

A-Engrossed
House Bill 3195

Ordered by the House April 26
Including House Amendments dated April 26

Sponsored by Representative ESQUIVEL

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Provides that if governmental agency conducts transaction by electronic means or in electronic form in ordinary course of business and under authority of law, agreement of person that conducts transaction with agency to conduct transaction by electronic means is presumed.]

[Provides that if law requires signature in written record to be original, electronic signature satisfies law if electronic signature is made, and is capable of being verified as made, directly from signature impressed upon or contained within original medium party used to sign record.]

[Provides that for instrument presented for recording that conveys interest in real property and is required by law to be acknowledged or proved, electronic signature is original signature under specified circumstances.]

Authorizes county clerk to record instruments presented as electronic image or by electronic means, including recordings made before effective date of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to electronic records; creating new provisions; amending ORS 93.804 and 93.810; and de-
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 93.804 is amended to read:

6 93.804. (1) Except as provided in *[subsection (2)]* **subsections (2) and (3)** of this section, *[when*
7 *any]* **if an** instrument presented for recording conveys an interest in real property and is required
8 by law to be acknowledged or proved, a county clerk *[shall]* **may** not record the instrument unless
9 the instrument contains the original signatures of the persons executing the instrument and the or-
10 iginal signature of the officer before whom the acknowledgment was made.

11 (2) A county clerk may record a certified copy of an instrument that conveys an interest in real
12 property *[when]* **if a law authorizes** *[the]* recording *[of]* a certified copy of the instrument *[is au-*
13 *thorized by law]* and the instrument contains the original certification of the certifying officer.

14 **(3) If an instrument that is eligible to be recorded under the laws of this state is pre-**
15 **sented for recording as an electronic image or by electronic means, a county clerk may re-**
16 **cord the instrument. If the county clerk records the instrument, the county clerk shall**
17 **require the person that presents the instrument for recording to certify that the instrument**
18 **contains the original signatures required under subsection (1) of this section or that the in-**
19 **strument from which the person made the electronic image contains the original signatures**
20 **required under subsection (1) of this section.**

21 **(4) A county clerk may enter into a contract to receive instruments as electronic images**
22 **or by electronic means with a contractor that presents the instruments for recording on**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **behalf of another person. The contractor or the other person shall certify by electronic**
2 **means or otherwise that the instrument that the contractor presents for recording, or the**
3 **instrument from which the electronic image was made, contains the original signatures re-**
4 **quired under subsection (1) of this section.**

5 **SECTION 2.** ORS 93.810 is amended to read:

6 93.810. The following are subjects of validating or curative Acts applicable to this chapter:

7 (1) Evidentiary effect and recordation of conveyances before 1854.

8 (2) Evidentiary effect and recordation of certified copies of deeds issued by **the** State Land
9 Board [*prior to*] **before** 1885 where **the** original deed was lost.

10 (3) Defective acknowledgments of married women to conveyances [*prior to*] **before** 1891.

11 (4) Foreign instruments executed [*prior to*] **before** 1903.

12 (5) Deeds of married women before 1907, validity; executed under power of attorney and record
13 as evidence.

14 (6) Conveyances by reversioners and remainderpersons to life tenant.

15 (7) Decrees or judgments affecting lands in more than one county.

16 (8) Irregular deeds and conveyances; defective acknowledgments; irregularities in judicial sales;
17 sales and deeds of executors, personal representatives, administrators, conservators and guardians;
18 vested rights arising by adverse title; recordation.

19 (9) Defective acknowledgments.

20 (10) Title to lands from or through aliens.

21 **(11) An instrument that is presented for recording as an electronic image or by electronic**
22 **means and that is recorded before the effective date of this 2011 Act.**

23 **SECTION 3.** Section 4 of this 2011 Act is added to and made a part of ORS chapter 93.

24 **SECTION 4.** An instrument that is presented for recording as an electronic image or by
25 **electronic means and that a county clerk records before the effective date of this 2011 Act**
26 **complies with the provisions of ORS 84.001 to 84.061 and 93.804.**

27 **SECTION 5.** The amendments to ORS 93.804 and 93.810 by sections 1 and 2 of this 2011
28 **Act apply to documents that are recorded or are presented for recording before, on or after**
29 **the effective date of this 2011 Act.**

30 **SECTION 6.** This 2011 Act being necessary for the immediate preservation of the public
31 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
32 **on its passage.**

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