

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S2/20/07

A Bill

HOUSE BILL 1298

5 By: Representatives Harrelson, D. Johnson, Thyer
6 By: Senators Steele, Broadway
7

For An Act To Be Entitled

10 AN ACT TO ADOPT THE UNIFORM REAL PROPERTY
11 ELECTRONIC RECORDING ACT; AND FOR OTHER PURPOSES.
12

Subtitle

14 TO ADOPT THE UNIFORM REAL PROPERTY
15 ELECTRONIC RECORDING ACT.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 14, Chapter 2, is amended to add an
21 additional subchapter to read as follows:

22 14-2-301. Short title.

23 This subchapter may be cited as the "Uniform Real Property Electronic
24 Recording Act".
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26 14-2-302. Definitions.

27 In this subchapter:

28 (1) "Document" means information that is:

29 (A) inscribed on a tangible medium or that is stored in an
30 electronic or other medium and is retrievable in perceivable form; and

31 (B) eligible to be recorded in the land records maintained by
32 the county recorder.

33 (2) "Electronic" means relating to technology having electrical,
34 digital, magnetic, wireless, optical, electromagnetic, or similar
35 capabilities.

36 (3) "Electronic document" means a document that is received by the



1 county recorder in an electronic form.

2 (4) "Electronic signature" means an electronic sound, symbol, or
3 process attached to or logically associated with a document and executed or
4 adopted by a person with the intent to sign the document.

5 (5) "Person" means an individual, corporation, business trust, estate,
6 trust, partnership, limited liability company, association, joint venture,
7 public corporation, government, or governmental subdivision, agency, or
8 instrumentality, or any other legal or commercial entity.

9 (6) "State" means a state of the United States, the District of
10 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or
11 insular possession subject to the jurisdiction of the United States.

12
13 14-2-303. Validity of electronic documents.

14 (a) If a law requires, as a condition for recording, that a document
15 be an original, be on paper or another tangible medium, or be in writing, the
16 requirement is satisfied by an electronic document satisfying this
17 subchapter.

18 (b) If a law requires, as a condition for recording, that a document
19 be signed, the requirement is satisfied by an electronic signature.

20 (c) A requirement that a document or a signature associated with a
21 document be notarized, acknowledged, verified, witnessed, or made under oath
22 is satisfied if the electronic signature of the person authorized to perform
23 that act, and all other information required to be included, is attached to
24 or logically associated with the document or signature. A physical or
25 electronic image of a stamp, impression, or seal need not accompany an
26 electronic signature.

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28 14-2-304. Recording of documents.

29 (a) In this section, "paper document" means a document that is
30 received by the county recorder in a form that is not electronic.

31 (b) A county recorder:

32 (1) who implements any of the functions listed in this section
33 shall do so in compliance with standards established by the Electronic
34 Recording Commission.

35 (2) may receive, index, store, archive, and transmit electronic
36 documents.

1 (3) may provide for access to, and for search and retrieval of,
2 documents and information by electronic means.

3 (4) who accepts electronic documents for recording shall
4 continue to accept paper documents as authorized by state law and shall place
5 entries for both types of documents in the same index.

6 (5) may convert paper documents accepted for recording into
7 electronic form.

8 (6) may convert into electronic form information recorded before
9 the county recorder began to record electronic documents.

10 (7) may accept electronically any fee, tax, or revenue stamp
11 that the county recorder is authorized to collect.

12 (8) may agree with other officials of a state or a political
13 subdivision thereof, or of the United States, on procedures or processes to
14 facilitate the electronic satisfaction of prior approvals and conditions
15 precedent to recording and the electronic payment of fees, taxes, or revenue
16 stamps.

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18 14-2-305. Administration and standards.

19 (a) An Electronic Recording Commission consisting of nine (9) members
20 appointed by the Governor is created to adopt standards to implement this
21 subchapter. A majority of the members of the commission must be county
22 recorders.

23 (b) To keep the standards and practices of county recorders in this
24 state in harmony with the standards and practices of recording offices in
25 other jurisdictions that enact substantially this subchapter and to keep the
26 technology used by county recorders in this state compatible with technology
27 used by recording offices in other jurisdictions that enact substantially
28 this subchapter, the Electronic Recording Commission, so far as is consistent
29 with the purposes, policies, and provisions of this subchapter, in adopting,
30 amending, and repealing standards shall consider:

31 (1) standards and practices of other jurisdictions;

32 (2) the most recent standards promulgated by national standard-
33 setting bodies, such as the Property Records Industry Association;

34 (3) the views of interested persons and governmental officials
35 and entities;

36 (4) the needs of counties of varying size, population, and

1 resources; and

2 (5) standards requiring adequate information security protection
3 to ensure that electronic documents are accurate, authentic, adequately
4 preserved, and resistant to tampering.

