

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 127

An Act to amend and reenact §§ 17.1-255, 17.1-256 and 17.1-258 of the Code of Virginia and to repeal § 17.1-258.1 of the Code of Virginia, relating to electronic filing of documents.

[H 1845]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-255, 17.1-256 and 17.1-258 of the Code of Virginia are amended and reenacted as follows:

§ 17.1-255. Definition.

As used in this article, "electronic filing of documents" means the filing *or recordation with a circuit court clerk* of written information as defined in § 1-13.32, ~~in the form of electronic signals, with a circuit court clerk. Electronic filing of documents may be accomplished via an electronic network, such as the global information system known as the Internet for the purpose of creating an "electronic record" as defined in subdivision 7 of § 59.1-480.~~

§ 17.1-256. Electronic filing of documents authorized.

A clerk of a circuit court may establish a system for electronic filing *or recordation* of documents as ~~herein provided pursuant to Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1. Any clerk requesting funding from the Technology Trust Fund under § 17.1-279 to establish an electronic filing system must submit a plan for implementation to the Council of Information Management, or its successor agency or office, for technical review, unless the clerk uses a system developed or authorized by the Supreme Court of Virginia. Once established, federal, state, and local governmental entities, or political subdivisions thereof, and quasi-governmental agencies, corporations, or authorities, including but not limited to Fannie Mae, Freddie Mae, and VHDA, any person, as defined in subdivision 11 of § 59.1-480, may electronically file land records, instruments, judgments, and U.C.C. financing statements, and any other. Electronic filing of papers in civil or criminal actions approved shall be governed by Rule 1:17 of the Rules of the Supreme Court of Virginia. The Supreme Court shall adopt rules governing electronic filing in such actions.~~ The circuit court clerk shall enter into an agreement with each entity ~~which person whom~~ the clerk authorizes to file documents electronically, specifying the receiving station to be used and the electronic filing procedures to be followed, including, but not limited to, security procedures, as defined in Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1, for transmitting notarized documents. The place of filing is the receiving station designated by the circuit court clerk to which electronic information is transmitted. A circuit court clerk may also enter into an agreement with banks, mortgage companies or other lending institutions or their assignees or persons or entities otherwise authorized to act on their behalf for the purpose of electronically recording certificates of satisfaction and assignments of the underlying notes secured by previously recorded deeds of trust.

§ 17.1-258. Signature; when effective as originals.

A. If the sender of an electronically filed document files an affidavit of authenticity along with the electronic filing and the electronic record, as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq. of the Code of Virginia), and includes one or more electronic signatures, as defined in the Uniform Electronic Transactions Act, of the required signature, any statutory requirement for an original signature shall be deemed to be satisfied. The requirement of an affidavit of authenticity may be met by the electronic signature of the sender with agreed upon security procedures, as defined in the Uniform Electronic Transactions Act.

B. If the electronically filed document contains an electronic signature pursuant to the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), any statutory requirement for an original signature shall be deemed to be satisfied.

C. B. Any statutory requirement for a document to be notarized shall be deemed satisfied by the appropriately executed electronic signature of such notary.

2. That § 17.1-258.1 of the Code of Virginia is repealed.