

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1093

(Delegate Platt)

Environment and Transportation

Judicial Proceedings

Maryland Uniform Real Property Electronic Recording Act

This bill establishes uniform procedures for the electronic recording of real property records in the State. The bill defines specified terms, establishes requirements for electronic documents and signatures, and authorizes the State Department of Assessments and Taxation (SDAT) or a county to accept specified electronic payments. The bill also requires the Administrative Office of the Courts (AOC) to establish standards for processing and recording documents. Specified provisions of the bill must be construed to apply retroactively and be applied to and interpreted to affect any instrument that has been recorded on or before the bill's effective date of October 1, 2018.

Fiscal Summary

State Effect: None. The bill codifies existing procedure.

Local Effect: None. The bill codifies existing procedure.

Small Business Effect: None.

Analysis

Bill Summary: In applying and construing the bill's provisions, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact substantially similar laws. Additionally, except with respect to specified provisions of federal law, the bill modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act to the extent that Act is inconsistent with the bill.

Conditions for Recording

If a law requires, as a condition for recording, that a document be an original, in writing, on paper, or that a document be signed, an electronic document or signature satisfies the law. A requirement that a document or signature be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature and all other required information is attached to and logically associated with the document or signature.

Circuit Courts

In compliance with any standards established by AOC, the clerk of a circuit court may:

- receive, index, store, archive, and transmit electronic documents;
- provide for access to, and search and retrieval of, documents and information by electronic means;
- convert into electronic form paper documents accepted for recording;
- accept by electronic means any fee or tax collected as a condition precedent to recording; and
- agree with other State or county officials on procedures to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording documents or the electronic payment of fees or taxes.

If the clerk of the circuit court accepts electronic documents for recording, the clerk must continue to accept paper documents and place entries for electronic and paper documents in the same index. The clerk of the circuit court must transmit documents in fully verified books to the Maryland State Archives (MSA) for preservation and publication on a website maintained by MSA.

The State Department of Assessments and Taxation or a County

SDAT or a county may agree with the clerk of a circuit court or other State official on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording documents or the electronic payment of fees or taxes.

Current Law/Background: Chapter 234 of 2007 authorized AOC to establish a pilot program for electronic recording of instruments in the land records, to be governed by Maryland Rule 16-307. The program authorized the waiver or modification of any method, procedure, or clerical or technical requirement for recording or indexing. The program was required to be paid for out of the Circuit Court Real Property Records Improvement Fund. The Act required an instrument filed in accordance with the pilot program to be valid and effective, and remain validly and effectively recorded and indexed, to the same extent as a

substantively identical paper instrument filed at the same time. Chapter 234 took effect June 1, 2007, and remained in effect for the duration of the pilot program authorized by the Court of Appeals.

The land records e-recording pilot was officially established in October 2014 as a collaborative effort by AOC, the Baltimore County Circuit Court Clerk's Office, Baltimore County Department of Budget and Finance, and SDAT. The pilot project started in spring 2015 to allow customers to electronically record, or e-record, land record documents. In January 2016, the Court of Appeals of Maryland issued an [order](#) terminating the pilot program and authorizing the Land Record E-Recording Programs to be expanded to other circuit courts. As a result, Chapter 234 was automatically abrogated.

AOC advises that, as of January 2018, 13 counties participate in e-recording; the remaining counties and Baltimore City are expected to do so by year-end. MSA advises that, since January 2004, it has partnered with the Judiciary and the clerks of circuit courts to provide access to all verified land record instruments in Maryland through a dedicated [website](#).

Model legislation similar to the bill, the [Real Property Electronic Recording Act](#), was originally published in 2004. Versions of the Act have been enacted in 30 states and the District of Columbia and are under consideration in 5 additional states, including Maryland. The stated purpose of the Act is to give county clerks and recorders the legal authority to prepare for electronic recording of real property instruments.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Uniform Law Commission; Maryland State Archives; Department of Legislative Services

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