

To: House Government Operations Committee
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Update on “Fee Bill” (Act 38 passed 2019 session)

The new recording fees went into effect July 1, 2019. VMCTA sent out notices to all clerks in the state well in advance of the effective date, along with suggestions on how to spread the word among their vault users, and how to address fee shortages after the effective date. Most clerks treated the month of July as a phase-in period, recording documents submitted with the prior fees, but sending notifications back with the documents letting people know about the new fees for future recordings.

There were a few hiccups with the changes requiring towns to pay return postage costs, but we haven't heard any recent issues associated with that. We've heard positive stories from those clerks who didn't have a restoration fund before; and from clerks who have started digitizing land records because of the available funding.

Included in the new language is the opportunity for clerks to certify to HGO that they have sufficient restoration and preservation funds, and therefore don't need to hold out the full \$4 called for in statute. VMCTA isn't sure what format would work best for those certifications, so we've been suggesting clerks send the committee a letter. Is that sufficient? Would the Committee like a specific format for these certifications?

VMCTA has developed a template for collecting fee data needed for our three-year reports; the next one is due in January 2022.

There are a couple items that slipped through the cracks last year, and should be addressed.

1. There are recording fees associated with tax sales. These fees should be amended to mirror the other changes made last year:

32 VSA § 5258. Fees and costs allowed after warrant and levy recorded

(a) The fees and costs allowed after the warrant and levy for delinquent taxes have been recorded shall be as follows:

- (1) levy and extending of warrant, \$10.00;
- (2) recording levy and extending of warrant in the town clerk's office, ~~\$10.00~~ **\$15.00 per page**, to be paid to the town clerk;
- (3) notices and publication of notices, actual costs incurred, including the costs of service pursuant to subdivisions 5252(a)(3) and (4) of this title;

(4) expenses actually and reasonably incurred by the town in securing a property for which property taxes are delinquent against illegal activity and fire hazards, to be paid to the town clerk, provided that the expenses shall not exceed 20 percent of the uncollected tax;

(5) when authorized by the selectboard, expenses actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of a tax sale, provided that the expenses shall not exceed 15 percent of the uncollected tax;

(6) travel reimbursement at the rate established by the contract governing State employees;

(7) attending and holding the sale, \$10.00;

(8) making return and recording the return in the town clerk's office, ~~\$10.00~~ **\$15.00 per page**, to be paid to the town clerk;

(9) collector's deed, ~~\$30.00~~ **\$15.00 per page**.

(b) The fees and costs allowed in subsection (a) of this section, together with a collector's fee of up to eight percent, shall be in lieu of all other fees and costs. (Amended 1963, No. 124; 1983, No. 116 (Adj. Sess.); 1985, No. 264 (Adj. Sess.), § 4; 1995, No. 106 (Adj. Sess.), § 3; 2017, No. 7, § 1; 2017, No. 117 (Adj. Sess.), § 4.)

2. The language related to surveys added by the VT Center for Geographic Information has created an unintended issue around whether a clerk has the right to refuse to record a deed that isn't accompanied by the required survey. Carl Andeer from VLCT has suggested some language that might address the issue by adding the new section below:

27 VSA §341(b) **(4) No town clerk shall record, or receive for recording, any deed or other conveyance unless it is in compliance with this subsection.**

STAKEHOLDERS GROUP

The recording fee bill wouldn't have happened without the collaboration of a large group of stakeholders, including VMCTA, the VT Bar Association, VT Attorneys Title Corporation, VT Bankers Association, VLCT, VT Realtors Association. The group has continued to meet since last year, with a focus on continuing to identify ways to improve communications and collaborations. At our most recent meeting in November we agreed on three main points of focus going forward:

- 1. VMCTA, VLCT and the other stakeholders will look for opportunities to hold joint education sessions for clerks.

2. VMCTA will work on updating its Best Practices handbook for land records and recordings.
3. Work collaboratively to develop standards for indexing.

VITAL RECORDS (Act 46, approved 2017)

The original effective date was July 1, 2018. The computerized vital records system wasn't going to be ready by the deadline, so VMCTA lobbied the legislature, who approved an extension to July 1, 2019 during the May 2018 special session.

The Vermont Records Issuance Management System (VRIMS) went live July 1, 2019. There are a few issues we'd like to see addressed. The most important issue has to do with the people who are eligible to request certified copies of birth or death certificates. 18 VSA §5016(b)(2) lists the people who are eligible – “ the registrant or his or her spouse, child, parent, sibling, grandparent, or guardian...”. We are finding it would be helpful to expand this list to include at least grandchildren. I spoke with state registrar Jean Decell last week, and she agreed this was an oversight in the original language. We would argue that perhaps the list needs to be expanded further to include aunts/uncles/nieces/nephews.

The biggest challenge we have is finding ways to accommodate people who have difficulty meeting the ID requirements. Act 46 gave the authority to the state registrar to “...adopt rules governing acceptable forms of identification required in connection with applications for certified copies of birth and death certificates...” On its surface this seems pretty straight forwarded, however, most clerks can tell you stories of people who have come into their offices and don't meeting the criteria, who are then turned away. We believe we must find a way to accommodate these people. Perhaps a clerk who knows the requester can certify to that fact; or the administrator of a residential facility can send a letter certifying a person lives there; or an affidavit can be developed similar to the one used by the US State Department for passport applicants (Affidavit of Identifying Witness), which allows someone else to certify your identity.

There must be a way to help these people. If not, it feels like we're holding their documents hostage.

There are several other items we would like to have an opportunity to discuss with VDH, some are included in the rules and some are procedural, however to date they have not been overly receptive to our input:

1. We would like clarification on “non-certified” copies and “uncertified” copies. Statute lays out a definition for non-certified copies which are printed out of the VRIMS system, but VDH has determined that “uncertified” hard copies of original documents in our vaults can be made, and that no stamp or other identifying information should be added to these photocopies. Our concern is with providing photocopies of original documents without any specification as to the nature of the document. A skilled forger could use that to create a certified copy. In the past clerks would stamp such documents as “uncertified” or “non-certified” or “not for official use”.

2. VDH has determined that only hospital towns can submit corrections, however resident towns have official copies of the same documents, and should therefore be able to submit copies. This is especially problematic with birth certificates. There were errors made in data entering all vital records into VRIMS, which is understandable. When the errors are identified, the clerk scans and emails the original document to VDH and they make the changes in the system, usually that same day. However requiring that corrections only come from the hospital town adds another step to the process, and can cause delays in fulfilling someone's request for a certified copy. There doesn't seem to be any reason why the resident town can't send a scan of their copy to get the changes made.
3. When the system went live in July, clerks and their assistants signed up with VDH so they could be issued credentials for access to the VRIMS system. Each person who submitted a user's agreement provided their contact information and signed the document agreeing to the terms and conditions therein. There are times when clerks' offices must contact VDH with questions about the system or vital records in general, however VDH has mandated that only the clerk can make such contact with the department, regardless of the fact that other staff members in the clerks offices are authorized VRIMS users. This can lead to delays in getting important information or assistance.