

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2018 Regular Session**

Part I: Measure Information

Bill Request #: 1440

Bill #: SB 135

Document ID #: 3837

Bill Subject/Title: An ACT relating to official documents.

Sponsor: Sen. Wil R. Schroder

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: County clerks

Requirement: 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

SB 135 is an omnibus bill, consisting of all 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 nil to minimal.**

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

SB 135, 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.

SB 135, 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 of SB 135 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 SB 135 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 of SB 135 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 of SB 135 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 of SB 135 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 of SB 135 creates a new section of KRS 382 to provide that, regarding "paper documents" (as defined), a county clerk:

- May receive, index, store, archive, and transmit electronic documents;
- May provide for access to, and search and retrieval of, documents and information by electronic means;
- Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;
- May convert paper documents accepted for recording into electronic form;
- May convert into electronic form information recorded before the clerk began to record electronic documents;
- May accept electronically any fee, levy, or tax that the clerk is authorized to collect; and
- May agree with other officials of a state or a political subdivision of that state, or of the United States, on procedures or processes to facilitate the

electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees, levies, and taxes that the clerk is authorized to accept.

Section 33 of SB 135 creates a new section of KRS Chapter 382 to provide the requirements of certification under which a county clerk shall record a paper copy of a certified document relating to real property that was originally in an electronic form.

Section 36 of Senate Bill 135 creates a 10-member Kentucky Notarization and Recording Standards Commission, of which a majority must be county clerks.

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

The Part II section above pertains to the bill as introduced and there are not any prior introduced versions of the bill to complete the Part III section.

Data Source(s): Kentucky Association of Counties; Kentucky Association of County Clerks; LRC staff

Preparer: H. Marks **Reviewer:** _____ **Date:** _____