

ARCHIVE FEE

The What, Why, When and How of it

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AND

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WHAT

ORIGIN OF THE
ARCHIVE FEE



DISTRICT COURT ARCHIVE FEE

Government Code Section 51.305(b) District Court Records Archive Fee

- Created by Senate Bill 1685 during the 81st Legislature, 2009, effective June 19, 2009.
- This fee allows the collection of not more than \$10.00 for the filing of a suit, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, in a district court in the county.
- Funds collected are to be used for preservation and restoration services performed in connection with maintaining a district court records archive.
- Amended by Senate Bill 658 (clerk's bill) during the 86th Legislature, effective September 1, 2019, sunset provision was repealed, permanently \$10.00.
- (fee language also found in GC 51.317(b)(5), 101.0611(7-a), and 103.027(a)(10)).

COUNTY COURT ARCHIVE FEE

Local Government Code Section 118.025(b) – County Clerk Records Archive Fee.

(Fee language also found in 118.011(f)(1)).

COUNTY CLERK RECORDS MANAGEMENT AND PRESERVATION FEE

Local Government Code Section 118.011(b)(2) – Records Management and Preservation Fee.

The Records Management and Preservation Fee (Sec. 118. 216) not more than \$10. (Raised from \$5).

This is under Fees of County Clerk other than court fees.

GIVE THANKS

We want to thank your bill sponsors for supporting the association and local government.

House Representative Travis Clardy

Senator Judith Zaffirini

THE WHEN OF IT ALL !!

WHEN

DO I SET THE ARCHIVE FUND UP?

Before you collect the fee you must go thru commissioners court to request permission during the budget process. This has to be done annually!!

WHEN, cont.

You must request that a public hearing be called to discuss and consider your annual written plan for the preservation and restoration of district court records archive.

- a. It should reference (GC 51.305 for district / LGC 118.025 for county) and the amount of the fee allowable - up to \$10,
- b. It must be set and itemized in the county budget during the budget process,
- c. It must be approved in a public meeting,
- d. The time line to publish the notice of public hearing (15 days) in a newspaper of general circulation.



WHEN, cont.

Once commissioners court approves the posting of the public hearing;

- A. Send the publication notice to the appropriate person, example below.

PUBLIC NOTICE

The Chambers County Commissioners' Court will conduct a public hearing to hear the progress of the District Clerk's and County Clerk's Records Archive Fund. This as a result of Senate Bill 658, to fund the preservation and restoration of the district and county clerk's court records. The meeting will be held on August 11, 2020 at 10:00 a.m. in the Courtroom of the Chambers County Courthouse, Anahuac, Texas.



WHEN, cont.

- Once you have your 15 day window you can schedule the next commissioners court to present your archive plan during the public hearing.

You have to place both the approval of the plan and the adoption of the fee on the court agenda. Example – 1. A public hearing at 10am to hear the progress of the District Clerk’s Records Archive Plan. Example – 2. To discuss and consider approval of the District Clerk’s Records Archive Plan and adoption of the Archive Fee.

- Once the court takes you out of the public hearing they can vote on the adoption of the plan and the fee.
- **Timing is very important.** Due to the frequency commissioners court meets you have to give yourself **at least 6 weeks** to get thru the entire process.



THE RECORDS ARCHIVE ANNUAL WRITTEN PLAN

The plan needs to be simple, clear and concise. (See attached exhibit B)

You need to outline the following;

- a. Inventory of all current records in your possession. If you include all your records instead of just the historical ones you can spend this money on them.
- b. Progress of your plan, if any.
- c. Future plans. If you do not have any money or enough money to do anything you still want to note what you want to do when you receive funds. Include quotes from outside vendors.
- d. Include non-permanent records. I do this to show the public what I am doing outside of this fund, it is good PR.
- e. I always acknowledge anything the court is doing to help the project progress. Yes I have a big brown nose!!

HOW??

NOW WHAT DO I DO?

HOW – YOUR NOT QUITE FINISHED YET.

Before you start collecting the fee approved by commissioners court you have to publicize it in a conspicuous place in the district clerk's office.

- POST THIS NOTICE:

“THE COMMISSIONERS COURT OF (county name) COUNTY HAS DETERMINED THAT A RECORDS ARCHIVE FEE OF \$(amount adopted) IS NEEDED TO PRESERVE AND RESTORE DISTRICT COURT RECORDS.



YOU ARE DONE!
FOR THIS YEAR 😊

HOW – TO COLLECT THE FEE

- The Archive Fee should be collected on the filing of every suit, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, in a district court in the county. This includes civil, family and SAPCR cases. In other words, part of your base fee.

DO NOT COLLECT ON actions within a SAPCR – motion for contempt or enforcement, motion to modify or new trial or a motion for transfer.

DO NOT COLLECT FROM State Agencies.



HOW – TO COLLECT THE FEE

The Archive fee should be sent to the county treasurer, or the official who discharges the duties of the county treasurer. That person will establish a district court records technology fund in the general fund.

These funds can only be spent as directed in the archive plan adopted and must go thru commissioners court for approval.

I have money left over- LM*0!

If you find yourself in the unique position that you have money left in the fund after completion of the project you can spend it as if it were your records management funds.

Once you have completed your archive plan project you must STOP collecting the fee.

Questions?

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