

HOUSE BILL 1093

N1

8lr2838

By: **Delegate Platt**

Introduced and read first time: February 7, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

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; authorizing the State
13 Department of Assessments and Taxation and counties to accept certain fees and
14 taxes by electronic means under certain circumstances and to agree with certain
15 other officials on certain procedures or processes; authorizing the Administrative
16 Office of the Courts, in collaboration with other members of the oversight committee
17 of the Circuit Court Real Property Records Improvement Fund, to establish
18 standards to implement this Act; requiring that certain factors be considered in
19 applying and construing this Act; providing that this Act modifies, limits, and
20 supersedes a certain federal law except as provided in a certain provision of this Act;
21 establishing a certain short title; providing for the application of this Act; defining
22 certain terms; and generally relating to the Maryland Uniform Real Property
23 Electronic Recording Act.

24 BY adding to

25 Article – Real Property

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

28 Annotated Code of Maryland

29 (2015 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Real Property**

4 **SUBTITLE 7. MARYLAND UNIFORM REAL PROPERTY ELECTRONIC RECORDING**
5 **ACT.**

6 **3–701.**

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

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

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

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

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

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

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

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

27 (G) “STATE” MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
28 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY
29 TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE
30 UNITED STATES.

31 **3–702.**

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

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

7 (C) A REQUIREMENT THAT A DOCUMENT OR SIGNATURE ASSOCIATED WITH
8 A DOCUMENT BE NOTARIZED, ACKNOWLEDGED, VERIFIED, WITNESSED, OR MADE
9 UNDER OATH IS SATISFIED IF THE ELECTRONIC SIGNATURE OF THE PERSON
10 AUTHORIZED TO PERFORM THAT ACT AND ALL OTHER REQUIRED INFORMATION IS
11 ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE DOCUMENT OR SIGNATURE.

12 **3-703.**

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

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

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

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

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

25 (4) MAY CONVERT INTO ELECTRONIC FORM:

26 (I) PAPER DOCUMENTS ACCEPTED FOR RECORDING; AND

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

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

1 **(6) MAY AGREE WITH OTHER STATE OR COUNTY OFFICIALS ON**
2 **PROCEDURES OR PROCESSES TO FACILITATE THE ELECTRONIC SATISFACTION OF**
3 **PRIOR APPROVALS AND CONDITIONS PRECEDENT TO RECORDING DOCUMENTS OR**
4 **THE ELECTRONIC PAYMENT OF FEES OR TAXES.**

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

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

10 **(2) AGREE WITH THE CLERK OF A CIRCUIT COURT OR OTHER STATE**
11 **OFFICIAL ON PROCEDURES OR PROCESSES TO FACILITATE THE ELECTRONIC**
12 **SATISFACTION OF PRIOR APPROVALS AND CONDITIONS PRECEDENT TO RECORDING**
13 **DOCUMENTS OR THE ELECTRONIC PAYMENT OF FEES OR TAXES.**

14 **3-704.**

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

17 **3-705.**

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

22 **3-706.**

23 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS**
24 **SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC**
25 **SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

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

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

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

1 **3-707.**

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

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

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