

Regular Session, 2014

HOUSE BILL NO. 888

BY REPRESENTATIVE ARNOLD

CLERKS OF COURT: Creates a statewide portal for secure remote access to certain records maintained by district clerks of court

1 AN ACT

2 To enact R.S. 13:754, relative to district clerks of court; to create the Louisiana Clerks'
3 Remote Access Authority; to provide for the membership of the authority; to provide
4 for the board of commissioner and its powers, duties, and domicile; to provide for
5 the creation of a statewide portal for certain records maintained by the district clerks
6 of court; to provide for the collection and use of fees; to provide for document
7 preservation; to provide for the limitation of liability; to provide for restrictions
8 relative to the use of records within the statewide portal; and to provide for related
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 13:754 is hereby enacted to read as follows:

12 §754. Louisiana Clerks' Remote Access Authority; membership; board of
13 commission; statewide portal of records

14 A. There is hereby created the Louisiana Clerks' Remote Access Authority
15 which shall be referred to as the "LCRAA".

16 B. The LCRAA shall provide for infrastructure, governance, standard
17 operating procedures, technology, and training to support a statewide portal for
18 secure remote access by Internet users to certain records maintained by LCRAA
19 members and to provide for document preservation.

1 C. The LCRAA shall be composed of members who are district clerks of
2 court who enroll on or before September 1, 2014, to provide the LCRAA with secure
3 remote access to indices and electronic images of certain records maintained by each
4 district clerk of court. LCRAA shall adopt rules permitting additional district clerks
5 of court to enroll as members of LCRAA on a schedule which shall include at least
6 one enrollment period per fiscal year.

7 D.(1) The LCRAA shall be governed by a seven-member board of
8 commissioners, referred to in this Section as the "board", six of whom are
9 participating members of LCRAA and one non-member who shall represent the
10 Louisiana Bankers Association. The board members shall be elected by participating
11 members of LCRAA. The non-member shall be elected by the Louisiana Bankers
12 Association. The number of board members may be increased by majority vote of
13 the membership.

14 (2)(a) Board members shall serve two-year terms. The initial term shall
15 begin on July 1, 2014, and shall end on June 30, 2016.

16 (b) Board members shall be eligible for election to succeeding terms without
17 limit.

18 (c) Any vacancy on the board of LCRAA shall be filled by election.

19 (3) The LCRAA shall elect from its members a chair, a vice chair, a
20 secretary, a treasurer and such other officers as it may deem necessary. The duties
21 of the officers shall be fixed by the by-laws adopted by LCRAA.

22 (4) The members of the board shall serve without compensation but shall be
23 reimbursed for their reasonable expenses directly related to the governance of
24 LCRAA.

25 (5) The domicile of LCRAA shall be in East Baton Rouge Parish.

26 E. The LCRAA acting through its board, shall have the following powers
27 and duties:

1 (1) To design, construct, administer, and maintain a statewide portal for
2 remote access of certain electronic images of certain records maintained by members.

3 (2) To adopt such rules and regulations as it deems necessary or advisable
4 for conducting its business affairs including but not limited to developing indexing
5 standards.

6 (3) To receive and expend funds collected pursuant to this Section and in
7 accordance with a budget adopted by LCRAA.

8 (4) To enter into contracts with individuals or entities, private or public.

9 (5) To provide such services and make such expenditures as LCRAA deems
10 proper for the establishment and maintenance of a statewide portal.

11 (6) To acquire or lease equipment, supplies, office space, and storage space
12 which LCRAA deems necessary for the achievement of the purposes of this Section.

13 (7) To perform any function or activity necessary or appropriate to carry out
14 the purposes of this Section.

15 (8) To establish user fees for remote access through the statewide portal.
16 The fees shall be sufficient to recover administrative and operational expenses.
17 Administrative and operational expenses shall include but not be limited to hardware,
18 computer support, maintenance, enhancements, upgrades, and replacement of
19 information technology equipment, including software and conversion services,
20 preserving, maintaining, and enhancing records including the costs of repairs,
21 maintenance, consulting services, service contracts, redaction of confidential
22 information from records, system replacements or upgrades, and improving public
23 access to records.

24 (9) To accept any type of payment approved by LCRAA including but not
25 limited to credit cards, electronic fund transfers, or escrowed funds.

26 (10) To establish and administer a grant program for assisting members with
27 acquiring hardware and software for the conversion of records to increase the records
28 made available through the statewide portal.

1 (11) To solicit and accept additional contributions and grants to further the
2 purposes of LCRAA.

3 F.(1) Beginning September 1, 2014, members of LCRAA shall collect a fee
4 of five dollars per recording of which three dollars shall be remitted to the LCRAA
5 and two dollars shall be retained by the member to fund costs related to participation
6 in the statewide portal, including but not limited to acquiring hardware and software
7 and providing document preservation. The fees shall be remitted to LCRAA by the
8 tenth day of the month following collection. LCRAA shall use the fees received
9 solely for the purposes set forth in this Subsection.

10 (2) Any user fee received by LCRAA shall be used for administering and
11 maintaining the statewide portal and a prorated share, as determined by LCRAA,
12 may be paid to members based upon the public access to the records provided by the
13 member.

14 (3) If the statewide portal is not operational by August 31, 2017, the
15 additional five dollar fee shall not be collected.

16 G. LCRAA shall be immune from suits arising from any acts or omissions
17 relating to providing remote access pursuant to the provisions of this Section unless
18 the LCRAA was grossly negligent or engaged in willful misconduct. The provisions
19 of this Subsection shall not be construed to limit, withdraw, or overturn any other
20 applicable defense or immunity.

21 H. Records accessed through the statewide portal shall not be sold or posted
22 on any other public or private website or in any way redistributed to any third party
23 by a user. LCRAA may deny remote access when necessary to ensure compliance
24 with this Subsection. Data from records accessed by secure remote access may be
25 included in products or services provided to a third party provided that all of the
26 following occur:

27 (1) The records used to compile the data are not made available to the
28 general public.

1 (2) The third party maintains administrative, technical, and security
2 safeguards to protect integrity and limited access of the records.

3 (3) The third party discloses that he is not the official custodian of the
4 records used to compile the data.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Arnold

HB No. 888

Abstract: Provides for the creation of the Louisiana Clerks' Remote Access Authority.

Proposed law creates the Louisiana Clerks' Remote Access Authority (LCRAA) for the purpose of providing infrastructure, governance, standard operating procedures, technology, and training to support a statewide portal for secure remote access of certain records maintained by LCRAA members to internet users and for document preservation.

Proposed law provides for the membership of the authority to be composed of district clerks of court who enroll on or before Sept. 1, 2014, and provides the LCRAA with secure remote access to their indices and electronic images of certain records. Proposed law further provides for the adoption of rules permitting additional clerks of court to enroll as members on a schedule which should include at least one enrollment period per fiscal year.

Proposed law provides for a seven-member board of commissioners, six of whom are participating members of the LCRAA and one non-member to represent and be elected by the La. Bankers Association. Further provides for the members to be elected by a majority vote of the membership and further provides for the terms, vacancy, and officers of the board.

Proposed law provides for the domicile of the authority to be East Baton Rouge Parish.

Proposed law provides for certain powers and duties of the LCRAA.

Proposed law requires the collection of a \$5 fee per recording, of which \$3 shall be remitted to the LCRAA and \$2 to be retained by the member to fund certain costs related to the statewide portal and requires such fees to be remitted to the LCRAA by the 10th day of each month following collection. A pro rata share of the fees may be paid to the members by the LCRAA based upon public access.

Proposed law provides for the elimination of the \$5 fee in the event the statewide portal is not operational by Aug. 31, 2017.

Proposed law provides for immunity for the LCRAA from suits arising from any acts or omissions related to providing remote access unless the LCRAA was grossly negligent or engaged in willful misconduct.

Proposed law prohibits the sale or posting of any records accessed through the statewide portal on any public or private website or in any way redistributed to any third party by a user and authorizes the LCRAA to deny remote access when necessary to ensure compliance.

Proposed law authorizes data from records accessed by secure remote access may be included in products or services provided to a third party provided compliance with the following:

- (1) Records used to compile the data is not made available to the general public.
- (2) The third party maintains administrative, technical, and security safeguards to protect integrity and limited access of the records.
- (3) The third party discloses that he is not the official custodian of the records used to compile the data.

Effective upon signature of governor or lapse of gubernatorial action.

(Adds R.S. 13:754)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Changed the board membership from five members to seven members.
2. Required one of the seven board members to be a non-member of the LCRAA and to represent and be elected by the La. Bankers Association.
3. Added a provision to eliminate the additional \$5 recording fee if the statewide portal is not operational by Aug. 31, 2017.
4. Made technical changes to clarify the difference between user and third-party user.