



# INDIANA COUNTY RECORDERS SENATE BILL 505

MAY 25, 2017

## *2017 Modernizing the Document Recording Process – Changes in Fee Structures –*

Senate Bill 505 was recently passed by both the Indiana Senate and the House of Representatives, signed into law by Governor Eric Holcomb on April 21, 2017, and will take effect on July 1, 2017.

This bill was supported by the Association of Indiana Counties, the Indiana Attorney General, the Indiana Land Title Association, the Indiana County Councils Association, the Indiana Association of County Commissioners, the Indiana County Auditors Association, the Indiana County Surveyor's Association, the Indiana Society of Professional Land Surveyors, the Indiana Mortgage Bankers Association, the Indiana Credit Union League, the Indiana Bar Association and the Hoosier Press Association.

SB 505 specifically addresses the following:

- Replaces the current confusing fee structure with a more predictable and transparent "flat" fee for documents filed with the county recorder;
- Modernizes the bulk user statute to reflect changes in the industry while ensuring the preservation of the public record; and
- Allows for the electronic recording of public documents to increase efficiencies.

This legislation modernizes the document recording process and fee structures making it easier for Hoosiers to record public documents, while also reflecting the increased costs incurred to satisfy this important public service. It is our hope to make this transition for our submitters and other interested parties as smooth as possible with the goal of consistency among our 92 counties.

***Predictable Fees:*** As of July 1, 2017, the current confusing fee structure will be replaced with a more predictable and transparent "flat" fee for documents filed with the county recorder, which will benefit document submitters, county officials, and other interested parties.

The request for predictable fees was initiated by recent federal regulations imposed by the Consumer Financial Protection Bureau. The CFPB now requires accurate recording fee costs on loan estimate statements. Inaccurate fee estimates can delay property sales closings and may result in significant fines. Several other logical reasons also made it clear that it was time to implement predictable fees.

Indiana now joins ten (10) states and jurisdictions that have enacted a predictable fee schedule. The fees also help cover increased costs incurred by county recorders for preserving the public record, investing in technology upgrades, and covering general operating costs.

More specifically, SB 505 will make the following fee changes:

- 1) Mortgages will be assessed a \$55 flat fee. This fee includes: Mortgages, Subordinate Mortgages, Corrective Mortgages, Re-recorded Mortgages, Indentures and Supplemental Indentures
- 2) Deeds and all other instruments, including re-recorded instruments will be assessed a \$25 flat fee, which includes the first oversized page (defined as pages exceeding 8½” x 14”) in any document.
- 3) Additional oversized pages contained in any document will be charged at \$5 each.
- 4) UCC fees have changed. All three have been reduced by \$3.00 per recording. Refer to the updated Recording Fee Schedule.
- 5) The \$2.00 fee for extra mail outs on mechanics liens remains in place.
- 6) Marion County will have an additional \$10 per document charge on all recordings, which will flow into the housing trust fund established by Ordinance in that county.
- 7) The certification of document fee remains the same at \$5 each.
- 8) I.C. 36-2-7-10(3) defines a “multiple transaction” document as a document containing two (2) or more transactions of the same type. I.C. 36-2-7-10(c)(4) states that documents shall be charged as \$25 for the first page including one cross reference and additional cross references will be charged at \$7.00 each.
- 9) The recording requirements under I.C. 36-2-11-16.5 pertaining to font, paper weight, ink, and legibility must be met.
- 10) Pursuant to I.C. 36-2-7-10(1) for cross references not otherwise required by statute or county ordinance, the person submitting the document for recording shall clearly identify on the front page of the instrument the specific cross-reference(s) to be included with the recorded document(s).
- 11) Copy fees have slightly changed: copies 11” x 17” and smaller will be charged at \$1 each and copies larger than 11” x 17” will be charged at \$5 each. **A detailed schedule of fees is attached for your convenience.**

***Bulk Copy sales:*** SB 505 also serves to modernize the bulk user statutes, reflecting changes in the industry while ensuring the preservation of the public record. Bulk users will be required to contract with county recorders and their designated providers (if applicable) to provide bulk form copies to bulk users.

- SB 505 mandates a fee in the range of \$0.10 to \$0.20 for bulk copies and per document index and is based upon the costs incurred by the county recorder for producing bulk form copies, including the application of a watermark or other protective feature.

- If the cost exceeds .10 per copy, each county is required to establish their fee by ordinance, not to exceed \$0.20 per copy. This serves to align bulk user copy fees with the fees assessed for copies of other public records.
- Each county is required to establish, by ordinance, the manner and form in which the county recorder may provide bulk form copies to bulk users. This ordinance must establish whether the county recorder may provide bulk form copies to a bulk user:
  - o on a disk, tape, drum, or any other medium of electronic data storage or microfilm;
  - o by electronically transmitting the copies using an electronic transfer process; or
  - o under both subdivisions (1) and (2).

***Electronic recording of documents:*** In 2004 the Uniform Law Commission proposed the Uniform Real Property Electronic Recording Act (URPERA).

According to the Uniform Law Commission, URPERA equates electronic documents and e-signatures to original paper documents and manual signatures, so that any requirement for originality (paper document or manual signature) is satisfied by an electronic document and signature.

As a proposed uniform law, the next step was for each state legislature to pass the law, should they choose to adopt it.

With the passing of SB505, following the guidelines defined by URPERA, our county recorders now have the statutory ability to properly make e-recording available to customers, providing a secure, expeditious, and more convenient way to record documents electronically.

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***Please feel free to contact us with any questions that you may have regarding these upcoming legislative changes.***

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