

CHAMBER ACTION

1 The Justice Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to real property electronic recording;
7 creating s. 695.27, F.S.; providing a short title;
8 providing definitions; providing for the validity of
9 electronic documents relating to real property; providing
10 for the recording of electronic documents by the county
11 recorder; granting the Department of State rulemaking
12 authority; creating the Electronic Recording Council;
13 requiring the department to make specific written findings
14 if any of the council's recommendations are rejected;
15 providing for membership and meetings of the council;
16 providing that council members shall serve without
17 compensation and may not claim per diem and travel
18 expenses from the Secretary of State; providing guidelines
19 for the department, in consultation with the council, to
20 consider in adopting, amending, and repealing standards;
21 providing for uniformity of application and construction;
22 specifying the relation to a federal act; providing an
23 effective date.

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

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

695.27 Uniform Real Property Electronic Recording Act.--

(1) SHORT TITLE.--This section may be cited as the "Uniform Real Property Electronic Recording Act."

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

(a) "Document" means information that is:

1. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

2. Eligible to be recorded in the land records maintained by a county recorder pursuant to s. 28.222.

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

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

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

(e) "Logically associated" means information recorded simultaneously with the document to which it pertains and assigned the same document number or a consecutive page number immediately following such document.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 (f) "Person" means an individual, corporation, business
53 trust, estate, trust, partnership, limited liability company,
54 association, joint venture, public corporation, or government;
55 governmental subdivision, agency, or instrumentality; or any
56 other legal or commercial entity.

57 (g) "State" means a state of the United States, the
58 District of Columbia, Puerto Rico, the United States Virgin
59 Islands, or any territory or insular possession subject to the
60 jurisdiction of the United States.

61 (3) VALIDITY OF ELECTRONIC DOCUMENTS.--

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

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

69 (c) A requirement that a document or a signature
70 associated with a document be notarized, acknowledged, verified,
71 witnessed, or made under oath is satisfied if the electronic
72 signature of the person authorized to perform that act, and all
73 other information required to be included, is attached to or
74 logically associated with the document or signature. A physical
75 or electronic image of a stamp, impression, or seal need not
76 accompany an electronic signature.

77 (4) RECORDING OF DOCUMENTS.--

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

81 (b) A county recorder:

82 1. Who implements any of the functions listed in this
83 section shall do so in compliance with standards established by
84 rule by the Department of State.

85 2. May receive, index, store, archive, and transmit
86 electronic documents.

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

89 4. Who accepts electronic documents for recording shall
90 continue to accept paper documents as authorized by state law
91 and shall place entries for both types of documents in the same
92 index.

93 5. May convert paper documents accepted for recording into
94 electronic form.

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

97 7. May agree with other officials of a state or a
98 political subdivision thereof, or of the United States, on
99 procedures or processes to facilitate the electronic
100 satisfaction of prior approvals and conditions precedent to
101 recording.

102 (5) ADMINISTRATION AND STANDARDS.--

103 (a) The Department of State, by rule pursuant to ss.
104 120.536(1) and 120.54, shall prescribe standards to implement
105 this section in consultation with the Electronic Recording

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106 Council, which is hereby created. The Secretary of State shall
 107 provide administrative support to the council, appoint the
 108 members of the council, and appoint the chair of the council.
 109 The Department of State shall make specific written findings if
 110 any of the council's recommendations are rejected. The council
 111 shall consist of nine members, as follows:

- 112 1. Five clerks of circuit court or county recorders.
- 113 2. Two persons working in the title insurance industry who
 114 are members of the Florida Land Title Association.
- 115 3. One banker who is a member of the Florida Bankers
 116 Association.
- 117 4. One attorney who is a member of the Real Property,
 118 Probate and Trust Law Section of The Florida Bar.

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

122 (c) The members of the council shall serve without
 123 compensation and shall not claim per diem and travel expenses
 124 from the Secretary of State.

125 (d) To keep the standards and practices of county
 126 recorders in this state in harmony with the standards and
 127 practices of recording offices in other jurisdictions that enact
 128 substantially this section and to keep the technology used by
 129 county recorders in this state compatible with technology used
 130 by recording offices in other jurisdictions that enact
 131 substantially this section, the Department of State, in
 132 consultation with the council, so far as is consistent with the

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133 purposes, policies, and provisions of this section, in adopting,
134 amending, and repealing standards, shall consider:

135 1. Standards and practices of other jurisdictions.

136 2. The most recent standards adopted by national standard-
137 setting bodies, such as the Property Records Industry
138 Association.

139 3. The views of interested persons and governmental
140 officials and entities.

141 4. The needs of counties of varying size, population, and
142 resources.

143 5. Standards requiring adequate information security
144 protection to ensure that electronic documents are accurate,
145 authentic, adequately preserved, and resistant to tampering.

146 (6) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In
147 applying and construing this section, consideration must be
148 given to the need to promote uniformity of the law with respect
149 to its subject matter among states that enact it.

150 (7) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
151 NATIONAL COMMERCE ACT.--This section modifies, limits, and
152 supersedes the federal Electronic Signatures in Global and
153 National Commerce Act, 15 U.S.C. ss. 7001 et seq., but this
154 section does not modify, limit, or supersede s. 101(c) of that
155 act, 15 U.S.C. s. 7001(c), or authorize electronic delivery of
156 any of the notices described in s. 103(b) of that act, 15 U.S.C.
157 s. 7003(b).

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