

Department of Planning and Budget

2021 Fiscal Impact Statement

1. Bill Number: HB2064H1

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed
Second House ☒ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Simon

3. Committee: Senate Committee on the Judiciary

4. Title: Recording an electronic document; electronic notarial certificate; emergency.

5. Summary: The substitute bill provides that if a clerk has an eRecording System as defined in §55.1-661, the clerk must follow the provisions of this bill, and the Uniform Real Property Electronic Recording Act (3 55.1-661 et seq.), for recordation of documents.

If the clerk does not have an eRecording System, the clerk must record a legible paper copy of an electronic document, provided that such copy (i) otherwise meets the requirements of this section for recordation and (ii) is certified to be a true and correct copy of the electronic original by the attorney, settlement agent, or other party who submits the document for recordation. The bill establishes that if a clerk's eRecording System is not operational at any time, or the eRecording System does not accept the type of electronic document being submitted, the clerk must use the process for recording a legible paper copy of an electronic copy.

The substitute bill also requires an electronic notarial certificate to include the county or city in the Commonwealth where the notary public was physically located and indicate whether the notarization was done in person or by remote online notarization, defined in the bill as an electronic notarization where the signer is not in the physical presence of the notary. The bill also adds additional forms of "satisfactory evidence of identity" when a notary is using video and audio communication. The bill contains an emergency clause.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Preliminary (see #8)

8. Fiscal Implications: According to the Compensation Board, the proposed bill is not expected to have a material fiscal impact on circuit court clerk's offices.

9. Specific Agency or Political Subdivisions Affected: Circuit court clerk's offices

10. Technical Amendment Necessary: No

11. Other Comments: None