

HOUSE BILL REPORT

SB 5019

As Passed House:

April 9, 2021

Title: An act relating to the recording standards commission.

Brief Description: Concerning the recording standards commission.

Sponsors: Senators Kuderer, Hunt, Brown and Wilson, C..

Brief History:

Committee Activity:

Local Government: 3/16/21, 3/17/21 [DP].

Floor Activity:

Passed House: 4/9/21, 98-0.

Brief Summary of Bill

- Renames the E-Recording Standards Commission to the Recording Standards Commission, and expands the Recording Standards Commission responsibilities to include making recommendations for rules to the Secretary of State on recording standards generally.
- Provides additional authority for the Secretary of State to make rules for the uniform recording of documents in cooperation with the Recordings Standards Commission.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Pollet, Chair; Duerr, Vice Chair; Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Berg, Robertson and Senn.

Staff: Kellen Wright (786-7134).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Among other duties, such as supervising state and local elections, the Washington Secretary of State (SOS) has extensive recordkeeping and recording responsibilities. For example, the SOS is the custodian of state records and supervises the Division of Archives and Records Management and the State Archives.

The SOS also has responsibilities under the Uniform Real Property Electronic Recording Act (URPERA). The URPERA requires the SOS to create and appoint an E-Recording Standards Commission (ERSC) to review electronic recording standards and to make recommendations to the SOS for rules necessary to implement URPERA. The ERSC may include assessors, treasurers, land title company representatives, escrow agents, mortgage brokers, the state archivist, and any other party the SOS deems appropriate, but a majority of the commission must be comprised of county recorders or auditors.

The URPERA allows recording and signature requirements to be satisfied electronically. It also allows the SOS to adopt rules for the electronic recording of documents. To keep standards and practices of recording officers in Washington in harmony with recording offices in other jurisdictions, the SOS is directed to consider various factors, such as standards adopted by national bodies, when adopting or altering standards.

County auditors are responsible for recording real property documents, such as deeds, transfers of real property, and mortgages within the county. County auditors may record documents electronically.

Summary of Bill:

The E-Recordings Standards Commission is renamed the Recording Standards Commission (RSC). The RSC must review recording standards, including electronic review standards, and make recommendations to the SOS for rules necessary for consistent recording of documents. A majority of the members of the RSC must be county recorders or county auditors. The RSC may include county surveyors among its other members.

The SOS must make reasonable rules in accordance with federal and state laws for the uniform recording of documents in cooperation with the RSC. Additionally, the SOS is authorized to make rules governing:

- recording duties of county recorders and county auditors;
- recording standards for the creation of certified copies to be used as evidence;
- standards to be used in recording, registration, and legal publication;
- standards for fee waivers; and
- recording standards for various types of documents.

In order to keep the standards and practices of recording offices in Washington in harmony, and to promote harmony with other jurisdictions that have adopted similar legislation or

policies, the SOS, when adopting or changing rules supporting recording standards, should consider:

- the standards and practices of other jurisdictions;
- the most recent standards adopted by national standard-setting bodies;
- the views of interested persons and government officials and entities;
- the needs of counties of varying size, population, and resources;
- standards requiring adequate information security protection to ensure that both electronic and nonelectronic documents are accurate, authentic, adequately preserved, and resistant to tampering;
- standards for the certification of recorded documents including imaged paper documents and documents received in electronic form; and
- standards for the documentation and recording of boundary line adjustments.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The RSC would help to ensure that auditors across the state follow consistent recording procedures. Currently recording standards can vary, which leads to document rejection and creates confusion, frustration, extra cost, and liability. Document recording plays a central role in real estate transactions, but no one currently has statewide rulemaking authority. Most people buy homes with the assistance of title companies, and these companies do business in multiple counties and have to confront inconsistent requirements and fees. Some current regulations are not clear or are interpreted differently in different counties. Having an authority able to promulgate general regulations is important, as this will create consistency. Smaller counties require technical and policy assistance, and are looking forward to partnering with the SOS. Having simplified statewide guidance will benefit consumers and provide benefits beyond just deeds to other documents as well.

(Opposed) None.

Persons Testifying: Mary Hall and Marianne Nichols, Washington State Association of County Auditors; and J.P. Kissling, Washington Land Title Association and Fidelity Title Company.

Persons Signed In To Testify But Not Testifying: None.