

CHAPTER 26

(SB 135)

AN ACT relating to county clerks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Recorded instrument" means any document relating to real property, personal property, and any property for which a Kentucky certificate of title has been issued, including but not limited to deeds and mortgages; and*

(b) *"Portal" means a Web site or online database that:*

1. *Is readily accessible by the public to provide remote online access to recorded instruments;*
2. *Has a network security device that monitors incoming and outgoing network traffic and determines whether to allow or block specific traffic based on a defined set of security rules; and*
3. *Has a system which provides for backup copies of recorded instruments to be securely stored.*

(2) *By June 30, 2023, all county clerks shall provide and maintain the portal that allows a person to electronically file any recorded instrument.*

(3) (a) *By June 30, 2024, each county clerk shall provide and maintain a portal that contains the following recorded instruments:*

1. *Filed on or after June 30, 1994:*

- a. *Deeds;*
- b. *Mortgages;*
- c. *Fixture filings under the Uniform Commercial Code;*
- d. *Plats of subdivided property;*
- e. *All covenants, conditions, and restrictions that relate to real property;*
- f. *Easements;*
- g. *Leases or memorandum of leases;*
- h. *Powers of attorney;*
- i. *Land contracts;*
- j. *Wills; and*
- k. *Affidavits that affect or clarify the title to property;*

2. *Filed on or after June 30, 2004, child support liens;*

3. *Filed on or after June 30, 2009;*

- a. *Judgment liens;*
- b. *Recoupment and unemployment liens; and*
- c. *Lis pendens notices;*

4. *Filed on or after June 30, 2014;*

- a. *Federal and state tax liens; and*
- b. *Civil penalty liens;*

5. *Filed on or after June 30, 2019;*
 - a. *Homeowner's association or condominium liens; and*
 - b. *Bail bonds.*
- (b) *By June 30, 2026, each county clerk shall provide and maintain a portal that contains the following recorded instruments filed on or after June 30, 1966, but before June 30, 1994:*
 1. *Deeds;*
 2. *Mortgages;*
 3. *Fixture filings under the Uniform Commercial Code;*
 4. *Plats of subdivided property;*
 5. *All covenants, conditions, and restrictions that relate to real property;*
 6. *Easements;*
 7. *Leases or memorandum of leases;*
 8. *Powers of attorney;*
 9. *Land contracts;*
 10. *Wills; and*
 11. *Affidavits that affect or clarify the title to property.*
- (4) (a) *Any fee 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.*
- (b) *If a county clerk contracts with an outside vendor to provide and maintain a portal required under this section, actual costs may include:*
 1. *Development and maintenance of a portal that provides access to recorded instruments;*
 2. *Personnel costs for companies that employ staff to support county clerks;*
 3. *Maintenance of cybersecurity credentials; and*
 4. *Insurance premiums.*
- (5) *A county clerk may redact Social Security numbers from electronic copies of recorded instruments and other personal information from recorded instruments upon request from a law enforcement agency or judicial officer.*

➔Section 2. KRS 64.012 is amended to read as follows:

- (1) The county clerk shall receive for the following services the following fees:
 - (a) 1. Recording and indexing of a:
 - a. Deed of trust or assignment for the benefit of creditors;
 - b. Deed;
 - c. Deed of assignment;
 - d. File-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State;
 - e. Real estate option;
 - f. Power of attorney;
 - g. Revocation of power of attorney;
 - h. Lease which is recordable by law;
 - i. Deed of release of a mortgage or lien under KRS 382.360;
 - j. United States lien;

