



Alaska State Legislature

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House Bill 124 Sectional Analysis — Version A

Section 1

Amends AS 40.17.020(a):

Establishes an electronic document of a conveyance as an acceptable equivalent for an original conveyance or certified copy of the conveyance.

Section 2

Adds new section to AS 40.17:

Sec. 40.17.025 Validity of electronic documents: Establishes the validity of electronic documents in situations when the law requires, as a condition for recording, that a document be an original and the validity of an electronic signature in situations when a document must be signed. Establishes that the requirement that a document be notarized may be satisfied through electronic means and that a recorder may accept a tangible copy of an electronic record containing a notarial certificate if the notary who performed the notarial certificate certifies that the tangible copy is accurate.

Section 3

Amends AS 40.17.030(a):

Adds conforming language to reflect changes made in section 2 of the bill.

Section 4

Adds new section to AS 40.17:

Sec. 40.17.033 Recording of documents: Requires that a recorder comply with standards established by the department and allows the recorder to receive, index, store, archive, and transmit electronic documents. The recorder must continue to accept paper documents and may convert paper documents into electronic form. The recorder may also accept electronic fees.

Section 5

Adds new sections to AS 40.17:

Sec. 40.17.800 Administration and standards: Requires that the department adopt standards to implement provisions that apply to electronic recording. The department, to keep standards and technology compatible with other jurisdictions with similar standards, may consider the most recent standards adopted by national standard-setting bodies.

Sec. 40.17.810 Uniformity of application and construction: Requires that consideration be given to the need to promote uniformity of the law among states that enact these provisions.

Sec. 40.17.820 Relation of Electronic Signatures in Global and National Commerce

Act: Establishes that this chapter supersedes all parts of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 – 7031) except for 15 U.S.C. 7001(c), which relates to electronic consumer disclosures, and it does not authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

Section 6

Repeals and reenacts AS 40.17.900(5):

Changes the definition of “document” to the definition found in Uniform Law Commission language.

Section 7

Adds new paragraphs to AS 40.17.900:

Adds definitions for “electronic,” “electronic document,” and “electronic signature.”

Section 8

Adds new section to AS 40.17:

Sec. 40.17.950 Short title: Establishes “Uniform Real Property Electronic Recording Act” as the title for AS 40.17.025, 40.17.033, and 40.17.800.

Section 9

Amends AS 44.50.060:

Adds certifying that a tangible copy of an electronic record is an accurate copy of the electronic record to the duties a notary public may perform.

Section 10

Amends AS 44.50.062:

Adds conforming language to reflect changes made in section 13 of this bill.

Section 11

Amends AS 44.50.072:

Requires that the lieutenant governor adopt regulations to carry out the purposes of this chapter.

Section 12

Adds new subsections to AS 44.50.072:

Requires that the lieutenant governor provide standards for communication technology and identity proofing. The lieutenant governor may adopt regulations including provisions prescribing the process for performing notarial acts, ensuring the integrity of the process, and preventing against fraud. The lieutenant governor must consider recent standards adopted by national bodies and standards in other jurisdictions with similar provisions when adopting these regulations and may not require the implementation of a specific technology in these regulations.

Section 13

Adds new section to AS 44.50:

Sec. 44.50.075 Notarial act performed for remotely located individual: Establishes the use of communication technology as a substitute for appearing in person before a notary public. The notary public may perform a notarial act for a remotely located individual if the notary public has obtained satisfactory evidence of the individual’s identity and proof that the record in front of the notary public is the same record this

individual signed. The notary public must create an audiovisual recording of the notarial act which must be retained for at least 10 years. The certificate of the notarial act must state that the act was performed using communication technology. The notary public must notify the lieutenant governor before performing the notary public's first notarial act for a remotely located individual and must follow any standards the lieutenant governor has established. The lieutenant governor may adopt regulations regarding the performance of notarial acts including establishing standards for communication technology and identity proofing and must do so while considering standards adopted by national standard-setting organizations and practices in other jurisdictions with similar laws.

Section 14

Adds new section to AS 44.50:

Sec. 44.50.078 Journal: A notary public must maintain a single journal chronicling all notarial acts the notary public performs and must keep this journal for 10 years after the last act chronicled in the journal. Entries must include the date and time of the act, a description of the type of notarial act, the name and address of all individuals involved, a description of the method of identification, and any fee the notary public charged. Upon the death of the notary public, the journal must be transmitted to the lieutenant governor.

Section 15

Adds new section to AS 44.50:

Sec. 44.50.145 Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record: A notary public can select the technology with which to perform notarial acts as long as it conforms to any standards set by the lieutenant governor and must notify the lieutenant governor of the technology the notary public will be using to perform notarial acts. A recorder may accept a tangible copy of an electronic record containing a notarial certificate if the notary who performed the notarial certificate certifies that the tangible copy is accurate.

Section 16

Adds new section to AS 44.50:

Sec. 44.50.165 Validity of notarial acts: Failure of a notarial officer to meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer and the validity of a notarial act does not prevent an individual from seeking to invalidate the record nor from seeking other remedies based on law.

Section 17

Adds new section to AS 44.50:

Sec. 44.50.185 Relation to Electronic Signatures in Global and National Commerce Act: Establishes that this chapter supersedes all parts of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 – 7031) except for 15 U.S.C. 7001(c), which relates to electronic consumer disclosures, and it does not authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

Section 18

Amends AS 44.50.200(2):

Adds to definition of “notarial act” to reflect that an act may be performed with respect to a tangible or electronic record.

Section 19

Adds new paragraphs to AS 44.50.200:

Adds definitions for “acknowledgement,” “communication technology,” “electronic,” “electronic signature,” “identity proofing,” “in a representative capacity,” “notarial officer,” “record,” “remotely located individual,” “sign,” and “signature.”

Section 20

Adds new section to uncodified law:

Establishes that sections 1-8 of this Act apply to electronic signatures and documents received by a recorder on or after the effective date of Sections 1-8. Sections 9-19 apply to notarial acts performed on or after the effective date of sections 9-19.

Section 21

Adds new section to uncodified law:

Allows the Department of Natural Resources to adopt regulations to implement changes made by sections 1-8. Allows the lieutenant governor to implement changes made by sections 9-19.

Section 22

Adds new section to uncodified law:

Clarifies that this Act does not affect the validity of documents recorded before the effective date of sections 1-8 or the validity of notarial acts performed before the effective date of sections 9-19.

Section 23

Establishes that section 21 takes effect immediately under AS 01.10.070(c).

Section 24

Provides an effective date of January 1, 2020 for all sections of this Act except for section 21.