

CHAPTER 308

**GOVERNMENT - COUNTY**

SENATE BILL 04-219

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also REPRESENTATIVE(S) Berry, Hall, Hodge, McFadyen, Paccione, Rippy, Romanoff, Weddig, and Williams S.

**AN ACT**

**CONCERNING THE ELECTRONIC FILING SYSTEM FOR DOCUMENTS RECEIVED BY A COUNTY CLERK AND RECORDER.**

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

**SECTION 1.** 30-10-409 (5), Colorado Revised Statutes, is amended to read:

**30-10-409. Reception book - form - contents - acceptance for recording.**

(5) A clerk and recorder who decides to accept electronic filings shall establish procedures for such electronic filings ~~Such procedures shall not be established until the clerk and recorder has considered the recommendations made by the clerk and recorder electronic filing technology fund advisory panel issued pursuant to section 30-10-423 (4)~~ THAT ARE CONSISTENT WITH THE RULES PROMULGATED BY THE SECRETARY OF STATE PURSUANT TO SECTION 30-10-424 (1) (e) (II). No electronic filings shall be accepted by the clerk and recorder until the clerk and recorder has established and made publically available the procedures for electronic filings. ~~The clerk and recorder may designate the methods by which he or she will accept payment of fees for electronic filings.~~ Nothing in this article shall be interpreted to require any clerk and recorder to accept electronic filings. Nothing in this article shall abridge the power of any clerk and recorder to accept or reject electronic filings in accordance with the provisions of section 38-35-202, C.R.S.

**SECTION 2.** 30-10-421 (1) (b), (2), and (3), Colorado Revised Statutes, as amended by House Bill 04-1413, enacted at the Second Regular Session of the Sixty-fourth General Assembly, are amended, and the said 30-10-421 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**30-10-421. Filing surcharge - definitions.** (1) (b) On and after July 1, 2004,

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

and through ~~June 30, 2005~~ JUNE 30, 2007, the county clerk and recorder shall collect a surcharge of ~~up to fifty cents~~ ONE DOLLAR for each document received for recording or filing in his or her office. ~~Each clerk and recorder shall establish the amount of the surcharge to be collected by his or her county, but in no circumstance shall the surcharge exceed fifty cents per document.~~ The surcharge shall be in addition to any other fees permitted by statute.

(2) The county clerk and recorder shall transmit fifty cents out of each dollar collected pursuant to paragraph (a) of subsection (1) of this section to the SECRETARY OF STATE, WHO SHALL TRANSMIT SUCH MONEYS TO THE state treasurer who shall credit the same to the clerk and recorder ~~electronic filing~~ technology fund created in section 30-10-422.

(3) (a) The county clerk and recorder may retain the remaining fifty cents out of each dollar collected pursuant to paragraph (a) of subsection (1) of this section. ~~to be utilized to defray the costs of implementing and providing electronic filing and recording capabilities.~~ If the clerk and recorder elects not to retain any portion of the fifty cents, he or she shall transmit such unused portion to the SECRETARY OF STATE, WHO SHALL TRANSMIT SUCH MONEYS TO THE state treasurer who shall credit the same to the clerk and recorder ~~electronic filing~~ technology fund.

(b) The county clerk and recorder shall ~~use~~ RETAIN the proceeds of the ~~fee~~ SURCHARGE collected pursuant to paragraph (b) of subsection (1) of this section. SUCH PROCEEDS, ALONG WITH THE PROCEEDS FROM THE PORTION OF THE SURCHARGE COLLECTED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION THAT THE CLERK AND RECORDER ELECTS TO RETAIN, SHALL BE UTILIZED to defray the costs of: ~~implementing and providing electronic filing and recording capabilities.~~

(I) ESTABLISHING, MAINTAINING, OR IMPROVING AN ELECTRONIC FILING SYSTEM;  
OR

(II) NECESSARY IMPROVEMENTS TO THE CORE FILING SYSTEM.

(c) THE COUNTY CLERK AND RECORDER SHALL PLACE ALL SURCHARGES THAT HE OR SHE RETAINS PURSUANT TO THIS SUBSECTION (3) IN A SEPARATE, SEGREGATED ACCOUNT.

