

NEW LEGISLATION

COUNTY RECORDER'S ANNUAL CONFERENCE

APRIL, 2017

SB 152 – Local Redevelopment

- ▶ Amends IC 4-6-12-3 and is effective 7-1-17
 - ▶ Eliminates Blight Register
- ▶ Amends IC 4-6-12-9 and is effective 7-1-17
 - ▶ Adds additional fees collected by the Clerk to the State's homeowner protection fund. This fund receives a percentage of the fee for recording a mortgage.
- ▶ Amends IC 36-7-14 - Adds some changes to Redevelopment Commission's authority to purchase land.

SB 346 – Donation of Funds

- ▶ Amends IC 36-1-14-1 and is effective upon passage
- ▶ Donation of proceeds from the sale of a facility (hospital) if the donation occurs after December 31, 2015
 - ▶ DLGF may not lower the tax levy due to:
 - ▶ Donation of proceeds of money to a foundation
 - ▶ Distribution from the endowment to the unit
 - ▶ Return of donation to the general fund

SB 443 – Uniform Business Organization

- ▶ Adds IC 23-.05 effective January 1, 2018 called Uniform Business Organizations Administrative Provisions
- ▶ Adds IC 23-0.5-4 – Which retains the requirement that an individual or a general partnership other than a limited liability partnership, conducting or transacting business shall file for record, in the office of the recorder of each county, a certificate stating assumed name to be used (Replaces IC 23-15-1)
- ▶ The Recorder is to maintain a record of the certificates filed and an index of the certificates and notice of dissolution
- ▶ The Recorder is to charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution or discontinuance.

SB 455 - Tax Administration of Mobile Homes

- ▶ A new section is added to IC 6-1.1-23.5 effective 1-1-18 for the collection procedures for delinquent personal property taxes, penalties and collection expenses. This allows for an auction of the mobile homes and the procedures include:
 - ▶ The certification for the auction must include the names and addresses of each person with substantial property interest of record.
 - ▶ The definition of substantial property interest of record means a title or interest in the mobile home that is issued by BMV, filed with the secretary of state, **recorded in the office of the county recorder** or available for inspection in the office of circuit court clerk.

SB 505 – County Recorder Matters

- ▶ Effective 7-1-17
- ▶ Amends IC 6-1.1-12-37 to include the phrase "or evidenced by a memorandum of contract recorded in the county recorder's office under IC 36-2-11-20" to the an individual buying on contract in defining who is eligible for a homestead deduction on their property tax.
- ▶ Amends IC 24-9-9-1 on the fee collected for each mortgage now found in IC 36-2-7-10(c)(2); Repeals IC 24-9-9-2; amends IC 24-9-9-3 for the \$2.50 sent to the auditor of state of the fee collected.

SB 505 – County Recorder Matters

- ▶ Effective 7-1-17 and amends IC 32-21-2-10 to now state: A recorder of deeds and **other instruments** shall keep a book or **electronic index** that includes:
 - ▶ The names of grantor and grantee
 - ▶ The date and time of recording
 - ▶ The location of the recording
 - ▶ A legal description, if required and adds
 - ▶ "A deed or instrument shall be considered recorded at the time the date of reception is stamped on the document by the recorder."

SB 505 – Electronic Recordings

- ▶ Effective 7-1-15 and adds IC 32-21-2-15 as a new section to allow for electronic recording:
 - ▶ Beginning January 1, 2018, a document concerning real property that may be recorded with a county recorder under this title may be recorded electronically as provided under IC 32-21-2.5

SB 505 – Electronic Recordings

- ▶ Effective 7-1-17 and adds a new chapter 32-21-2.5 called Uniform Real Property Electronic Recording Act
- ▶ Section 1 through 6 provide definitions including:
 - ▶ A document means information that is inscribed on a tangible medium or that is stored in an electronic medium and is retrievable in perceivable form and is eligible to be recorded in the land records maintained by a county recorder
 - ▶ Electronic Document means a document that is received by a county recorder in an electronic form.
 - ▶ Electronic signature means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with intent to sign the document.

