

HOUSE BILL NO. HB0270

Public records management.

Sponsored by: Representative(s) Miller, Alden and Pedersen

A BILL

for

1 AN ACT relating to public records; authorizing the
2 preservation of specified public records using appropriate
3 technology; providing definitions; and providing for an
4 effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 5-7-103, 9-2-401(a)(v),
9 9-2-406(a)(vii), 9-2-407(a), 9-2-412, 9-2-413(a), (d) and
10 (e), 16-4-201(a)(v), 18-3-402(a)(vi)(B), 21-3-117(a)(ii),
11 29-6-206(b)(i) and 34-21-1102(a)(i) are amended to read:

12

13 **5-7-103. Filing, preserving and use of papers;**
14 **appropriate technology permitted.**

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16 The clerk shall file together and carefully preserve in his
17 office, all papers delivered to him for that purpose in

1 every action or proceeding. He shall not permit the papers
2 to be taken from his office except to be used at a session
3 of the court or upon legal process, and he shall be liable
4 upon his official bond to the party suffering injury on
5 account of any violation of this section. This section
6 shall not apply to matters in probate. Upon the order of
7 the judge of the district, the clerk may transmit by
8 express or registered mail to an attorney of the state
9 appearing in the action or proceeding, who resides in a
10 different county or away from the county seat, such
11 original files as are not represented by copies in the
12 clerk's office, and the clerk shall take the attorney's
13 receipt for each paper in each case. Nothing in this
14 section shall limit or prohibit the clerk from microfilming
15 or converting papers through appropriate technology in his
16 office, disposing of the originals in accordance with W.S.
17 9-2-411 and retaining the official microfilm or converted
18 record in lieu of the original papers pursuant to W.S.
19 9-2-413.

20

21 **9-2-401. Definitions.**

22

23 (a) As used in W.S. 9-2-401 through 9-2-415:

24

1 (v) "Public record" includes the original and
2 all copies of any paper, correspondence, form, book,
3 photograph, photostat, film, microfilm, sound recording,
4 map, drawing or other document converted using appropriate
5 technology, regardless of physical form or characteristics,
6 which have been made or received in transacting public
7 business by the state, a political subdivision or an agency
8 of the state.

9

10 **9-2-406. Director; management of public records.**

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12 (a) The director shall properly manage and safely
13 keep all public records in his custody, and administer the
14 state archives. He shall:

15

16 (vii) Establish and operate a central microfilm
17 or conversion technology division in which all memoranda,
18 writing, entry, print, representation or combination
19 thereof, of any act, transaction, occurrence or event, may
20 be microfilmed or converted using appropriate technology
21 available. The division shall microfilm or convert public
22 records approved ~~for filming~~ by the head of the office of
23 origin and by the director, and shall establish standards
24 for microfilming and converting these records using

1 appropriate technology available. All state departments,
2 agencies and subdivisions of the state government and all
3 counties, municipalities and political subdivisions thereof
4 shall consult with the director prior to microfilming or
5 converting public records within the departments, agencies
6 or political subdivisions and shall comply with the
7 standards for all microfilming and converting established
8 by the central microfilm and conversion technology
9 division. The central microfilm and conversion technology
10 division may microfilm or convert records which are
11 required to be kept a specified length of time or
12 permanently, or to be destroyed by specific methods or
13 under specific supervision. When records are microfilmed or
14 converted using appropriate technology, the microfilm or
15 converted record may be substituted for the original
16 documents and retained in lieu of the original documents
17 and the original documents may be destroyed;

18

19 **9-2-407. Director; duties regarding public records in**
20 **his custody.**

21

22 (a) The director shall collect, arrange and make
23 available to the public at reasonable times in his office
24 in original form, copies or microfilm copies or negatives,

1 or records converted using appropriate technology, all
2 records in his custody not restricted by law, including
3 official records of the state and its political
4 subdivisions, of the United States or of foreign nations.
5 He is the legal custodian of all public records in the
6 custody of the Wyoming parks and cultural resources
7 commission.

8

9 **9-2-412. Destruction or disposition of public**
10 **records; procedure.**

11

12 Public records of the state and political subdivisions
13 shall be disposed of in accordance with W.S. 9-2-411. The
14 records committee may approve a departmental written
15 request upon proper and satisfactory showing that the
16 retention of certain records for a minimum period of ten
17 (10) years is unnecessary and uneconomical. Recommendations
18 for the destruction or disposition of office files and
19 memoranda shall be submitted to the records committee upon
20 approved forms, prepared by the records officer of the
21 agency concerned and the director. The committee shall
22 determine the period of time that any office file or
23 memorandum shall be preserved and may authorize the
24 division of archives, records management and centralized

1 microfilm and conversion technology to arrange for its
2 destruction or disposition.

