

Chapter 516

(House Bill 1093)

AN ACT concerning

Maryland Uniform Real Property Electronic Recording Act

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

BY adding to

Article – Real Property

Section 3–701 through 3–707 to be under the new subtitle “Subtitle 7. Maryland Uniform Real Property Electronic Recording Act”

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

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

Article – Real Property**SUBTITLE 7. MARYLAND UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.**

3-701.

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

(B) “DOCUMENT” MEANS INFORMATION THAT IS:

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

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

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

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

(E) “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.

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

(G) “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.

3-702.

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

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

(C) A REQUIREMENT THAT A DOCUMENT OR 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 REQUIRED INFORMATION IS ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE DOCUMENT OR SIGNATURE.

3-703.

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

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

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

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

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

(4) MAY CONVERT INTO ELECTRONIC FORM:

(I) PAPER DOCUMENTS ACCEPTED FOR RECORDING; AND

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

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

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

~~(6)~~ (7) MAY AGREE WITH OTHER STATE OR COUNTY OFFICIALS 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.

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

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

(2) 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.

3-704.

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

3-705.

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

3-706.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT TO THE EXTENT THAT ACT IS INCONSISTENT WITH THIS SUBTITLE.

(B) THIS SUBTITLE DOES NOT:

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

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

3-707.

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

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

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

Approved by the Governor, May 8, 2018.