SB 505 – Electronic Recordings

- ▶ Effective 1-1-2018 adds IC 32-21-2.5-7
 - ▶ If the law requires as a condition for recording that a document (1) be an original; (2) be on paper or another tangible medium; (3) be in writing; the requirement is satisfied by an electronic document satisfying this chapter.
 - ▶ If the law requires a document be signed before recording, the requirement is satisfied by an electronic signature.
 - ▶ A requirement that a document or signature be notarized, acknowledged, verified, witnessed or made under oath is satisfied if the electronic signature of the person authorized to perform that act and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of the stamp, impression or seal does not have to accompany an electronic signature.

SB 505 – Electronic Recordings

- ▶ Effective 1-1-18; Establishes IC 32-21-2.5-8
 - ▶ Implementation must follow standards established by the electronic recording commission established under IC 32-21-2.5-9
 - ▶ The Recorder may receive, index, store, archive and transmit electronic documents.
 - ▶ The Recorder may provide for access to, and for search and retrieval of documents and information by electronic means
 - ▶ A Recorder who accepts electronic documents for recording shall continue to accept paper documents and place entries for both types of documents in the same index

SB 505 – Electronic Recordings

- ▶ A recorder may convert paper documents accepted for recording into electronic documents
- ▶ A recorder may convert into electronic form information recorded before the county recorder began to record electronic documents
- ▶ A recorder may accept electronically any fee or tax that the county recorder is authorized to collect
- ▶ A recorder may agree with other officials (federal, state or local units) on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes

SB 505 – Electronic Recordings

- ▶ Establishes IC 32-21-2.5-9 on the electronic recording commission which shall be established to adopt standards of implementation before 1-1-19. The commission consists of five members appointed by the governor:
 - ▶ 3 of the members must be county recorders
 - ▶ One of the members must be employed in Indiana in the banking or mortgage lending industry
 - ▶ One of the members must be employed in Indiana in the land title industry.

SB 505 – Electronic Recordings

- ▶ The commission, in attempting to keep the standards and practices of Indiana county recorders in harmony with recording offices in other jurisdictions and the technology used compatible with that used in other jurisdictions, shall consider
 - ▶ Standards and practices of other jurisdictions
 - ▶ Most recent standards promulgated by national standard setting bodies such as Property Records Industry Association(PRIA)
 - ▶ The view of interested persons and governmental officials
 - ▶ The needs of counties of varying size, population and resources
 - ▶ Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved and resistant to tampering

SB 505 – Conveyance Procedures

- ▶ Effective 7-1-17 amends IC 32-21-3-4
 - ▶ Adds the term lease to the executory contract for sale or purchase of land
 - ▶ Adds the term 'memorandum of an executory contract for the sale, purchase or lease of land recorder under IC 36-2-11-20.
 - ▶ Adds a subsection that states: a document recorded under this section gives notice to persons that are not parties to the letter or contract of
 - ▶ The existence of the letter or contract
 - ▶ The identities of the parties to the letter or contract
 - ▶ The duty to inquire about the terms and conditions of the letter or contract if the recorded document does not disclose the terms and conditions.

SB 505 – Marginal Assignments

- ▶ Effective 7-1-17 and amends IC 32-29-1-8 on assignments of mortgages. Changes the language from "note the assignment in the margin by reference to the location where the assignment is located" to 'cross-reference the assignment to the mortgage book and the (1) page location; (2) instrument number; or (3) both subdivision (1) and (2) as set forth in the assignment.

