

BILL ANALYSIS

Senate Research Center
86R9481 MP-F

H.B. 4248
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Statutory provisions relating to specifications for legal papers presented to a county clerk for filing or recording are not clear enough to ensure that the provisions are interpreted and applied consistently throughout Texas.

H.B. 4248 would codify requirements for legal papers presented to a county clerk for filing or for recording. H.B. 4248 would specify minimum point type size; manner for suitable reproduction; and legibility requirements of legal papers, including notary seals, submitted to the clerk; and authorize a county clerk to refuse to record a legal paper that does not meet the applicable requirements.

H.B. 4248 amends current law relating to specifications for legal papers filed with a county clerk.

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 103.030, Government Code, as follows:

Sec. 103.030. MISCELLANEOUS FEES AND COSTS: LOCAL GOVERNMENT CODE. Requires fees and costs to be paid or collected under the Local Government Code as follows:

- (1) makes no changes to this subdivision;
- (2) removes legibility and number of riders or attachments from the list of requirements for legal papers, the failure to meet which is grounds for a filing fee or recording fee to be charged for each page that fails to meet the requirements; and
- (3)–(7) makes no changes to these subdivisions.

SECTION 2. Amends Section 191.007(a), (b), (d), (f), (g), (h), and (k), Local Government Code, as follows:

(a) Requires a legal paper presented to a county clerk for filing or for recording in any county to meet the requirements prescribed by this section (Specifications For Legal Papers; Increased Fees), rather than the requirements prescribed by Subsections (b), (c) (relating to requiring a clearly identifying heading to be placed at the top of the first page to identify the type or kind of legal paper), (d), (e) (relating to requiring names to legibly typed or printed immediately under each signature), (f), and (g).

(b) Requires a page to:

(1)–(2) makes no changes to these subdivisions; and

(3) be printed in type not smaller than 10-point type and be suitable otherwise for reproducing from it a readable record by a photocopy, microfilm, microfiche, or digital imaging process used in the office of the county clerk, rather than be printed in type not smaller than eight-point type and be suitable otherwise for reproducing from it a readable record by a photocopy or photostatic or microphotographic process used in the office of the county clerk.

(d) Requires printing, typing, handwriting, and notary seals to be clearly legible so that a legible copy may be reproduced, rather than requiring printing, typing, and handwriting to be clearly legible. Authorizes the county clerk to refuse to record a legal paper that does not meet the requirements of this subsection.

(f) Requires all pages submitted for recording, rather than all photostats, photocopies, and other types of reproduction, to have black printing, typing, or handwriting on a white background, commonly known as positive prints.

(g) Removes the provision that only one rider or attachment is authorized to be included in or attached to a page.

(h) Provides that the filing fee or recording fee for each page of a legal paper that is presented for filing or recording to a county clerk and fails to meet one or more of the requirements prescribed by Subsection (b), (c), (e), (f), or (g), rather than prescribed by Subsections (b) through (g), is equal to twice the regular filing fee or recording fee provided by statute for that page. Removes the provision that the failure of a page to meet certain requirements does not result in a fee increase under this subsection.

(k) Provides that this section does not authorize a county clerk to refuse to record a legal paper for the reason that it fails to meet one or more of the requirements prescribed by Subsection (b), (c), (e), (f), or (g), rather than prescribed by Subsections (b) through (g).

SECTION 3. Repealer: Section 191.007(i) (relating to providing a certain filing or recording fee for more than one rider per page), Local Government Code.

Repealer: Section 191.007(j) (relating to providing a certain filing or recording fee for one or more oversized rider per page), Local Government Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2019.