



February 21, 2014

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# ENGROSSED HOUSE BILL No. 1171

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DIGEST OF HB 1171 (Updated February 19, 2014 5:37 pm - DI 87)

**Citations Affected:** IC 36-2.

**Synopsis:** Recorder's record perpetuation fund. Provides that a county recorder may use the county recorder's records perpetuation fund for all or a portion of the expenses of the recorder's office under specified conditions, including approval by the county fiscal body.

**Effective:** July 1, 2014.

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## Heuer, GiaQuinta

(SENATE SPONSORS — WYSS, KRUSE)

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January 13, 2014, read first time and referred to Committee on Local Government.  
January 28, 2014, amended, reported — Do Pass.  
January 30, 2014, read second time, ordered engrossed. Engrossed.  
February 3, 2014, read third time, passed. Yeas 92, nays 1.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Local Government.  
February 20, 2014, amended, reported favorably — Do Pass.

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February 21, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1171

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-2-7-10, AS AMENDED BY P.L.13-2013,  
2 SECTION 151, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) The county recorder shall  
4 tax and collect the fees prescribed by this section for recording, filing,  
5 copying, and other services the recorder renders, and shall pay them  
6 into the county treasury at the end of each calendar month. The fees  
7 prescribed and collected under this section supersede all other  
8 recording fees required by law to be charged for services rendered by  
9 the county recorder.
- 10 (b) The county recorder shall charge the following:
- 11 (1) Six dollars (\$6) for the first page and two dollars (\$2) for each  
12 additional page of any document the recorder records if the pages  
13 are not larger than eight and one-half (8 1/2) inches by fourteen  
14 (14) inches.
- 15 (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for  
16 each additional page of any document the recorder records, if the

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- 1 pages are larger than eight and one-half (8 1/2) inches by fourteen  
 2 (14) inches.
- 3 (3) For attesting to the release, partial release, or assignment of  
 4 any mortgage, judgment, lien, or oil and gas lease contained on a  
 5 multiple transaction document, the fee for each transaction after  
 6 the first is the amount provided in subdivision (1) plus the amount  
 7 provided in subdivision (4) and one dollar (\$1) for marginal  
 8 mortgage assignments or marginal mortgage releases.
- 9 (4) One dollar (\$1) for each cross-reference of a recorded  
 10 document.
- 11 (5) One dollar (\$1) per page not larger than eight and one-half (8  
 12 1/2) inches by fourteen (14) inches for furnishing copies of  
 13 records and two dollars (\$2) per page that is larger than eight and  
 14 one-half (8 1/2) inches by fourteen (14) inches.
- 15 (6) Five dollars (\$5) for acknowledging or certifying to a  
 16 document.
- 17 (7) Five dollars (\$5) for each deed the recorder records, in  
 18 addition to other fees for deeds, for the county surveyor's corner  
 19 perpetuation fund for use as provided in IC 21-47-3-3 or  
 20 IC 36-2-12-11(e).
- 21 (8) A fee in an amount authorized under IC 5-14-3-8 for  
 22 transmitting a copy of a document by facsimile machine.
- 23 (9) A fee in an amount authorized by an ordinance adopted by the  
 24 county legislative body for duplicating a computer tape, a  
 25 computer disk, an optical disk, microfilm, or similar media. This  
 26 fee may not cover making a handwritten copy or a photocopy or  
 27 using xerography or a duplicating machine.
- 28 (10) A supplemental fee of three dollars (\$3) for recording a  
 29 document that is paid at the time of recording. The fee under this  
 30 subdivision is in addition to other fees provided by law for  
 31 recording a document.
- 32 (11) Three dollars (\$3) for each mortgage on real estate recorded,  
 33 in addition to other fees required by this section, distributed as  
 34 follows:
- 35 (A) Fifty cents (\$0.50) is to be deposited in the recorder's  
 36 record perpetuation fund.
- 37 (B) Two dollars and fifty cents (\$2.50) is to be distributed to  
 38 the auditor of state on or before June 20 and December 20 of  
 39 each year as provided in IC 24-9-9-3.
- 40 (12) This subdivision applies in a county only if at least one (1)  
 41 unit in the county has established an affordable housing fund  
 42 under IC 5-20-5-15.5 and the county fiscal body adopts an



1 ordinance authorizing the fee described in this subdivision. An  
 2 ordinance adopted under this subdivision may authorize the  
 3 county recorder to charge a fee of:

4 (A) two dollars and fifty cents (\$2.50) for the first page; and

5 (B) one dollar (\$1) for each additional page;

6 of each document the recorder records.

