

By Senator King

8-1215-07

See HB 747

1                                   A bill to be entitled

2           An act relating to real property electronic

3           recording; creating s. 695.27, F.S.; providing

4           a short title; providing definitions; providing

5           for the validity of electronic documents

6           relating to real property; providing for the

7           recording of electronic documents by the county

8           recorder; granting the Department of State

9           rulemaking authority; creating the Electronic

10          Recording Commission; providing the commission

11          with certain powers and duties; providing for

12          membership and meetings of the commission;

13          providing that commission members shall serve

14          without compensation and may not claim per diem

15          and travel expenses from the Secretary of

16          State; providing guidelines for the department,

17          in consultation with the commission, to

18          consider in adopting, amending, and repealing

19          standards; providing for uniformity of

20          application and construction; specifying the

21          relation to a federal act; providing an

22          effective date.

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

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

28           695.27 Florida Uniform Real Property Electronic  
29 Recording Act.--

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

1           (2) DEFINITIONS.--As used in this section:  
2           (a) "Document" means information that is:  
3           1. Inscribed on a tangible medium or that is stored in  
4 an electronic or other medium and is retrievable in  
5 perceivable form; and  
6           2. Eligible to be recorded in the Official Records, as  
7 defined in s. 28.222, and maintained by a county recorder.  
8           (b) "Electronic" means relating to technology having  
9 electrical, digital, magnetic, wireless, optical,  
10 electromagnetic, or similar capabilities.  
11           (c) "Electronic document" means a document that is  
12 received by a county recorder in an electronic form.  
13           (d) "Electronic signature" means an electronic sound,  
14 symbol, or process attached to or logically associated with a  
15 document such that, when recorded, is assigned the same  
16 document number or a consecutive page number immediately  
17 following such document and which is executed or adopted by a  
18 person with the intent to sign the document.  
19           (e) "Person" means an individual, corporation,  
20 business trust, estate, trust, partnership, limited liability  
21 company, association, joint venture, public corporation,  
22 government or governmental subdivision, agency,  
23 instrumentality, or any other legal or commercial entity.  
24           (f) "State" means a state of the United States, the  
25 District of Columbia, Puerto Rico, the United States Virgin  
26 Islands, or any territory or insular possession subject to the  
27 jurisdiction of the United States.  
28           (3) VALIDITY OF ELECTRONIC DOCUMENTS.--  
29           (a) If a law requires, as a condition for recording,  
30 that a document be an original, be on paper or another  
31 tangible medium, or be in writing, the requirement is

1 satisfied by an electronic document satisfying the  
2 requirements of this section.

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

6 (c) A requirement that a document or a signature  
7 associated with a document be notarized, acknowledged,  
8 verified, witnessed, or made under oath is satisfied if the  
9 electronic signature of the person authorized to perform that  
10 act, and all other information required to be included, is  
11 attached to or logically associated with the document or  
12 signature such that, when recorded, it is assigned the same  
13 document number or a consecutive page number immediately  
14 following such document. A physical or electronic image of a  
15 stamp, impression, or seal need not accompany an electronic  
16 signature.

17 (4) RECORDING OF DOCUMENTS.--

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

21 (b) A county recorder:

22 1. Who implements any of the functions listed in this  
23 section shall do so in compliance with standards established  
24 by rule by the Department of State.

25 2. May receive, index, store, archive, and transmit  
26 electronic documents.

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

29 4. Who accepts electronic documents for recording  
30 shall continue to accept paper documents as authorized by  
31

1 state law and shall place entries for both types of documents  
2 in the same index.

3 5. May convert paper documents accepted for recording  
4 into electronic form.

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

8 7. May accept electronically any fee or taxes that the  
9 county recorder is authorized to collect.

10 8. May agree with other officials of a state or a  
11 political subdivision thereof, or of the United States, on  
12 procedures or processes to facilitate the electronic  
13 satisfaction of prior approvals and conditions precedent to  
14 recording and the electronic payment of fees and taxes.

15 (5) ADMINISTRATION AND STANDARDS.--

16 (a) The Department of State, by rule pursuant to ss.  
17 120.536(1) and 120.54, shall prescribe standards to implement  
18 this section as developed by the Electronic Recording  
19 Commission, which is hereby created. In developing the  
20 standards, the commission may include requirements,  
21 restrictions, and limitations on persons who may file  
22 electronically to ensure the integrity of the documents  
23 recorded. The commission shall consist of nine members, as  
24 follows:

25 1. Five members appointed by the Florida Association  
26 of Court Clerks and Comptrollers.

27 2. One attorney appointed by the Real Property,  
28 Probate and Trust Law Section of The Florida Bar Association.

29 3. Two members appointed by the Florida Land Title  
30 Association.

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1           4. One member appointed by the Florida Bankers  
2 Association.

3           (b) Appointed members shall serve 2-year terms. All  
4 initial terms shall commence on the effective date of this  
5 act. Members shall serve until their successors are appointed.  
6 An appointing authority may reappoint a member for successive  
7 terms. A vacancy on the commission shall be filled in the same  
8 manner in which the original appointment was made, and the  
9 term shall be for the balance of the unexpired term.

10           (c) The first meeting of the commission shall be  
11 within 60 days of the effective date of this act. Thereafter,  
12 the commission shall meet at the call of the chair, but at  
13 least annually.

14           (d) The members of the council shall serve without  
15 compensation and shall not claim per diem and travel expenses  
16 from the Secretary of State.

17           (e) Standards developed by the commission shall be  
18 adopted by the Secretary of State and published in the Florida  
19 Administrative Code.

20           (f) To keep the standards and practices of county  
21 recorders in this state in harmony with the standards and  
22 practices of recording offices in other jurisdictions that  
23 enact substantially this section and to keep the technology  
24 used by county recorders in this state compatible with  
25 technology used by recording offices in other jurisdictions  
26 that enact substantially this section, the commission, so far  
27 as is consistent with the purposes, policies, and provisions  
28 of this section, in adopting, amending, and repealing  
29 standards, shall consider:

30           1. Standards and practices of other jurisdictions.  
31

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

4           3. The views of interested persons and governmental  
5 officials and entities.

6           4. The needs of counties of varying size, population,  
7 and resources.

8           5. Standards requiring adequate information security  
9 protection to ensure that electronic documents are accurate,  
10 authentic, adequately preserved, and resistant to tampering.

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

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

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