SB 505 - Fees

- ▶ Effective 7-1-2017 and amends IC 36-2-7-10
- ▶ Section (a) adds definitions of
 - Copy
 - Mortgage
 - Multiple Transaction Document
 - Record or Recording
- ▶ Section (b) changes the term 'tax' to 'charge'

SB 505 - Fees

- ▶ Effective 7-1-15
 - ▶ Recording deed or other instrument, other than mortgage \$25
 - ▶ Recording mortgage \$55
 - ▶ Pages larger than 8 ½ by 14 inches-first page \$25
 - ▶ Each additional page \$5 per page
 - ▶ Attesting to the release, partial release or assignment \$7 per transaction
 - ▶ Fee under subsection 1 \$25
 - ▶ Copies of records-pages smaller than 11 by 17 \$1 per page
 - ▶ Copies of records-pages larger than 11 by 17 \$5 per page
 - ▶ Acknowledgement/Certification \$5

SB 505 - Fees

- ▶ IC 36-2-7-10.5 establishes how the fees collected will be allocated for all counties that do not have a consolidated city.
- ▶ Recording any deed or other instrument other than mortgage
 - ▶ County general \$8
 - ▶ County surveyor's corner perpetuation \$5
 - ▶ County recorder's records perpetuation fund \$10
 - ▶ County Identification security protection fund \$1
 - ▶ Elected officer's training fund \$1

SB 505 - Fees

- ▶ IC 36-2-7-10.5 continues for allocation of costs for recording a mortgage, other than for a county with a consolidated city
 - ▶ County general \$34
 - ▶ County surveyor's corner perpetuation \$5
 - ▶ County recorder's records perpetuation \$11.50
 - ▶ Auditor of State \$2.50
 - ▶ County identification security protection \$1
 - ▶ County elected officers training \$1

SB 505 - Fees

- ▶ Effective 7-1-17 adds section in IC 36-2-7-10.5 for counties with a consolidated city
- ▶ Fees collected for recording any deed or other instrument, other than a mortgage

▶ County general fund	\$9
▶ County surveyor's corner perpetuation	\$5
▶ County recorder's records perpetuation	\$10
▶ County identification security protection	\$.50
▶ County elected officer training	\$.50

SB 505 - Fees

- ▶ Counties with a consolidated city (continued)
- ▶ Fees allocated from collections for recording mortgages

County general	\$35
County surveyor's corner perpetuation	\$5
County recorder's records perpetuation	\$11.50
State general and homeowner's protection	\$2.50
County identification security protection	\$0.50
County elected officer training	\$0.50

SB 505 – Identification Security Fund

- ▶ Effective 7-1-17 – Amends IC 36-2-7.5-11 for the County identification security protection fund
- ▶ The fund does not revert to county general however; money in a fund may be transferred to the county recorder's perpetuation fund for the uses set forth in IC 36-2-7-10(f)
 - ▶ The primary purpose of the fund is purchase, upgrade, implement or maintain redacting technology or to **secure protection measures** used in the office of the county recorder.
 - ▶ The fund must be appropriated by the council

SB 505 – Affordable Housing Fee

- ▶ Affordable Housing Fee-Counties without a consolidated city
- ▶ Fee is found in IC 36-2-7-10(c)(8).
- ▶ Effective 7-1-17, the fee is \$10 for each document recorded.
- ▶ IC 36-2-7-10(j) allocates the fee at 60% to local affordable housing funds and 40% to the State for the State's affordable housing and community development fund.
 - ▶ To charge this fee, at least one unit in the county must establish an affordable housing fund and the county fiscal body must adopt an ordinance authorizing the fee

SB 505 – Affordable Housing Fee

- ▶ Affordable housing fee for counties with a consolidated city
- ▶ IC 36-2-7-10(c)(9) allows the county to charge \$2.50 for the first page and \$1 for each additional page of each document recorded.
- ▶ IC 36-2-7-10(k) allocates this fee at 60% to the local housing trust fund and 40% to the State for deposit into the affordable housing and community development fund.
- ▶ Effective 7-1-17 a new section is added – IC 36-2-7-10.7 which allows the county to adopt an alternative ordinance charging a flat \$10 per document fee and all of the fee would be placed in the local housing trust fund.

