

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 Commission;  
 9           providing the commission with certain powers and duties;  
 10          providing for membership and meetings of the commission;  
 11          providing that commission members shall serve without  
 12          compensation and may not claim per diem and travel  
 13          expenses from the Secretary of State; providing guidelines  
 14          for the department, in consultation with the commission,  
 15          to consider in adopting, amending, and repealing  
 16          standards; providing for uniformity of application and  
 17          construction; specifying the relation to a federal act;  
 18          providing an effective date.

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

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

24           695.27 Florida Uniform Real Property Electronic Recording  
 25 Act.--

26           (1) SHORT TITLE.--This section may be cited as the  
 27 "Florida 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 Official Records, as  
 34 defined in s. 28.222, and maintained by a county recorder.  
 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 such that, when recorded, is assigned the same document  
 43 number or a consecutive page number immediately following such  
 44 document and which is executed or adopted by a person with the  
 45 intent to sign the document.  
 46        (e) "Person" means an individual, corporation, business  
 47 trust, estate, trust, partnership, limited liability company,  
 48 association, joint venture, public corporation, government or  
 49 governmental subdivision, agency, instrumentality, or any other  
 50 legal or commercial entity.  
 51        (f) "State" means a state of the United States, the  
 52 District of Columbia, Puerto Rico, the United States Virgin  
 53 Islands, or any territory or insular possession subject to the  
 54 jurisdiction of the United States.  
 55        (3) VALIDITY OF ELECTRONIC DOCUMENTS.--  
 56            (a) If a law requires, as a condition for recording, that

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57 a document be an original, be on paper or another tangible  
58 medium, or be in writing, the requirement is satisfied by an  
59 electronic document satisfying the requirements of this section.

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

63 (c) A requirement that a document or a signature  
64 associated with a document be notarized, acknowledged, verified,  
65 witnessed, or made under oath is satisfied if the electronic  
66 signature of the person authorized to perform that act, and all  
67 other information required to be included, is attached to or  
68 logically associated with the document or signature such that,  
69 when recorded, it is assigned the same document number or a  
70 consecutive page number immediately following such document. A  
71 physical or electronic image of a stamp, impression, or seal  
72 need not 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.

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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 accept electronically any fee or taxes that the  
94 county recorder is authorized to collect.

95 8. May agree with other officials of a state or a  
96 political subdivision thereof, or of the United States, on  
97 procedures or processes to facilitate the electronic  
98 satisfaction of prior approvals and conditions precedent to  
99 recording and the electronic payment of fees and taxes.

100 (5) ADMINISTRATION AND STANDARDS.--

101 (a) The Department of State, by rule pursuant to ss.  
102 120.536(1) and 120.54, shall prescribe standards to implement  
103 this section as developed by the Electronic Recording  
104 Commission, which is hereby created. In developing the  
105 standards, the commission may include requirements,  
106 restrictions, and limitations on persons who may file  
107 electronically to ensure the integrity of the documents  
108 recorded. The commission shall consist of nine members, as  
109 follows:

110 1. Five members appointed by the Florida Association of  
111 Court Clerks and Comptrollers.

112 2. One attorney appointed by the Real Property, Probate

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113 and Trust Law Section of The Florida Bar Association.

114 3. Two members appointed by the Florida Land Title  
115 Association.

116 4. One member appointed by the Florida Bankers  
117 Association.

118 (b) Appointed members shall serve 2-year terms. All  
119 initial terms shall commence on the effective date of this act.  
120 Members shall serve until their successors are appointed. An  
121 appointing authority may reappoint a member for successive  
122 terms. A vacancy on the commission shall be filled in the same  
123 manner in which the original appointment was made, and the term  
124 shall be for the balance of the unexpired term.

125 (c) The first meeting of the commission shall be within 60  
126 days of the effective date of this act. Thereafter, the  
127 commission shall meet at the call of the chair, but at least  
128 annually.

129 (d) The members of the council shall serve without  
130 compensation and shall not claim per diem and travel expenses  
131 from the Secretary of State.

132 (e) Standards developed by the commission shall be adopted  
133 by the Secretary of State and published in the Florida  
134 Administrative Code.

135 (f) To keep the standards and practices of county  
136 recorders in this state in harmony with the standards and  
137 practices of recording offices in other jurisdictions that enact  
138 substantially this section and to keep the technology used by  
139 county recorders in this state compatible with technology used  
140 by recording offices in other jurisdictions that enact

141 substantially this section, the commission, so far as is  
 142 consistent with the purposes, policies, and provisions of this  
 143 section, in adopting, amending, and repealing standards, shall  
 144 consider:

- 145 1. Standards and practices of other jurisdictions.
- 146 2. The most recent standards adopted by national standard-  
 147 setting bodies, such as the Property Records Industry  
 148 Association.
- 149 3. The views of interested persons and governmental  
 150 officials and entities.
- 151 4. The needs of counties of varying size, population, and  
 152 resources.
- 153 5. Standards requiring adequate information security  
 154 protection to ensure that electronic documents are accurate,  
 155 authentic, adequately preserved, and resistant to tampering.

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

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

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