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3 By Representative Wren (N & P)  
4 RFD: Montgomery County Legislation  
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ENROLLED, An Act,

Relating to Montgomery County; to provide for the installation and maintenance of an improved system of recording, archiving, and retrieving documents affecting the title to property and other documents recorded in the office of the judge of probate; to provide for the collection and disposition of a special recording fee; to provide that the system shall constitute official and permanent records in Montgomery County; and to repeal Act 591 of the 1965 Regular Session (Acts 1965, p. 1104).

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Section 2. The following words and phrases when used 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 or enhancement, or both, and thereafter for the  
5 maintenance of an improved recording, archiving, and retrieval  
6 system in the Probate Office of Montgomery County. The initial  
7 installation of the improved recording, archival, and  
8 retrieval system shall 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 constitute a part of the improved  
14 recording, archiving, and retrieving system.

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

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

10               Section 4. Following the installation or enhancement  
11       of any system, 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 costs of installation or enhancement  
10 of any system shall be paid entirely out of the special  
11 recording fees. Nothing contained in this section, however,  
12 shall prohibit the county from using any part of its own funds  
13 for the purpose of paying the costs of purchasing, operating,  
14 or maintaining, after the initial installation, any improved  
15 system installed pursuant to this act.

16 Section 7. Effective immediately after the date this  
17 act becomes applicable to Montgomery County, a special  
18 recording and filing fee of five dollars (\$5) shall be paid to  
19 and collected by the Judge of Probate of Montgomery County,  
20 with 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. The judge of probate shall at  
16 the end of each fiscal year report to the Montgomery County  
17 Legislative Delegation on the use of the funds. No portion of  
18 the fees shall be used for any other purposes including any  
19 political purpose.

20 Section 8. The fees collected pursuant to this act  
21 shall be controlled by the sole discretion of the judge of  
22 probate and shall be audited by the Examiners of Public  
23 Accounts. Records of the expenditures shall be open to the  
24 public on a continuous basis. All costs of the audit shall be  
25 paid from the fees collected.

1           Section 9. All funds held on the effective date of  
2 this act in a special account in the county treasury for the  
3 operation of an improved indexing and recording system in the  
4 office of the judge of probate pursuant to Act 591 of the 1965  
5 Regular Session (Acts 1965, p. 1104), as amended, shall be  
6 transferred to the special fund of the judge of probate  
7 established pursuant to this act and expended for the purposes  
8 of this act as provided in this act. The indexing and  
9 recording system in the office of judge of probate on the  
10 effective date of this act shall continue to be operational  
11 subject to any changes authorized pursuant to this act.

12           Section 10. All laws or parts of law in conflict  
13 with this act are repealed. Act 591 of the 1965 Regular  
14 Session (Acts 1965, p. 1104), as amended, is expressly  
15 repealed.

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



