

# COUNTY CLERK OFFICE MODERNIZATION TASK FORCE

## Minutes of the 1st Meeting of the 2021 Interim

June 16, 2021

### Call to Order and Roll Call

The 1st meeting of the County Clerk Office Modernization Task Force was held on Wednesday, June 16, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jason Howell, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Robby Mills, Robin L. Webb, and Phillip Wheeler; Representatives Randy Bridges, Patrick Flannery, and Ashley Tackett Laferty.

Guests: Chris Cockrell, Tabatha Clemons, Debra Stamper, John Cooper, John Williams, Charles Hinckley, and Tom Underwood.

LRC Staff: Roberta Kiser, Randall Roof, and Yvonne Beghtol.

### Electronic Access to Official Records: Kentucky County Clerks Association

Tabatha Clemons; Grant County Clerk, provided an update to the members regarding electronic access of official records across the Commonwealth based on a survey conducted by the Kentucky County Clerks Association. Results indicate that almost 96 percent of county clerks have less than five full time recording deputy clerks, and 96 counties offer an online search portal. Funding for county clerk offices differ based on the population of the county and nearly half of the counties have a population of less than 20,000. The majority of county clerks' offices are open 37 hours or more each week. Those with limited staff may only be open 30 to 33 hours per week. During the COVID-19 pandemic 70 percent of county clerks allowed free access to online records. Those that did not, allowed limited in-person appointments. Presently, more than half of the county clerks offer a 30 year online search for deeds, mortgages, lis pendens, wills, marriage licenses, and encumbrances. Though the instituting of e-Recording was halted due to the COVID-19 pandemic in 2020, 25 counties have begun accepting e-Recordings.

Ms. Clemons stated that county clerks' offices operate based on fees generated by the office. Each year the majority of county clerks begin with a zero dollar bank balance and any excess fees at the end of the year are turned over to the fiscal courts, unless the county population is over 70,000.

In response to Chairman Howell, Ms. Clemons stated that the third dollar from vehicle registrations is allotted for county clerks in counties with populations less than 20,000. Counties with a population above 20,000 can receive a short-term loan.

Ms. Clemons stated that Senate Bill 114 in 2019 allotted a ten dollar storage fee to county clerks to be used for equipment upgrades and digitalization of records. However, that money is being turned over to the fiscal courts at the end of each year as excess fees.

Ms. Clemons advised that county clerks are the only entity that collects funding for the Kentucky Department of Libraries and Archives (KDLA). The number of grants awarded decreased by 80.64 percent from 2018 to 2021, and the amount of those grants decreased 76.5 percent. In response to Chairman Meredith, Ms. Clemons stated that the amount of funding for grants has increased due to the increase in recorded documents in clerks' offices. Mr. Cockrell, Montgomery County Clerk, added that some of the grants were awarded to non-permanent recording entities in the Commonwealth. In response to Chairman Howell, Ms. Clemons stated that while the amount of grant funding to county clerks decreased over the past 3 years, the amount increased for other recording entities; such as cities, police agencies, libraries, or any other government entity with records.

In response to Senator Mills, Ms. Clemons advised that the KDLA fee is one dollar per document.

In response to Chairman Howell, Ms. Clemons advised that, of the 25 counties that did not participate in the survey, some have 30 years of online recordings accessible and some do not have any online access.

**Electronic Access to Official Records: Kentucky Bankers Association (KBA), Kentucky Land Title Association (KLTA), Kentucky Association of Realtors (KYR), Kentucky Automobile Dealers Association (KADA)**

Debra Stamper, Executive Vice President/General Counsel of the KBA, provided an overview of what the banking industry experienced during the COVID-19 pandemic and the importance of modernization in the future. In 2015, the Kentucky Secretary of State created a task force to consider electronic and remote notarization. Senate Bill 114 in 2019 included language to allow county clerks and individuals to utilize electronic notarization. Kentucky now has capacity for electronic and remote notarization. The COVID-19 pandemic emphasized the importance of electronic access to official records. If a county clerk's office has to close for any reason, having online access is important and advantageous.

John Cooper, KBA, explained that the American Rescue Plan Act (ARPA) allows for funding of projects impeded due to the COVID-19 pandemic. ARPA treasury rules 602(c)(1)(c) addresses state and territories, while 603(c)(1)(c) addresses municipal and

county governments. Funding allowed under those rules includes improvements to software and hardware services. The KBA recommends that ARPA funds be made available for modernizing county clerks' offices. In response to Chairman Meredith, Mr. Cooper confirmed that the coalition has drafted a request to the ARPA administration.

Tom Underwood, Representative for the KADA, stated that the KADA would like to have auto transactions entered in a centralized system to ensure liens are perfected appropriately, and to have all Kentucky clerks accept electronic signatures. The Kentucky Transportation Cabinet has approximately 4 million vehicles on record and processes 2.2 million titles per year. Converting to an electronic titling system would eliminate cost, time, and loss of titles. In response to Chairman Meredith, Mr. Underwood stated that resources from third party vendors can plug into the Kentucky Automated Vehicle Information System (KAVIS) at no cost to the state.

Mr. John Williams, CEO of Bluegrass Land Title, stated that one of their main concerns is that the land title process is different throughout Kentucky. Mr. Williams provided a list of issues they have had to deal with when trying to get information from county clerks' offices.

Charles Hinckley, President of the KYR, stated that real estate transactions accounted for nearly \$32 billion in 2019. The COVID-19 pandemic brought forth the need to uniformly move forward to allow businesses to continue to operate at a standard rate of time and efficiency. Real estate transactions cannot move forward without access to official records.

In response to Representative Tackett Laferty, Ms. Stamper stated that the KBA believe recordings should be available back to a reasonable period of time and that an access fee should not be more than what a third party vendor is charging. Mr. Cooper added that adding a fee would not be enough to cover the cost of updating the clerk's office, so funding would still be required.

Senator Webb noted that cyber security and the option for electronic or hard copies of official records are issues that need to be considered.

In response to Senator Wheeler, Ms. Stamper stated that county clerk offices need to be consistent in managing the personal online data and would require vendors who offer built-in cyber security. Mr. Williams noted that there are risks of fraudulent hard copies just as there are risks to online documents.

Chairman Meredith reviewed issues to be considered at future County Clerk Office Modernization Task Force meetings: the work week hours of county clerks' offices, moving forward with e-Searching of documents and e-Recording, ten dollar storage fee

being accessible to county clerks' offices, internet technology security, how county clerk funds interact with county governments, KDLA funds, and ARPA funds.

There being no further business, the meeting adjourned at 12:43 P.M.