

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2019 Regular Session**

Part I: Measure Information

Bill Request #: 274

Bill #: SB 114 GA

Document ID #: 5457

Bill Subject/Title: AN ACT relating to official documents and making an appropriation therefore.

Sponsor: Senator Morgan McGarvey

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

The impact of SB 114 GA to local governments and county clerks is minimal to moderate. The Act does not make substantial changes to current county clerk functions and responsibilities as notaries public. However, **there will be some time and effort requirements for training related to the provisions of this Act as they affect requirements of county clerks as notarial officers.** Also, **the bill makes changes to recording fees charged** by county clerks.

In summary, SB 114 GA is an omnibus bill, consisting of new statutory language and creating new sections of KRS 382 and 423 relating to notaries public and the recording of paper and electronic records regarding real property. As “notarial officers” these provisions affect county clerks.

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

Section 9 (4) of the Act identifies county clerks as notarial officers.

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.

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 32 of the Act.

Section 28 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 33 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 33 also provides 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 34 creates a new Section of KRS Chapter 382 delineating the requirements and conditions under which a county clerk shall record a paper copy of a document originally in electronic form.

Section 40 creates a new section of KRS Chapter 382 delineating the responsibilities of county clerks regarding the processing of documents and holding county clerks harmless for disputes that arise regarding the timing of a recorded document.

Section 43 amends KRS 64.012 to increase the fees, disbursements, and reimbursements paid to county clerk offices for several county clerk recording and record keeping functions.

Section 44 amends KRS 382.240 to provide for a \$3.00 county clerk reimbursement fee for the delivery of instruments after they are left for recording.

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

The LM statement to SB 114 GA is the same as the LM statement to SB 114 as introduced. No substitutes or amendments were adopted when the bill passed the Senate.

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

Preparer: H. Marks **Reviewer:** KHC **Date:** 3/5/19