



Rep. Emanuel Chris Welch

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LRB099 04556 AWJ 33998 a

1 AMENDMENT TO HOUSE BILL 745

2 AMENDMENT NO. _____. Amend House Bill 745 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by adding Section
5 3-5048 as follows:

6 (55 ILCS 5/3-5048 new)
7 Sec. 3-5048. Will repository.

8 (a) As used in this Section:

9 "Depositor" means an attorney licensed or formerly
10 licensed to practice in the State of Illinois, the attorney's
11 representative, the guardian for the attorney, the personal
12 representative of the attorney's decedent's estate, or the
13 testator.

14 "Depositor affidavit" means an affidavit signed by a
15 non-testator in which the depositor affirms he or she is
16 authorized to submit a registration form and will for scanning

1 on behalf of the testator.

2 "Testator" means a person who executed a will, other than
3 as a witness or official to whom acknowledgment of signing was
4 given.

5 "Will" refers to an original:

6 (1) will;

7 (2) codicil;

8 (3) will and one or more codicils;

9 (4) trust;

10 (5) trust and one or more trust amendments; or

11 (6) any other attachments, addendums, or other related
12 documents to items (1) through (5).

13 (b) If a county recorder's office maintains a computer
14 system with the capability of scanning and securely storing
15 electronic image files and corresponding index information,
16 the county recorder may implement a county will repository
17 pursuant to this Section to privately store electronic copies
18 of wills. If a county recorder implements a will repository,
19 they shall create a registration form to be signed by the
20 testator which:

21 (1) states the testator's full first, middle, and last
22 name and all previous names by which the testator may have
23 been known;

24 (2) states the testator's date of birth and last four
25 digits of the testator's Social Security number;

26 (3) states the testator's current address;

1 (4) affirms that the document being presented to the
2 county recorder is the testator's will;

3 (5) lists the full names of up to 10 individuals to
4 whom the county recorder is authorized to deliver the will
5 upon the death of the testator and a space to indicate if
6 there are additional names attached. The county recorder
7 shall prepare a form addendum for attachment to the
8 registration form for the testator to list additional full
9 names in addition to the 10 individuals listed on the
10 registration form. The addendum shall contain a disclaimer
11 that only individuals listed on the registration form or
12 addendum are eligible to retrieve a copy of the will
13 without a court order;

14 (6) has a section reserved for county recorder office
15 staff where the employee accepting the document will write
16 the name of the testator, name of the depositor, date of
17 deposit, confirmation that photo identification was
18 inspected, and a space to indicate the employee name or
19 identification number;

20 (7) has a blank 3 inch by 5 inch section in the upper
21 right corner of the front side to affix a unique document
22 number, date and time of deposit, and amount of recording
23 fee; and

24 (8) has the option to include the location of the
25 original signed copy of the will.

26 (c) If a county has created a will repository, a depositor

1 may present a will for scanning into the will repository if he
2 or she presents a signed and completed registration form as
3 described in subsection (b). If a depositor is not the
4 testator, the county recorder may require proof of authority to
5 register the will for scanning including requiring a depositor
6 affidavit to be completed. A will shall only be accepted for
7 scanning if it is the original signed will.

8 (d) The county recorder shall collect a fee of \$25 for each
9 scanning of a will of up to 10 pages and may charge an
10 additional \$1 for each page above 10 pages. The registration
11 form and depositor affidavit, if any, shall not be counted when
12 determining the page count for determining fees. The county
13 recorder shall not collect a separate fee for additional
14 documents concurrently deposited in relation to a single
15 testator or for a single joint will prepared for a husband and
16 wife. Fees collected under this subsection shall be deposited
17 into the recorder's document storage fund as set up by the
18 county treasurer pursuant to Section 3-5018 of the Counties
19 Code.

20 (e) Upon receipt of a will under this Section, the county
21 recorder shall:

22 (1) provide the depositor with a receipt for the
23 registration form and will listing the date and time of
24 filing and the unique document number assigned to the
25 documents;

26 (2) scan in, electronically store, and electronically

1 affix a unique document number, date and time of deposit,
2 and amount of recording fee in the upper right corner of
3 the registration form;

4 (3) scan in and electronically store a copy of the
5 depositor affidavit and will including electronically
6 affixing the unique document number and date of recording
7 on each page of the will;

8 (4) return the original signed registration form,
9 depositor affidavit, and will to the depositor after
10 scanning in and electronically storing the registration
11 form, depositor affidavit, and will pursuant to items (2)
12 and (3) of this subsection;

13 (5) index the will alphabetically by the name of the
14 testator, by the previous names by which the testator may
15 have been known, by the date of registration of the will,
16 by the names of persons on the registration form or
17 addendum who are eligible to retrieve a copy, and by the
18 unique document number; and

19 (6) upon request and payment of the recorder's
20 non-certified copy charge, provide to the testator a
21 non-certified copy of the registration form, depositor
22 affidavit, and will with the electronically affixed unique
23 document number with a maximum fee of \$1 per page.