SB 505 – Cross Reference

- ▶ Effective 7-1-17 and amends IC 36-2-7-10 and adds subsection I:
 - ▶ The county recorder may also include a cross-reference or multiple cross-references identified in a document for recording under this section. For cross-referencing not otherwise required by statute or county ordinance, the person submitting the document for recording shall clearly identify on the front page of the instrument the specific cross-reference or cross-references to be included with the recorded documents.

SB 505 – Bulk Copies

- ▶ Effective 7-1-17 and amends IC 36-2-7-10.1
- ▶ Section a is amended for definitions:
 - ▶ Bulk Form Copy means an aggregation of copies, indices or both.
 - ▶ Bulk User changes from 'purchases bulk form copies' to "receives bulk form copies under a contract with the county recorder"
 - ▶ Copy means a reproduction including an image of a recorded document or indices created...
 - ▶ Recorded document definition adds the phrase 'or a recorder's designee'

SB 505 – Bulk Copies

- ▶ Effective 7-1-17 and adds a new section to IC 36-2-7-10.1
- ▶ The county executive shall establish by ordinance the manner and form in which the county recorder may provide bulk form copies. The ordinance must establish the use of disk, tape, drum or other electronic medium or by electronically transmitting the copies or both
- ▶ The bulk user must submit a written request identifying the requested bulk form copies with reasonable particularity. Unless refused the recorder shall supply the bulk form copies as prescribed by ordinance in an reasonable time after the later of the following events:

SB 505 – Bulk Copies

- ▶ Bulk user request-continues
 - ▶ (1) the recorder's archival process is complete and bulk form copies become available in the recorder's office
 - ▶ (2) the bulk form user executes a contract that meets the requirements of subsection (g) with;
 - ▶ (A) the county recorder; and
 - ▶ (B) if the county recorder uses a third party to provide bulk copy services, the county recorder's designee

SB 505 – Bulk Copies

- ▶ Effective 7-1-17 subsection (d) and (e) is added to IC 36-2-7-10.1 on fees
 - ▶ Ten cents (\$0.10) per page for a copy of recorded document, including the instrument's book and page, if applicable
 - ▶ Ten cents (\$0.10) per recorded document for a copy of the indices used by the county recorder for finding, retrieving and viewing a recorded document.

However, if the county executive makes a finding and determination that costs of producing bulk form copies, including watermark exceed the fee above and pass an ordinance, the fee can be increased to \$0.20 per page for copies of recorded documents and copies of indices instead of the \$0.10 per page above.

All fees charged for bulk form copies are deposited into the recorder's record perpetuation fund.

SB 505 – Bulk Copies

- ▶ Effective 7-1-17 adds a new subsection (g) to IC 36-2-7-10.1 for contracts.
- ▶ A bulk user must enter into a contract with the county recorder and if the county recorder uses a third party to provide bulk form copies, the county recorder's designee in order to receive bulk form copies. The contract must be in writing and must require the bulk form user not to do any of the following:
 - ▶ Except as provided in subsection (h), provide transfer or allow the transfer of any copy of a recorded document obtained by the bulk user
 - ▶ Engage in unauthorized access to recorded documents.
 - ▶ Engage in unauthorized alteration or recorded documents.

SB 505 – Bulk Copies

- ▶ The contract may not include any restrictions on a bulk form user's use of the bulk form copies other than those in this section
- ▶ Subsection (h) allows for a bulk user who is licensed under IC 27-1-15.6(d) or who holds a certificate of authority under IC 27-7-3-6 may provide bulk copies related to the specific order for a title search when operating as a (1) title plant for the issuance of title insurance or (2) title company. A bulk user that meets these requirements may charge its customers a fee for using the bulk form copies, but may not resell, provide, transfer or allow the transfer of any copy or a recorded document to any other bulk user or title plant

SB 505 – Bulk Copies

- ▶ Subsection (i) is added that a bulk user that does not meet the requirements of subsection (h) is prohibited from selling, offering for sale, advertising for sale, soliciting a purchase of, loaning, giving away, allowing subscription service to, or otherwise transferring, providing, or allowing the transfer of bulk form copies for commercial purposes to a third party, whether the copies are in bulk form or individual copies or images
- ▶ Subsection (j) states that if a bulk user does not comply with a contract, the county recorder may terminate the contract, immediately stop providing bulk copies and refuse to provide bulk form copies requested by the bulk user if all termination provisions and procedures in the contract have been met.

