Local Government Mandate Statement Kentucky Legislative Research Commission 2018 Regular Session

Part I: Measure Information

Bill Request #: 334						
Bill #: HB 266 SCS						
Document ID #:						
Bill Subject/Title: AN ACT relating to deeds to real property.						
Sponsor: Representative Michael Meredith						
Unit of Government: City x County x Urban-County Unified Local						
<u>x</u> Charter County <u>x</u> Consolidated Local <u>x</u> Government						
Office(s) Impacted: County clerks						
Requirement:x _ Mandatory Optional						
Effect on Powers & Duties: Modifies Existing Adds New Eliminates Existing						

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

HB 266 SCS is an omnibus bill, consisting of new statutory language and creating new sections of KRS 382 and 423, relating to notaries public and records regarding real property. The Act does not make substantial changes to current county clerk functions, responsibilities, or fees. The impact of these changes to local governments and county clerks is minimal.

The sections of the bill relating to local government, specifically county clerk duties, are identified below.

Section 19 creates a new section of KRS Chapter 423 to provide that within 30 days of receiving a notary public commission from the Secretary of State, an applicant must appear in person before the county clerk listed in the commission application to take an oath of office, provide assurances, and pay fees to the county clerk. The section provides for similar procedures for renewals, and provisions relating to changes to required information, name changes to be submitted to the Secretary of State, and updating notary commissions.

Section 21 creates a new section of KRS 423 to provide that county clerks who file notary public assurances and administer oaths must promptly record the fact and date in the Secretary of State's notary public database.

Section 27 creates a new section of KRS Chapter 423 to allow that county clerks may assess fees for services required to fulfill obligations set forth in Sections 1 to 31 of this Act.

Section 28 of creates a new section of KRS Chapter 423 to provide that a record of real property is deemed to comply with all applicable requirements upon acceptance for recording by a county clerk in which the real property is located.

Section 29 creates a new section of KRS Chapter 423 to exempt county clerks from any suit arising from any acts or omissions relating to recording records that have been notarized by electronic means, unless the clerk was grossly negligent or engaged in willful misconduct.

Section 30 creates a new section of KRS Chapter 423 to allow a governmental agency that accepts paper printouts of electronic records the ability to establish rules, procedures, or requirements governing this acceptance.

Section 31 creates a new section of KRS Chapter 423 to provide that with respect only to notarial acts performed in relation to tangible records, a county clerk of a county in whose office any notary public has filed his signature and surety bond shall, when requested, subjoin to any certificate of proof or acknowledgement signed by the notary a certificate under his or her hand and seal stating that such notary public's written signature is on file in the clerk's office, and was at the time of taking such proof or acknowledgement duly authorized to take the same, that the clerk is well acquainted with the handwriting of the notary public, and believes that the signature to the proof or acknowledgement is genuine.

Section 32 provides that in the event of conflict between the provisions of chapter 23 and any other law the provisions of the Chapter are to control.

Section 33 provides that Sections 1 to 31 of this Act are to obtain notwithstanding any other provision of law.

Section 34 changes statutory language from "shall not" to "may" regarding surety and deletes the provision: "The limitations on individuals making bonds shall not apply to corporate sureties".

Section 35 amends KRS 64.012 that provides for a \$10 fee for county clerks for filling an updated commission pursuant to Section 19 of this Act.

Section 37 creates a Task Force on Electronic Recording within the Legislative Research Commission.

Part III: Differences to Local Government Mandate Statement from Prior Versions

There was no local mandate required or produced for HB 266 and thus, no prior version to compare any changes within a local mandate.

Data Source(s):	Kentucky Association	on of County	Clerks; Kentuck	y Notaries Asso	ociation
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Preparer: H. Ma	arks 1	Reviewer:	KHC	Date:	3/29/18