

ENROLLED ACT NO. 38, HOUSE OF REPRESENTATIVES

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2016 BUDGET SESSION

AN ACT relating to real property; adopting the Uniform Real Property Electronic Recording Act; validating electronic documents for recording; authorizing electronic recordings by county clerks; imposing duties on the department of enterprise technology services; providing for rulemaking; providing definitions; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 34-1-401 through 34-1-407 are created to read:

ARTICLE 4
UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

34-1-401. Short title.

This act may be cited as the "Uniform Real Property Electronic Recording Act".

34-1-402. Definitions.

(a) As used in this act unless the context otherwise requires:

(i) "Document" means information that is:

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

(B) Eligible to be recorded in the real property records maintained by the county clerk.

(ii) "Electronic" means as defined in W.S. 40-21-102(a)(v);

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(iii) "Electronic document" means a document received by the county clerk in an electronic form;

(iv) "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;

(v) "Person" means as defined in W.S. 40-21-102(a)(xii);

(vi) "State" means as defined in W.S. 40-21-102(a)(xv);

(vii) "This act" means W.S. 34-1-401 through 34-1-407.

34-1-403. Validity of electronic documents.

(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 act.

(b) If a law requires, as a condition for recording, that a document be signed or originally 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

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stamp, impression or seal need not accompany an electronic signature.

34-1-404. Recording of documents.

(a) A county clerk who implements any of the functions in this section shall do so in compliance with rules promulgated by the department of enterprise technology services pursuant to W.S. 34-1-405.

(b) A county clerk may:

(i) Receive, index, store, archive and transmit electronic documents;

(ii) Provide for access to, and for search and retrieval of, documents and information by electronic means;

(iii) Convert paper documents accepted for recording into electronic form;

(iv) Convert into electronic form information recorded before the county clerk began to record electronic documents;

(v) Accept electronically any fee that the county clerk is authorized to collect;

(vi) 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.

(c) A county clerk who accepts electronic documents for recording shall continue to accept paper documents as

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authorized by state law and shall place entries for both types of documents in the same index.

(d) As used in this section, "paper document" means a document received by the county clerk in a form that is not electronic.

34-1-405. Administration and standards.

(a) The department of enterprise technology services shall promulgate rules in accordance with the Wyoming Administrative Procedure Act to implement this act.

(b) The department of enterprise technology services in adopting rules pursuant to this section shall consider:

(i) Standards and practices of recording offices in other jurisdictions that enact substantially this act;

(ii) Technology used by recording offices in other jurisdictions that enact substantially this act;

(iii) The most recent standards promulgated by national standard setting bodies, including the Property Records Industry Association;

(iv) The views of interested persons and governmental officials and entities;

(v) The needs of counties of varying size, population and resources; and

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

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34-1-406. Uniformity of application and construction.

In applying and construing this act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

34-1-407. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, section 7001 et seq. of title 15 of the United States Code but does not modify, limit or supersede section 7001(c) of title 15 of the United States Code or authorize electronic delivery of any of the notices described in section 7003(b) of title 15 of the United States Code.

Section 2. W.S. 18-3-402(a) by creating a new paragraph (xxv) and 34-1-119(a) are amended to read:

18-3-402. Duties generally.

(a) The county clerk shall:

(xxv) If the county clerk accepts electronic recordings of deeds, mortgages, conveyances, patents, certificates, instruments and other like documents, establish procedures to govern the electronic recordings consistent with rules promulgated by the department of enterprise technology services pursuant to W.S. 34-1-405.

34-1-119. Duties of county clerk generally.

(a) The county clerk of each county within this state shall receive and record at length all deeds, mortgages, conveyances, patents, certificates and instruments left with him for that purpose, and he shall endorse on every

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such instrument the day and hour on which it was filed for record. The county clerk shall not record any document until the address of the grantee, mortgagee or assignee of the mortgagee is furnished to the county clerk, but this requirement shall not affect the validity of the recording of any instrument. Only instruments which are the originally signed documents, including electronic documents recorded pursuant to the Uniform Real Property Electronic Recording Act, W.S. 34-1-401 through 34-1-407, or properly certified or authenticated copies thereof may be properly recorded. A document is properly certified if in compliance with Rule 902 of the Wyoming Rules of Evidence or other applicable rule or statute.

Section 3. The department of enterprise technology services shall promulgate rules and regulations necessary to implement this act on or before January 1, 2017. Nothing in this act shall affect the validity of documents accepted prior to January 1, 2017.

Section 4.

(a) Except as provided in subsection (b) of this section, this act is effective January 1, 2017.

ORIGINAL HOUSE
BILL NO. HB0107

ENGROSSED

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(b) Section 3 of this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk