

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0521.01 Bob Lackner x4350

HOUSE BILL 14-1073

HOUSE SPONSORSHIP

Pabon,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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.

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

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

4 **22-42-121. Registration of bonds.** Whenever any school district
5 issues bonds under the provisions of this article, the board of education
6 may make and enter in its record a request that the county clerk and
7 recorder of the county wherein the headquarters of such school district is
8 situated register the bonds on a collective, not an individual, basis in a
9 book to be kept by him OR HER for that purpose. When so registered, the
10 legality thereof shall not be open to contest by such district, or any person
11 whomsoever, for any reason whatsoever. A certified copy of the order of
12 the board, so made and entered of record, shall be furnished to such
13 county clerk and recorder by the board of education and thereupon it shall
14 be his OR HER duty to register said bonds on a collective basis, noting the
15 name of the district and the amount, the date of issuance and maturity,
16 and the rate of interest of said bonds. ~~Such~~ THE county clerk and recorder
17 ~~shall~~ IS not be required to make a separate entry in said book or complete
18 or process a registration form for each such bond of such issue, or
19 otherwise register each such bond of such issue on an individual basis. He
20 OR SHE shall receive a fee of ~~twenty-five dollars for registering each such~~
21 ~~issue~~ PURSUANT TO SECTION 30-1-103 (1), C.R.S.

22 **SECTION 2.** In Colorado Revised Statutes, 24-72-204, **amend**

1 (3) (a) (XIX) (A); and **repeal** (3) (a) (XIX) (B) as follows:

2 **24-72-204. Allowance or denial of inspection - grounds -**
3 **procedure - appeal - definitions.** (3) (a) The custodian shall deny the
4 right of inspection of the following records, unless otherwise provided by
5 law; except that any of the following records, other than letters of
6 reference concerning employment, licensing, or issuance of permits, shall
7 be available to the person in interest under this subsection (3):

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

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

26 **SECTION 3.** In Colorado Revised Statutes, 30-10-101, **amend**
27 (2.5) (a) as follows:

1 **30-10-101. Offices - inspection of records - failure to comply**
2 **- penalty.** (2.5) (a) In lieu of affording the right of inspection and
3 copying set forth in subsection (2) of this section, any clerk and recorder
4 may make available to abstractors, title insurance personnel, and others,
5 by ~~annual~~ subscription and on such medium as the clerk and recorder
6 shall determine in accordance with the provisions of section 30-10-407,
7 a daily copy in bulk of all documents recorded and filed in such office or
8 less than all if the clerk and recorder determines it to be feasible to sort
9 the bulk as requested. Such bulk copy shall be available to the subscriber
10 no later than the third business day following the date of recording or
11 filing. The fee to be charged by the clerk and recorder for bulk copies
12 supplied in accordance with this subsection (2.5) shall be sufficient to
13 cover the direct and indirect costs of production incurred by the clerk and
14 recorder.

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

17 **30-10-406. County clerk and recorder - duties - filing**
18 **requirements.** (3) (a) All documents received for recording or filing in
19 the clerk and recorder's office, except a verification of application form
20 as defined in section 38-29-102 (13), C.R.S., shall contain a top margin
21 of at least one inch and a left, right, and bottom margin of at least
22 one-half of an inch, AND BE LEGIBLE. The clerk and recorder may refuse
23 to record or file any document that does not conform to the requirements
24 of this paragraph (a).

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

27 **30-10-409. Documents - receipt - acceptance - recording.**

1 ~~(2) When any document has been accepted by the clerk and recorder for~~
2 ~~recording and the proper fee has been paid, such document shall be~~
3 ~~deemed to be recorded for all purposes. After a document has been~~
4 ~~received, the clerk and recorder shall endorse upon such document~~
5 ~~information, which may be in electronic form, noting the day, hour, and~~
6 ~~minute of its acceptance for recording, the index or reception number, the~~
7 ~~volume, film or page where recorded, if such are used, and the fee~~
8 ~~received for recording the same and shall immediately make an entry of~~
9 ~~the same in the reception book, under the appropriate heading, with the~~
10 ~~amount paid as fee for recording the same. A document shall be deemed~~
11 ~~accepted as of the date and time of its endorsement~~ A DOCUMENT IS
12 RECEIVED WHEN IT HAS BEEN DELIVERED IN PAPER OR ELECTRONIC FORM
13 TO THE RECORDING OFFICE OF THE COUNTY CLERK AND RECORDER. A
14 DOCUMENT IS ACCEPTED BY THE COUNTY CLERK AND RECORDER ONCE THE
15 PROPER FEE HAS BEEN PAID AND THE REQUIREMENTS OF SECTION
16 30-10-406 (3) ARE FULFILLED. A DOCUMENT IS RECORDED ONCE IT HAS
17 BEEN ENDORSED WITH A RECEPTION NUMBER, YEAR, DATE, MONTH, TIME,
18 THE VOLUME, FILM, OR PAGE WHERE RECORDED, AND THE FEE RECEIVED
19 FOR RECORDING. THE CLERK AND RECORDER SHALL KEEP RECORD OF ANY
20 RECEPTION NUMBER, VOLUME, FILM, OR PAGE THAT IS UNUSED. THE CLERK
21 AND RECORDER SHALL IMMEDIATELY MAKE ENTRY INTO THE INDEX. The
22 clerk and recorder's endorsement may be done electronically. When such
23 endorsement is made electronically, the endorsement shall be immediately
24 perceptible and reproducible. THE CLERK AND RECORDER SHALL RECORD
25 any document, except those filed and recorded pursuant to section
26 38-29-205, C.R.S., that is received by 1 p.m. on a business day shall be
27 endorsed by the end of that day. Any document that is received after 1

1 ~~p.m. on a business day shall be endorsed by 5 p.m. on the following~~
2 ~~business day~~ BY THE END OF BUSINESS ON THE NEXT BUSINESS DAY. Those
3 documents received pursuant to section 38-29-205, C.R.S., shall be
4 endorsed by the clerk and recorder within three business days. After a
5 document has been ~~endorsed and processed for recording~~ RECORDED, the
6 clerk and recorder, without additional fee or charge, shall deliver it by
7 regular mail, electronic delivery, or personal delivery to the person
8 authorized to receive the same. ~~writing the name of the person to whom~~
9 ~~it is delivered in an appropriate column in the reception book~~ THE CLERK
10 AND RECORDER SHALL KEEP RECORD OF THE NAME OF THE RECIPIENT.

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

13 **32-1-707. Order of dissolution - conditions attached.** (5) A
14 certified copy of the order of dissolution shall be filed with the county
15 clerk and recorder of the county or counties in which the special district
16 is located and with the division by the clerk of the court. The costs of
17 such filing shall be paid with remaining funds of the district. IF THERE
18 ARE NO REMAINING FUNDS OF THE DISTRICT, THE DIVISION MAY CLAIM THE
19 EXEMPTION FROM PAYMENT OF RECORDING FEES IMPOSED IN SECTION
20 30-1-103, C.R.S., AT THE TIME THE COPY OF THE ORDER IS FILED FOR
21 RECORDING.

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

24 **38-31-102. Proof of death - certificate of death available -**
25 **definitions.** (1) A certificate of death, A VERIFICATION OF DEATH
26 DOCUMENT, or a certified copy thereof, of a person who is a joint tenant
27 may be placed of record with the county clerk and recorder of the county

1 in which the real property affected by the joint tenancy is located,
2 together with a supplementary affidavit. The supplementary affidavit,
3 which shall be properly sworn to or affirmed by a person of legal age
4 having personal knowledge of the facts and having no record interest in
5 the real property, shall include the legal description of the real property
6 and a statement that the person referred to in the certificate was at the
7 time of death the owner of a joint tenancy interest in the real property.
8 When recorded, the original certificate OR VERIFICATION DOCUMENT and
9 supplementary affidavit, or certified copies thereof, shall be accepted in
10 all courts of the state of Colorado as prima facie proof of the death of the
11 joint tenant. The certificate OR VERIFICATION DOCUMENT and
12 supplementary affidavit provided for in this section may also be used to
13 provide proof of the death of a life tenant or any other person whose
14 record interest in real property terminates upon the death of such person
15 to the same extent as a joint tenant as provided in this section.

