HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2452 By: Key of the House

and

Shortey of the Senate

AS INTRODUCED

An Act relating to counties and county officers; amending 19 O.S. 2011, Section 298, which relates to documents recorded by the county clerk; permitting recording of digitized image or electronic copy if submitted electronically; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 2011, Section 298, is amended to read as follows:

Section 298. A. Every county clerk in this state shall require that the mandates of the Legislature be complied with, as expressed in Sections 287 and 291 of this title, and for that purpose, every instrument offered which may be accepted by the county clerk for recording, affecting specific real property whether of conveyance,

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encumbrance, assignment, or release of encumbrance, lease, assignment of lease or release of lease, shall be an original or certified copy of an original instrument and clearly legible in accordance with the provisions of subsection B of this section, and shall by its own terms describe the property by its specific legal description, and provide such information as is necessary for indexing as required in Sections 287 and 291 of this title, and on each such instrument shall be listed the mailing address of the grantee, mortgagee, assignee or other designated party to which the instrument is to be delivered after recording. If an instrument offered to a county clerk for recording contains more than twenty-five legal descriptions requiring separate entries in the indexes required by Sections 287 and 291 of this title, the descriptions shall be sorted by addition, block, and lot if platted property, or by township, range, and section if described by governmental survey description. Any instrument offered to a county clerk for recording containing more than twenty-five legal descriptions per page, counted as each description which could require a separate line entry in the numerical index, shall be accompanied by an additional filing fee of One Dollar ($1.00) per legal description in excess of twenty-five legal descriptions per page to be paid to the county clerk. Unless the person offering a nonconforming instrument for filing is willing to reform the instrument to conform to statutory

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requirements, for which purpose it may be withdrawn and refiled during the same business day, the county clerk may refuse to record the same in the records of deeds, leases or mortgages or to index the same upon the index records referred to in ~~Sections~~ Section 287 or 291 of this title, or to file or record the same in the office of the county clerk.

B. All documents filed of record in the office of the county clerk pursuant to subsection A of this section or pursuant to any other law shall be an original or a certified copy of an original document. Such documents shall be clearly legible, in the English language, using xerographically reproducible dark ink, on paper of a color that is xerographically reproducible by the copying equipment in use by the county clerk. Unless otherwise provided by law, such documents shall measure no larger than eight and one-half (8 1/2) inches by fourteen (14) inches. All documents shall provide an area free of printed information sufficient in size to accommodate affixation of the documentary stamps required by Section 3201 of Title 68 of the Oklahoma Statutes, any certification of the payment of mortgage taxes required by Section 1901 et seq. of Title 68 of the Oklahoma Statutes, and the recording information affixed by the county clerk upon acceptance of a document for recordation. If an instrument submitted to the county clerk for recording does not contain sufficient space for the affixation of such stamps and

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recording information without covering language contained in the instrument, the county clerk shall attach an additional page to the document to provide for the affixation of such stamps and recording information. The top margin of all documents shall be at least one (1) inch and all other margins shall be at least one-half (1/2) inch.

C. Despite any provision in this section to the contrary, the county clerk shall accept for filing any document that fails to meet the requirements of subsection B of this section if:

1. The document is an original or a certified copy of an original;

2. The document is legible without the aid of magnification or other enhancement of the text;

3. The document is xerographically reproducible by the copying equipment in use by the county clerk;

4. The document meets all other statutory requirements for recordation; and

5. The person offering the instrument for recording pays the additional fee provided in Section 32 of Title 28 of the Oklahoma Statutes for nonconforming documents.

D. <u>Despite any provision in this section to the contrary, a digitized image or electronic copy of an original or certified copy of an original instrument or document shall satisfy the requirement</u>

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that the document be an original or certified copy of an original instrument or document, provided that the digitized image or electronic copy is submitted for recording electronically pursuant to the Uniform Real Property Electronic Recording Act and all other rules promulgated pursuant to that act.

E. This section shall not apply to plats, filings under the Uniform Commercial Code, or any other instruments that may be filed pursuant to any other law.

~~E.~~ F. All documents accepted for filing, including all documents filed before the effective date of this act, shall be deemed to comply with the requirements of this section and, except as otherwise provided by law, impart constructive notice of the contents of such document to third parties unless a person claiming adversely to any such document files an affidavit setting forth the basis of such claim in the office of the county clerk of the county where the property is located within six (6) months from the effective date of this act.

SECTION 2. This act shall become effective November 1, 2012.

COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated 02/09/2012 - DO PASS, As Coauthored.

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