SB 505 – Bulk Copies

- ▶ The recorder may refuse subsequent requests from a bulk user for bulk form copies in the following circumstances:
 - ▶ The bulk form user is a person that has had a previous bulk form copy contract terminated by the county recorder for failing to comply with the contract.
 - ▶ The bulk user is a corporation or LLC in which a person had a majority or controlling interest and:
 - ▶ The person requested bulk form copies under a previous contract with the county recorder.
 - ▶ The contract was terminated by the county recorder because the person failed to comply with the contract.

SB 505 - Memorandums

- ▶ Effective 7-1-17 and amends IC 36-2-11-20
 - ▶ Contract means an agreement for a seller to sell real estate to a purchaser that provides for the purchaser to pay the purchase price to the seller in periodic installments, with the seller retaining record title to the real estate and the purchaser acquiring equitable title to the real estate
 - ▶ Lease means a lease of real estate by a lessor to a lessee, over a term that is specified in a written lease agreement in consideration of the lessee's promise to pay rent to the lessor as also specified in the written lease agreement.

SB 505 – Memorandums

- ▶ Effective 7-1-15 and amends IC 36-2-11-20 to add that a memorandum of a contract as well as a memorandum of a lease may be recorded in lieu of the lease or contract if the memorandum is executed and acknowledged by the parties and contains:
 - ▶ The names of the **parties**
 - ▶ The term of the lease **or contract**
 - ▶ Any option of the lessee to renew or extend the lease **or of the purchaser to renew or extend the term of the contract**
 - ▶ The specific legal description of the real estate or a survey or plot plan authorized under subsection (i) showing the location of the **real estate**.

SB - Notaries

- ▶ Effective 7-1-17 and adds a new chapter to IC 33-42-0.5 which provides definitions. Repeals chapters 1,2,3,4, and 8.
- ▶ Chapter 9 – Notarial Acts
- ▶ Chapter 10 – Official Seals and Stamping Devices
- ▶ Chapter 12 – Commission Requirements and Qualifications
- ▶ Chapter 13 – Notary Discipline
- ▶ Chapter 14 – Notary Fees
 - ▶ Includes the provision that a public official or deputy or appointee of the public official may not charge for services of a notary in connection with official business of that office.

SB 539 - Notaries

- ▶ Effective 7-1-17 and adds new chapters:
- ▶ Chapter 15 Apostilles
- ▶ Chapter 16 Miscellaneous Provisions

HB 1031 – State Examiner Findings

- ▶ Effective 7-1-15 and amends IC 5-11-5 to add section 1.5 on addressing audit comments.
- ▶ For a finding on noncompliance with a specific law or a uniform compliance guideline, the county must take action to address the finding.
- ▶ If a subsequent examination report contains a finding that is the same or substantially similar to the finding from the previous report, the public officer shall file a corrective action plan as a written response to the report.

HB 1031 – State Examiner Findings

- ▶ The state board of accounts shall create guidelines for use by an audited entity to establish a corrective action plan. Finding must be corrected within 6 months.
- ▶ After completion of the corrective action plan, the audited entity must notify SBOA. SBOA shall review each corrective action plan. If the plan is not implemented or the issue is not corrected within 6 months, SBOA will prepare a memorandum with a summary of the report finding, the corrective action plan, the manner in which the finding was not addressed and a recommended course of action.

