



DELBERT HOSEMANN
Secretary of State

2009 Business Reform Committees – Minutes

Task Force to Study Uniformity in Real Property Recordings, Meeting #3, August 26, 2009

The third meeting of the Task Force to Study Uniformity in Real Property Recordings (the “Task Force”) was called to order on Wednesday, August 26, 2009, at 11:05 A.M. at the Office of the Secretary of State, 700 North Street, Jackson, Mississippi. A list of the persons in attendance is attached as Exhibit A.

Approval of Minutes from Second Meeting Held July 21, 2009

The members approved the minutes of the July 21, 2009 meeting with one correction. The minutes will be corrected and placed on the Mississippi Secretary of State’s website for Task Force members and the public to view.

Chancery Clerks Survey Report and Results

Cheryn Baker, Assistant Secretary of State for Policy & Research, then turned to the updated results from the Chancery Clerk Surveys. As of August 26, 2009, seventy-six of the eighty-two chancery clerks had responded. An updated summary of the information compiled from the surveys was reviewed by the members of the Task Force. See Exhibit B. Ms. Baker noted that another follow-up survey would likely be distributed to counties that currently utilize computerized systems.

Update to Guidelines re: Uniform Formatting Standards for Land Documents

For this meeting of the Task Force, Ms. Baker prepared a document obtaining a detailed description of the three objectives for the task force to study: (1) Uniform Formatting Standards; (2) Uniform Statewide Indexing and Retrieving Methods; (3) Feasibility and Scope of E-Recording. The report of the Task Force is due to the Legislature by October 1, 2010. See Exhibit C.

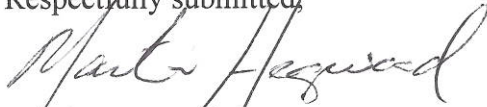
Organization of Sub-groups

The Uniform Formatting Standards Guidelines Sub-group was formed and members assigned to it. It was agreed that the target completion date for the UFS Guidelines Sub-group would be the end of October 2009. The other sub-groups would be designated by the Policy and Research Division.

Future Meetings and Adjournment

Ms. Baker noted that the next scheduled Task Force meeting would be held on September 22, 2009. The Task Force members agreed that future meetings would be held in November and January. There being no further business to discuss, the meeting was adjourned at 12:07 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Martin Hegwood". The signature is written in black ink and is positioned above the printed name.

Martin Hegwood
Senior Policy Counsel
Policy and Research Division

EXHIBIT A
to the Minutes of the Task Force to Study
Uniformity in Real Property Recording
Meeting #3, August 26, 2009

Members in Attendance:

1. Steve Amos, Vice Chairman
2. Bill Benson
3. George Culpepper
4. Sluggo Davis
5. Parrish Fortenberry
6. Warren McKinnon
7. Craig Orgeron
8. Paula Sykes

Others in Attendance:

9. Russell Bennett, Mississippi Bankers Association

By Telephone:

10. Gerald Barber
11. Andrea Barnes
12. Rep. Briggs Hopson

Secretary of State Personnel Attending:

13. Cheryn Baker, Assistant Secretary of State, Policy and Research Division
14. Gerald McWhorter, Assistant Secretary of State, Public Lands Division
15. Martin Hegwood, Mississippi Secretary of State Senior Attorney, Executive Division
16. Leann Hager, Legal Intern, Policy and Research Division

EXHIBIT B

Computation of Chancery Clerk Survey Responses

Compiled by Division of Policy and Research August 2009

76 out of 82 Counties Responding (93%)

