

By the Committee on Judiciary; and Senator Negron

590-03225-10

20101288c1

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           delaying the termination of the Electronic Recording  
7           Advisory Committee; creating s. 695.28, F.S.;  
8           declaring that certain electronic documents accepted  
9           for recordation are deemed validly recorded; providing  
10          intent to clarify existing law; providing for  
11          retroactive application; providing an effective date.  
12

13 Be It Enacted by the Legislature of the State of Florida:  
14

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

17           695.27 Uniform Real Property Electronic Recording Act.—

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

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

21           (a) “Document” means information that is:

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

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

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

590-03225-10

20101288c1

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

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

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

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

47 (3) VALIDITY OF ELECTRONIC DOCUMENTS.—

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

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

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

590-03225-10

20101288c1

59 information required to be included, is attached to or logically  
60 associated with the document or signature. A physical or  
61 electronic image of a stamp, impression, or seal need not  
62 accompany an electronic signature.

63 (4) RECORDING OF DOCUMENTS.—

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

67 (b) A county recorder:

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

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

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

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

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

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

83 7. May agree with other officials of a state or a political  
84 subdivision thereof, or of the United States, on procedures or  
85 processes to facilitate the electronic satisfaction of prior  
86 approvals and conditions precedent to recording.

87 (5) ADMINISTRATION AND STANDARDS.—

590-03225-10

20101288c1

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 and  
102 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 Association.

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

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

590-03225-10

20101288c1

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

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

130 1. Standards and practices of other jurisdictions.

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

134 3. The views of interested persons and governmental  
135 officials and entities.

136 4. The needs of counties of varying size, population, and  
137 resources.

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

141 (f) The committee shall terminate on July 1, 2013 ~~2010~~.

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

590-03225-10

20101288c1

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

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

156 695.28 Validity of recorded electronic documents.—

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

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

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

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

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

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