

HOUSE BILL 1093

N1

8lr2838

By: **Delegate Platt**

Introduced and read first time: February 7, 2018

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2018

CHAPTER _____

1 AN ACT concerning

2 **Maryland Uniform Real Property Electronic Recording Act**

3 FOR the purpose of establishing that the requirements of certain laws that specify a certain
4 document be in a certain form or signed as a condition for recording are met by an
5 electronic document or electronic signature under certain circumstances; authorizing
6 the clerk of a circuit court, in compliance with any standards established by the
7 Administrative Office of the Courts, to perform certain acts relating to electronic
8 documents, provide for certain activities by electronic means, convert certain
9 documents and information into electronic form, and agree with certain other
10 officials on certain procedures or processes; requiring the clerk of a circuit court to
11 continue to accept paper documents and place entries for electronic and paper
12 documents in the same index under certain circumstances, and transmit documents
13 in a certain manner to the State Archives for a certain purpose; authorizing the State
14 Department of Assessments and Taxation and counties to accept certain fees and
15 taxes by electronic means under certain circumstances and to agree with certain
16 other officials on certain procedures or processes; authorizing the Administrative
17 Office of the Courts, in collaboration with other members of the oversight committee
18 of the Circuit Court Real Property Records Improvement Fund, to establish
19 standards to implement this Act; requiring that certain factors be considered in
20 applying and construing this Act; providing that this Act modifies, limits, and
21 supersedes a certain federal law to a certain extent except as provided in a certain
22 provision of this Act; establishing a certain short title; providing for the application
23 of this Act; defining certain terms; and generally relating to the Maryland Uniform
24 Real Property Electronic Recording Act.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
2 Article – Real Property
3 Section 3–701 through 3–707 to be under the new subtitle “Subtitle 7. Maryland
4 Uniform Real Property Electronic Recording Act”
5 Annotated Code of Maryland
6 (2015 Replacement Volume and 2017 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That the Laws of Maryland read as follows:

9 **Article – Real Property**

10 **SUBTITLE 7. MARYLAND UNIFORM REAL PROPERTY ELECTRONIC RECORDING**
11 **ACT.**

12 **3–701.**

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (B) “DOCUMENT” MEANS INFORMATION THAT IS:

16 (1) INSCRIBED ON A TANGIBLE MEDIUM OR STORED IN AN
17 ELECTRONIC OR OTHER MEDIUM AND RETRIEVABLE IN PERCEIVABLE FORM; AND

18 (2) ELIGIBLE TO BE RECORDED IN THE LAND RECORDS MAINTAINED
19 BY THE CLERK OF A CIRCUIT COURT.

20 (C) “ELECTRONIC” MEANS RELATING TO TECHNOLOGY HAVING
21 ELECTRICAL, DIGITAL, MAGNETIC, OPTICAL, ELECTROMAGNETIC, OR SIMILAR
22 CAPABILITIES.

23 (D) “ELECTRONIC DOCUMENT” MEANS A DOCUMENT THAT IS RECEIVED BY
24 THE CLERK OF A CIRCUIT COURT IN ELECTRONIC FORM.

25 (E) “ELECTRONIC SIGNATURE” MEANS AN ELECTRONIC SOUND, SYMBOL,
26 OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A DOCUMENT AND
27 EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN THE DOCUMENT.

28 (F) “PERSON” MEANS AN INDIVIDUAL, A CORPORATION, A STATUTORY
29 TRUST, A PERSONAL REPRESENTATIVE OF AN ESTATE, A TRUSTEE, A PARTNERSHIP,
30 A LIMITED LIABILITY COMPANY, AN ASSOCIATION, A JOINT VENTURE, A PUBLIC
31 CORPORATION, A GOVERNMENT, A GOVERNMENTAL SUBDIVISION, AN AGENCY, AN
32 INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

1 (G) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
2 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY
3 TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE
4 UNITED STATES.

5 **3-702.**

6 (A) IF A LAW REQUIRES, AS A CONDITION FOR RECORDING, THAT A
7 DOCUMENT BE AN ORIGINAL, IN WRITING, OR ON PAPER OR ANOTHER TANGIBLE
8 MEDIUM, AN ELECTRONIC DOCUMENT SATISFYING THE REQUIREMENTS OF THIS
9 SUBTITLE SATISFIES THE LAW.

10 (B) IF A LAW REQUIRES, AS A CONDITION FOR RECORDING, THAT A
11 DOCUMENT BE SIGNED, AN ELECTRONIC SIGNATURE SATISFIES THE LAW.

12 (C) A REQUIREMENT THAT A DOCUMENT OR SIGNATURE ASSOCIATED WITH
13 A DOCUMENT BE NOTARIZED, ACKNOWLEDGED, VERIFIED, WITNESSED, OR MADE
14 UNDER OATH IS SATISFIED IF THE ELECTRONIC SIGNATURE OF THE PERSON
15 AUTHORIZED TO PERFORM THAT ACT AND ALL OTHER REQUIRED INFORMATION IS
16 ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE DOCUMENT OR SIGNATURE.

17 **3-703.**

18 (A) IN THIS SECTION, "PAPER DOCUMENT" MEANS A DOCUMENT RECEIVED
19 BY THE CLERK OF A CIRCUIT COURT IN A FORM THAT IS NOT ELECTRONIC.

20 (B) IN COMPLIANCE WITH ANY STANDARDS ESTABLISHED BY THE
21 ADMINISTRATIVE OFFICE OF THE COURTS, THE CLERK OF A CIRCUIT COURT:

22 (1) MAY RECEIVE, INDEX, STORE, ARCHIVE, AND TRANSMIT
23 ELECTRONIC DOCUMENTS;

24 (2) MAY PROVIDE FOR ACCESS TO, AND SEARCH AND RETRIEVAL OF,
25 DOCUMENTS AND INFORMATION BY ELECTRONIC MEANS;

26 (3) SHALL, IF THE CLERK OF THE CIRCUIT COURT ACCEPTS
27 ELECTRONIC DOCUMENTS FOR RECORDING, CONTINUE TO ACCEPT PAPER
28 DOCUMENTS AND PLACE ENTRIES FOR ELECTRONIC AND PAPER DOCUMENTS IN THE
29 SAME INDEX;

30 (4) MAY CONVERT INTO ELECTRONIC FORM:

31 (I) PAPER DOCUMENTS ACCEPTED FOR RECORDING; AND

1 (II) INFORMATION RECORDED BEFORE THE CLERK OF THE
2 CIRCUIT COURT BEGAN TO RECORD ELECTRONIC DOCUMENTS;

3 (5) SHALL TRANSMIT DOCUMENTS IN FULLY VERIFIED BOOKS TO THE
4 STATE ARCHIVES FOR PRESERVATION AND PUBLICATION ON A WEBSITE
5 MAINTAINED BY THE STATE ARCHIVES;

6 ~~(5)~~ (6) MAY ACCEPT BY ELECTRONIC MEANS ANY FEE OR TAX
7 COLLECTED AS A CONDITION PRECEDENT TO RECORDING A DOCUMENT; AND

8 ~~(6)~~ (7) MAY AGREE WITH OTHER STATE OR COUNTY OFFICIALS ON
9 PROCEDURES OR PROCESSES TO FACILITATE THE ELECTRONIC SATISFACTION OF
10 PRIOR APPROVALS AND CONDITIONS PRECEDENT TO RECORDING DOCUMENTS OR
11 THE ELECTRONIC PAYMENT OF FEES OR TAXES.

12 (C) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION OR A
13 COUNTY MAY:

14 (1) ACCEPT BY ELECTRONIC MEANS ANY FEE OR TAX THAT THE
15 DEPARTMENT OR COUNTY IS AUTHORIZED TO COLLECT AS A CONDITION
16 PRECEDENT TO RECORDING A DOCUMENT; AND

17 (2) AGREE WITH THE CLERK OF A CIRCUIT COURT OR OTHER STATE
18 OFFICIAL ON PROCEDURES OR PROCESSES TO FACILITATE THE ELECTRONIC
19 SATISFACTION OF PRIOR APPROVALS AND CONDITIONS PRECEDENT TO RECORDING
20 DOCUMENTS OR THE ELECTRONIC PAYMENT OF FEES OR TAXES.

21 3-704.

22 THE ADMINISTRATIVE OFFICE OF THE COURTS MAY ESTABLISH STANDARDS
23 TO IMPLEMENT THIS SUBTITLE.

24 3-705.

25 IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE
26 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS
27 SUBJECT MATTER AMONG STATES THAT ENACT LAWS SUBSTANTIALLY SIMILAR TO
28 THIS SUBTITLE.

29 3-706.

30 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS
31 SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC

1 **SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT TO THE EXTENT THAT**
2 **ACT IS INCONSISTENT WITH THIS SUBTITLE.**

3 **(B) THIS SUBTITLE DOES NOT:**

4 **(1) MODIFY, LIMIT, OR SUPERSEDE 15 U.S.C. § 7001(C); OR**

5 **(2) AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES**
6 **DESCRIBED IN 15 U.S.C. § 7003(B).**

7 **3-707.**

8 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM REAL PROPERTY**
9 **ELECTRONIC RECORDING ACT.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That §§ 3-701 through 3-707 of
11 the Real Property Article, as enacted by Section 1 of this Act, shall be construed to apply
12 retroactively and shall be applied to and interpreted to affect any instrument that has been
13 recorded on or before October 1, 2018.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.