

By Senator Negrón

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1 A bill to be entitled
2 An act relating to electronic documents recorded in
3 the official records; amending s. 695.27, F.S.;
4 providing for the inclusion of an additional statute
5 in the Uniform Real Property Electronic Recording Act;
6 creating s. 695.28, F.S.; declaring that certain
7 electronic documents accepted for recordation are
8 deemed validly recorded; providing intent to clarify
9 existing law; providing for retroactive application;
10 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 as
18 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.

29 (c) "Electronic document" means a document that is received

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30 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 a
48 document be an original, be on paper or another tangible medium,
49 or be in writing, the requirement is satisfied by an electronic
50 document satisfying the requirements of this section.

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

54 (c) A requirement that a document or a signature associated
55 with a document be notarized, acknowledged, verified, witnessed,
56 or made under oath is satisfied if the electronic signature of
57 the person authorized to perform that act, and all other
58 information required to be included, is attached to or logically

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59 associated with the document or signature. A physical or
60 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 political
83 subdivision thereof, or of the United States, on procedures or
84 processes to facilitate the electronic satisfaction of prior
85 approvals and conditions precedent to recording.

86 (5) ADMINISTRATION AND STANDARDS.—

87 (a) The Department of State, by rule pursuant to ss.

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

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

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

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

104 4. One member appointed by the Florida Bankers Association.

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

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

116 (d) The members of the committee shall serve without

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117 compensation and shall not claim per diem and travel expenses
118 from the Secretary of State.

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

- 129 1. Standards and practices of other jurisdictions.
- 130 2. The most recent standards adopted by national standard-
131 setting bodies, such as the Property Records Industry
132 Association.
- 133 3. The views of interested persons and governmental
134 officials and entities.
- 135 4. The needs of counties of varying size, population, and
136 resources.

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

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

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

145 (7) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND

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

153 Section 2. Section 695.28, Florida Statutes is created to
154 read:

155 695.28 Validity of recorded electronic documents.—

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

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

164 (b) Any defects in, deviations from, or the inability to
165 demonstrate strict compliance with any statute, rule, or
166 procedure to submit or record an electronic document in effect
167 at the time the electronic document was submitted for recording.

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

171 Section 3. This act is intended to clarify existing law and
172 applies prospectively and retroactively.

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