

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7222

BILL NUMBER: HB 1255

NOTE PREPARED: Jan 28, 2021

BILL AMENDED: Jan 26, 2021

SUBJECT: Probate and Property Matters.

FIRST AUTHOR: Rep. Young J

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill has the following provisions:

Wills: The bill provides that a testator may execute a will in two or more counterparts. It specifies certain requirements for a will executed in two or more counterparts. It provides that a self-proving clause may be incorporated into or affixed to a will. It specifies certain requirements for self-proving clauses and wills. It specifies that certain photographic, video, and audio evidence may be used as evidence with respect to the execution of a will. It exempts a will from the need for a recertification or a reexecution in certain instances. It specifies certain requirements concerning the execution of an electronic will. It allows an attorney or paralegal to supervise the execution of an electronic will. It exempts electronic wills from the need for recertification or reexecution in certain instances. It specifies that certain photographic, video, and audio evidence may be used as evidence with respect to the execution of an electronic will. It also specifies certain requirements concerning the execution of a power of attorney.

Powers of Attorney: The bill allows a power of attorney to be executed in two or more counterparts. It specifies certain requirements for the execution of a power of attorney in two or more counterparts. It allows a self-proving clause to be incorporated into or affixed to a power of attorney. It specifies certain requirements for self-proving clauses incorporated into or affixed to a power of attorney. It specifies that certain photographic, video, and audio evidence may be used as evidence with respect to the execution of a power of attorney.

Electronic Power of Attorney: The bill provides that an electronically signed and notarized electronic power of attorney is valid if the electronic power of attorney complies with certain specified requirements. It also specifies certain requirements for attesting witnesses involved in the execution of a power of attorney or an

electronic power of attorney. It allows a self-proving clause to be incorporated into or affixed to a power of attorney.

Trusts/Conveyances/Instruments: The bill specifies that certain photographic, video, and audio evidence may be used as evidence with respect to the execution of an electronic power of attorney. It provides that certain persons are ineligible to sign certain trust instruments. It requires certain transfer on death conveyances to occur in the presence of a disinterested witness. It repeals certain provisions concerning mortgages, conveyances, and other written instruments that are executed in a foreign country. It repeals certain provisions concerning the affixing of a private seal or ink scroll on certain conveyances involving land or interests in land. It specifies certain requirements concerning land conveyances performed by attorneys in fact. It requires certain notarial acts to accompany the recording of certain conveyances. It requires an English translation for certain instruments, acknowledgments, and proofs when the original document is not in English. It repeals a provision concerning the recording of a conveyance, mortgage, or other instrument in a county other than the county where the conveyance, mortgage, or other instrument is required to be recorded. It repeals a provision concerning the recording of a conveyance that is acknowledged outside Indiana but within the United States. It specifies: (1) certain prerequisites; and (2) a certain form; for the recording of certain instruments. It repeals a provision concerning the receipt of an acknowledgment by a public officer. It specifies that an instrument's acknowledgment or proof is incomplete when an instrument does not include an accompanying certificate. It provides that the transcript of an instrument that is recorded without a certificate cannot be read into or received as evidence. It also specifies requirements concerning electronic recording of certain instruments concerning real property.

County Recorders: The bill requires county recorders to implement specified functions concerning the: (1) acceptance; (2) receipt; (3) indexing; (4) storage; (5) archiving; and (6) transmittal; of electronically recorded instruments. It specifies certain requirements concerning the recording of a paper or tangible copy of an electronic instrument. It repeals a provision concerning the acknowledgment of certain instruments and the performance of certain notarial acts for a person serving in the armed forces, merchant marine, or outside the United States in connection with a wartime activity. It repeals provisions concerning: (1) certain notarial acts; and (2) acknowledgments; and their respective uses as prima facie evidence. It repeals a provision concerning certain executed instruments and a failure to state the location of the instrument's execution or any accompanying acknowledgment, if applicable. It provides that certain notarial acts are considered to have been performed in Indiana when certain specified criteria are met. It requires a county recorder's office to provide notice of office closures that last three or more days. It defines certain terms. It also makes conforming amendments.

Effective Date: Upon passage.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: *County Recorders:* The bill could increase the county recorder's workload and expenditures to the extent the bill's provisions have not already been adopted.

On or before July 1, 2022, a county recorder shall receive for recording, indexing, storage, archiving, access to, searching of, retrieval, and transmittal all electronic documents proper for recording. It provides that county recorders may perform a notarial act. It requires a county recorder's office to notify the public if the office is closed for three days or more, pursuant to an executive order.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: County recorders.

Information Sources:

Fiscal Analyst: Corrin Harvey, 317-234-9438.