HB 1031 – State Examiner Findings

- ▶ The memorandum is presented to the Audit Committee established by IC 2-5-1.1-6.3. If the audit committee determines further action should be taken, they may do any of the following
 - ▶ Request a written statement from the public officer of the audited entity
 - ▶ Request the personal attendance of the public officer at the next audit committee meeting
 - ▶ Request that the public officer take corrective action
 - ▶ Notify the fiscal body of the audited entity and the DLGF the audited entity failed to observe a guideline established under IC 5-11-1-24(a) or a specific law and a recommendation which shall be posted on the IGA website.
 - ▶ Refer for investigation or prosecution for a violation of IC 5-11-1-10 or 5-11-1-21

HB 1031 – State Examiner Findings

- ▶ Audit Committee actions (continued)
 - ▶ Recommend that legislation be introduced in the general assembly to amend any statute under which an audited entity is found to be noncompliance
 - ▶ Recommend that the state board of accounts examine the audited entity within the calendar year following the year in which the entity was required to file a corrective action plan.

HB No. 1129 – Local Income Tax

- ▶ Effective 7-1-17 amends IC 6-3.6-2-14 on public safety to include law enforcement training as an allowable use of local income tax
- ▶ Effective 7-1-17 amends IC 6-3.6-3-2 to state that final action is not approved for a new tax or amendment of an existing tax until DLGF has received the required information.
- ▶ Effective 1-1-17 amends IC 6-3.6-5-6 to change how the adopting body is to allocate property tax relief.

HB No. 1450 – Property Tax Matters

- ▶ Effective 6-30-17 and amends IC 5-14-3.8-3.5
 - ▶ Only applies to contracts entered into after June 30, 2016
 - ▶ The political subdivision is to upload a digital copy of the contract one time, if the total cost of the contract exceeds \$50,000.
 - ▶ Applies to all contracts for any subject, purpose, or term except that a political subdivision is not required to upload an employment contract with an employee, but would upload a collective bargaining contract.
 - ▶ If a political subdivision enters into a contract that is not reasonably expected to exceed \$50,000 and later determines that it does exceed \$50,000 the contract must be uploaded within 60 days after that determination.
 - ▶ Signatures may be redacted or obscured.

HB No. 1450 – Property Tax Matters

- ▶ Effective 7-1-17 and amends IC 6-1.1-12-1 that an deduction based on a recorded installment agreement now requires the agreement to include the terms of payment or other performance.
- ▶ Effective 7-1-17 and amends IC 6-1.1-37-15 to allow the county treasurer, with the approval of the county auditor, to implement a policy to waive, negotiate or settle penalties that have accrued on delinquent property taxes.
- ▶ The agreement must be in writing, documented as prescribed by DLGF and retained for audit.

HB No. 1523 – Search Fee for Public Records

- ▶ Effective 7-1-17 and amends IC 5-14-3-3 regarding inspection and copy of public records. Adds subsection (j) that this section applies to records in electronic format, but does not apply to a public record recorded in the office of the county recorder. The public agency shall provide an electronic copy or a paper copy at the option of the requestor.
- ▶ Effective 7-1-17 and amends IC 5-14-3-8 under charging fees to state that the agency may not charge a fee to search for a record if the search does not exceed 2 hours. The agency may not charge a fee for an electronic copy provided by electronic mail unless the fee is authorized, including IC 36-2-7-10 or IC 36-2-7-10.1 (recorder fees)

HB 1523 – Search Fee for Public Records

- ▶ Effective 7-1-17 and amends IC 5-14-3-8 with subsection (m) that this subsection does not apply to a title search if an individual requesting the search does not have the option of searching without assistance of county employees. A public agency may not charge a fee for the first two hours of the search. After the first two hours the fee must not exceed the lesser of the hourly rate of the person making the search or \$20 per hour. Only the actual time spent in search is chargeable. There can be no minimum fee and computer processing time is not chargeable. The agency must make a good faith effort to complete the search in a reasonable time.