

FIRST REGULAR SESSION

# SENATE BILL NO. 411

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAXWELL.

Read 1st time February 4, 1999, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S1699.011

## AN ACT

To repeal sections 59.020, 59.040, 59.041, 59.050, 59.090, 59.100, 59.130, 59.140, 59.150, 59.250, 59.255, 59.257, 59.260 and 59.300, RSMo 1994, relating to recorder of deeds, and to enact in lieu thereof twelve new sections relating to the same subject.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 59.020, 59.040, 59.041, 59.050, 59.090, 59.100, 59.130, 59.140, 59.150, 59.250, 59.255, 59.257, 59.260, 59.300, RSMo 1994, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 59.020, 59.041, 59.050, 59.090, 59.100, 59.130, 59.140, 59.150, 59.250, 59.255, 59.257 and 59.800, to read as follows:

59.020. In all counties [of the first and second classes, and in counties of the third class where the offices of clerk of the circuit court and recorder of deeds are separate], the qualified electors thereof, in the November election in the year [1946] **2002** and every four years thereafter, shall elect some suitable person as recorder who shall hold office for four years and until his successor is elected, commissioned, and qualified. He shall enter upon the duties of his office on the first day of January next following the election.

[59.040. 1. In a county of the third class, the question of combining the offices of circuit clerk and recorder or separating the offices may be submitted to the voters of the county by the county commission and shall be submitted by the county commission upon the petition of voters who comprise at least eight percent of the voters of the county as determined by the total vote for governor at the last preceding general election at which a governor was elected.

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

2. If the two offices are separate and the question is to combine the two offices, the question shall be submitted in substantially the following form:

Shall the offices of the circuit clerk and recorder in ..... (name of county) county be combined?

3. If the two offices are combined and the question is to separate the two offices, the question shall be submitted in substantially the following form:

Official Ballot

Shall the offices of circuit clerk and recorder in ..... (name of county) county be separated?

4. The submission of the question provided for in this section may be made at the November election in 1948, or any fourth year thereafter. Any consolidation or separation brought about as a result of the provisions of this section shall not become effective until the expiration of the term of office of the officers affected.]

59.041. Notwithstanding the provisions of this chapter or chapter 478, RSMo, or any other provision of law in conflict with the provisions of this section, in any county [which becomes a county of the second class after September 28, 1987, and] wherein the offices of circuit clerk and recorder of deeds are combined, such combination shall [continue until the voters of the county authorize the separation of the offices as provided in section 59.040] **be terminated on and after December 31, 2002.**

59.050. In any county [of the third class] where the offices of the clerk of the circuit court and the recorder of deeds are combined [and which will become a county of the second class on the first day of January next following the general election at which the circuit clerk ex officio recorder of deeds would normally be elected], the combined office shall not be filled at [that] **the** general election **in 2002**, but candidates may file and stand for election for the separate [offices of clerk of the circuit court and] **office of** recorder of deeds and the winner of the election for [each] **that** office shall assume his separate duties on the first day of January next following the election for the full four-year term of office.

59.090. **1.** In all counties [of the fourth class,] **where** the clerks of the circuit court [shall be] **are** ex officio [recorder] **recorders** for their respective counties[.] **prior to January 1, 2003, the circuit clerk ex officio recorder of deeds holding office on December 31, 2002, shall deliver up all funds, moneys, records, books, papers, writings, computer and electronic records and equipment, seals, furniture and apparatus belonging to the office relating to the duties of the recorder of deeds, complete, secure and undefaced, to the recorder of deeds taking office on January 1, 2003.**

**2.** All references in statutes to the "circuit clerk ex officio recorder of deeds" for any county shall be deemed, on and after January 1, 2003, to refer to the recorder of deeds of the county, or the circuit clerk as is appropriate in the context of the

**reference.**

59.100. Every [clerk and every] recorder elected as provided in section 59.020, before entering upon the duties of the office as recorder, shall enter into bond to the state, in a sum set by the county commission of not less than one thousand dollars, with sufficient sureties, not less than two, to be approved by the commission, conditioned for the faithful performance of the duties enjoined on him by law as recorder, and for the delivering up of the records, books, papers, writings, seals, furniture and apparatus belonging to the office, whole, safe and undefaced, to such officer's successor.

59.130. [He] **Every recorder of deeds** shall have a seal of office, and shall have power to take the acknowledgment of proof of deeds and instruments of writing[, and to take the relinquishments of dower of married women, and certify the same, under his seal of office, in all cases and in the same manner, with like effect, as clerks of circuit courts may do by law].

59.140. When the clerk of the circuit court is ex officio recorder of the county, he shall use the seal of said court in all cases in which his official seal is to be affixed. **This section shall expire and be of no force and effect on and after January 1, 2003.**

59.150. [Hereafter] Whenever, under any law of this state relating to the duties of the recorder of deeds in any county of this state, it becomes necessary for any person to be sworn to any statement, affidavit or other papers of any kind, the recorder of deeds shall be authorized to administer an oath to any person in matters relating to the duties of his office[, with like effect as clerks of courts of record; provided, he use his seal of office to the jurat, as clerks of courts of record do. He shall receive the same compensation allowed by law for like service as clerks of courts are now allowed].