7 (13) This subdivision applies in a county containing a  
 8 consolidated city that has established a housing trust fund under  
 9 IC 36-7-15.1-35.5(e). The county fiscal body may adopt an  
 10 ordinance authorizing the fee described in this subdivision. An  
 11 ordinance adopted under this subdivision may authorize the  
 12 county recorder to charge a fee of:

13 (A) two dollars and fifty cents (\$2.50) for the first page; and

14 (B) one dollar (\$1) for each additional page;

15 of each document the recorder records.

16 (c) The county recorder shall charge a two dollar (\$2) county  
 17 identification security protection fee for recording or filing a document.  
 18 This fee shall be deposited under IC 36-2-7.5-6.

19 (d) The county treasurer shall establish a recorder's records  
 20 perpetuation fund. All revenue received under section 10.1 of this  
 21 chapter, subsection (b)(5), (b)(8), (b)(9), and (b)(10), and  
 22 IC 36-2-7.5-6(b)(1), and fifty cents (\$0.50) from revenue received  
 23 under subsection (b)(11), shall be deposited in this fund. **Except as**  
 24 **provided in section 10.2 of this chapter**, the county recorder may use  
 25 any money in this fund without appropriation for:

26 (1) the preservation of records; and

27 (2) the improvement of record keeping systems and equipment;  
 28 **within the control of the county recorder.** Money from the fund may  
 29 not be deposited or transferred into the county general fund and does  
 30 not revert to the county general fund at the end of a fiscal year.

31 (e) As used in this section, "record" or "recording" includes the  
 32 functions of recording, filing, and filing for record.

33 (f) The county recorder shall post the fees set forth in subsection (b)  
 34 in a prominent place within the county recorder's office where the fee  
 35 schedule will be readily accessible to the public.

36 (g) The county recorder may not tax or collect any fee for:

37 (1) recording an official bond of a public officer, a deputy, an  
 38 appointee, or an employee; or

39 (2) performing any service under any of the following:

40 (A) IC 6-1.1-22-2(c).

41 (B) IC 8-23-7.

42 (C) IC 8-23-23.



1 (D) IC 10-17-2-3.

2 (E) IC 10-17-3-2.

3 (F) IC 12-14-13.

4 (G) IC 12-14-16.

5 (h) The state and its agencies and instrumentalities are required to  
6 pay the recording fees and charges that this section prescribes.

7 (i) This subsection applies to a county other than a county  
8 containing a consolidated city. The county treasurer shall distribute  
9 money collected by the county recorder under subsection (b)(12) as  
10 follows:

11 (1) Sixty percent (60%) of the money collected by the county  
12 recorder under subsection (b)(12) shall be distributed to the units  
13 in the county that have established an affordable housing fund  
14 under IC 5-20-5-15.5 for deposit in the fund. The amount to be  
15 distributed to a unit is the amount available for distribution  
16 multiplied by a fraction. The numerator of the fraction is the  
17 population of the unit. The denominator of the fraction is the  
18 population of all units in the county that have established an  
19 affordable housing fund. The population to be used for a county  
20 that establishes an affordable housing fund is the population of  
21 the county outside any city or town that has established an  
22 affordable housing fund.

23 (2) Forty percent (40%) of the money collected by the county  
24 recorder under subsection (b)(12) shall be distributed to the  
25 treasurer of state for deposit in the affordable housing and  
26 community development fund established under IC 5-20-4-7 for  
27 the purposes of the fund.

28 Money shall be distributed under this subsection before the sixteenth  
29 day of the month following the month in which the money is collected  
30 from the county recorder.

31 (j) This subsection applies to a county described in subsection  
32 (b)(13). The county treasurer shall distribute money collected by the  
33 county recorder under subsection (b)(13) as follows:

34 (1) Sixty percent (60%) of the money collected by the county  
35 recorder under subsection (b)(13) shall be deposited in the  
36 housing trust fund established under IC 36-7-15.1-35.5(e) for the  
37 purposes of the fund.

38 (2) Forty percent (40%) of the money collected by the county  
39 recorder under subsection (b)(13) shall be distributed to the  
40 treasurer of state for deposit in the affordable housing and  
41 community development fund established under IC 5-20-4-7 for  
42 the purposes of the fund.



1 Money shall be distributed under this subsection before the sixteenth  
 2 day of the month following the month in which the money is collected  
 3 from the county recorder.

