

1 A bill to be entitled
 2 An act relating to real property electronic recording;
 3 creating s. 695.27, F.S.; providing a short title;
 4 providing definitions; providing for the validity of
 5 electronic documents relating to real property; providing
 6 for the recording of electronic documents by the county
 7 recorder; granting the Department of State rulemaking
 8 authority; creating the Electronic Recording Advisory
 9 Council; providing for membership and meetings of the
 10 council; providing that council members shall serve
 11 without compensation and may not claim per diem and travel
 12 expenses from the Secretary of State; providing guidelines
 13 for the department, in consultation with the council, to
 14 consider in adopting, amending, and repealing standards;
 15 providing for uniformity of application and construction;
 16 specifying the relation to a federal act; providing an
 17 effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 695.27, Florida Statutes, is created to
 22 read:

23 695.27 Uniform Real Property Electronic Recording Act.--

24 (1) SHORT TITLE.--This section may be cited as the

25 "Uniform Real Property Electronic Recording Act."

26 (2) DEFINITIONS.--As used in this section:

27 (a) "Document" means information that is:

28 1. Inscribed on a tangible medium or that is stored in an

29 electronic or other medium and is retrievable in perceivable
 30 form; and

31 2. Eligible to be recorded in the land records maintained
 32 by a county recorder.

33 (b) "Electronic" means relating to technology having
 34 electrical, digital, magnetic, wireless, optical,
 35 electromagnetic, or similar capabilities.

36 (c) "Electronic document" means a document that is
 37 received by a county recorder in an electronic form.

38 (d) "Electronic signature" means an electronic sound,
 39 symbol, or process attached to or logically associated with a
 40 document and executed or adopted by a person with the intent to
 41 sign the document.

42 (e) "State" means a state of the United States, the
 43 District of Columbia, Puerto Rico, the United States Virgin
 44 Islands, or any territory or insular possession subject to the
 45 jurisdiction of the United States.

46 (3) VALIDITY OF ELECTRONIC DOCUMENTS.--

47 (a) If a law requires, as a condition for recording, that
 48 a document be an original, be on paper or another tangible
 49 medium, or be in writing, the requirement is satisfied by an
 50 electronic document satisfying the requirements of this section.

51 (b) If a law requires, as a condition for recording, that
 52 a document be signed, the requirement is satisfied by an
 53 electronic signature.

54 (c) A requirement that a document or a signature
 55 associated with a document be notarized, acknowledged, verified,
 56 witnessed, or made under oath is satisfied if the electronic

HB 7091

2006

57 signature of the person authorized to perform that act, and all
58 other information required to be included, is attached to or
59 logically associated with the document or signature. A physical
60 or electronic image of a stamp, impression, or seal need not
61 accompany an electronic signature.

62 (4) RECORDING OF DOCUMENTS.--

63 (a) In this subsection, the term "paper document" means a
64 document that is received by the county recorder in a form that
65 is not electronic.

66 (b) A county recorder:

67 1. Who implements any of the functions listed in this
68 section shall do so in compliance with standards established by
69 rule by the Department of State.

70 2. May receive, index, store, archive, and transmit
71 electronic documents.

72 3. May provide for access to, and for search and retrieval
73 of, documents and information by electronic means.

74 4. Who accepts electronic documents for recording shall
75 continue to accept paper documents as authorized by state law
76 and shall place entries for both types of documents in the same
77 index.

78 5. May convert paper documents accepted for recording into
79 electronic form.

80 6. May convert into electronic form information recorded
81 before the county recorder began to record electronic documents.

82 7. May accept electronically any fee that the county
83 recorder is authorized to collect.

84 8. May agree with other officials of a state or a

HB 7091

2006

85 political subdivision thereof, or of the United States, on
86 procedures or processes to facilitate the electronic
87 satisfaction of prior approvals and conditions precedent to
88 recording and the electronic payment of fees.

89 (5) ADMINISTRATION AND STANDARDS.--

90 (a) The Department of State, by rule pursuant to ss.
91 120.536(1) and 120.54, shall prescribe standards to implement
92 this section in consultation with the Electronic Recording
93 Advisory Council, which is hereby created. The Secretary of
94 State shall provide administrative support to the council,
95 appoint the members of the council, and appoint the chair of the
96 council. The council shall consist of nine members, as follows:

97 1. Five clerks of circuit court or county recorders who
98 are members of the Florida Association of Court Clerks and
99 Comptroller, Inc.

100 2. Two persons working in the title insurance industry who
101 are members of the Florida Land Title Association.

102 3. One banker who is a member of the Florida Bankers
103 Association.

104 4. One mortgage broker who is a member of the Florida
105 Association of Mortgage Brokers.

106 (b) The first meeting of the council shall be held on or
107 before July 30, 2006. Thereafter, the council shall meet at the
108 call of the chair.

109 (c) The members of the council shall serve without
110 compensation and shall not claim per diem and travel expenses
111 from the Secretary of State.

112 (d) To keep the standards and practices of county

113 recorders in this state in harmony with the standards and
 114 practices of recording offices in other jurisdictions that enact
 115 substantially this section and to keep the technology used by
 116 county recorders in this state compatible with technology used
 117 by recording offices in other jurisdictions that enact
 118 substantially this section, the Department of State, in
 119 consultation with the council, so far as is consistent with the
 120 purposes, policies, and provisions of this section, in adopting,
 121 amending, and repealing standards, shall consider:

- 122 1. Standards and practices of other jurisdictions.
- 123 2. The most recent standards adopted by national standard-
 124 setting bodies, such as the Property Records Industry
 125 Association.
- 126 3. The views of interested persons and governmental
 127 officials and entities.
- 128 4. The needs of counties of varying size, population, and
 129 resources.
- 130 5. Standards requiring adequate information security
 131 protection to ensure that electronic documents are accurate,
 132 authentic, adequately preserved, and resistant to tampering.
- 133 (6) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In
 134 applying and construing this section, consideration must be
 135 given to the need to promote uniformity of the law with respect
 136 to its subject matter among states that enact it.
- 137 (7) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
 138 NATIONAL COMMERCE ACT.--This section modifies, limits, and
 139 supersedes the federal Electronic Signatures in Global and
 140 National Commerce Act, 15 U.S.C. ss. 7001 et seq., but this

HB 7091

2006

141 section does not modify, limit, or supersede s. 101(c) of that
142 act, 15 U.S.C. s. 7001(c), or authorize electronic delivery of
143 any of the notices described in s. 103(b) of that act, 15 U.S.C.
144 s. 7003(b).

145 Section 2. This act shall take effect upon becoming a law.