

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2587

6 By: Braddock

7 COMMITTEE SUBSTITUTE

8 An Act relating to conveyances; creating the Uniform
9 Real Property Electronic Recording Act; providing
10 short title; defining terms; authorizing and
11 providing validity of electronic documents; defining
12 term; requiring county clerk to comply with certain
13 standards; granting the county clerk certain powers
14 relating to the recording of documents; requiring the
15 Archives and Records Commission to adopt standards
16 for implementation of the Uniform Real Property
17 Electronic Recording Act; providing for uniformity of
18 application and construction; providing relation to
19 Electronic Signatures in Global and National Commerce
20 Act; amending 16 O.S. 2001, Section 28, which relates
21 to requirements for instruments affecting the title
22 to land; providing authorization for electronic
23 filings pursuant to the Uniform Real Property
24 Electronic Recording Act; providing for codification;
and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 86.1 of Title 16, unless there
is created a duplication in numbering, reads as follows:

1 SHORT TITLE. Sections 1 through 7 of this act shall be known
2 and may be cited as the "Uniform Real Property Electronic Recording
3 Act".

4 SECTION 2. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 86.2 of Title 16, unless there
6 is created a duplication in numbering, reads as follows:

7 DEFINITIONS. In the Uniform Real Property Electronic Recording
8 Act:

9 (1) "Document" means information that is:

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

13 (B) eligible to be recorded in the land records maintained
14 by the county clerk.

15 (2) "Electronic" means relating to technology having
16 electrical, digital, magnetic, wireless, optical, electromagnetic,
17 or similar capabilities.

18 (3) "Electronic document" means a document that is received by
19 the county clerk in an electronic form.

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

24

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

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

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 86.3 of Title 16, unless there
12 is created a duplication in numbering, reads as follows:

13 VALIDITY OF ELECTRONIC DOCUMENTS.

14 (a) If a law requires, as a condition for recording, that a
15 document be an original, be on paper or another tangible medium, or
16 be in writing, the requirement is satisfied by an electronic
17 document satisfying the Uniform Real Property Electronic Recording
18 Act.

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

22 (c) A requirement that a document or a signature associated
23 with a document be notarized, acknowledged, verified, witnessed, or
24 made under oath is satisfied if the electronic signature of the

1 person authorized to perform that act, and all other information
2 required to be included, is attached to or logically associated with
3 the document or signature. A physical or electronic image of a
4 stamp, impression, or seal need not accompany an electronic
5 signature.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 86.4 of Title 16, unless there
8 is created a duplication in numbering, reads as follows:

9 RECORDING OF DOCUMENTS.

10 (a) In this section, "paper document" means a document that is
11 received by the county clerk in a form that is not electronic.

12 (b) A county clerk:

13 (1) Who implements any of the functions listed in this section
14 shall do so in compliance with standards established by the Archives
15 and Records Commission;

16 (2) May receive, index, store, archive, and transmit electronic
17 documents;

18 (3) May provide for access to, and for search and retrieval of,
19 documents and information by electronic means;

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

23 (5) May convert paper documents accepted for recording into
24 electronic form;

1 (6) May convert into electronic form information recorded
2 before the county clerk began to record electronic documents;

3 (7) May accept electronically any fee that the county clerk is
4 authorized to collect; and

5 (8) May agree with other officials of a state or a political
6 subdivision thereof, or of the United States, on procedures or
7 processes to facilitate the electronic satisfaction of prior
8 approvals and conditions precedent to recording and the electronic
9 payment of fees.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 86.5 of Title 16, unless there
12 is created a duplication in numbering, reads as follows:

13 ADMINISTRATION AND STANDARDS.

14 (a) The Archives and Records Commission shall adopt standards
15 to implement the Uniform Real Property Electronic Recording Act.

16 (b) To keep the standards and practices of county clerks in
17 this state in harmony with the standards and practices of recording
18 offices in other jurisdictions that enact substantially the Uniform
19 Real Property Electronic Recording Act and to keep the technology
20 used by county clerks in this state compatible with technology used
21 by recording offices in other jurisdictions that enact substantially
22 the Uniform Real Property Electronic Recording Act, the Archives and
23 Records Commission, so far as is consistent with the purposes,
24 policies, and provisions of the Uniform Real Property Electronic

1 Recording Act, in adopting, amending, and repealing standards shall
2 consider:

3 (1) Standards and practices of other jurisdictions;

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

6 (3) The views of interested persons and governmental officials
7 and entities;

8 (4) The needs of counties of varying size, population, and
9 resources; and

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

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 86.6 of Title 16, unless there
15 is created a duplication in numbering, reads as follows:

16 UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and
17 construing the Uniform Real Property Electronic Recording Act,
18 consideration must be given to the need to promote uniformity of the
19 law with respect to its subject matter among states that enact it.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 86.7 of Title 16, unless there
22 is created a duplication in numbering, reads as follows:

23 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
24 COMMERCE ACT. The Uniform Real Property Electronic Recording Act

1 modifies, limits, and supersedes the federal Electronic Signatures
2 in Global and National Commerce Act (15 U.S.C. Section 7001, et
3 seq.) but does not modify, limit, or supersede Section 101(c) of
4 that act (15 U.S.C. Section 7001(c)) or authorize electronic
5 delivery of any of the notices described in Section 103(b) of that
6 act (15 U.S.C. Section 7003(b)).

7 SECTION 8. AMENDATORY 16 O.S. 2001, Section 28, is
8 amended to read as follows:

9 Section 28. A. No instrument affecting the title to real
10 estate shall be filed for record or recorded unless plainly printed,
11 typed, or handwritten or partly printed, partly typed, or partly
12 handwritten, and the instrument is an original or a certified copy
13 of an original instrument, clearly legible in the English language.

14 B. The provisions of subsection A of this section shall not
15 prevent the filing of documents electronically pursuant to the
16 Uniform Real Property Electronic Recording Act.

17 SECTION 9. This act shall become effective November 1, 2008.

18

19 51-2-10328 SD 02/26/08

20

21

22

23

24