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MEMORANDUM

TO: Robert Stivers, President of the Senate
David Osborne, Speaker of the House
Members of the Legislative Research Commission

FROM: Senator Julie Raque Adams, Co-chair
Representative Joseph M. Fischer, Co-chair
Task Force on Electronic Recording of Official Documents by County Clerks

SUBJECT: Task Force on Electronic Recording of Official Documents by County Clerks

DATE: November 23, 2020

In a memorandum dated July 3, 2019, the Legislative Research Commission established the Task Force on Electronic Recording of Official Documents by County Clerks. The task force was established to investigate the electronic recording process, review studies and legislative actions by other states, identify policy options to improve the recording and notarization process, and study issues relating to the implementation of electronic recording, fees or functions of the county clerk involved in the recording of documents, issues concerning notaries public, and possible further legislation required in any of the aforementioned areas.

The 19-member task force began meeting in August 2019 and convened three times during the 2020 Interim. The task force heard testimony from task force members who represent industries in the field of electronic recording of official documents on the following topics:

- **Administrative Regulations on Notaries Public.** Representatives of the Kentucky Secretary of State outlined the provisions of 30 KAR 8:005 which creates the notary public application, requirements for notarial acts performed with respect to electronic records and

for remotely located individuals, and notary public discipline. Additionally, representatives made suggestions for legislative changes regarding electronic notarization.

- **County Clerk Operations.** The county clerks of Hardin County and Fayette County described the steps county clerks are required to take to become compliant with current eRecording standards. The Fayette County Clerk emphasized the need for clerks to build up capital reserves to afford the technology upgrades necessary to allow for electronic recording in all counties. The county clerks of Hardin County and Fayette County suggested legislative changes that could assist county clerks in updating their current technology to allow the public to record documents electronically.
- **Nationwide Survey of eRecording.** Representatives from Rock Central and Simplifile provided an overview of states that have adopted eRecording standards and how many states have implemented eRecording. They also highlighted the importance of a database that allows the public to access recorded documents electronically. In addition, the representatives indicated how lack of funding can be a hindrance towards the ability of a county to offer electronic filing.
- **Access to Official Documents.** Representatives from the Kentucky Land Title Association presented suggestions for legislative changes to allow the public more access to official documents held by county clerks and a timeline for electronic filing of official documents.

This memorandum serves as the final work product of the task force.

c: Becky Harilson
 David Floyd
 Becky Barnes
 Susan Klimchak