



Sub. S.B. 148*

126th General Assembly

(As Reported by S. State and Local Government and Veterans Affairs)

Sen. Hottinger

BILL SUMMARY

- Authorizes county recorders to use electronic or magnetic mediums for indexing and recording federal tax liens and other federal liens.
- Authorizes county recorders to request a revision to the county's schedule of records retention and disposal in order to dispose of unnecessary paper versions of those recorded documents.
- Requires a county recorder to charge and collect a "per-image" fee equivalent to the per-page photocopy fee when a nonpaper form of photocopying a document in the recorder's office is used.
- Applies the per-image fee equivalent regardless of whether the requester provides the equipment and other resources necessary to produce the form of imaging.

CONTENT AND OPERATION

Federal liens

Current law

In general. Under current law, a county recorder generally is required to keep specified documents either in six separate sets of records or two separate sets of records. If only two sets of records are kept, one must contain everything that otherwise would be contained in the record of plats, and the other set, which is

* *This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

called the "official records," must contain all of the other documents required to be kept and recorded. (R.C. 317.08(A) and (C)--not in the bill.)

All instruments or memoranda of instruments entitled to record must be recorded in the proper record in the order in which they are presented for record. The county recorder may index, keep, and record in one volume unemployment compensation liens, federal tax and other federal liens, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and other specified liens. (R.C. 317.08(B)--not in the bill.)

Recording of federal liens specifically. Federal tax liens and other federal liens must be recorded in a book known as the "federal tax and other federal lien index" in alphabetical order, showing on one line the name and residence of the person named in the lien notice, the serial number or other identifying number of the notice, and the total amount of the lien. The county recorder must file and keep all *original notices* in numerical order. And, when a certificate of discharge or release of any federal lien is filed for record in the office of the county recorder in which the original notice is filed, the recorder must enter the certificate with the date of filing in the federal tax and other federal lien index on the line on which the notice so discharged or released is entered and permanently attach the original certificate of discharge or release to the original notice. (R.C. 317.09(A).)

When the county recorder maintains all instruments in two sets of records as discussed above, the federal lien notices and certificates of discharge or release must be recorded in the "official records" (R.C. 317.09(B)).

Changes made by the bill

The bill authorizes the county recorder to enter federal liens in an *electronic or magnetic* medium known as the "federal tax and other federal lien index" as an alternative to the book format of that index. (See **COMMENT.**) If the county recorder uses any nonpaper electronic or magnetic medium specified in a provision of general law to record federal lien notices and certificates of their discharge or release (R.C. 9.01--not in the bill), an "original notice" otherwise provided for in this law means the notice as originally recorded by the nonpaper electronic or magnetic medium, and the recorder, instead of permanently attaching an original certificate of discharge or release to the original notice, must otherwise clearly indicate on the original notice that it has been discharged or released by the particular certificate. (R.C. 317.09(A) and (C).)

If such a county recorder wishes to dispose of paper versions of federal lien notices and certificates of their discharge or release that are no longer needed in

that format, the bill requires the recorder to request the county records commission to revise the county's schedule of records retention and disposal in accordance with existing law to provide for the disposal of those paper records (R.C. 317.09(C)).

Photocopy charge by county recorder

Current law

Under current law, the county recorder is required to charge and collect fees prescribed by law for recording and indexing instruments and other documents, for photocopying recorded documents, and for performing certain other services. The fees generally include a base fee for the recorder's services and a housing trust fund fee. The fees are generally determined on a per-page basis. (R.C. 317.32.) For photocopying a recorded and indexed document, the recorder must charge and collect a base fee of \$1 and a housing trust fund fee of \$1 per page, size 8½ inches by 14 inches, or fraction of a page that size (R.C. 317.32(I)).

Changes made by the bill

The bill provides that, if a *nonpaper method* of photocopying a document is permitted, a base fee of \$1 and a housing trust fund fee of \$1 *per image equivalent* to a page of that size must be collected. The charge applies regardless of whether the requester provides the equipment and other resources necessary to produce the form of imaging. (R.C. 317.32(I).)

COMMENT

Federal law provides that a notice of federal tax lien (Form 668) generally means a paper form, but if a state permits a notice of federal tax lien to be filed by the use of an *electronic or magnetic medium*, Form 668 includes a Form 668 filed by the use of any electronic or magnetic medium permitted by that state (26 C.R.F. 301.6323(f)-1(d)(1) and (2)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-17-05	p. 521
Reported, S. State & Local Gov't & Veterans Affairs	---	---

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