(6) AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CORE FILING SYSTEM" MEANS THE DOCUMENT MANAGEMENT SYSTEM USED BY THE CLERK AND RECORDER TO COMPLY WITH THE STATUTORY REQUIREMENTS SET FORTH IN THIS PART 4 RELATED TO PAPER DOCUMENTS RECEIVED FOR RECORDING OR FILING IN HIS OR HER OFFICE.

(b) "ELECTRONIC FILING SYSTEM" MEANS THE DOCUMENT MANAGEMENT SYSTEM USED BY THE CLERK AND RECORDER TO COMPLY WITH THE STATUTORY REQUIREMENTS SET FORTH IN THIS PART 4 RELATED TO ELECTRONIC DOCUMENTS RECEIVED FOR RECORDING OR FILING IN HIS OR HER OFFICE.

(c) "NECESSARY IMPROVEMENTS TO THE CORE FILING SYSTEM" MEANS ANY CHANGE TO THE CORE FILING SYSTEM THAT IS REQUIRED IN ORDER TO ESTABLISH AN

## ELECTRONIC FILING SYSTEM.

**SECTION 3.** 30-10-422 (1) and (2), Colorado Revised Statutes, are amended, and the said 30-10-422 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**30-10-422. Clerk and recorder technology fund.** (1) There is hereby created a fund to be known as the clerk and recorder ~~electronic filing~~ technology fund, referred to in this section as the "fund". The fund shall be administered by the clerk and recorder ~~electronic filing~~ technology fund ~~advisory~~ panel created in section 30-10-423 and THE SECRETARY OF STATE AS SET FORTH IN SECTION 30-10-424. THE FUND shall consist of all moneys received pursuant to section 30-10-421.

(2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 30-10-424, the moneys in the fund shall be used by the clerk and recorder ~~electronic filing~~ technology fund ~~advisory~~ panel to make grants to counties that apply for such grants. It is the intent of the general assembly that the grants shall be given to counties that otherwise lack sufficient resources EITHER to purchase the technology necessary for the clerk and recorders to accept electronic filings OR TO PROVIDE THE NECESSARY TRAINING RELATED TO SUCH TECHNOLOGY. IT IS THE FURTHER INTENT OF THE GENERAL ASSEMBLY THAT THE GRANTS BE USED FOR THE PURPOSES ESTABLISHED IN SECTION 30-10-423.

(4) IN ADDITION TO THE APPROPRIATIONS AUTHORIZED IN SECTION 30-10-423 (6), THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE SECRETARY OF STATE FOR THE ADMINISTRATION OF SECTION 30-10-424.

**SECTION 4.** 30-10-423 (1), (4), (5), (6), (7), and (8), Colorado Revised Statutes, are amended to read:

**30-10-423. Clerk and recorder technology panel - creation - powers.**

(1) There is hereby created the clerk and recorder ~~electronic filing~~ technology fund ~~advisory~~ panel in the department of state, referred to in this section as the "panel".

(4) ~~The panel shall recommend procedures to the clerks and recorders for electronic filings and recordings. Such recommendations shall be made no later than March 1, 2003.~~

(5) (a) The panel shall have the power to review grant applications and approve grants to counties funded by the clerk and recorder ~~electronic filing~~ technology fund ~~as provided for~~ CREATED in section 30-10-422. THE PANEL MAY MAKE GRANTS FOR THE FOLLOWING:

(I) AN ASSESSMENT OF THE CORE FILING SYSTEM TO IDENTIFY NECESSARY IMPROVEMENTS TO THE CORE FILING SYSTEM;

(II) ANY OF THE PURPOSES ESTABLISHED IN SECTION 30-10-421 (3);

(III) TRAINING RELATED TO THE ELECTRONIC FILING SYSTEM; OR

(IV) TRAINING RELATED TO NECESSARY IMPROVEMENTS TO THE CORE FILING SYSTEM.

(b) The panel shall also have the power to exercise any other powers or perform any other duties that are consistent with the rules promulgated by the secretary of state.

