

## Legislation Text

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**File #:** 130324, **Version:** 1

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Amending Chapter 2-200 of The Philadelphia Code, entitled "Recording of Deeds," and Chapter 10-1000 of The Philadelphia Code, entitled "Fees," by adding duties for the certification of deeds, providing for tangled title assistance, providing for certain fees and making certain technical changes, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Chapter 2-200 of The Philadelphia Code is hereby amended to read as follows:

### CHAPTER 2-200. RECORDING OF DEEDS

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#### § 2-202. Requirements.

The requirements of this Section are in addition to any requirements provided by state law, local law or regulations promulgated by the Department.

(1) Upon presentation of a deed for recording, the Department shall perform a records check to determine whether the named grantor on the deed matches the record owner of the real estate identified therein, except in the following cases where the grantor may be a person other than the record owner:

- (a) Any deed where the real estate described therein is part of a decedent's estate;
- (b) Any deed where the grantor has been issued power of attorney by the record owner; or
- (c) Any deed where the grantor is a trustee.

[In the event that there is no match, the Department shall not record the deed. If the Department determines that the circumstances suggest the possibility that a fraud may have occurred, it shall refer the matter to the appropriate governmental agency.]

(2) The following deeds shall [not be recorded unless they are accompanied by] *require* additional documentation, as set forth below:

(a) Where the real estate identified in the deed is part of a decedent's estate, letters testamentary or letters of administration, issued by the Register of Wills shall be provided.

(b) Where the grantor has been granted power of attorney by the record owner of the real estate identified in the deed, written documentation of the power of attorney, shall be provided.

- (c) Where the grantor is a trustee, the writing creating the trust shall be provided.

(d) Where the grantor is a corporation, documentation of the filing of Articles of Incorporation with the appropriate state agency shall be provided.

(e) Where, under the regulations of the Department, the grantor may legally be someone other than the record owner of the real estate identified in the deed, the Commissioner shall determine the appropriate documentation to be provided.

[(f) Any deed that is not accompanied by a written statement, signed by the grantee, indicating whether or not title insurance has been obtained insuring the marketability of the title to the real estate identified therein.]

(3) *The Department shall take such other reasonable steps as it deems appropriate to determine the cause of any apparent discrepancy revealed as a result of the records check in subsection (1) and a review of the documents in subsection (2).*

*(a) If the Department determines that there is no discrepancy, it shall record the deed, pursuant to state law.*

*(b) If the Department determines that a discrepancy exists, but is satisfied with the explanation for the discrepancy, the Department shall record the deed as presented, pursuant to state law.*

*(c) If the Department determines that there is no reasonable explanation for a discrepancy, or if the required documents are not provided as outlined in subsection (2), the Department shall stamp the deed with the words "Not Certified," and then record the deed, pursuant to state law.*

*(d) In implementing this Section, the Department may charge such additional fees as authorized by Section 10-1001(1)(a).*

*(e) The Department shall report to the appropriate governmental agency any suspected fraud revealed in connection with an unexplained discrepancy.*

[(3)](4) Any deed delivered to the Department by mail through the United States Postal Service shall not be recorded unless it has been sent by registered or certified mail.

[(4)](5) [Any deed presented for recording, where title insurance has not been obtained insuring the marketability of the title to the real estate identified therein, shall be presented to the Department, in person, by the grantee named in such deed.] Prior to the recording of [such deed,] *any deed for which title insurance has not been obtained insuring the marketability of the title to the real estate identified therein,* [the grantee shall sign a form, prepared and provided by the Department, stating that the grantee knowingly has chosen not to obtain title insurance. The form shall:] *the Department shall provide a written disclosure to the grantee, which shall* (i) explain the risk of purchasing property without title insurance or legal counsel, including the risk of fraud and of assuming the liens, judgments and other debts of prior owners; (ii) provide information on legal services and (iii) be in plain language and translated in the language understood by the grantee.

[(5)](6) Within thirty (30) days of the recording of any deed, the Department shall notify, by first class mail, the prior record owner of the real estate identified therein, and the occupant at the address of the real estate identified therein, if that address is different from the record owner's address, that such deed has been

recorded. *The Department shall, by regulation, establish a program for providing notice to certain property owners, residents, or organizations that a deed for a nearby property has been recorded, where the Department finds such notice would be reasonable and appropriate, and would assist in reducing or preventing fraudulent real property transactions, or would attenuate the impact of any fraudulent real property transaction.*

\* \* \*

§ 2-206. *Real Estate Fraud Victims' Assistance Program.*

*(1) The Law Department, or such other office or agency as the Mayor shall designate, is authorized to develop and administer a Real Estate Fraud Victims' Assistance Program to help the victims of real estate theft in obtaining legal and other resources. The office or agency implementing this program shall serve as a "one-stop" shop for the victims of real estate theft with the goal of ensuring that such victims receive hands-on assistance throughout the process to recover real property stolen through fraudulent recording of a deed.*

*(2) Reporting requirement. By December 31 of each year, and at such other times as the President of Council may request, the office or agency responsible for administering this Program shall file a status report with the President and Chief Clerk of Council that includes the following information and such other information deemed relevant: a description of the staff and funding allocated to the Program; the number of clients assisted; the disposition of each matter to date; and recommended reforms to reduce the occurrence of real estate theft or accelerate the restoration of stolen real property to the rightful owner.*

SECTION 2. Chapter 10-1000 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 10-1000. FEES

§ 10-1001. Fees of Commissioner of Records.

(1) Unless otherwise specified by law, the fees to be charged and collected by the Commissioner of Records shall be as follows:

(a) For recording deeds, \$204.00: \$102.00 to be placed in the General Fund; and \$102.00 to be placed in the Housing Trust Fund to be used for the purposes specified in Chapter 21-1600 of this Code; *for deeds subject to additional fees under Section 2-202, additional fees in an amount determined by regulation of the Department of Records to cover the additional costs incurred by the City in investigating, processing, and administering the recordation of such deeds.* Upon presentation of such proof as the Commissioner of Records may require, the fees imposed pursuant to this subsection (1)(a) shall be waived for recording any deed that transfers title from a deceased spouse or life partner, or the estate thereof, to the surviving spouse or life partner; or for recording any deed that confirms title in a surviving spouse or life partner. For those who present documentation that a recorded deed was fraudulent, recording fees for corrective deeds shall be waived; required documentation shall be determined by the Commissioner of Records.

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SECTION 3. This Ordinance shall become effective in 60 days.

**Explanation:**

[Brackets] indicate matter deleted.

*Italics* indicate new matter added.