

1                                   A bill to be entitled  
 2           An act relating to electronic documents recorded in the  
 3           official records; amending s. 695.27, F.S.; providing for  
 4           the inclusion of an additional statute in the Uniform Real  
 5           Property Electronic Recording Act; delaying termination of  
 6           the Electronic Recording Advisory Committee; creating s.  
 7           695.28, F.S.; declaring that certain electronic documents  
 8           accepted for recordation are deemed validly recorded;  
 9           providing intent to clarify existing law; providing for  
 10          retroactive application; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

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 14           Section 1. Section 695.27, Florida Statutes, is amended to  
 15          read:

16           695.27 Uniform Real Property Electronic Recording Act.—

17           (1) SHORT TITLE.—This section and s. 695.28 may be cited  
 18          as the "Uniform Real Property Electronic Recording Act."

19           (2) DEFINITIONS.—As used in this section and s. 695.28:

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

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

24           2. Eligible to be recorded in the Official Records, as  
 25          defined in s. 28.222, and maintained by a county recorder.

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

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

31 (d) "Electronic signature" means an electronic sound,  
32 symbol, or process that is executed or adopted by a person with  
33 the intent to sign the document and is attached to or logically  
34 associated with a document such that, when recorded, it is  
35 assigned the same document number or a consecutive page number  
36 immediately following such document.

37 (e) "Person" means an individual, corporation, business  
38 trust, estate, trust, partnership, limited liability company,  
39 association, joint venture, public corporation, government or  
40 governmental subdivision, agency, instrumentality, or any other  
41 legal or commercial entity.

42 (f) "State" means a state of the United States, the  
43 District of Columbia, Puerto Rico, the United States Virgin  
44 Islands, or any territory or insular possession subject to the  
45 jurisdiction of the United States.

46 (3) VALIDITY OF ELECTRONIC DOCUMENTS.—

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

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

54 (c) A requirement that a document or a signature  
55 associated with a document be notarized, acknowledged, verified,  
56 witnessed, or made under oath is satisfied if the electronic

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57 | signature of the person authorized to perform that act, and all  
58 | other information required to be included, is attached to or  
59 | logically associated with the document or signature. A physical  
60 | or electronic image of a stamp, impression, or seal need not  
61 | accompany an electronic signature.

62 | (4) RECORDING OF DOCUMENTS.—

63 | (a) In this subsection, the term "paper document" means a  
64 | document that is received by the county recorder in a form that  
65 | is not electronic.

66 | (b) A county recorder:

67 | 1. Who implements any of the functions listed in this  
68 | section shall do so in compliance with standards established by  
69 | rule by the Department of State.

70 | 2. May receive, index, store, archive, and transmit  
71 | electronic documents.

72 | 3. May provide for access to, and for search and retrieval  
73 | of, documents and information by electronic means.

74 | 4. Who accepts electronic documents for recording shall  
75 | continue to accept paper documents as authorized by state law  
76 | and shall place entries for both types of documents in the same  
77 | index.

78 | 5. May convert paper documents accepted for recording into  
79 | electronic form.

80 | 6. May convert into electronic form information recorded  
81 | before the county recorder began to record electronic documents.

82 | 7. May agree with other officials of a state or a  
83 | political subdivision thereof, or of the United States, on  
84 | procedures or processes to facilitate the electronic

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85 satisfaction of prior approvals and conditions precedent to  
86 recording.

87 (5) ADMINISTRATION AND STANDARDS.—

88 (a) The Department of State, by rule pursuant to ss.  
89 120.536(1) and 120.54, shall prescribe standards to implement  
90 this section in consultation with the Electronic Recording  
91 Advisory Committee, which is hereby created. The Florida  
92 Association of Court Clerks and Comptrollers shall provide  
93 administrative support to the committee and technical support to  
94 the Department of State and the committee at no charge. The  
95 committee shall consist of nine members, as follows:

96 1. Five members appointed by the Florida Association of  
97 Court Clerks and Comptrollers, one of whom must be an official  
98 from a large urban charter county where the duty to maintain  
99 official records exists in a county office other than the clerk  
100 of court or comptroller.

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

103 3. Two members appointed by the Florida Land Title  
104 Association.

105 4. One member appointed by the Florida Bankers  
106 Association.

107 (b) Appointed members shall serve a 1-year term. All  
108 initial terms shall commence on the effective date of this act.  
109 Members shall serve until their successors are appointed. An  
110 appointing authority may reappoint a member for successive  
111 terms. A vacancy on the committee shall be filled in the same  
112 manner in which the original appointment was made, and the term

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113 shall be for the balance of the unexpired term.

114 (c) The first meeting of the committee shall be within 60  
115 days of the effective date of this act. Thereafter, the  
116 committee shall meet at the call of the chair, but at least  
117 annually.

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

121 (e) 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 committee, so far as is consistent with  
129 the purposes, policies, and provisions of this section, in  
130 adopting, 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 (f) The committee shall terminate on July 1, ~~2010~~ 2013.

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

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

155 Section 2. Section 695.28, Florida Statutes is created to  
 156 read:

157 695.28 Validity of recorded electronic documents.—

158 (1) A document that is otherwise entitled to be recorded  
 159 and that was or is submitted to the clerk of the court or county  
 160 recorder by electronic means and accepted for recordation is  
 161 deemed validly recorded and provides notice to all persons  
 162 notwithstanding:

163 (a) That the document was received and accepted for  
 164 recordation before the Department of State adopted standards  
 165 implementing s. 695.27; or

166 (b) Any defects in, deviations from, or the inability to  
 167 demonstrate strict compliance with any statute, rule, or  
 168 procedure to submit or record an electronic document in effect

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169 | at the time the electronic document was submitted for recording.

170 | (2) This section does not alter the duty of the clerk or  
171 | recorder to comply with s. 695.27 or rules adopted pursuant to  
172 | that section.

173 | Section 3. This act is intended to clarify existing law  
174 | and applies prospectively and retroactively.

175 | Section 4. This act shall take effect upon becoming a law.