

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. \_\_\_\_\_ Department or Agency: Secretary of State

Rule No. 820-7-1

Rule Title: Procedures for Electronic Recording of Real Property Records

New  Amend  Repeal  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying office

Jean Brown

Date 5/7/12

APA-2  
07/04

OFFICE OF THE SECRETARY OF STATE

NOTICE OF INTENDED ACTION

AGENCY NAME: Secretary of State

RULE NO. & TITLE: 820-7-1 Procedures for electronic  
recording of real property  
records

INTENDED ACTION: New rules.

SUBSTANCE OF PROPOSED ACTION:

Adopt procedures to be used by Alabama probate judges for electronic recording of real property records pursuant to Code of Alabama, §35-4-124(c).

TIME, PLACE, MANNER OF PRESENTING VIEWS:

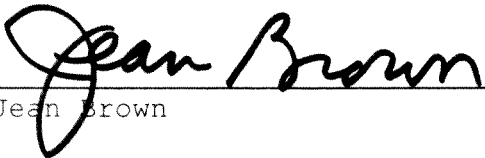
Views may be presented in writing or orally and should be addressed to Jean Brown, Chief Legal Advisor, Office of the Secretary of State, P.O. Box 5616, Montgomery, Alabama 36103, (334) 242-7202.

FINAL DATE FOR COMMENT AND COMPLETION OF THE NOTICE:

August 3, 2012

CONTACT PERSON AT AGENCY:

Jean Brown, Office of the Secretary of State, State Capitol, 600 Dexter Avenue, Suite S-105, Montgomery, Alabama 36104; 334-242-7202.

  
\_\_\_\_\_  
Jean Brown

NEW

OFFICE OF THE SECRETARY OF STATE

CHAPTER 820-7-1

PROCEDURES FOR ELECTRONIC RECORDING OF REAL PROPERTY RECORDS

TABLE OF CONTENTS

820-7-1-.01	Adoption of Standards
820-7-1-.02	Form and Method of Transmission
820-7-1-.03	Acceptance and Refusal of Records
820-7-1-.04	Method of Recording
820-7-1-.05	Time Instrument Considered Recorded
820-7-1-.06	Collection of Fees
820-7-1-.07	Archive and Record Requirements
820-7-1-.08	Bond Requirements

820-7-1-.01 Adoption of Standards. The Property Records Industry Association ("PRIA") standards version 2.4.1 and higher, on electronic document formatting and document data files are adopted by Alabama for the recording of real property records.

820-7-1-.02 Form and Method of Transmission. The judge of probate in each county shall have the ultimate authority to authorize persons or entities to electronically record property records (an "authorized filer"). The form and manner of transmission of property records for electronic recording shall be in accordance with these procedures in addition to any procedures established by each judge of probate in his or her sole discretion:

(a) An authorized filer should visually inspect each instrument prior to transmitting to ensure compliance with existing statutory recording requirements.

(b) Electronic submissions shall contain sufficient information to identify the authorized filer, to uniquely identify the instrument to be recorded, and any other information required by the judge of probate.

(c) Instruments transmitted electronically shall:

(1) provide fidelity to the original appearance of any instrument at the time such instrument was first created, whether by electronic or other means;

(2) retain the original content; and

(3) provide for a non-proprietary digital file format.

820-7-1-.03                    Acceptance and Refusal of Records.    The judge of probate in each county that accepts property records for electronic recording shall have the ultimate authority consistent with Alabama law to accept or reject documents which are submitted electronically for recording. The judge of probate shall not have any additional duties or responsibilities regarding the acceptance of records submitted electronically than those submitted in any other manner.

820-7-1-.04                    Method of Recording.

(1) The judge of probate in each county that accepts property records for electronic recording shall have the authority to determine the method(s) by which such records will be accepted so long as the method(s) chosen complies with the requirements and standards set forth by the Alabama Electronic Recording Commission.

(2) The acceptance of records for electronic recording shall be in addition to all other methods of document recording by the judge of probate required by Alabama law.

820-7-1-.05                    Time Instrument Considered Recorded.    A document recorded electronically shall be recorded in the same order, preference, and manner as a document recorded in any other manner in accordance with Alabama law.

820-7-1-.06                    Collection of Fees.    The judge of probate in any county that accepts documents for electronic recording is authorized to accept required recording fees and taxes, including any authorized convenience or user fees, via an electronic medium and to contract with third-party vendor(s) for the collection and payment of said fees and taxes. The collection of fees and taxes must be reconciled in full at least daily.

820-7-1-.07                    Archive and Record Requirements.    The judge of probate in each county will follow the records disposition authority and e-records best practices as established by the Local Government Records Commission.

820-7-1-.08                    Bond Requirements.    Any vendor through which documents are being processed for electronic recording with the judge of probate shall be bonded in an amount sufficient to satisfy the fees and taxes of all documents which are being processed by said vendor. This amount shall be set by the judge of probate for each county in which the vendor does business. The amount of the bond shall be in the sole discretion of the judge of probate.