

BILL ANALYSIS

Senate Research Center
79R4705 MXM-D

H.B. 1140
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Intergovernmental Relations
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Texas Local Government Code provides the required form and format of a legal document which is presented to the county clerk for recordation. That statute spells out the size and type of paper on which the legal document must exist, the size of type, and what can be included on a page. The statute also provides that any legal paper that does not meet those requirements can be recorded but the regular filing fee or recording fee will be doubled.

It is important to have uniform requirements for legal documents that are presented for recording. Lenders, lawyers, and title insurers operate in multiple counties or statewide. So the uniformity of specifications for legal papers presented to a county clerk for filing or recording both makes for an efficient statewide operation and more cost effective process for consumers who pay the cost for the legal documents and their recording.

If the county clerks in all of the 254 counties were to require separate and different margin or other requirements, it would result in a totally inefficient system. All of the parties involved in preparation and recording of legal instruments would be required to craft separate and unique legal instruments. The lack of uniformity inevitably would result in higher cost for consumers who are ultimately the ones that pay for both the drafting and recordation of legal instruments.

H.B. 1140 simply clarifies the requirements of Section 191.007 of the Texas Local Government Code. A new provision to that statute states that the requirements of the statute are uniform specifications for legal documents and no county clerk may prescribe any additional requirement for the filing or recording of legal documents or charge any extra filing fee for legal documents that meet this specification. This bill would guarantee the continued uniformity of specifications of legal documents and is in the best interest of our legal system and the best interest of consumers affected by the drafting and recordation of legal documents.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 191.007(a), Local Government Code, to require a legal paper presented to a county clerk for filing or for recording in any county to meet the requirements prescribed by Subsections (b) through (g) (regarding specifications for legal papers). Prohibits a county clerk, except as provided by this section, from imposing additional requirements or fees for filing or recording a legal paper.

SECTION 2. Effective date: upon passage or September 1, 2005.