

1 HB632
2 127427-3
3 By Representative Wren (N & P)
4 RFD: Montgomery County Legislation
5 First Read: 24-MAY-11

1 Section 2. The following words and phrases when used
2 in this act shall have the following meanings:

3 (1) GENERAL PROPERTY INSTRUMENT. A real property
4 instrument that affects the title to personal property as well
5 as real property.

6 (2) IMPROVED RECORDING SYSTEM. A system of recording
7 real property instruments and personal property instruments in
8 the probate office and, in the discretion of the judge of
9 probate, of recording other instruments and documents, which
10 system, when completed, will consist of the equipment
11 necessary and suitable to record, archive, and retrieve
12 records.

13 (3) PERSONAL PROPERTY INSTRUMENT. Any instrument or
14 document affecting the title to personal property only, as
15 distinguished from real property, that may be now or hereafter
16 required to be filed or titled for record in the probate
17 office, in accordance with the applicable requirements of the
18 laws of this state, including, without limitation, Sections
19 35-4-50 and 35-4-90, Code of Alabama 1975.

20 (4) REAL PROPERTY INSTRUMENT. Includes any
21 instrument or document affecting the title to real property
22 that may now or hereafter be filed for record in the probate
23 office pursuant to the applicable requirements of the laws of
24 this state, including, without limitation, Section 12-13-43,
25 Code of Alabama 1975, and all statutes providing for the
26 filing and recording of notices or statements of liens of any

1 kind, notices of judgments, and plats or maps showing the
2 subdivision of real estate.

3 Section 3. The judge of probate may provide for the
4 installation or enhancement, or both, and thereafter for the
5 maintenance of an improved recording, archiving, and retrieval
6 system in the Probate Office of Montgomery County. The initial
7 installation of the improved recording, archival, and
8 retrieval system shall include the following:

9 (1) The acquisition of the equipment for an improved
10 recording, archiving, and retrieving system.

11 (2) The establishment of procedures for the
12 continued recording, archiving, and retrieving of all
13 instruments and records that constitute a part of the improved
14 recording, archiving, and retrieving system.

15 (3) The installation of the improved recording,
16 archiving, and retrieving system shall be performed by a
17 person or persons, firm, or corporation engaged in the records
18 management business and experienced in setting up county
19 records and shall be supervised and inspected by a person who
20 is experienced in handling records pertaining to abstracts or
21 titles. Following installation or enhancement, or both, in the
22 county, the improved recording, archiving, and retrieving
23 system shall be thereafter maintained in the county and all
24 real property instruments, general property instruments,
25 personal property instruments, and other documents and records
26 herein provided to constitute a part of the system that may be
27 thereafter filed for record in the probate office of the

1 county shall be in accordance with the improved recording,
2 archiving, and retrieving system. Each real property
3 instrument and each personal property instrument shall be
4 operative as a record from the time of its delivery to the
5 judge of probate of the county, in accordance with existing
6 law, including, without limitation, Section 12-13-43, Code of
7 Alabama 1975.

8 Section 4. Following the installation or enhancement
9 of any system, real property instruments, personal property
10 instruments, and other documents and records to be recorded,
11 archived, and retrieved with computer-generated files or to be
12 stored and filed on either optical disk or on paper, as
13 determined by the judge of probate, shall constitute the
14 official record of instruments for the purpose of Section
15 12-13-43, Code of Alabama 1975.

16 Section 5. All laws of Alabama relating to the
17 recording of real property instruments, personal property
18 instruments, general property instruments, miscellaneous
19 instruments, and other instruments and records that may
20 constitute part of an improved recording, archiving, and
21 retrieving system installed hereunder, including, without
22 limitation, Section 12-13-43, Code of Alabama 1975, and all
23 statutes respecting the filing and recording of notices or
24 statements of liens of any kind, notices of Lis Pendens,
25 declarations of claims or exemptions, certificates of
26 judgment, or plats or maps showing subdivisions of real estate
27 that are not inconsistent with this act shall continue in

1 effect with respect to an improved recording, archiving, and
2 retrieving system installed hereunder, the recording of
3 instruments therein, and the duties of the judge of probate
4 with respect thereto.

5 Section 6. The costs of installation or enhancement
6 of any system shall be paid entirely out of the special
7 recording fees. Nothing contained in this section, however,
8 shall prohibit the county from using any part of its own funds
9 for the purpose of paying the costs of purchasing, operating,
10 or maintaining, after the initial installation, any improved
11 system installed pursuant to this act.

12 Section 7. Effective immediately after the date this
13 act becomes applicable to Montgomery County, a special
14 recording and filing fee of five dollars (\$5) shall be paid to
15 and collected by the Judge of Probate of Montgomery County,
16 with respect to each real property instrument, each personal
17 property instrument, and each Uniform Commercial Code document
18 that may be filed for record in the office of the judge of
19 probate and with respect to other instruments and documents in
20 the probate office at the discretion of the judge of probate,
21 and on and after that date, no instrument or document shall be
22 received for record in the office of the judge of probate
23 unless the special recording fee of five dollars (\$5) is paid.
24 The special recording fee shall be in addition to all other
25 fees, taxes, and charges required by law to be paid upon the
26 filing for record of any real property instrument, personal
27 property instrument, or Uniform Commercial Code document, and

1 for the recording of other instruments and documents in the
2 probate office at the discretion of the judge of probate. All
3 special recording fees collected shall be paid to a special
4 fund in the office of the judge of probate to be designated as
5 the Judge of Probate Fund. These funds shall be used at the
6 discretion of the judge of probate for an improved recording,
7 archiving, and retrieving system and other equipment,
8 maintenance, and services necessary for the improvement of the
9 office of the judge of probate.

10 The judge of probate shall at the end of each fiscal
11 year report to the Montgomery County Legislative Delegation on
12 the use of the funds.

13 No portion of the fees shall be used for any other
14 purposes including any political purpose.

15 Section 8. The fees collected pursuant to this act
16 shall be controlled by the sole discretion of the judge of
17 probate and shall be audited by the Examiners of Public
18 Accounts. Records of the expenditures shall be open to the
19 public on a continuous basis.

20 Any costs of the audit shall be paid from the fees
21 collected.

22 Section 9. All funds held on the effective date of
23 this act in a special account in the county treasury for the
24 operation of an improved indexing and recording system in the
25 office of the judge of probate pursuant to Act 591 of the 1965
26 Regular Session (Acts 1965, p. 1104), as amended, shall be
27 transferred to the special fund of the judge of probate

1 established pursuant to this act and expended for the purposes
2 of this act as provided in this act. The indexing and
3 recording system in the office of judge of probate on the
4 effective date of this act shall continue to be operational
5 subject to any changes authorized pursuant to this act.

6 Section 10. All laws or parts of law in conflict
7 with this act are repealed. Act 591 of the 1965 Regular
8 Session (Acts 1965, p. 1104), as amended, is expressly
9 repealed.

10 Section 11. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Montgomery
County Legislation..... 24-MAY-11

Read for the second time and placed
on the calendar 1 amendment 25-MAY-11

Read for the third time and passed
as amended..... 01-JUN-11

Yeas 27, Nays 0, Abstains 47

Greg Pappas
Clerk