A BILL FOR AN ACT

CONCERNING THE RECORDING OF LEGAL DOCUMENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

The bill makes the following modifications to various statutory provisions involving the recording of deeds or other legal documents:

Current statutory provisions governing the issuance of bonds by a school district provide that the bonds are required to be registered by a county clerk and recorder (clerk). Section 1 of the bill eliminates the existing fee of $25 charged for the registration and specifies that the
amount of the fee is the amount required to be paid under
general provisions authorizing a clerk to impose a fee for
filing or recording.

In connection with the Colorado Open Records Act,
section 2 of the bill removes from the group of records that
may only be inspected by a person in interest records of an
application for a marriage or a civil union license.

Existing statutory provisions providing the right of
inspection of abstract books and related papers give
abstractors, title insurance personnel, and others the
opportunity to subscribe on an annual basis for a daily copy
in bulk of all documents recorded and filed. Section 3 of
the bill eliminates the ability to subscribe on an annual
basis.

Section 4 of the bill adds to existing general requirements
pertaining to recording or filing documents with the clerk
the requirement that the document be legible.

Section 5 of the bill addresses general requirements for
filing documents with the clerk. This section of the bill
specifies when a document is deemed to be received,
accepted, or recorded. With respect to recorded documents,
the bill requires the clerk to keep record of any reception
number, volume, film, or page that is unused, and to
immediately make entry into the clerk's index. Finally, this
section of the bill generally obligates the clerk to record
any document by the end of business on the next business
day and to keep record of the name of the recipient of the
delivery of a recorded document.

Section 6 of the bill modifies existing statutory provisions
governing the process of filing with the clerk an order
dissolving a special district. In such circumstances, where
there are no remaining funds of the district, this section of
the bill permits the division of local government to claim
an existing statutory exemption from payment of recording
fees at the time the document is offered for recording.

Sections 7, 8, and 9 of the bill establish that a verification
of death document may be filed with the clerk as an
alternative to a death certificate in connection with legal
proceedings adjudicating an interest in real property of a
person who is deceased.

Current statutory provisions provide grounds under which
the clerk is not required to return the original release of a
deed of trust. Section 10 of the bill also permits the clerk
to retain the original release where it is electronically
recorded.
Under current law, a documentary fee is charged upon the conveyance of real property and the clerk is required to establish payment of the fee by imprinting evidence of payment on each document to which the fee applies. **Section 11** of the bill alternately permits the clerk to establish payment of the fee in the recording annotation.

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

**SECTION 1.** In Colorado Revised Statutes, **amend** 22-42-121 as follows:

**22-42-121. Registration of bonds.** Whenever any school district issues bonds under the provisions of this article, the board of education may make and enter in its record a request that the county clerk and recorder of the county wherein the headquarters of such school district is situated register the bonds on a collective, not an individual, basis in a book to be kept by him or her for that purpose. When so registered, the legality thereof shall not be open to contest by such district, or any person whomsoever, for any reason whatsoever. A certified copy of the order of the board, so made and entered of record, shall be furnished to such county clerk and recorder by the board of education and thereupon it shall be his or her duty to register said bonds on a collective basis, noting the name of the district and the amount, the date of issuance and maturity, and the rate of interest of said bonds. **Such** the county clerk and recorder shall not be required to make a separate entry in said book or complete or process a registration form for each such bond of such issue, or otherwise register each such bond of such issue on an individual basis. He or she shall receive a fee of twenty-five dollars for registering each such issue **Pursuant to Section 30-1-103 (1), C.R.S.**

**SECTION 2.** In Colorado Revised Statutes, 24-72-204, **amend**
(3) (a) (XIX) (A); and **repeal** (3) (a) (XIX) (B) as follows:

**24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions.** (3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest under this subsection (3):

(XIX) (A) Except as provided in sub-subparagraphs (B) and (C) SUB-SUBPARAGRAPH (C) of this subparagraph (XIX), applications for a marriage license submitted pursuant to section 14-2-106, C.R.S., and, except as provided in sub-subparagraphs (B) and (C) SUB-SUBPARAGRAPH (C) of this subparagraph (XIX), applications for a civil union license submitted pursuant to section 14-15-110, C.R.S. A person in interest under this subparagraph (XIX) includes an immediate family member of either party to the marriage application. As used in this subparagraph (XIX), "immediate family member" means a person who is related by blood, marriage, or adoption. Nothing in this subparagraph (XIX) shall be construed to prohibit the inspection of marriage licenses or marriage certificates or of civil union certificates or to otherwise change the status of those licenses or certificates as public records.

(B) Any record of an application for a marriage license submitted pursuant to section 14-2-106, C.R.S., and any record of an application for a civil union license submitted pursuant to section 14-15-110, C.R.S., shall be made available for public inspection fifty years after the date that record was created.