(6) The moneys in the clerk and recorder electronic filing technology fund shall be subject to annual appropriation by the general assembly to the panel for the sole purpose of providing grants to counties that otherwise lack sufficient resources EITHER to purchase the technology necessary for the clerk and recorders to accept electronic filings OR TO PROVIDE THE NECESSARY TRAINING RELATED TO SUCH TECHNOLOGY; except that an amount equal to the direct ~~and indirect~~ costs incurred by the panel in implementing the provisions of this section and related rules promulgated by the secretary of state may be used by the panel to cover such costs.

~~(7) The secretary of state shall promulgate rules necessary to establish a grant application process and any other rules necessary to implement provisions of this section.~~

(8) This section is repealed, effective ~~July 1, 2006~~ JULY 1, 2008.

**SECTION 5.** Part 4 of article 10 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**30-10-424. Uniform administration - secretary of state.** (1) IN ORDER TO ENSURE UNIFORMITY AMONG ELECTRONIC FILING SYSTEMS, AND IN ADDITION TO ANY OTHER POWERS PRESCRIBED BY LAW, THE SECRETARY OF STATE SHALL HAVE THE FOLLOWING POWERS TO:

(a) ASSIST A COUNTY CLERK AND RECORDER IN CONDUCTING AN ASSESSMENT OF THE CORE FILING SYSTEM TO IDENTIFY NECESSARY IMPROVEMENTS TO THE CORE FILING SYSTEM;

(b) PROVIDE TRAINING TO ASSIST A CLERK AND RECORDER IN ESTABLISHING, MAINTAINING, OR IMPROVING AN ELECTRONIC FILING SYSTEM;

(c) PROVIDE TRAINING RELATED TO NECESSARY IMPROVEMENTS TO THE CORE FILING SYSTEM;

(d) PROVIDE ACCOUNTING SERVICES AND STAFFING FOR THE CLERK AND RECORDER TECHNOLOGY PANEL CREATED IN SECTION 30-10-423;

(e) ESTABLISH A STATEWIDE PURCHASING NETWORK FOR THE ACQUISITION OF HARDWARE, SOFTWARE, AND SERVICES RELATED TO AN ELECTRONIC FILING SYSTEM, WHICH SHALL INCLUDE ALL ELIGIBLE CLERK AND RECORDERS, AND, IN CONNECTION THEREWITH:

(I) ESTABLISH ELIGIBILITY REQUIREMENTS FOR THE STATEWIDE PURCHASING NETWORK;

(II) ISSUE REQUESTS FOR INFORMATION, REQUESTS FOR PROPOSALS, OR USE ANY OTHER STANDARD VENDOR SELECTION PRACTICES DETERMINED TO BE BEST SUITED FOR SELECTING APPROPRIATE CONTRACTORS FOR THE STATEWIDE PURCHASING NETWORK; AND

(III) ESTABLISH STANDARDS BY WHICH A COUNTY OFFICER OTHER THAN A COUNTY CLERK AND RECORDER MAY VOLUNTARILY BECOME PART OF THE STATEWIDE PURCHASING NETWORK FOR THE ACQUISITION OF HARDWARE, SOFTWARE, AND SERVICES RELATED TO THE ADMINISTRATION OF THE DUTIES FOR HIS OR HER OFFICE;

(f) PROMULGATE RULES THAT ESTABLISH:

(I) STANDARDS FOR NECESSARY IMPROVEMENTS TO THE CORE FILING SYSTEMS;

(II) STANDARDS FOR ALL ELECTRONIC FILING SYSTEMS, INCLUDING BUT NOT LIMITED TO A MINIMUM STANDARD FOR INTEGRATION AND COORDINATION OF INFORMATION BETWEEN COUNTIES AND THE METHODS BY WHICH THE CLERK AND RECORDER WILL ACCEPT PAYMENT OF FEES FOR ELECTRONIC FILINGS; AND

(III) AN APPLICATION PROCESS FOR GRANTS MADE PURSUANT TO SECTION 30-10-423 (5) (a); AND

(g) PROMULGATE ANY OTHER RULES NECESSARY TO SUPERVISE THE CLERK AND RECORDER TECHNOLOGY PANEL OR TO ADMINISTER THE PROVISIONS OF THIS SECTION OR SECTIONS 30-10-421, 30-10-422, AND 30-10-423.

**SECTION 6. Effective date.** This act shall take effect July 1, 2004.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 2004