

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

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Monroe County; to provide for the  
14 installation and maintenance of an improved system of  
15 recording, archiving, and retrieving documents affecting the  
16 title to property and other documents recorded in the office  
17 of the judge of probate; to provide for the collection and  
18 disposition of a special recording fee; to provide that the  
19 system shall constitute official and permanent records in  
20 Monroe County; and to provide for the collection and  
21 disposition of a special transaction fee in the office of the  
22 judge of probate.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. This act shall apply only in Monroe  
25 County. The purpose of the act is to facilitate the use of  
26 public records in property transactions in Monroe County by  
27 providing for the installation of an improved system of

1 recording, archiving, and retrieving instruments and documents  
2 affecting the title to real and personal property that are  
3 recorded in the office of the judge of probate, and for the  
4 recording, archiving, and retrieving of other instruments,  
5 documents, and other uses in the discretion of the judge of  
6 probate.

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

9 (1) GENERAL PROPERTY INSTRUMENT. A real property  
10 instrument that affects the title to personal property as well  
11 as real property.

12 (2) IMPROVED RECORDING SYSTEM. A system of recording  
13 real property instruments and personal property instruments in  
14 the probate office and, in the discretion of the judge of  
15 probate, of recording other instruments and documents, which  
16 system, when completed, will consist of the equipment  
17 necessary and suitable to record, archive, and retrieve  
18 records.

19 (3) PERSONAL PROPERTY INSTRUMENT. Any instrument or  
20 document affecting the title to personal property only, as  
21 distinguished from real property, that may be now or hereafter  
22 required to be filed or titled for record in the probate  
23 office, in accordance with the applicable requirements of the  
24 laws of this state, including, without limitation, Sections  
25 35-4-50 and 35-4-90, Code of Alabama 1975.

26 (4) REAL PROPERTY INSTRUMENT. Includes any  
27 instrument or document affecting the title to real property

1 that may now or hereafter be filed for record in the probate  
2 office pursuant to the applicable requirements of the laws of  
3 this state, including, without limitation, Section 12-13-43,  
4 Code of Alabama 1975, and all statutes providing for the  
5 filing and recording of notices or statements of liens of any  
6 kind, notices of judgments, and plats or maps showing the  
7 subdivision of real estate.

8 Section 3. The judge of probate may provide for the  
9 installation and thereafter for the maintenance of an improved  
10 recording, archiving, and retrieval system in the probate  
11 office of Monroe County. The initial installation of the  
12 improved recording, archival, and retrieval system shall  
13 include the following:

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

16 (2) The establishment of procedures for the  
17 continued recording, archiving, and retrieving of all  
18 instruments and records that will, after the effective  
19 installation date, constitute a part of the improved  
20 recording, archiving, and retrieving system.

21 (3) The initial installation of the improved  
22 recording, archiving, and retrieving system shall be performed  
23 by a person or persons, firm, or corporation engaged in the  
24 records management business and experienced in setting up  
25 county records and shall be supervised and inspected by a  
26 person who is experienced in handling records pertaining to  
27 abstracts or titles. Following installation in the county, the

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

13 Section 4. Following the effective installation  
14 date, real property instruments, personal property  
15 instruments, and other documents and records to be recorded,  
16 archived, and retrieved with computer-generated files or to be  
17 stored and filed on either optical disk or on paper, as  
18 determined by the judge of probate, shall constitute the  
19 official record of instruments for the purpose of Section  
20 12-13-43, Code of Alabama 1975.

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

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

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

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

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

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

26 Section 9. The fees collected pursuant to this act  
27 shall be controlled by the sole discretion of the judge of

1 probate. The Judge of Probate Fund shall be audited by the  
2 Examiners of Public Accounts. Records of these expenditures  
3 shall be open to the public on a continuous basis.

4 Section 10. All laws or parts of law in conflict  
5 with this act are repealed.

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