3

4 **9-2-413. Reproduction of public records of political**
5 **subdivisions.**

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7 (a) Subject to this section and with the approval of
8 the governing body of the political subdivision, any
9 department, agency, board or individual of any political
10 subdivision may record or copy by any microfilming,
11 microphotographic, photographic, photostatic, ~~or other~~
12 permanent reproductive device or conversion using
13 appropriate technology any public record which the
14 department, agency, board or individual of the political
15 subdivision records, keeps, retains, or is by law, rule or
16 regulation required to record, keep or retain for a period
17 of years or permanently. The microfilm, microphotograph,
18 photograph, photostat, ~~or other~~ permanent reproduction or
19 other conversion using appropriate technology is deemed the
20 original or official copy of the public record so
21 reproduced for all purposes. If any department, agency,
22 board or individual of any political subdivision is
23 required to record any writing or document in books or on
24 other forms, recording done directly onto microfilm,

1 microphotograph, ~~or other~~ permanent storage medium or
2 conversion using appropriate technology in lieu of the
3 other required form of recordation constitutes compliance
4 with the requirement. A master negative of microfilm, ~~or~~
5 microphotographs or conversion using appropriate technology
6 shall be made whenever any process is used to reproduce
7 public records with the intent of disposing of the original
8 or copies of the original. The master negative or converted
9 record shall be sent to the director. One (1) copy of all
10 master negatives or converted record shall be retained by
11 the governmental entity or officer having custody of the
12 writings or papers thus recorded or copied as the official
13 copy.

14

15 (d) If the original documents are disposed of as
16 allowed by law, the set of official microfilm or converted
17 records retained by the local governmental entity or
18 official shall be stored in a safe place and protected from
19 destruction. The official microfilm or converted records
20 shall be available to the public for inspection in the same
21 manner as the original documents would have been, and
22 ~~sufficient microfilm and microphotographic readers~~ the
23 appropriate technology or other suitable devices shall be
24 available to the public to permit inspection.

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2 (e) The clerk of district court shall not microfilm,
3 microphotograph, photograph, photostat, convert using
4 appropriate technology or otherwise reproduce, for official
5 record purposes, the files of any action or proceeding kept
6 in his office until two (2) years have lapsed since the
7 initial filing in the action or proceeding. The clerk of
8 district court may make certified or other copies of
9 documents in his office for individuals or officials.

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11 **16-4-201. Definitions.**

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13 (a) As used in this act:

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15 (v) "Public records" when not otherwise
16 specified includes the original and copies of any paper,
17 correspondence, form, book, photograph, photostat, film,
18 microfilm, sound recording, map drawing or other document,
19 or any other record converted using appropriate technology
20 regardless of physical form or characteristics that have
21 been made by the state of Wyoming and any counties,
22 municipalities and political subdivisions thereof and by
23 any agencies of the state, counties, municipalities and
24 political subdivisions thereof, or received by them in

1 connection with the transaction of public business, except
2 those privileged or confidential by law;

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4 **18-3-402. Duties generally.**

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6 (a) The county clerk shall:

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8 (vi) Have custody and keep all books, records,
9 deeds, maps, papers and copies thereof deposited or kept in
10 his office as required by law. All deeds, mortgages, and
11 other instruments in writing authorized by law to be
12 recorded or filed in his office and left in his office
13 shall be:

14

15 (B) Recorded on microfilm, microcards or
16 other permanent record retention medium or otherwise
17 converted using appropriate technology. All reproduction
18 processes shall be instituted and used pursuant to W.S.
19 9-2-413. Maps may either be recorded as herein provided or
20 if the copying is unlikely to provide a satisfactory
21 record, the county clerk may keep the originals or tracings
22 thereof, undamaged and unfolded and make prints available
23 for public use.

24

1 **21-3-117. Duties of clerk of school district.**

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3 (a) The clerk of each school district within the
4 state shall:

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6 (ii) Cause to be filed copies of all reports
7 made to the state superintendent and all papers transmitted
8 to him by school officers or other persons pertaining to
9 the business of the district. After two (2) years have
10 elapsed from the date of filing, microfilm copies or copies
11 made using appropriate technology may be treated as
12 originals;

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14 **29-6-206. Duties of filing officer.**

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16 (b) If a certificate of release, nonattachment,
17 discharge or subordination of any lien is presented to the
18 secretary of state for filing he shall:

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20 (i) Cause a certificate of release or
21 nonattachment to be marked, held and indexed as if the
22 certificate were a termination statement within the meaning
23 of the Uniform Commercial Code and maintain a permanent
24 record of the notice of the lien in the file or on

1 microfilm, ~~or~~ by other photographic means or by appropriate
2 technology; and

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4 **34-21-1102. Central filing system; establishment.**

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6 (a) The secretary of state shall establish and
7 operate a central filing system for effective financing
8 statements. The system shall provide a means for filing
9 effective financing statements or notices of such financing
10 statements on a statewide basis. The system shall include
11 requirements that:

12

13 (i) An effective financing statement or notice
14 of a financing statement shall be filed in the office of
15 the secretary of state. A debtor's residence is presumed
16 to be the residence shown on the filing. The validity of
17 the filing is not affected if the residence indicated is
18 improper or inaccurate. The secretary of state shall mark
19 the statement or notice with a consecutive file number and
20 the date and hour of filing and shall hold the statement or
21 notice or a microfilm, ~~or~~ other photographic or appropriate
22 technology converted copy thereof for public inspection.
23 In addition, the secretary of state shall index the
24 statements and notices according to the name of the debtor

1 and shall note in the index the file number and the address
2 of the debtor given in the statement;

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4 **Section 2.** This act is effective July 1, 2005.

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(END)