For An Act To Be Entitled

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

Subtitle

TO ADOPT THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.

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

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

14-2-301. Short title.

This subchapter may be cited as the “Uniform Real Property Electronic Recording Act”.


In this subchapter:

(1) “Document” means information that is:

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

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

(2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
(3) “Electronic document” means a document that is received by the county recorder in an electronic form.

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

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

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

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

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

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

14-2-304. Recording of documents.
(a) In this section, “paper document” means a document that is received by the county recorder in a form that is not electronic.

(b) A county recorder:
   (1) who implements any of the functions listed in this section shall do so in compliance with standards established by the Electronic Recording Commission.
   (2) may receive, index, store, archive, and transmit electronic
documents.

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

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

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

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

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

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

14-2-305. Administration and standards.

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

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

(1) standards and practices of other jurisdictions;

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

(3) the views of interested persons and governmental officials and entities;
(4) the needs of counties of varying size, population, and
resources; and

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

14-2-306. Uniformity of application and construction.
In applying and construing this Uniform Act, consideration must be
given to the need to promote uniformity of the law with respect to its
subject matter among states that enact it.

14-2-307. Relation to Electronic Signatures in Global and National
Commerce Act.
This subchapter modifies, limits, and supersedes the federal Electronic
Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et
seq.) but does not modify, limit, or supersedes Section 101(c) of that act (15
U.S.C. Section 7001(c)) or authorize electronic delivery of any of the
notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

14-2-308. [Reserved.]

SECTION 2. Arkansas Code § 14-15-401 is amended to read as follows:
(a) There shall be established in each county in this state an office
to be styled the county recorder’s office, which shall be kept at the seat of
justice of each county.
(b) The county recorder:

(1) shall duly attend to the duties of such the county
recorder’s office;

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

(3)(A) May implement electronic filing and searching provisions
and procedures under the Uniform Real Property Electronic Recording Act, §
14-2-301 et seq.
(B) Unless a county recorder has implemented the Uniform Real Property Electronic Recording Act, § 14-2-301 et seq., the transmission of an electronic document to the county recorder has no legal effect.

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

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

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

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

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

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

(D) Contain the following information:

(i) The title of the document; and

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

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

(F) Be legible.

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

(i) Good cause; and

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

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

(C) All surveys and plats shall be exempt from the requirements of subdivision (b)(1) of this section.
SECTION 4. Arkansas Code § 14-15-404(a), concerning constructive notice of recorded instruments, is amended to read as follows:

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

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

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

/s/ Harrelson

APPROVED: 3/30/2007