



By June 30, 2024, the county clerks shall ensure that the portal contains;

- the following recorded instruments filed on or after June 30, 1994:
  - o Deeds;
  - o Mortgages;
  - o Fixture filings under the Uniform Commercial Code
  - o Plats of subdivided property
  - o All covenants, conditions, and restrictions that relate to real property;
  - o Easements;
  - o Leases or memorandum of leases;
  - o Powers of attorney;
  - o Land contracts;
  - o Wills, and
  - o Affidavits that affect or clarify the title to property.
- Child support liens filed on or after June 30, 2004
- The following instruments filed on or after June 30, 2009:
  - o Judgement liens
  - o Recoupment and unemployment liens; and
  - o Lis pendens notices
- The following recorded instruments filed on or after June 30, 2019:
  - o Homeowner's association or condominium liens; and
  - o Bail bonds.

By June 30, 2026, the county clerks shall ensure that the portal contains the following recorded instruments filed on or after June 30, 1966, but before June 30, 1994:

- Deeds;
- Mortgages;
- Fixture filings under the Uniform Commercial Code
- Plats of subdivided property
- All covenants, conditions, and restrictions that relate to real property;
- Easements;
- Leases or memorandum of leases;
- Powers of attorney;
- Land contracts;
- Wills, and
- Affidavits that affect or clarify the title to property.

All fees charged by the county clerk for access to electronic copies of recorded instruments shall not exceed the actual cost of providing and maintaining the portal. If the clerk contracts with an outside vendor to provide and maintain a portal, the cost may include: development and maintenance, personnel costs, maintenance of cybersecurity credentials, and insurance premiums.

A county clerk may redact Social Security numbers and other personal information from recorded instruments upon request from a law enforcement agency or judicial officer.

**Section 2:**

Amends KRS 64.012 to require that a portion of each of the following fees paid to the county clerks shall be transferred to fiscal court to be used exclusively for the permanent storage and access of records:

- \$33.00 for real or personal property, and any property for which a certificate of title has been issued, including but not limited to deeds and mortgages and itemized in KRS 64.012 (1)(a)1, \$3.00 for each additional page over 5, and \$4.00 for each additional reference;
- \$40.00 for plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page;
- \$26.50 for marriage license, indexing, recording, and issuing certificate thereof;
- \$63.00 for filing and indexing a real estate mortgage, and \$3 for each additional page over 30.

Ten dollars (\$10) of the above fees shall not be paid to the fiscal court as settlement for excess fees in counties with a population of less than 75,000 (KRS 64.152) or the Finance and Administration Cabinet, but be accumulated and transferred to the fiscal court of the legislative body of a consolidated local government or an urban-county government on a monthly basis within ten days following the end of the month to be used exclusively for the permanent storage and access of records. The moneys shall be accounted for in a separate bank account and not lapse to the general fund of the county, consolidated local government, or urban-county government, but be held in perpetuity and used exclusively for equipment, hardware, software, and personnel costs for the permanent storage and access to records. Notwithstanding KRS 68.725, claims by a county clerk that are for the preceding expenditures shall be paid by the county judge/executive or the chief executive officer of a consolidated local government or an urban-county government by a warrant drawn on the fund and co-signed by the treasurer of the county, consolidated local government, or urban-county government.

No later than July 1 of each year, a county fiscal court or legislative body of a consolidated local government or an urban-county government shall submit a report to the Legislative Research Commission detailing the receipts, expenditures, and any amount remaining in the fund.

**Section 3:**

Currently, the following taxes are paid to the county clerks:

- \$4.50 on each marriage license;
- \$4.00 on each power of attorney;
- \$4.00 on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title;
- \$4.00 on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.

One dollar of each of these taxes is earmarked for the Department of Libraries and Archives. HB 377 HCS 1 provides that 90% of these funds shall be set aside for grants to

county clerks and distributed annually, except when there is insufficient grant applications to distribute the entire amount. In those cases, the Department of Libraries and Archive may grant those funds to other agencies.

#### **Section 4:**

Provides that for a county with a population of less than 70,000, the county clerk may be entitled to an advancement to defray official expenses and to supplement the salaries of the county clerk or the clerk's deputies and assistants. On the first day of each month, the amount of the advance shall be determined by the Secretary of the Finance and Administration Cabinet and shall be 1/12 of the total fees collected by the county clerk for the preceding year or \$60,000, whichever is less. These funds shall be repaid by the county clerk to the secretary of Finance and Administration Cabinet no later than the close of the calendar year in which the funds were advanced. If not paid back timely, the county clerk in his or her official capacity shall be liable to the Commonwealth.

If a county clerk requests funds from the State Treasurer to defray official expenses, the clerk shall not be required to submit a statement of his or her personal assets and liabilities as a condition of the application process.

Since HB 377 HCS 1 provides for an appropriation, reimbursement of the \$10 fee (Section 2), and grants from the Department of Libraries and Archives (Section 3), **the fiscal impact of HB 377 HCS 1 on local governments is expected to be minimal.** For those reasons and because the phase one implementation date for electronic filing of recorded instruments is delayed to June 30, 2023, **the Kentucky County Clerks Association supports HB 377 HCS 1.** Prior legislation required a January 1 implementation date.

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

HB 377 HCS 1 keeps the provisions of HB 377 as introduced with the following additions:

- The fee charged by the county clerk for access to the portal shall include the actual cost of providing the portal as well as maintaining the portal.
- If the clerk contracts with an outside vendor to provide and maintain a portal, the cost may include: development and maintenance, personnel costs, maintenance of cybersecurity credentials, and insurance premiums.
- A county clerk may redact Social Security numbers and other personal information from recorded instruments upon request from a law enforcement agency or judicial officer.
- Clarifies that the fee related to the storage of specific documents must be maintained by the fiscal court or the legislative body of a consolidated government or an urban-county government in a separate bank account.
- Provides that KRS 68.275 does not apply to claims made by a county clerk for approved expenditures related to electronic storage and access to official document through the portal.

- Stipulates that in counties with a population less than 70,000, funds advanced to the county clerk to defray necessary official expenses and supplement the salaries of the county clerk, deputies, and assistants shall be repaid by the county clerk to the secretary of Finance and Administration Cabinet no later than the close of the calendar year in which the funds were advanced. If not paid back timely, the county clerk in his or her official capacity shall be liable to the Commonwealth.

**Data Source(s):** LRC Staff

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