

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 Council;
 9 requiring the department to make specific written findings
 10 if any of the council's recommendations are rejected;
 11 providing for membership and meetings of the council;
 12 providing that council members shall serve without
 13 compensation and may not claim per diem and travel
 14 expenses from the Secretary of State; providing guidelines
 15 for the department, in consultation with the council, to
 16 consider in adopting, amending, and repealing standards;
 17 providing for uniformity of application and construction;
 18 specifying the relation to a federal act; providing an
 19 effective date.

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

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

25 695.27 Uniform Real Property Electronic Recording Act.--
 26 (1) SHORT TITLE.--This section may be cited as the
 27 "Uniform Real Property Electronic Recording Act."

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

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

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

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

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

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

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

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

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

53 (g) "State" means a state of the United States, the
54 District of Columbia, Puerto Rico, the United States Virgin

55 Islands, or any territory or insular possession subject to the
56 jurisdiction of the United States.

57 (3) VALIDITY OF ELECTRONIC DOCUMENTS.--

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

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

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

73 (4) RECORDING OF DOCUMENTS.--

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

77 (b) A county recorder:

78 1. Who implements any of the functions listed in this
79 section shall do so in compliance with standards established by
80 rule by the Department of State.

81 2. May receive, index, store, archive, and transmit
82 electronic documents.

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

85 4. Who accepts electronic documents for recording shall
86 continue to accept paper documents as authorized by state law
87 and shall place entries for both types of documents in the same
88 index.

89 5. May convert paper documents accepted for recording into
90 electronic form.

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

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

98 (5) ADMINISTRATION AND STANDARDS.--

99 (a) The Department of State, by rule pursuant to ss.
100 120.536(1) and 120.54, shall prescribe standards to implement
101 this section in consultation with the Electronic Recording
102 Council, which is hereby created. The Secretary of State shall
103 provide administrative support to the council, appoint the
104 members of the council, and appoint the chair of the council.
105 The Department of State shall make specific written findings if
106 any of the council's recommendations are rejected. The council
107 shall consist of nine members, as follows:

108 1. Five clerks of circuit court or county recorders.

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

111 3. One banker who is a member of the Florida Bankers
112 Association.

113 4. One attorney who is a member of the Real Property,
114 Probate and Trust Law Section of The Florida Bar.

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

118 (c) The members of the council shall serve without
119 compensation and shall not claim per diem and travel expenses
120 from the Secretary of State.

121 (d) To keep the standards and practices of county
122 recorders in this state in harmony with the standards and
123 practices of recording offices in other jurisdictions that enact
124 substantially this section and to keep the technology used by
125 county recorders in this state compatible with technology used
126 by recording offices in other jurisdictions that enact
127 substantially this section, the Department of State, in
128 consultation with the council, so far as is consistent with the
129 purposes, policies, and provisions of this section, in adopting,
130 amending, and repealing standards, shall consider:

131 1. Standards and practices of other jurisdictions.

132 2. The most recent standards adopted by national standard-
133 setting bodies, such as the Property Records Industry
134 Association.

135 3. The views of interested persons and governmental
136 officials and entities.

137 4. The needs of counties of varying size, population, and
138 resources.

139 5. Standards requiring adequate information security
140 protection to ensure that electronic documents are accurate,
141 authentic, adequately preserved, and resistant to tampering.

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

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

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