

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

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

9 (c) A requirement that a document or a signature
10 associated with a document be notarized, acknowledged,
11 verified, witnessed, or made under oath is satisfied if the
12 electronic signature of the person authorized to perform that
13 act, and all other information required to be included, is
14 attached to or logically associated with the document or
15 signature. A physical or electronic image of a stamp,
16 impression, or seal need not accompany an electronic
17 signature.

18 (4) RECORDING OF DOCUMENTS.--

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

22 (b) A county recorder:

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

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

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

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

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

13 (5) ADMINISTRATION AND STANDARDS.--

14 (a) The Department of State, by rule pursuant to ss.
15 120.536(1) and 120.54, shall prescribe standards to implement
16 this section in consultation with the Electronic Recording
17 Advisory Committee, which is hereby created. The Florida
18 Association of County Clerks and Comptrollers shall provide
19 administrative support to the committee and technical support
20 to the Department of State and the committee. The committee
21 shall consist of nine members, as follows:

22 1. Five members appointed by the Florida Association
23 of Court Clerks and Comptrollers.

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

26 3. Two members appointed by the Florida Land Title
27 Association.

28 4. One member appointed by the Florida Bankers
29 Association.

30 (b) Appointed members shall serve a 1-year term. All
31 initial terms shall commence on the effective date of this

1 act. Members shall serve until their successors are appointed.
2 An appointing authority may reappoint a member for successive
3 terms. A vacancy on the committee shall be filled in the same
4 manner in which the original appointment was made, and the
5 term shall be for the balance of the unexpired term.

6 (c) The first meeting of the committee shall be within
7 60 days of the effective date of this act. Thereafter, the
8 committee shall meet at the call of the chair, but at least
9 annually.

10 (d) The members of the committee shall serve without
11 compensation and shall not claim per diem and travel expenses
12 from the Secretary of State.

13 (e) To keep the standards and practices of county
14 recorders in this state in harmony with the standards and
15 practices of recording offices in other jurisdictions that
16 enact substantially this section and to keep the technology
17 used by county recorders in this state compatible with
18 technology used by recording offices in other jurisdictions
19 that enact substantially this section, the Department of
20 State, in consultation with the committee, so far as is
21 consistent with the purposes, policies, and provisions of this
22 section, in adopting, amending, and repealing standards, shall
23 consider:

24 1. Standards and practices of other jurisdictions.

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

28 3. The views of interested persons and governmental
29 officials and entities.

30 4. The needs of counties of varying size, population,
31 and resources.

1 5. Standards requiring adequate information security
2 protection to ensure that electronic documents are accurate,
3 authentic, adequately preserved, and resistant to tampering.

4 (f) The committee shall terminate on July 1, 2010.

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

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

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 2038

The committee substitute:

- Removes the language that an electronic signature, when recorded, must be assigned the same document number or a consecutive page number immediately following the document in order to satisfy the requirement that a document or signature be notarized, acknowledged, verified, witnessed, or made under oath.
- Removes the provision allowing a county recorder to accept electronically any fees or taxes that the county recorder is authorized to collect and makes conforming changes in that regard.
- Changes the Electronic Recording Commission to be the Electronic Recording Advisory Committee (Committee) and provides that the Department of State shall consult with the Committee in adopting standards to implement proposed s. 695.27, F.S.