

TASK FORCE ON ELECTRONIC RECORDING OF OFFICIAL DOCUMENTS BY COUNTY CLERKS

Minutes of the 2nd Meeting of the 2020 Interim

October 22, 2020

Call to Order and Roll Call

The 2nd meeting of the Task Force on Electronic Recording of Official Documents by County Clerks was held on Thursday, October 22, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Joseph M. Fischer, Co-Chair; Senator Morgan McGarvey, Representative Brandon Reed, Don Blevins, Debbie Donnelly, Brent Eisele, Russell Ford, Mark Ladd, and Barry Tuemler.

Guests: Mark Ladd and Geno Yoscovits.

LRC Staff: Randall Roof and Yvonne Beghtol.

Approval of Minutes

Due to not having a quorum, approval of the August 20, 2020 minutes will be moved to the next meeting.

Implementation of eRecording Systems

Geno Yoscovits, Director of State Government Affairs with Rock Central, stated that the passage of remote online notarization (RON) in Kentucky helped to prepare the industry for the COVID pandemic. Mr. Yoscovits presented a map detailing the status of RON in the United States before the COVID pandemic. The onset of COVID required industries to look for solutions to allow electronic notarization and recording of documents. Many states issued executive orders to allow some form of RON. COVID conveyed the impact and need for digital recordings and digital constituent options. Mr. Yoscovits stated that not only mortgage lenders, but many other industries will be looking into utilizing RON. Better eRecording options and efficiencies will be a benefit for constituents and industries.

In response to Chairman Fischer, Mr. Yoscovits stated that the focus should be on eRecording to help Kentucky move forward. Offering RON but not eRecording is less

efficient. Moving forward as a partnership, and not a mandate, will help foster the ability to do eRecording and will help counties to move into this digital space.

Mark Ladd, VP of Regulatory and Industry Affairs with Simplifile, stated that access to a database of already recorded documents is essential. Mr. Ladd referred to a chart showing which states have adopted the Uniform Real Property Electronic Recording Act (URPERA) and then proceeded with eRecording. The chart indicates that nine states have adopted some form of eRecording in 100 percent of their counties. Mr. Ladd pointed out that while some states have been working toward adoption for many years others have moved to 100 percent statewide in just a couple of years. Colorado did not implement URPERA, but under the Uniform Electronic Transactions Act (UETA) has adopted eRecording statewide. Wisconsin increased the recording fee to provide technology funding. This gave recorders the opportunity to save money to upgrade their systems for eRecording. Funding can be a factor in how quickly a state adopts eRecording and the percentage of counties that can offer electronic recording. In comparison to other states, Kentucky appears to be taking a normal progression towards adopting eRecording systems. The other issue is the ability to search documents. This requires tangible records to be converted to digital copies. The length of time needed to make this conversion will depend on the mix of microfilm and books, how many years of records need to be converted, and the size of the county. Most projects run six months to one year. Larger counties may take one to two years to convert records to be available online and searchable to the community. The cost estimate varies widely and is subject to the vendor. The COVID pandemic, as well as other natural disasters, proves that having documents available to search online is of great value.

In response to Chairman Fischer, Mr. Ladd stated that not all counties in Wisconsin have digital copies of existing title records available. Mr. Ladd also mentioned that Wisconsin uses a Land Records Modernization Fund to help cover a broad spectrum of technologies required to convert tangible records into digital copies. The Land Records Modernization Fund establishes a charge that is added to the recording fee which is set aside into a county fund that the county recorder has control over. A smaller portion goes into a common fund that is used to help smaller counties.

Don Blevins, Fayette County Clerk, commented that, as of January 1, 2020, SB 114 added a \$10 Document Storage Fee to the eRecording filing charge to go toward funding the conversion of every permanent document. Fayette County requires approximately \$300,000 for software to convert to electronic document recording. Some counties are setup and ready to start eRecording, but need to scan older documents to bring them up-to-date. One dollar per Document Storage Fee goes to the Kentucky Department of Library and Archives (KDLA) to administer a grant program to fund tasks such as replacing book binders, shelving, and other needs. It can also be used for technology upgrades. Mr. Blevins advised that counties below 70,000 in population must return any excess fees to the Fiscal Courts, making it difficult to accumulate a capital reserve. Fiscal Courts sometimes

demand county clerks to participate in fee pooling. Legislation stating that the Document Storage Fee is reserved and does not have to be pooled would be beneficial. Mr. Blevins also stated that he believes there would have been more turnover this year had we not had the COVID pandemic.

Chairman Fischer proposed that members submit suggested changes to current statutes or new legislation for Session 2021 to be discussed at next committee meeting.

There being no further business, the meeting adjourned at 3:35 PM.