

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 on behalf of the testator.

18 "Testator" means a person who executed a will, other than
19 as a witness or official to whom acknowledgment of signing was
20 given.

21 "Will" refers to an original:

22 (1) will;

23 (2) codicil;

1 (3) will and one or more codicils;

2 (4) trust;

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

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

6 (b) If a county recorder's office maintains a computer
7 system with the capability of scanning and securely storing
8 electronic image files and corresponding index information,
9 the county recorder may implement a county will repository
10 pursuant to this Section to privately store electronic copies
11 of wills. If a county recorder implements a will repository,
12 they shall create a registration form to be signed by the
13 testator which:

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

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

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

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

22 (5) lists the full names of up to 10 individuals to
23 whom the county recorder is authorized to deliver the will
24 upon the death of the testator and a space to indicate if
25 there are additional names attached. The county recorder
26 shall prepare a form addendum for attachment to the

1 registration form for the testator to list additional full
2 names in addition to the 10 individuals listed on the
3 registration form. The addendum shall contain a disclaimer
4 that only individuals listed on the registration form or
5 addendum are eligible to retrieve a copy of the will
6 without a court order;

7 (6) has a section reserved for county recorder office
8 staff where the employee accepting the document will write
9 the name of the testator, name of the depositor, date of
10 deposit, confirmation that photo identification was
11 inspected, and a space to indicate the employee name or
12 identification number;

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

17 (8) has the option to include the location of the
18 original signed copy of the will.

19 (c) If a county has created a will repository, a depositor
20 may present a will for scanning into the will repository if he
21 or she presents a signed and completed registration form as
22 described in subsection (b). If a depositor is not the
23 testator, the county recorder may require proof of authority to
24 register the will for scanning including requiring a depositor
25 affidavit to be completed. A will shall only be accepted for
26 scanning if it is the original signed will.

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

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

15 (1) provide the depositor with a receipt for the
16 registration form and will listing the date and time of
17 filing and the unique document number assigned to the
18 documents;

19 (2) scan in, electronically store, and electronically
20 affix a unique document number, date and time of deposit,
21 and amount of recording fee in the upper right corner of
22 the registration form;

23 (3) scan in and electronically store a copy of the
24 depositor affidavit and will including electronically
25 affixing the unique document number and date of recording
26 on each page of the will;

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

6 (5) index the will alphabetically by the name of the
7 testator, by the previous names by which the testator may
8 have been known, by the date of registration of the will,
9 by the names of persons on the registration form or
10 addendum who are eligible to retrieve a copy, and by the
11 unique document number; and

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

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

21 (g) During the testator's lifetime, the county recorder
22 shall:

23 (1) keep the electronic images of the registration
24 form, depositor affidavit, and will in a secure database
25 not available to the public with access limited to recorder
26 office staff necessary for the operation of the repository;

1 and

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

3 (i) the testator;

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

7 (iii) a person, entity, court, or government
8 agency authorized to receive a certified copy pursuant
9 to an order entered by a court of competent
10 jurisdiction.

11 (h) If the county recorder has custody of a scanned copy of
12 the will after the death of the testator and is notified of the
13 death of the testator by a person to whom the recorder is
14 authorized to deliver a copy of the will in the registration
15 form by presenting a certified copy of the testator's death
16 certificate or by a certified copy of an order of court
17 determining the testator to be deceased, upon receipt of
18 payment of the recorder's fee for certified copies, the county
19 recorder shall promptly deliver a certified copy to the person
20 or clerk of the circuit court of the county in which the
21 probate of the testator's will may occur as determined under
22 Section 5-1 of the Probate Act of 1975. Copies of the
23 registration form or depositor affidavit shall not be provided
24 to any retriever unless so ordered by a court.

25 (i) Upon inquiry by a person or entity identified in
26 paragraph (2) of subsection (g) or upon inquiry of any person

1 presenting a certified copy of an order of a court requesting
2 documents scanned under this Section, the county recorder shall
3 inform the person whether the name of the relevant testator
4 appears in the county recorder's index of the will repository.
5 If an inquiry is made for a testator that is not found in the
6 database, or if the inquiry is made by someone not listed as
7 eligible to retrieve a copy, the recorder's office staff may
8 not confirm or deny the existence of documents held under this
9 Section.

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

13 (1) the county recorder has not received notice of the
14 death of the testator; and

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

17 (k) The county recorder may use fees generated under this
18 Section for the operational expenses of the will repository and
19 for advertising the will repository.

20 (l) If a testator desires to remove a will from the will
21 repository, or to replace a will, he or she must fill out a
22 removal affidavit proscribed by the recorder's office that
23 affirms his or her desire to remove the will and provide
24 satisfactory identification to confirm he or she is the
25 testator. If the request is to replace a will with a new will,
26 the scanned copy of the will must first be removed using a

1 removal affidavit and the testator or depositor must submit a
2 new registration form and will following the repository
3 guidelines as described in this Section and pay the required
4 fees. There shall be no fee for removing a will scanned under
5 this Section.

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

17 (n) Recorder office staff may request to inspect and copy
18 any identification documents deemed necessary to prove the
19 identity of anyone seeking to register or retrieve a copy of a
20 document under this Section and may refuse service until
21 satisfactory determination of identity is made.

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

25 (p) Documents obtained by the county recorder under this
26 Section are not public records and are exempt from disclosure

1 under the Freedom of Information Act.