16 (2) As used in this part 1, unless the context otherwise requires,
17 a "certificate of death, VERIFICATION OF DEATH DOCUMENT, or certified
18 copy thereof" means a certificate of death OR VERIFICATION OF DEATH
19 DOCUMENT meeting the requirements set forth in section 38-35-112 to be
20 admitted as evidence or a copy of such a certificate of death OR
21 VERIFICATION OF DEATH DOCUMENT certified by the public office that
22 issued it.

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

25 **38-31-103. Proof of death - certificate of death unavailable.** If
26 a certificate of death, VERIFICATION OF DEATH DOCUMENT, or a certified
27 copy thereof cannot be procured, an affidavit properly sworn to or

1 affirmed by two or more persons of legal age having personal knowledge
2 of the facts and having no record interest in the real property affected by
3 the joint tenancy may be placed of record in the office of the county clerk
4 and recorder of the county in which the real property is located. The
5 affidavit shall include a statement that a certificate of death,
6 VERIFICATION OF DEATH DOCUMENT, or certified copy thereof cannot be
7 procured, and the reason therefor, the legal description of the real
8 property, the date and place of death of the deceased person, and a
9 statement that the person referred to in the affidavit was at the time of
10 death an owner of a joint tenancy interest in the real property. When
11 recorded, the original affidavit, or a certified copy thereof, shall be
12 accepted in all courts in the state of Colorado as prima facie proof of the
13 death of the joint tenant and the date and place of death of the joint
14 tenant. The affidavit provided for in this section may also be used to
15 provide proof of the death of a life tenant or any other person whose
16 record interest in real property terminates upon the death of the person
17 and the date and place of death of the life tenant or other person to the
18 same extent as a joint tenant as provided in this section.

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

21 **38-35-112. Certificate of death when properly recorded may**
22 **be admitted as evidence.** A certificate of death OR A VERIFICATION OF
23 DEATH DOCUMENT issued by a public official, whose apparent official
24 duties include the keeping of records of death, of any state, territory,
25 county, parish, district, city, town, village, province, nation, or other
26 governmental agency or subdivision thereof or a copy of any such
27 certificate of death OR A VERIFICATION OF DEATH DOCUMENT certified by

1 such public official or by the county clerk and recorder of any county in
2 the state of Colorado in whose office the same or a certified copy thereof
3 has been recorded shall, insofar as the death may affect any interest in
4 real property, be prima facie evidence of the death so certified and of the
5 time and place of such death and shall be admissible in evidence in any
6 court in the state of Colorado. Such method of proving death shall not be
7 exclusive and nothing in this section shall be construed to prevent the
8 proof of the death of any person in any other manner authorized by law.

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

11 **38-39-109. When release of deed of trust is recorded.**

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

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

20 **39-13-103. Evidence of payment of fee.** Each county clerk and
21 recorder shall evidence payment of the documentary fee imposed in this
22 article IN THE RECORDING ANNOTATION OR by imprinting, typing,
23 stamping, or writing in ink on the margin or other blank portion of every
24 document to which such fee applies the words "State Documentary Fee",
25 the amount of documentary fee paid, and the date upon which paid, which
26 impression or notation shall be made on such document before it is
27 recorded.

1 **SECTION 12. Effective date.** This act takes effect July 1, 2014.

2 **SECTION 13. Safety clause.** The general assembly hereby finds,

3 determines, and declares that this act is necessary for the immediate

4 preservation of the public peace, health, and safety.