- k. Release of a United States lien;
- l. Release of any recorded encumbrance other than state liens;
- m. Lis pendens notice concerning proceedings in bankruptcy;
- n. Lis pendens notice;
- o. Mechanic's and artisan's lien under KRS Chapter 376;
- p. Assumed name;
- q. Notice of lien issued by the Internal Revenue Service;
- r. Notice of lien discharge issued by the Internal Revenue Service;
- s. Original, assignment, amendment, or continuation financing statement;
- t. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;
- u. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;
- v. Recording with statutory authority for which no specific fee is set, except a military discharge;
- w. Will or other probate document pursuant to KRS Chapter 392 or 394;
- x. Court ordered name change pursuant to KRS Chapter 401;
- y. Land use restriction according to KRS 100.3681; and
- z. Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed five (5) pages\$33.00
 And, for all items in this subsection exceeding five (5) pages, for each additional page\$3.00
 And, for all items in this subsection for each additional reference relating to same instrument\$4.00

- 2. The thirty-three dollar (\$33) fee imposed by this subsection shall be divided as follows:
 - a. Twenty-seven dollars (\$27) shall be retained by the county clerk; and
 - b. Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.
- (b) For noting a security interest on a certificate of title pursuant to KRS Chapter 186A\$12.00
- (c) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A \$5.00
- (d) Filing or recording state tax or other state liens\$5.00
- (e) Filing release of a state tax or other state lien\$5.00
- (f) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying

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	same	\$5.00
(g)	Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page	\$40.00
(h)	Recording a bond, for each bond	\$10.00
(i)	Each bond required to be taken or prepared by the clerk	\$4.00
(j)	Copy of any bond when ordered	\$3.00
(k)	Administering an oath and certificate thereof	\$5.00
(l)	Issuing a license for which no other fee is fixed by law	\$8.00
(m)	Issuing a solicitor's license	\$15.00
(n)	Marriage license, indexing, recording, and issuing certificate thereof	\$26.50
(o)	Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	\$3.00
(p)	Registration of licenses for professional persons required to register with the county clerk	\$10.00
(q)	Certified copy of any record	\$5.00
	Plus fifty cents (\$.50) per page after three (3) pages	
(r)	Filing certification required by KRS 65.070(2)(a)	\$5.00
(s)	Filing notification and declaration and petition of candidates for Commonwealth's attorney	\$200.00
(t)	Filing notification and declaration and petition of candidates for county and independent boards of education	\$20.00
(u)	Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	\$20.00
(v)	Filing notification and declaration and petition of candidates for other office	\$50.00
(w)	Filing declaration of intent to be a write-in candidate for office	\$50.00
(x)	Filing petitions for elections, other than nominating petitions	\$50.00
(y)	Notarizing any signature, per signature	\$2.00
(z)	Filing bond for receiving bodies under KRS 311.310	\$10.00
(aa)	Noting the assignment of a certificate of delinquency and recording and indexing the encumbrance under KRS 134.126 or 134.127	\$27.00
(ab)	Filing a going-out-of-business permit under KRS 365.445	\$50.00
(ac)	Filing a renewal of a going-out-of-business permit under KRS 365.445	\$50.00
(ad)	Filing and processing a transient merchant permit under KRS 365.680	\$25.00
(ae)	Recording and indexing a real estate mortgage:	
	1. For a mortgage that does not exceed thirty (30) pages	\$63.00