1. **How are deeds, deeds of trust and other land instruments filed in each county's land records?**
 - a. 46% (35) of responding counties use scanned electronic or digitized copies: Alcorn, Chickasaw, Choctaw, Clarke, Coahoma, Copiah, Desoto, Hancock, Itawamba, Jackson, Jasper, Jones, Lafayette, Lee, Lincoln, Lowndes, Madison, Marshall, Monroe, Newton, Noxubee, Panola, Pearl River, Pike, Pontotoc, Prentiss, Rankin, Simpson, Sunflower, Tate, Tishomingo, Union, Warren, Wayne, Yalobusha
 - b. 28% (21) of responding counties use paper: Amite, Bolivar, Claiborne, Clay, Greene, Hinds, Jefferson, Kemper, Lawrence, Leflore, Marion, Perry, Quitman, Sharkey, Smith, Stone, Tallahatchie, Tippah, Tunica, Walthall, Webster
 - c. 26% (20) of responding counties use both: Attala, Benton, Calhoun, Carroll, Covington, Forrest, Franklin, George, Grenada, Harrison, Humphreys, Jefferson Davis, Lamar, Lauderdale, Montgomery, Neshoba, Scott, Wilkinson, Winston, Yazoo
2. **How are deeds, deeds of trust and other land instruments indexed in each county's land records?**
 - a. 43% (33) of responding counties use electronic computer indexes: Alcorn, Amite, Benton, Chickasaw, Claiborne, Clarke, Coahoma, Copiah, Desoto, Hancock, Hinds, Itawamba, Jackson, Jasper, Lafayette, Lee, Lincoln, Lowndes, Marion, Monroe, Newton, Panola, Pike, Pontotoc, Prentiss, Quitman, Simpson, Sunflower, Tate, Union, Warren, Wayne, Yalobusha
 - b. 20% (15) of responding counties use traditional bound index books: Clay, Greene, Humphreys, Jefferson, Kemper, Lawrence, Leflore, Perry, Sharkey, Smith, Stone, Tippah, Tunica, Walthall, Webster
 - c. 37% (28) of responding counties use both: Attala, Bolivar, Calhoun, Carroll, Choctaw, Covington, Forrest, Franklin, George, Grenada, Harrison, Jefferson Davis, Jones, Lamar, Lauderdale, Madison, Marshall, Montgomery, Neshoba, Noxubee, Pearl River, Rankin, Scott, Tallahatchie, Tishomingo, Wilkinson, Winston, Yazoo
3. **Who can access the electronic or computer records? (Counties not listed currently do not use electronic record keeping)**
 - a. 93% (55 of the 59) of responding counties that use electronic record keeping allow access to everyone, including the general public: Alcorn, Amite, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clarke, Coahoma, Copiah, Covington, Desoto, Forrest, Franklin, George, Grenada, Hancock, Harrison, Hinds, Itawamba, Jasper, Jefferson Davis, Jones, Lafayette, Lamar, Lauderdale, Lee, Lincoln, Madison, Marion, Marshall, Monroe, Neshoba, Newton, Noxubee, Panola, Pearl River, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Simpson, Sunflower, Tate, Tishomingo, Union, Warren, Wayne, Wilkinson, Winston, Yalobusha, Yazoo
 - b. 7% (4 of the 59) of responding counties that use electronic record keeping allow access to staff only: Attala, Jackson, Lowndes, Montgomery

- 4. Which counties charge for access to electronic records? (Counties not listed currently do not use electronic record keeping)**
- a. 98% (58 of the 59) of responding counties that use electronic record keeping do not charge: Alcorn, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clarke, Coahoma, Copiah, Covington, Desoto, Forrest, Franklin, George, Grenada, Hancock, Harrison, Hinds, Itawamba, Jasper, Jefferson Davis, Jones, Lafayette, Lamar, Lauderdale, Lee, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Panola, Pearl River, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Simpson, Sunflower, Tate, Tishomingo, Union, Warren, Wayne, Wilkinson, Winston, Yalobusha, Yazoo
 - b. Jackson is the only responding county that charges for access.
- 5. Which counties' records may be accessed via the Internet? (Counties not listed currently do not use electronic record keeping)**
- a. 17% (10 of the 59) of responding counties' users can access records via the Internet: Amite, Desoto, Forrest, Harrison, Hinds, Lincoln, Madison, Marion, Pike, Tishomingo
 - b. 83% (49 of the 59) of responding counties' users can not access documents via the Internet: Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clarke, Coahoma, Copiah, Covington, Franklin, George, Grenada, Hancock, Itawamba, Jackson, Jasper, Jefferson Davis, Jones, Lafayette, Lamar, Lauderdale, Lee, Lowndes, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Panola, Pearl River, Pontotoc, Prentiss, Quitman, Rankin, Scott, Simpson, Sunflower, Tate, Union, Warren, Wayne, Wilkinson, Winston, Yalobusha, Yazoo
- 6. What electronic computer systems are counties impressed with?**
- a. 11 responding counties listed Delta Computer Systems: Alcorn, Amite, Bolivar, Claiborne, Covington, Lafayette, Marion, Perry, Smith, Walthall, Warren
 - b. 4 responding counties listed Medir Government Solutions: Coahoma, Greene, Rankin, Tallahatchie
 - c. Other vendors listed by one county each: Digital Filing Solutions, Aptitude Solutions, State of Mississippi Bankruptcy Court, Harrison County Chancery Clerk's Office and Manatron
- 7. Counties' interest in electronic management systems.**
- a. 30% (23) of responding counties were very interested: Amite, Bolivar, Claiborne, Coahoma, Copiah, Forrest, Greene, Grenada, Harrison, Jefferson Davis, Lafayette, Lamar, Madison, Marion, Neshoba, Panola, Pearl River, Perry, Pike, Pontotoc, Smith, Walthall, Yazoo
 - b. 8% (6) of responding counties might be interested: Hinds, Marshall, Noxubee, Scott, Webster, Wilkinson
 - c. 8% (6) of responding counties indicated they were current users: Alcorn, George, Monroe, Simpson, Sunflower, Warren
 - d. 50% (38) responding counties did not list: Benton, Calhoun, Carroll, Chickasaw, Clarke, Clay, Covington, Desoto, Franklin, Hancock, Humphreys, Itawamba, Jasper, Jefferson, Jones, Kemper, Lauderdale, Lawrence, Lee, Leflore, Lincoln, Lowndes, Montgomery, Newton, Prentiss, Quitman, Rankin, Sharkey, Stone, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Wayne, Winston, Yalobusha
 - e. 4% (3) of responding counties listed "other" and stated their concerns: Attala, Choctaw, Jackson

