

HOUSE BILL NO. HB0104

County clerks-frivolous filings procedure.

Sponsored by: Representative(s) Larsen, L and Senator(s)
Schuler

A BILL

for

1 AN ACT relating to county clerks; authorizing county clerks
2 to seek to have frivolous filings rejected or notated as
3 frivolous; specifying requirements and procedures for
4 rejecting or notating frivolous filings; declaring
5 frivolous filings to be of no legal effect; and providing
6 for an effective date.

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

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10 **Section 1.** W.S. 18-3-403 is created to read:

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12 **18-3-403. County clerks; rejection or notation of**
13 **frivolous filings.**

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15 (a) As used in this section:

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2 (i) "Filing" means any document submitted by the
3 public for filing or recording with the county clerk except
4 for conveyances as defined by W.S. 34-1-102, any document
5 created or received according to the county clerk's duties
6 under W.S. 18-3-402(a)(i) and liens;

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8 (ii) "Frivolous" means lacking an arguable basis
9 in law or in fact or being presented for any improper
10 purpose, including harassment.

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12 (b) A county clerk may reject any frivolous filing
13 that a person seeks to file with the clerk, in accordance
14 with the following:

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16 (i) If the clerk determines that the filing may
17 be frivolous, the clerk may decline to file the filing and
18 may hold the filing in abeyance, subject to this
19 subsection;

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21 (ii) For any filing that the clerk declines to
22 file or holds in abeyance in accordance with this
23 subsection, the clerk shall file a motion with the district

1 court in the county for an order that the filing is
2 frivolous. The person seeking to file the filing shall be
3 given notice and an opportunity to be heard before the
4 district court acts on the motion;

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6 (iii) If the district court determines that the
7 filing is frivolous, the court may enter an order declaring
8 the filing frivolous, after which the clerk may reject the
9 filing;

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11 (iv) For any filing rejected under this
12 subsection, the clerk shall refund any fee received from
13 the person seeking to file the filing within ten (10) days
14 of the district court's order;

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16 (v) No filing shall be rejected under this
17 subsection if the clerk has deposited any fee received for
18 the filing or if the clerk has filed the filing.

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20 (c) A county clerk may seek to notate any filing
21 previously filed with the clerk in accordance with the
22 following:

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1 (i) The clerk may review any previously filed
2 filings to determine if a filing is frivolous;

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4 (ii) Upon identifying a previously filed filing
5 that the clerk believes may be frivolous, the clerk may
6 file a motion with the district court in the county for an
7 order that the filing is frivolous. The person who
8 submitted the filing to the clerk shall be given notice and
9 an opportunity to be heard before the district court acts
10 on the motion;

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12 (iii) If the district court determines that the
13 previously filed filing is frivolous, the court may enter
14 an order declaring the filing frivolous;

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16 (iv) Upon the entry of an order under paragraph
17 (iii) of this subsection, the clerk may include a notation
18 with the filing stating that the filing has been deemed
19 frivolous.

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21 (d) Any filing declared frivolous by a district court
22 under this section shall have no legal effect.

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