2. And, for a mortgage that exceeds thirty (30) pages, for each additional page
\$3.00
- (af) Filing or recording a lien or release of lien by a consolidated local government, urban-county government, unified local government, or city of any class\$20.00
- (2) The sixty-three dollar (\$63) fee imposed by subsection (1)(ae) of this section shall be divided as follows:
- (a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and
- (b) Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.
- (3) (a) For services related to the permanent storage of records listed in paragraphs (a), (g), (n), and (ae) of subsection (1) of this section, the clerk shall be entitled to receive a reimbursement of ten dollars (\$10).
- (b) *This fee shall:*
1. *Not be paid annually to the fiscal court under KRS 64.152;*
 2. *Not be paid to the Finance and Administration Cabinet under KRS 64.345;*
 3. *Be accumulated and transferred to the fiscal court or the legislative body of a consolidated local government or an urban-county government on a monthly basis within ten (10) days following the end of the month;*
 4. *Be maintained by the fiscal court or the legislative body of a consolidated local government or an urban-county government in a separate bank account and accounted for in a separate fund; and*
 5. *Not lapse to the general fund of the county, consolidated local government, or urban-county government.*
- (c) *The moneys accumulated from this fee shall be held in perpetuity by the fiscal court or the legislative body of a consolidated local government or an urban-county government for the county clerk's exclusive use for:*
1. *Equipment related to the permanent storage of and access to records, including deed books, binders, shelves, microfilm equipment, and fireproof equipment;*
 2. *Hardware for the permanent storage of and access to records, including computers, servers, and scanners;*
 3. *Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;*
 4. *Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and*
 5. *Cloud storage and cybersecurity services for the permanent storage of and access to records.*
- (d) *Notwithstanding KRS 68.275, claims by a county clerk that are for the approved expenditures in paragraph (c) of this subsection 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.*
- (e) *No later than July 1 of each year, each 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 amounts remaining in the fund.*

➔Section 3. KRS 142.010 is amended to read as follows:

- (1) The following taxes shall be paid:
- (a) A tax of four dollars and fifty cents (\$4.50) on each marriage license;

- (b) A tax of four dollars (\$4) on each power of attorney to convey real or personal property;
 - (c) A tax of four dollars (\$4) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title under KRS 186A.190;
 - (d) A tax of four dollars (\$4) on each conveyance of real property; and
 - (e) A tax of four dollars (\$4) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.
- (2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.
- (3) Taxes imposed under this section shall be reported and paid to the Department of Revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department.
- (4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.
- (5) (a) One dollar (\$1) of the amount collected under each paragraph of subsection (1) of this section shall be placed in an agency fund in the Department for Libraries and Archives to be used exclusively for the purpose of preserving and retaining public records by continuing the local records grant program active in the Department for Libraries and Archives. ~~The budgeted amount of funds allocated to the grant program in the fiscal year 2005-2006 departmental budget shall not be reduced in future years, and shall be increased annually by this additional revenue to be used exclusively for the grants program.~~
- (b) *Ninety percent (90%) of all funds allocated to the Department for Libraries and Archives under paragraph (a) of this subsection for the local records grant program shall be set aside for grants to county clerks and distributed annually, except as provided in paragraph (c) of this subsection.*
- (c) *If there are insufficient grant applications from county clerks for the Department for Libraries and Archives to distribute ninety percent (90%) of all funds allocated under paragraph (a) of this subsection, the Department for Libraries and Archives may grant those funds to other agencies.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *A county clerk in a county containing a population of less than seventy thousand (70,000) may be entitled to receive an advancement to:*
- 1. *Defray necessary official expenses; and*
 - 2. *Supplement the payment of the salaries of the county clerk or the county clerk's deputies and assistants.*
- (b) 1. *The secretary of the Finance and Administration Cabinet shall, on the first day of each calendar month, determine the necessary amount that may be advanced to the county clerk.*
2. *The advance shall be the lesser of:*
- a. *One-twelfth (1/12) of the total fees collected by the county clerk for the preceding year;*
or
 - b. *Sixty thousand (\$60,000) dollars per month.*
- (c) *When approved by the secretary of the Finance and Administration Cabinet, a warrant shall be drawn on the State Treasury in favor of the county clerk for such advancement.*
- (d) *Funds advanced under this section shall be repaid by the county clerk to whom the funds were advanced no later than the close of the calendar year in which the funds were advanced. If the funds are not timely repaid, then the county clerk in his or her official capacity or the surety for the county clerk shall be liable to the Commonwealth.*

- (2) *If a county clerk makes a request for funds from the State Treasury to defray necessary official expenses, the county clerk shall not be required to submit a detailed statement of his or her personal assets and liabilities as a condition of the application process.*
- (3) *The Finance and Administration Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to implement the provisions of this section.*

Signed by Governor March 24, 2022.