8. Annual Recording Volume

- a. Total Amount Reported: 382,134 to 396,034 annually
- b. Lowest Amount Reported: 300 annually, Claiborne County
- c. Highest Amount Reported: 65,000 annually, Jackson County

EXHIBIT C

REAL PROPERTY TASK FORCE

Due Date: The task force shall file a report with the Mississippi State Legislature, not later than October 1, 2010 and include a draft of legislation to be introduced during the 2011 Regular Session of the Legislature.

Objectives of Task Force

Study the merits of imposing a statewide uniform recording system for instruments submitted to chancery clerk for filing. This includes: (1) uniform formatting standards, (2) uniform statewide indexing and retrieval methods; and (3) the feasibility and scope of authorizing counties to engage in e-recording (i.e., electronic filing).

1. Uniform Formatting Standards Recommendations

- Recommend any guidelines to interpret Section 89-5-24 (effective July 1, 2009)
- Recommend any rules or regulations to implement Section 89-5-24, if needed
- Recommend any amendments to Section 89-5-24

2. Uniform Statewide Indexing and Retrieving Methods Recommendations

- Recommend changes to current indexing laws
- Determine whether to recommend mandatory uniform electronic indexing system
- Determine whether to recommend a single approved vendor or group of vendors
- Funding recommendations for conversion and implementation costs
- Recommendations re: grandfather and transition periods

The Task Force will need to perform studies and research to determine whether to recommend a mandatory uniform electronic indexing and retrieval system, and standards for such system. Task Force to consider whether systems should consist of single database for all land related instruments or multiple databases for different types of records.

3. Study Feasibility and Scope of E-Recording: (i.e., electronic filing)

The feasibility and scope of authorizing the filing, signing and verification of those documents by electronic means.

- Review best practices of other states
- Review E- recording models from national organizations
- Determine and recommend laws to be adopted to facilitate and authorize e-recording in counties that want to implement this on their own
- Study and recommend potential funding mechanisms and search for potential grant opportunities

OBJECTIVE #1

Uniform Formatting Standards (“UFS”) Guidelines Recommendations

Recommend any guidelines to interpret Section 89-5-24 (effective July 1, 2009)

Recommend any rules or regulations to implement Section 89-5-24, if needed

Guidelines Tasks:

1. Work with Chancery Clerks Association on their guidelines
2. Add explanation of what is meant by “substantial compliance”
3. Add language to explain that standards do not have to be followed if filer pays additional \$10 fee
4. Any other language to be included in guidelines
5. Adopt an agreed-upon set of guidelines with input from Association and the MS Bar
6. Disseminate guidelines to clerks and preparers

Rules and Regulations Tasks:

[to be determined, if this is needed]

Completion Date:

Timeline:

UFS Guidelines Subgroup:

Chair:

Members

Objective # 1 (continued)

Recommendations Concerning Statutory Amendments to Uniform Formatting Standards (“UFS”)

Recommend any amendments to Section 89-5-24

Tasks:

1. Seek input from Real Property Section of The MS Bar, Chancery Clerks Association or other groups as to recommended changes
2. Review best practices of other states
3. Determine what clarifying amendments may be needed
 - Clarify that information to appear on the first page can be in header or in body of first page
 - Other clarifications
4. Determine whether to expand section 89-5-24 to
 - Add more requirements that would assist with clerks with notices for tax sales
 - Is there a comprehensive list of the types of persons/entities which must be notified of a tax sale
 - Statutory requirements
 - Case law requirements
 - Is there a need to codify case law requirements to eliminate confusion?
 - Other Expansions?
5. Determine whether to recommend require use of a standard cover page form where information can be inserted by the preparer into the standard form
- 6.

