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HOUSE BILL 2206

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State of Washington                      54th Legislature                      1996 Regular Session

By Representatives L. Thomas, Chopp, Dickerson, D. Schmidt and Johnson

Read first time 01/08/96.      Referred to Committee on Government Operations.

1            AN ACT Relating to the recording of instruments via electronic  
2 transmission; and amending RCW 65.04.015, 65.04.030, 65.04.040,  
3 65.04.080, 65.04.090, and 65.04.110.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 65.04.015 and 1991 c 26 s 3 are each amended to read  
6 as follows:

7            The definitions set forth (~~{in}~~) in this section apply throughout  
8 this chapter unless the context clearly requires otherwise.

9            (1) "Recording officer" means the county auditor, or in charter  
10 counties the county official charged with the responsibility for  
11 recording instruments in the county records.

12            (2) "File," "filed," or "filing" means the act of delivering or  
13 transmitting electronically an instrument to the auditor or recording  
14 officer for recording into the official public records.

15            (3) "Record," "recorded," or "recording" means the process, such as  
16 electronic, mechanical, optical, magnetic, or microfilm storage used by  
17 the auditor or recording officer after filing to incorporate the  
18 instrument into the public records.

1 (4) "Record location number" means a unique number that identifies  
2 the storage location (book or volume and page, reel and frame,  
3 instrument number, auditor or recording officer file number, receiving  
4 number, electronic retrieval code, or other specific place) of each  
5 instrument in the public records accessible in the same recording  
6 office where the instrument containing the reference to the location is  
7 found.

8 **Sec. 2.** RCW 65.04.030 and 1991 c 26 s 4 are each amended to read  
9 as follows:

10 The auditor or recording officer must, upon the payment of the fees  
11 as required in RCW 36.18.010 for the same, acknowledge receipt therefor  
12 in writing or printed form and record in large and well bound books, or  
13 by photographic ~~((or))~~, photomechanical, electronic format, or other  
14 approved process, the following:

15 (1) Deeds, grants and transfers of real property, mortgages and  
16 releases of mortgages of real estate, instruments or agreements  
17 relating to community or separate property, powers of attorney to  
18 convey real estate, and leases which have been acknowledged or proved:  
19 PROVIDED, That deeds, contracts and mortgages of real estate described  
20 by lot and block and addition or plat, shall not be filed or recorded  
21 until the plat of such addition has been filed and made a matter of  
22 record;

23 (2) Patents to lands and receivers' receipts, whether for mineral,  
24 timber, homestead or preemption claims or cash entries;

25 (3) All such other papers or writing as are required by law to be  
26 recorded and such as are required by law to be filed.

27 **Sec. 3.** RCW 65.04.040 and 1991 c 26 s 5 are each amended to read  
28 as follows:

29 Any state, county, or municipal officer charged with the duty of  
30 recording instruments in public records shall record them by record  
31 location number in the order filed, irrespective of the type of  
32 instrument, using a process that has been tested and approved for the  
33 intended purpose by the state archivist.

34 In addition, the county auditor or recording officer, in the  
35 exercise of the duty of recording instruments in public records, may,  
36 in lieu of transcription, record all instruments, that he or she is  
37 charged by law to record, by any electronic data transfer,

1 photographic, photostatic, microfilm, microcard, miniature photographic  
2 or other process that actually reproduces or forms a durable medium for  
3 so reproducing the original, and which has been tested and approved for  
4 the intended purpose by the state archivist. If the county auditor or  
5 recording officer records any instrument by a process approved by the  
6 state archivist it shall not be necessary thereafter to make any  
7 notations or marginal notes, which are otherwise required by law,  
8 thereon if, in lieu of making said notations thereon, the auditor or  
9 recording officer immediately makes a note of such in the general index  
10 in the column headed "remarks," listing the record number location of  
11 the instrument to which the current entry relates back.

12 Previously recorded or filed instruments may be processed and  
13 preserved by any means authorized under this section for the original  
14 recording of instruments. The county auditor or recording officer may  
15 provide for the use of the public, media containing reproductions of  
16 instruments and other materials that have been recorded pursuant to the  
17 provisions of this section. The contents of the media may be arranged  
18 according to date of filing, irrespective of type of instrument, or in  
19 such other manner as the county auditor or recording officer deems  
20 proper.

21 **Sec. 4.** RCW 65.04.080 and 1985 c 44 s 18 are each amended to read  
22 as follows:

23 When any instrument, paper, or notice, authorized or required by  
24 law to be filed or recorded, is deposited in or electronically  
25 transmitted to the county auditor's office for filing or record, that  
26 officer must indorse upon the same the time when it was received,  
27 noting the year, month, day, hour and minute of its reception, and note  
28 that the document was received by electronic transmission, and must  
29 file, or file and record the same without delay, together with the  
30 acknowledgments, proofs, and certificates written or printed upon or  
31 annexed to the same, with the plats, surveys, schedules and other  
32 papers thereto annexed, in the order and as of the time when the same  
33 was received for filing or record, and must note on the instrument  
34 filed, or at the foot of the record the exact time of its reception,  
35 and the name of the person at whose request it was filed or filed and  
36 recorded: PROVIDED, That the county auditor shall not be required to  
37 accept for filing, or filing and recording, any instrument unless there

1 appear upon the face thereof, the name and nature of the instrument  
2 offered for filing, or filing and recording, as the case may be.

3 **Sec. 5.** RCW 65.04.090 and Code 1881 s 2732 are each amended to  
4 read as follows:

5 ((He)) The recording officer must also endorse upon such an  
6 instrument, paper, or notice, the time when and the book and page in  
7 which it is recorded, and must thereafter electronically transmit or  
8 deliver it, upon request, to the party leaving the same for record((7))  
9 or to ((his order)) the address on the face of the document, at the  
10 discretion of the recording officer.

11 **Sec. 6.** RCW 65.04.110 and 1965 c 134 s 1 are each amended to read  
12 as follows:

13 If any county auditor to whom an instrument, proved or acknowledged  
14 according to law, or any paper or notice which may by law be recorded  
15 is delivered or electronically transmitted for record: (1) Neglects or  
16 refuses to record such instrument, paper or notice, within a reasonable  
17 time after receiving the same; or (2) records any instruments, papers  
18 or notices untruly, or in any other manner than as ((hereinbefore))  
19 directed in this chapter; or, (3) neglects or refuses to keep in his or  
20 her office such indexes as are required by this act, or to make the  
21 proper entries therein; or, (4) neglects or refuses to make the  
22 searches and to give the certificate required by this act; or if such  
23 searches or certificate are incomplete and defective in any important  
24 particular affecting the property in respect to which the search is  
25 requested; or, (5) alters, changes, or obliterates any records  
26 deposited in his or her office, or inserts any new matter therein; he  
27 or she is liable to the party aggrieved for the amount of damage which  
28 may be occasioned thereby((: PROVIDED, That)). However, if the name  
29 or names and address hand printed, printed, or typewritten on any  
30 instrument, proved or acknowledged according to law, or on any paper or  
31 notice which may by law be filed or recorded, is or are incorrect, or  
32 misspelled or not the true name or names of the party or parties  
33 appearing thereon, the county auditor shall not, by reason of such  
34 fact, be liable for any loss or damage resulting therefrom.

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