate of inheritance at any time during the marriage. Such dower interest terminates upon the death of the consort except:<sup>2</sup>

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<sup>1</sup> R.C. 2103.02(A).

<sup>2</sup> R.C. 2103.02(B).

- To the extent that any such property was conveyed by the deceased consort during the marriage, the surviving spouse not having relinquished or been barred from dower in the property;
- To the extent that any such property during the marriage was encumbered by the deceased consort by mortgage, judgment, lien except tax lien, or otherwise, or aliened by involuntary sale, the surviving spouse not having relinquished or been barred from dower in the property. If such property was encumbered or aliened prior to decease, the surviving spouse's dower interest must be computed on the basis of the amount of the encumbrance at the time of the consort's death or at the time of such alienation, but not upon an amount exceeding the sale price of such property.

Dower interest also terminates upon the granting of an absolute divorce in favor of or against a surviving spouse by a court of competent jurisdiction within or without this state. In lieu of such dower interest which terminates under the above provisions, a surviving spouse is entitled to the distributive share provided by the statute on descent and distribution. Wherever dower is referred to in Ohio's Probate Law, it means the dower to which a spouse is entitled by the above provisions.<sup>3</sup>

### **Estate by dower abolished**

The bill states that the estate of dower is abolished. However, the abolition of dower does not affect the dower interest of a surviving spouse whose interest vested before the bill's effective date.<sup>4</sup>

### **Rights of surviving spouse**

The bill modifies the provision that in addition to the rights of a surviving spouse under the Probate Law, a decedent's surviving spouse who died testate or intestate is entitled to any other rights prescribed in other Revised Code chapters, including any dower rights that vested before the bill's effective date (added by the bill) under the dower provisions in the Probate Law and Real Property Law.<sup>5</sup>

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<sup>3</sup> R.C. 2103.02.

<sup>4</sup> R.C. 2103.09(B).

<sup>5</sup> R.C. 2106.24.

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## HISTORY

### ACTION

### DATE

Introduced  
Reported, H. Civil Justice

11-07-17  
01-25-18

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