24 (f) A registration form, depositor affidavit, and will
25 scanned or executed under this Section are not public records.
26 The indexes created under item (5) of subsection (e) are not

1 public records.

2 (g) During the testator's lifetime, the county recorder
3 shall:

4 (1) keep the electronic images of the registration
5 form, depositor affidavit, and will in a secure database
6 not available to the public with access limited to recorder
7 office staff necessary for the operation of the repository;
8 and

9 (2) deliver a certified copy upon request to:

10 (i) the testator;

11 (ii) a person authorized by the testator, in a
12 writing other than the registration form or addendum,
13 to receive a copy of the will; or

14 (iii) a person, entity, court, or government
15 agency authorized to receive a certified copy pursuant
16 to an order entered by a court of competent
17 jurisdiction.

18 (h) If the county recorder has custody of a scanned copy of
19 the will after the death of the testator and is notified of the
20 death of the testator by a person to whom the recorder is
21 authorized to deliver a copy of the will in the registration
22 form by presenting a certified copy of the testator's death
23 certificate or by a certified copy of an order of court
24 determining the testator to be deceased, upon receipt of
25 payment of the recorder's fee for certified copies, the county
26 recorder shall promptly deliver a certified copy to the person

1 or clerk of the circuit court of the county in which the
2 probate of the testator's will may occur as determined under
3 Section 5-1 of the Probate Act of 1975. Copies of the
4 registration form or depositor affidavit shall not be provided
5 to any retriever unless so ordered by a court.

6 (i) Upon inquiry by a person or entity identified in
7 paragraph (2) of subsection (g) or upon inquiry of any person
8 presenting a certified copy of an order of a court requesting
9 documents scanned under this Section, the county recorder shall
10 inform the person whether the name of the relevant testator
11 appears in the county recorder's index of the will repository.
12 If an inquiry is made for a testator that is not found in the
13 database, or if the inquiry is made by someone not listed as
14 eligible to retrieve a copy, the recorder's office staff may
15 not confirm or deny the existence of documents held under this
16 Section.

17 (j) The county recorder may destroy the scanned copy of the
18 registration form, depositor affidavit, and will scanned under
19 this Section if:

20 (1) the county recorder has not received notice of the
21 death of the testator; and

22 (2) at least 100 years have passed since the date the
23 will was scanned into the repository.

24 (k) The county recorder may use fees generated under this
25 Section for the operational expenses of the will repository and
26 for advertising the will repository.

1 (l) If a testator desires to remove a will from the will
2 repository, or to replace a will, he or she must fill out a
3 removal affidavit proscribed by the recorder's office that
4 affirms his or her desire to remove the will and provide
5 satisfactory identification to confirm he or she is the
6 testator. If the request is to replace a will with a new will,
7 the scanned copy of the will must first be removed using a
8 removal affidavit and the testator or depositor must submit a
9 new registration form and will following the repository
10 guidelines as described in this Section and pay the required
11 fees. There shall be no fee for removing a will scanned under
12 this Section.

13 (m) Recorder office staff may refuse, without liability, to
14 store a copy of a will if the will presented for scanning is
15 illegible, unable to be imaged, if margins are too small for
16 the unique document number or date to appear on each page, or
17 the will appears to not be an original signed document. Wills
18 to be scanned under this Section must be submitted in person
19 and may not be submitted by electronic means. Recorder office
20 staff may not be held liable, either in their personal or
21 official capacities, for any error or omission in the
22 performance of duties related to this Section except for
23 willful or wanton misconduct.

24 (n) Recorder office staff may request to inspect and copy
25 any identification documents deemed necessary to prove the
26 identity of anyone seeking to register or retrieve a copy of a

1 document under this Section and may refuse service until
2 satisfactory determination of identity is made.

3 (o) Registration forms, depositor affidavits, and wills
4 scanned under this Section are exempt from State and county
5 fees related to the Rental Housing Support Program Act.

6 (p) Documents obtained by the county recorder under this
7 Section are not public records and are exempt from disclosure
8 under the Freedom of Information Act."