59.250. 1. The recorder of deeds [in counties of the third class, wherein there is a separate circuit clerk and recorder,] shall keep a full, true and faithful account of all fees of every kind received. He shall make a report thereof each year to the county commission.

2. It shall be the duty of the recorder of deeds to charge, receive and collect in all cases every fee, charge or money due his office by law. He shall also, when he makes and files the report herein required at the end of each year of his official term, verify the same by affidavit, and the report shall show the source and amount of every fee or charge collected. All fees, charges and moneys collected by the recorder of deeds shall be the property of the county. **Every recorder of deeds shall be liable on his official bond for all fees collected and not accounted for by him and paid into the county treasury as herein provided.**

59.255. The recorder of deeds in each county [of the third class wherein the offices of circuit clerk and recorder of deeds are separate and the circuit clerk and ex officio recorder of deeds in each county of the fourth class and in each county of the third class wherein the offices are combined] shall keep in his office [a well-bound book to be] **a record** known as the "Marginal Release of Deeds of Trust" in which [he shall enter in appropriately ruled and headed columns]

**was recorded**, at the time of the execution of a marginal release of a deed of trust **executed prior to August 28, 1991**, [the following items:] the names of the grantors and grantees, the book and page of release, the date of release and to whom delivered.

59.257. The recorder of deeds [in counties of the third class, wherein there is a separate circuit clerk and recorder,] is entitled to appoint the deputies that the recorder of deeds, with the approval of the county commission, deems necessary for the prompt and proper discharge of the duties of his office. The deputies shall possess the **same** qualifications [of clerks of courts of record] **as the recorder** and may, in the name of their principal, perform the duties of the recorder of deeds, but all recorders of deeds and their sureties are responsible for the official conduct of their deputies. The deputies appointed as herein provided shall receive the salaries that are fixed by the recorder of deeds, with the approval of the county commission, from the general revenue of the county. The appointment of every deputy shall be in writing, endorsed with an oath of office similar to that taken by the recorder of deeds and subscribed to by the deputy appointed, and filed by the recorder with the county commission.

[59.260. It shall be the duty of the circuit clerk and recorder of counties of the third class, wherein the offices shall have been combined, and in all counties of the fourth class, to charge and collect for the county in all cases every fee accruing to his office as recorder of the county to which he may be entitled under the law, and shall at the end of each month, file with the county clerk a report of all fees charged and accruing to his office during such month, together with the names of persons paying such fees. It shall be the duty of the circuit clerk and recorder, upon the filing of said report, to forthwith pay over to the county treasurer, all moneys that shall have been collected by him as recorder during the month and required to be shown in such monthly report as herein provided, taking duplicate receipts therefor, one of which shall be filed with the county clerk; and every such circuit clerk and recorder shall be liable on his official bond for all fees collected and not accounted for by him, and paid into the county treasury as herein provided.]

[59.300. The circuit clerk and recorder in counties of the fourth class, and in counties of the third class wherein the offices shall have been combined, as recorder of the county, may appoint in writing one or more deputies, to be approved by the circuit judge of the circuit court, which appointment with the like oath of office as their principals, to be taken by them and endorsed thereon shall be filed in the office of the county clerk. Such deputy recorders shall possess the qualifications of clerks of courts of record, and may, in the name of their principals, perform the duties of recorders of deeds, but all circuit clerks and recorders and their sureties shall be responsible for the official conduct of their deputies.]

**59.800. 1. Beginning on January 1, 2003, notwithstanding any other condition precedent required by law to the recording of any instruments specified in subdivisions**

**(1) and (2) of section 59.330, an additional fee of ten dollars shall be charged and collected by every recorder of deeds in this state. The additional fee shall be distributed as follows:**

**(1) Three dollars to the recorders fund established pursuant to subsection 1 of section 59.319;**

**(2) Five dollars to the county general revenue;**

**(3) One dollar to the housing trust fund established pursuant to subsection 2 of section 59.319; and**

**(4) One dollar to a fund as established in subsection 2 of this section.**

**2. There is hereby established in the state treasury a revolving fund known as the "Statutory County Recorder's Fund", which shall receive funds paid to the recorders of deeds of the counties of this state pursuant to subdivision (4) of subsection 1 of this section. The state treasurer shall be custodian of the fund and shall make disbursements from the fund for the purpose of subsidizing the fees collected by counties of the third classification. The subsidy shall consist of the total amount of monies collected pursuant to subdivisions (1) and (2) of subsection 1 of this section subtracted from sixty-five thousand dollars. The moneys paid to qualifying counties pursuant to this subsection shall be deposited in the county general revenue fund.**

**3. Any unexpended balance in the fund at the end of any biennium is exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balances to the ordinary revenue fund. Any amount over one hundred thousand dollars shall be refunded equally to the general revenue fund of every contributing county.**

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