**SECTION 3.** In Colorado Revised Statutes, 30-10-101, **amend** (2.5) (a) as follows:
30-10-101. Offices - inspection of records - failure to comply - penalty. (2.5) (a) In lieu of affording the right of inspection and copying set forth in subsection (2) of this section, any clerk and recorder may make available to abstractors, title insurance personnel, and others, by annual subscription and on such medium as the clerk and recorder shall determine in accordance with the provisions of section 30-10-407, a daily copy in bulk of all documents recorded and filed in such office or less than all if the clerk and recorder determines it to be feasible to sort the bulk as requested. Such bulk copy shall be available to the subscriber no later than the third business day following the date of recording or filing. The fee to be charged by the clerk and recorder for bulk copies supplied in accordance with this subsection (2.5) shall be sufficient to cover the direct and indirect costs of production incurred by the clerk and recorder.

SECTION 4. In Colorado Revised Statutes, 30-10-406, amend (3) (a) as follows:

30-10-406. County clerk and recorder - duties - filing requirements. (3) (a) All documents received for recording or filing in the clerk and recorder's office, except a verification of application form as defined in section 38-29-102 (13), C.R.S., shall contain a top margin of at least one inch and a left, right, and bottom margin of at least one-half of an inch, AND BE LEGIBLE. The clerk and recorder may refuse to record or file any document that does not conform to the requirements of this paragraph (a).

SECTION 5. In Colorado Revised Statutes, 30-10-409, amend (2) as follows:

30-10-409. Documents - receipt - acceptance - recording.
(2) When any document has been accepted by the clerk and recorder for recording and the proper fee has been paid, such document shall be deemed to be recorded for all purposes. After a document has been received, the clerk and recorder shall endorse upon such document information, which may be in electronic form, noting the day, hour, and minute of its acceptance for recording, the index or reception number, the volume, film or page where recorded, if such are used, and the fee received for recording the same and shall immediately make an entry of the same in the reception book, under the appropriate heading, with the amount paid as fee for recording the same. A document shall be deemed accepted as of the date and time of its endorsement.

A DOCUMENT IS RECEIVED WHEN IT HAS BEEN DELIVERED IN PAPER OR ELECTRONIC FORM TO THE RECORDING OFFICE OF THE COUNTY CLERK AND RECORDER. A DOCUMENT IS ACCEPTED BY THE COUNTY CLERK AND RECORDER ONCE THE PROPER FEE HAS BEEN PAID AND THE REQUIREMENTS OF SECTION 30-10-406 (3) ARE FULFILLED. A DOCUMENT IS RECORDED ONCE IT HAS BEEN ENDORSED WITH A RECEPTION NUMBER, YEAR, DATE, MONTH, TIME, THE VOLUME, FILM, OR PAGE WHERE RECORDED, AND THE FEE RECEIVED FOR RECORDING. THE CLERK AND RECORDER SHALL KEEP RECORD OF ANY RECEPTION NUMBER, VOLUME, FILM, OR PAGE THAT IS UNUSED. THE CLERK AND RECORDER SHALL IMMEDIATELY MAKE ENTRY INTO THE INDEX. The clerk and recorder's endorsement may be done electronically. When such endorsement is made electronically, the endorsement shall be immediately perceptible and reproducible. The clerk and recorder shall record any document, except those filed and recorded pursuant to section 38-29-205, C.R.S., that is received by 1 p.m. on a business day shall be endorsed by the end of that day. Any document that is received after 1
p.m. on a business day shall be endorsed by 5 p.m. on the following business day BY THE END OF BUSINESS ON THE NEXT BUSINESS DAY. Those documents received pursuant to section 38-29-205, C.R.S., shall be endorsed by the clerk and recorder within three business days. After a document has been endorsed and processed for recording, the clerk and recorder, without additional fee or charge, shall deliver it by regular mail, electronic delivery, or personal delivery to the person authorized to receive the same. Writing the name of the person to whom it is delivered in an appropriate column in the reception book THE CLERK AND RECORDER SHALL KEEP RECORD OF THE NAME OF THE RECIPIENT.

SECTION 6. In Colorado Revised Statutes, 32-1-707, amend (5) as follows:

32-1-707. Order of dissolution - conditions attached. (5) A certified copy of the order of dissolution shall be filed with the county clerk and recorder of the county or counties in which the special district is located and with the division by the clerk of the court. The costs of such filing shall be paid with remaining funds of the district. IF THERE ARE NO REMAINING FUNDS OF THE DISTRICT, THE DIVISION MAY CLAIM THE EXEMPTION FROM PAYMENT OF RECORDING FEES IMPOSED IN SECTION 30-1-103, C.R.S., AT THE TIME THE COPY OF THE ORDER IS FILED FOR RECORDING.