Completion Date:

Timeline:

UFS Amendments Subgroup:

Chair:

Members

OBJECTIVE # 2

Uniform Statewide Indexing and Retrieving Methods (“USIRM”) Recommendations

- i. the conventional paper medium and
- ii. the electronic medium

The Task Force will need to perform studies and research to determine whether to recommend a mandatory uniform electronic indexing and retrieval system, and standards for such system. Recommendations will need to include any grandfather or transition periods and how to raise funds to pay for conversion and implementation costs.

Tasks:

1. Research the current laws governing indexing methods
 - Compile list of the various books and indexes of land documents required to be kept by clerks offices: Deeds, Deeds of Trust, Oil and Gas (but is usually incorporated into deeds index), Supervisors, Federal Tax Liens, Wills, Chancery Court Documents, Powers of attorney, construction liens, materialman liens, tax sales [do all of these deal with land?] What about judgement liens? Other types of liens on real property?
 - Compile list of relevant statutes
 - Prepare summary of statutory requirements
2. Conduct a survey on the indexing and retrieving methods currently used by the 82 counties
 - Conventional paper medium or electronic medium or combination of both
 - Whether all instruments stored in electronic medium or just after a certain date
 - Whether paper copies maintained in addition to electronic copies. If so, how and where maintained
 - How are electronically-stored documents maintained and protected from disasters, outages, viruses, tampering, etc.
 - How are documents accessed when server is down, back-up or redundant systems and contingency plans
 - For electronic systems, whether systems consist of single database for all land-related instruments or multiple databases for different types of instruments
 - Ability to use clerks’ websites to conduct online search (or computer in clerk’s office for intranet search) for such documents
 - Ability to use clerks’ websites to copy documents found in search results
 - Website search and/or copy charges
 - Search fields: types of information used to search and retrieve documents

- Software programs in use and vendors providing the programs
 - How vendors are compensated, such as periodic licensing fees or by volume of instruments recorded or both, and other compensation arrangements
 - Systems in place to address vendor insolvency, etc. to transition to replacement vendor if vendor ceases operations
 - Source code escrow
 - Other vendor information?
 - Whether and to what extent other governmental bodies in the county or state use the clerks software systems
 - Such as tax assessor, tax collector, and any other entities
 - For what purposes do other bodies use the database
 - Is data shared among the bodies, if so what data
 - Do other entities input data into the systems, if so, what is the data
 - Are expenses shared to maintain software and databases
3. Review best practices of other states
- Determine whether other states require mandatory electronic indexing and retrieval systems
 - If so, determine
 - transition provisions or periods:
 - Whether all recorded documents are on these systems or just documents that were recorded after a certain date in time.
 - Whether there was a transition period to allow for the conversion
 - whether such states require compliance with specific uniform standards in connection with same, such as website access to documents and copying ability via website
 - how the counties paid the costs to convert their existing systems and implement new systems
 - whether counties charge to copy documents from the website
 - Vendor Requirements: Does the state mandate by law an approved vendor or group of vendors
 - Determine whether other states have document storage, security and maintenance standards for electronically-stored documents including
 - Security standards
 - Back-up standards
 - Off-site storage, or duplicate electronic storage
 - Requirements for disaster recovery and
 - Contingency plans for outages, disasters, tampering, etc.

4. Review best practices or model standards recommended by national or regional organizations
 - Chancery Clerks Associations
 - Property Records Industry Association
 - Others?

5. Request and obtain feedback from stakeholders and interested parties as to what they would like to have or accomplish in an indexing and retrieval system, including:
 - Real Property Section of The MS Bar
 - Chancery Clerks Association
 - Tax Assessors and Collectors Association
 - Other interested groups

- 6.

Completion Date:

Timeline:

USIRM Subgroup:

Chair:

Members

OBJECTIVE # 3

STUDY OF E-RECORDING

E-Recording: The feasibility and scope of authorizing counties to engage in e-recording (i.e., electronic filing).

Study the feasibility and scope of authorizing the filing, signing and verification of land documents by electronic means

Tasks:

1. Review best practices of other states
2. Review E- recording models from national organizations
3. Study potential funding mechanisms
4. Research potential grant opportunities
5. Determine what laws would need to be adopted to implement e-recording

Completion Date:

Timeline:

E-recording Subgroup:

Chair:

Members