4 SECTION 2. IC 36-2-7-10.2 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2014]: **Sec. 10.2. (a) As used in this section, "fund" refers to the  
 7 county recorder's records perpetuation fund established under  
 8 section 10(d) of this chapter.**

9 **(b) A county recorder may pay all or a portion of the expenses  
 10 of the county recorder's office for the following calendar year from  
 11 the fund only if:**

12 **(1) the county recorder submits to the county fiscal body a  
 13 sworn statement that:**

14 **(A) the current revenue to the fund is sufficient to fulfill  
 15 the statutory purpose of the fund;**

16 **(B) the technology of the county recorder's office is  
 17 presently updated and at a level to sufficiently meet the  
 18 statutory purposes of the fund and the county recorder's  
 19 office;**

20 **(C) the fund has a sufficient reserve, consistent with the  
 21 recorder's plan, to capitalize the next technology or other  
 22 records management upgrade necessary to fulfill the  
 23 statutory purpose of the fund and the county recorder's  
 24 office; and**

25 **(D) the county recorder specifically requests that all or a  
 26 specific, identifiable portion of the fund be used to pay the  
 27 expenses of the county recorder's office for the following  
 28 calendar year; and**

29 **(2) the county fiscal body adopts an ordinance approving the  
 30 recorder's request under subsection (c).**

31 **(c) Upon receiving the county recorder's sworn statement, the  
 32 county fiscal body may adopt an ordinance approving the county  
 33 recorder's request. If the ordinance is adopted, the county fiscal  
 34 body shall, if specifically requested by the recorder for the  
 35 following calendar year, approve sufficient money from the fund.  
 36 The county fiscal body may not approve any more money from the  
 37 fund for any purpose in excess of that requested by the county  
 38 recorder.**

39 **(d) A county recorder's request and the county fiscal body's  
 40 approval are valid for only the following calendar year. The  
 41 requirements of this section must be met for each calendar year.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1171, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 23, delete "The" and insert **"Except as provided in section 10.2 of this chapter, the"**.

Page 3, line 25, delete "," and insert ";".

Page 3, line 25, delete "including administrative and".

Page 3, delete line 26.

Page 3, run in lines 25 through 27.

Page 5, after line 4, begin a new paragraph and insert:

**"SECTION 2. IC 36-2-7-10.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10.2. (a) As used in this section, "fund" refers to the county recorder's records perpetuation fund established under section 10(d) of this chapter.**

**(b) A county recorder may pay all or a portion of the expenses of the county recorder's office for the following calendar year from the fund only if the county recorder submits to the county fiscal body a sworn statement that:**

- (1) the current revenue to the fund is sufficient to fulfill the statutory purpose of the fund;**
- (2) the technology of the county recorder's office is presently updated and at a level to sufficiently meet the statutory purposes of the fund and the county recorder's office;**
- (3) the fund has a sufficient reserve, consistent with the recorder's plan, to capitalize the next technology or other records management upgrade necessary to fulfill the statutory purpose of the fund and the county recorder's office; and**
- (4) the county recorder specifically requests that all or a specific, identifiable portion of the fund be used to pay the expenses of the county recorder's office for the following calendar year.**

**(c) Upon receiving the county recorder's sworn statement, the county fiscal body may adopt an ordinance approving the county recorder's request. If the ordinance is adopted, the county fiscal body shall, if specifically requested by the recorder for the following calendar year, approve sufficient money from the fund. The county fiscal body may not approve any more money from the fund for any purpose in excess of that requested by the county recorder.**





**(d) A county recorder's request and the county fiscal body's approval are valid for only the following calendar year. The requirements of this section must be met for each calendar year."**

and when so amended that said bill do pass.

(Reference is to HB 1171 as introduced.)

NEESE, Chair

Committee Vote: yeas 8, nays 2.

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 11, after "if" insert ":

**(1)**".

Page 5, line 13, beginning with "(1)" begin a new line double block indented.

Page 5, line 13, delete "(1)" and insert "**(A)**".

Page 5, line 15, beginning with "(2)" begin a new line double block indented.

Page 5, line 15, delete "(2)" and insert "**(B)**".

Page 5, line 18, beginning with "(3)" begin a new line double block indented.

Page 5, line 18, delete "(3)" and insert "**(C)**".

Page 5, line 22, beginning with "(4)" begin a new line double block indented.

Page 5, line 22, delete "(4)" and insert "**(D)**".

Page 5, line 25, delete "." and insert "; **and**

**(2) the county fiscal body adopts an ordinance approving the recorder's request under subsection (c).**".

and when so amended that said bill do pass.

(Reference is to HB 1171 as printed January 28, 2014.)

HEAD, Chairperson

Committee Vote: Yeas 5, Nays 4.

**EH 1171—LS 6972/DI 87**