SECTION 7. In Colorado Revised Statutes, amend 38-31-102 as follows:

38-31-102. Proof of death - certificate of death available - definitions. (1) A certificate of death, A VERIFICATION OF DEATH DOCUMENT, or a certified copy thereof, of a person who is a joint tenant may be placed of record with the county clerk and recorder of the county
in which the real property affected by the joint tenancy is located, together with a supplementary affidavit. The supplementary affidavit, which shall be properly sworn to or affirmed by a person of legal age having personal knowledge of the facts and having no record interest in the real property, shall include the legal description of the real property and a statement that the person referred to in the certificate was at the time of death the owner of a joint tenancy interest in the real property. When recorded, the original certificate or verification document and supplementary affidavit, or certified copies thereof, shall be accepted in all courts of the state of Colorado as prima facie proof of the death of the joint tenant. The certificate or verification document and supplementary affidavit provided for in this section may also be used to provide proof of the death of a life tenant or any other person whose record interest in real property terminates upon the death of such person to the same extent as a joint tenant as provided in this section.

(2) As used in this part 1, unless the context otherwise requires, a "certificate of death, verification of death document, or certified copy thereof" means a certificate of death or verification of death document meeting the requirements set forth in section 38-35-112 to be admitted as evidence or a copy of such a certificate of death or verification of death document certified by the public office that issued it.

SECTION 8. In Colorado Revised Statutes, amend 38-31-103 as follows:

38-31-103. Proof of death - certificate of death unavailable. If a certificate of death, verification of death document, or a certified copy thereof cannot be procured, an affidavit properly sworn to or
affirmed by two or more persons of legal age having personal knowledge of the facts and having no record interest in the real property affected by the joint tenancy may be placed of record in the office of the county clerk and recorder of the county in which the real property is located. The affidavit shall include a statement that a certificate of death, VERIFICATION OF DEATH DOCUMENT, or certified copy thereof cannot be procured, and the reason therefor, the legal description of the real property, the date and place of death of the deceased person, and a statement that the person referred to in the affidavit was at the time of death an owner of a joint tenancy interest in the real property. When recorded, the original affidavit, or a certified copy thereof, shall be accepted in all courts in the state of Colorado as prima facie proof of the death of the joint tenant and the date and place of death of the joint tenant. The affidavit provided for in this section may also be used to provide proof of the death of a life tenant or any other person whose record interest in real property terminates upon the death of the person and the date and place of death of the life tenant or other person to the same extent as a joint tenant as provided in this section.

SECTION 9. In Colorado Revised Statutes, amend 38-35-112 as follows:

38-35-112. Certificate of death when properly recorded may be admitted as evidence. A certificate of death OR A VERIFICATION OF DEATH DOCUMENT issued by a public official, whose apparent official duties include the keeping of records of death, of any state, territory, county, parish, district, city, town, village, province, nation, or other governmental agency or subdivision thereof or a copy of any such certificate of death OR A VERIFICATION OF DEATH DOCUMENT certified by
such public official or by the county clerk and recorder of any county in
the state of Colorado in whose office the same or a certified copy thereof
has been recorded shall, insofar as the death may affect any interest in
real property, be prima facie evidence of the death so certified and of the
time and place of such death and shall be admissible in evidence in any
court in the state of Colorado. Such method of proving death shall not be
exclusive and nothing in this section shall be construed to prevent the
proof of the death of any person in any other manner authorized by law.

SECTION 10. In Colorado Revised Statutes, 38-39-109, amend
(1) (b) as follows:

38-39-109. When release of deed of trust is recorded.
(1) (b) The county clerk and recorder shall not be required to return the
original release of a deed of trust as specified in paragraph (a) of this
subsection (1) if the public trustee, in his or her discretion, has released
the deed of trust as specified in section 38-39-102 (1) (a) (IV), or if a
current address is not provided as specified in section 38-39-102 (9) (b),
OR IF THE RELEASE OF DEED OF TRUST IS ELECTRONICALLY RECORDED.

SECTION 11. In Colorado Revised Statutes, amend 39-13-103
as follows:

39-13-103. Evidence of payment of fee. Each county clerk and
recorder shall evidence payment of the documentary fee imposed in this
article IN THE RECORDING ANNOTATION OR by imprinting, typing,
stamping, or writing in ink on the margin or other blank portion of every
document to which such fee applies the words "State Documentary Fee",
the amount of documentary fee paid, and the date upon which paid, which
impression or notation shall be made on such document before it is
recorded.
SECTION 12. Effective date. This act takes effect July 1, 2014.

SECTION 13. 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.