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6 14-2-306. Uniformity of application and construction.

7 In applying and construing this Uniform Act, consideration must be
8 given to the need to promote uniformity of the law with respect to its
9 subject matter among states that enact it.

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11 14-2-307. Relation to Electronic Signatures in Global and National
12 Commerce Act.

13 This subchapter modifies, limits, and supersedes the federal Electronic
14 Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et
15 seq.) but does not modify, limit, or supersede Section 101(c) of that act (15
16 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the
17 notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

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19 14-2-308. [Reserved.]

20
21 SECTION 2. Arkansas Code § 14-15-401 is amended to read as follows:

22 14-15-401. Duties generally.

23 (a) There shall be established in each county in this state an office
24 to be styled the county recorder's office, which shall be kept at the seat of
25 justice of each county.

26 (b) The county recorder:

27 (1) ~~shall~~ Shall duly attend to the duties of ~~such~~ the county
28 recorder's office;

29 (2) ~~and who shall~~ Shall provide and keep in ~~his~~ the county
30 recorder's office well-bound books in which ~~he~~ the county recorder shall
31 record, in a fair and legible hand, all instruments of writing authorized or
32 required to be recorded in the manner provided; and

33 (3)(A) May implement electronic filing and searching provisions
34 and procedures under the Uniform Real Property Electronic Recording Act, §
35 14-2-301 et seq.

36 (B) Unless a county recorder has implemented the Uniform

1 Real Property Electronic Recording Act, § 14-2-301 et seq., the transmission
 2 of an electronic document to the county recorder has no legal effect.

3 (C) A person that seeks to record an electronic document
 4 is solely responsible for determining if a county recorder has implemented
 5 the Uniform Real Property Electronic Recording Act, § 14-2-301 et seq.

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 7 SECTION 3. Arkansas Code § 14-15-402(b), concerning the form of
 8 documents to be recorded, is amended to read as follows:

9 (b)(1) To be accepted by the county recorder for recording purposes,
 10 all documents shall:

11 (A) Be on eight and one-half inch (8 1/2") by eleven inch
 12 (11") paper;

13 (B) Have a two and one-half inch (2 1/2") margin at the
 14 right top of the first page, one-half inch (1/2") margin on the sides and
 15 bottoms of all pages, and a two and one-half inch (2 1/2") margin at the
 16 bottom of the last page;

17 (C) Have an area reserved on the top right of the first
 18 page for the file mark of the recorder;

19 (D) Contain the following information:

20 (i) The title of the document; and

21 (ii) The name of the grantor and grantee, when
 22 applicable;

23 (E) Be acknowledged in accordance with § 16-47-207; and

24 (F) Be legible.

25 (2)(A) The county recorder shall have the discretion to waive
 26 the requirements of subdivision (b)(1) of this section for:

27 (i) ~~good~~ Good cause; and

28 (ii) Any document that complies with the Uniform
 29 Real Property Electronic Recording Act, § 14-2-301 et seq.

30 (B) All documents and instruments executed before January
 31 1, 2004, shall be exempt from the requirements of subdivision (b)(1) of this
 32 section.

33 (C) All surveys and plats shall be exempt from the
 34 requirements of subdivision (b)(1) of this section.

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 36 SECTION 4. Arkansas Code § 14-15-404(a), concerning constructive

1 notice of recorded instruments, is amended to read as follows:

2 (a)(1) Every deed, bond, or instrument of writing affecting the title,
3 in law or equity, to any real or personal property, within this state which
4 is, or may be, required by law to be acknowledged or proved and recorded
5 shall be constructive notice to all persons from the time the instrument is
6 filed for record in the office of the county recorder of the proper county.

7 (2)(A) A document filed under the Uniform Real Property
8 Electronic Recording Act, § 14-2-301 et seq., is filed of record within the
9 meaning of this subsection (a) if recorded under § 14-15-407 during the
10 county recorder's regular business hours.

11 (B) A document received after the county recorder's
12 regular business hours shall be recorded in the order received.

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14 /s/ Harrelson
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