

1 HB507
2 136190-3
3 By Representatives Shiver and Jackson (N & P)
4 RFD: Local Legislation
5 First Read: 08-MAR-12

1
2 ENROLLED, An Act,

3 Relating to Monroe County; to provide for the
4 installation and maintenance of an improved system of
5 recording, archiving, and retrieving documents affecting the
6 title to property and other documents recorded in the office
7 of the judge of probate; to provide for the collection and
8 disposition of a special recording fee; to provide that the
9 system shall constitute official and permanent records in
10 Monroe County; and to provide for the collection and
11 disposition of a special transaction fee in the office of the
12 judge of probate.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. This act shall apply only in Monroe
15 County. The purpose of the act is to facilitate the use of
16 public records in property transactions in Monroe County by
17 providing for the installation of an improved system of
18 recording, archiving, and retrieving instruments and documents
19 affecting the title to real and personal property that are
20 recorded in the office of the judge of probate, and for the
21 recording, archiving, and retrieving of other instruments,
22 documents, and other uses in the discretion of the judge of
23 probate.

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

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

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

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

18 (4) REAL PROPERTY INSTRUMENT. Includes any
19 instrument or document affecting the title to real property
20 that may now or hereafter be filed for record in the probate
21 office pursuant to the applicable requirements of the laws of
22 this state, including, without limitation, Section 12-13-43,
23 Code of Alabama 1975, and all statutes providing for the
24 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 and thereafter for the maintenance of an improved
5 recording, archiving, and retrieval system in the probate
6 office of Monroe County. The initial installation of the
7 improved recording, archival, and retrieval system shall
8 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 will, after the effective
14 installation date, constitute a part of the improved
15 recording, archiving, and retrieving system.

16 (3) The initial installation of the improved
17 recording, archiving, and retrieving system shall be performed
18 by a person or persons, firm, or corporation engaged in the
19 records management business and experienced in setting up
20 county records and shall be supervised and inspected by a
21 person who is experienced in handling records pertaining to
22 abstracts or titles. Following installation in the county, the
23 improved recording, archiving, and retrieving system shall be
24 thereafter maintained in the county and all real property
25 instruments, general property instruments, personal property

1 instruments, and other documents and records herein provided
2 to constitute a part of the system, that may be thereafter
3 filed for record in the probate office of the county shall be
4 in accordance with the improved recording, archiving, and
5 retrieving system. Each real property instrument and each
6 personal property instrument shall be operative as a record
7 from the time of its delivery to the judge of probate of the
8 county, in accordance with existing law, including, without
9 limitation, Section 12-13-43, Code of Alabama 1975.

10 Section 4. Following the effective installation
11 date, real property instruments, personal property
12 instruments, and other documents and records to be recorded,
13 archived, and retrieved with computer-generated files or to be
14 stored and filed on either optical disk or on paper, as
15 determined by the judge of probate, shall constitute the
16 official record of instruments for the purpose of Section
17 12-13-43, Code of Alabama 1975.

18 Section 5. All laws of Alabama relating to the
19 recording of real property instruments, personal property
20 instruments, general property instruments, miscellaneous
21 instruments, and other instruments and records that may
22 constitute part of an improved recording, archiving, and
23 retrieving system installed hereunder, including, without
24 limitation, Section 12-13-43, Code of Alabama 1975, and all
25 statutes respecting the filing and recording of notices or

1 statements of liens of any kind, notices of Lis Pendens,
2 declarations of claims or exemptions, certificates of
3 judgment, or plats or maps showing subdivisions of real estate
4 that are not inconsistent with this act shall continue in
5 effect with respect to an improved recording, archiving, and
6 retrieving system installed hereunder, the recording of
7 instruments therein, and the duties of the judge of probate
8 with respect thereto.

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

16 Section 7. Effective immediately after the date this
17 act becomes applicable to Monroe County, a special recording
18 and filing fee of five dollars (\$5) shall be paid to and
19 collected by the Judge of Probate of Monroe County, with
20 respect to each real property instrument, each personal
21 property instrument, and each Uniform Commercial Code document
22 that may be filed for record in the office of the judge of
23 probate and with respect to other instruments and documents in
24 the probate office at the discretion of the judge of probate,
25 and on and after that date, no instrument or document shall be

1 received for record in the office of the judge of probate
2 unless the special recording fee of five dollars (\$5) is paid.
3 The special recording fee shall be in addition to all other
4 fees, taxes, and charges required by law to be paid upon the
5 filing for record of any real property instrument, personal
6 property instrument, or Uniform Commercial Code document, and
7 for the recording of other instruments and documents in the
8 probate office at the discretion of the judge of probate. All
9 special recording fees collected shall be paid to a special
10 fund in the office of the judge of probate to be designated as
11 the Judge of Probate Fund. These funds shall be used at the
12 discretion of the judge of probate for an improved recording,
13 archiving, and retrieving system and other equipment,
14 maintenance, and services necessary for the improvement of the
15 office of the judge of probate.

16 Section 8. Effective immediately upon the date this
17 act becomes applicable to Monroe County, a special transaction
18 fee of three dollars (\$3) shall be paid to and collected by
19 the judge of probate on any transaction, at the discretion of
20 the judge of probate, occurring in, or under the jurisdiction
21 of the judge of probate. What constitutes a transaction to
22 which the fee is applicable under this section shall be
23 determined by the judge of probate. This amount shall be in
24 addition to all other costs and fees heretofore collected. Any

1 additional fees collected shall be paid into the Judge of
2 Probate Fee Account.

3 Section 9. The fees collected pursuant to this act
4 shall be controlled by the sole discretion of the judge of
5 probate. The Judge of Probate Fund shall be audited by the
6 Examiners of Public Accounts. Records of these expenditures
7 shall be open to the public on a continuous basis.

8 Section 10. All laws or parts of law in conflict
9 with this act are 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.

