



WESTCHESTER COUNTY CLERK

Timothy C. Idoni
County Clerk

October 26, 2023

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue, 8th Floor
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt “AN ACT designating all digitally created or digitally converted records filed in the Office of the Westchester County Clerk as the official copies of the records that shall be maintained in digital format for the legally prescribed retention period pursuant to New York State and Local Law.”

The proposed legislation will enable the County Chief Information Officer, who is the County Records Management Officer pursuant to Chapter 631 the Laws of Westchester County, and the County Clerk to maintain certain official records in a digital format, without preserving paper copies. Specifically, pursuant to New York State County Law § 525, the Westchester County Clerk is charged with the care, custody, and control of certain public records, including Supreme and County court records in the County. Currently, my Office has been maintaining Supreme and County court records and instruments affecting real property in digital format. However, numerous documents, other than court and real property documents, are filed in the Office of the County Clerk, including but not limited to, business certificates, building loan agreements, domestic partnership documents, oaths of office, and liens in paper form. While I have been proactive in converting hard-copy documents into a digital format, paper copies are also retained, which results in the redundant storage of documents, incurring additional costs and utilizing physical space in the office of the County Clerk and the County Records Center.

This Act will also provide relief from environmental conditions, such as temperature, humidity, and flooding, which pose a threat to the integrity of the records maintained by the County, as well as promoting paper reduction. Further, this Act would allow easier accessibility to documents, promoting efficiency and productivity in finding and sharing documents. As such, this Act would deem non-digital records that are copies of digital records as convenience copies, which can be disposed of when no longer needed for reference or other administrative purposes.

The transition to digital recordkeeping is supported by statutory, legal, and regulatory requirements. The New York State Office of Court Administration has already authorized the County Clerk, as clerk

of the Supreme and County courts of Westchester County, to maintain court records in electronic format as the official court records. Moreover, the New York State Real Property Law §291-i authorizes the recording of an instrument affecting real property in a digitized or other electronic format as an original document. Such court and land records are currently maintained in an application or database system under the management and control of the County Department of Information Technology. Furthermore, the New York State Arts and Cultural Affairs Law § 57.29 permits records in Westchester County to be converted and maintained in a digital format and retained for the legally prescribed period in adherence with the guidelines for retention and preservation of electronic records set forth in Part 185.8 of the Regulations of the Commissioner of Education of the State of New York.

In light of the aforementioned, I respectfully urge that this Honorable Board adopt the proposed Act to designate all digitally created or digitally converted records filed in the Office of the County Clerk as the official copies of the records that shall be maintained in digital format for the legally prescribed retention period of the records.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy C. Idoni". The signature is fluid and cursive, with a prominent loop at the end.

TIMOTHY C. IDONI
County Clerk

TI/nn
Enclosure

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of “AN ACT designating all digitally created or digitally converted records filed in the Office of the Westchester County Clerk as the official copies of the records that shall be maintained in digital format for the legally prescribed retention period pursuant to New York State and Local Law.”

Your Committee is informed that the proposed Act would enable the County Chief Information Officer, who is the County Records Management Officer pursuant to Chapter 631 of the Laws of Westchester County, and the County Clerk to maintain certain official records in a digital format, without preserving paper copies. Specifically, pursuant to New York State County Law § 525, the County Clerk is charged with the care, custody, and control of certain public records, including Supreme and County court records in Westchester County. Currently, the County Clerk has been maintaining Supreme and County court records and instruments affecting real property in digital format. However, numerous documents, other than court and real property documents, are filed in the Office of the County Clerk, including but not limited to, business certificates, building loan agreements, domestic partnership documents, oaths of office, and liens in paper form. While the County Clerk has been proactive in converting hard-copy documents into a digital format, paper copies are also retained, which results in the redundant storage of documents, incurring additional costs and utilizing physical space in the office of the County Clerk and the County Records Center.

Your Committee recognizes that passing this Act will provide the County with additional space in the Records Center, as well as relief from environmental conditions – such as temperature, humidity, and flooding – which pose a threat to the integrity of the records maintained by the County. Further, designation of records in digital format as official records promotes the economical operation

of government in ensuring accessibility to documents, promoting efficiency and productivity in finding and sharing documents, paper reduction, and improving information management in the use, storage, and delivery of the information. As such, this Act deems non-digital records which are copies of digital records as convenience copies, which can be disposed of when no longer needed for reference or other administrative purposes.

Your Committee finds that the transition to digital recordkeeping is supported by statutory, legal, and regulatory requirements. The New York State Office of Court Administration has already authorized the County Clerk, as clerk of the Supreme and County courts of Westchester County, to maintain court records in electronic format as the official court records. Moreover, the New York State Real Property Law § 291-i authorizes the recording of an instrument affecting real property in a digitized or other electronic format as an original document. Such court and land records are currently maintained in an application or database system under the management and control of the County Department of Information Technology. Furthermore, the New York State Arts and Cultural Affairs Law § 57.29 permits records in Westchester County to be converted and maintained in a digital format and retained for the legally prescribed period in adherence with the guidelines for retention and preservation of electronic records set forth in Part 185.8 of the Regulations of the Commissioner of Education of the State of New York.

Additionally, and as you know, your Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations 6 NYCRR Part 617. Please refer to

the memorandum from the Department of Planning, dated January 12, 2023, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

The Committee, after careful consideration, recommends the adoption of this Act.

Dated: _____, 2023
White Plains, New York

COMMITTEE ON

ACT NO. ____ - 2023

AN ACT designating all digitally created or digitally converted records filed in the Office of the County Clerk as the official copies of the records that shall be maintained in digital format for the legally prescribed retention period pursuant to New York State and Local Law

Be it enacted by the Board of Legislators of the County of Westchester, as follows:

§ 1. All digitally created or digitally converted records filed in the Office of the County Clerk are hereby designated and deemed to be the official copy of record and shall be maintained in digital format for the legally prescribed retention period of the records pursuant to Chapter 631 of the Laws of Westchester County, the New York State Arts and Cultural Affairs Law section 57.29, Part 185.8 of the Regulations of the Commissioner of Education of the State of New York, and all related standards and regulations set forth by the Commissioner of Education for the State of New York.

§ 2. The Chief Information Officer and the County Clerk are hereby authorized to maintain official records in a digital format. This designation also permits the disposal of non-digital records after they have been digitally converted if they are no longer needed for reference or other administrative purposes.

§ 3. All copies of records in other non-digital formats, including paper, currently in the custody of the Office of the County Clerk, the Chief Information Officer on behalf of the County Clerk, and/or the County's Records Center on behalf of the County Clerk may be converted to a digital format that accurately and completely reproduces all the information contained in the record. The Chief Information Officer or the County Clerk, may then allow for the disposal of the original record even though it has not completely met the prescribed minimum legal retention period, provided that the process for reproduction and the provisions made for preserving and examining the digital copy meet the requirements established by New York State and Local Law.

§ 4. All copies of digital records in other non-digital formats, including paper, shall be deemed convenience copies, which can be disposed of when no longer needed for reference or other administrative purposes in accordance with New York State and Local Law.

§ 5. Effective date. This Act shall take effect immediately.