



Sen. John J. Cullerton

Filed: 5/22/2007

09500HB0830sam006

LRB095 05101 MJR 36798 a

1 AMENDMENT TO HOUSE BILL 830

2 AMENDMENT NO. _____. Amend House Bill 830, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Uniform Real Property Electronic Recording Act.

7 Section 2. Definitions. In this Act:

8 (1) "Document" means information that is:

9 (A) inscribed on a tangible medium or that is
10 stored in an electronic or other medium and is
11 retrievable in perceivable form; and

12 (B) eligible to be recorded in the land records
13 maintained by the county recorder.

14 (2) "Electronic" means relating to technology having
15 electrical, digital, magnetic, wireless, optical,
16 electromagnetic, or similar capabilities.

1 (3) "Electronic document" means a document that is
2 received by the recorder in an electronic form.

3 (4) "Electronic signature" means an electronic sound,
4 symbol, or process attached to or logically associated with
5 a document and executed or adopted by a person with the
6 intent to sign the document.

7 (5) "Person" means an individual, corporation,
8 business trust, estate, trust, partnership, limited
9 liability company, association, joint venture, public
10 corporation, government, or governmental subdivision,
11 agency, or instrumentality, or any other legal or
12 commercial entity.

13 (6) "State" means a state of the United States, the
14 District of Columbia, Puerto Rico, the United States Virgin
15 Islands, or any territory or insular possession subject to
16 the jurisdiction of the United States.

17 (7) "Secretary" means the Secretary of State.

18 (8) "Commission" means the Illinois Electronic
19 Recording Commission.

20 Any notifications required by this Act must be made in
21 writing and may be communicated by certified mail, return
22 receipt requested or electronic mail so long as receipt is
23 verified.

24 Section 3. Validity of electronic documents.

25 (a) If a law requires, as a condition for recording, that a

1 document be an original, be on paper or another tangible
2 medium, or be in writing, the requirement is satisfied by an
3 electronic document satisfying this Act.

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

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

15 Section 4. Recording of documents.

16 (a) In this Section, "paper document" means a document that
17 is received by the county recorder in a form that is not
18 electronic.

19 (b) A county recorder:

20 (1) who implements any of the functions listed in this
21 Section shall do so in compliance with standards
22 established by the Illinois Electronic Recording
23 Commission and must follow the procedures of the Local
24 Records Act before destroying any original paper records as
25 part of a conversion process into an electronic or other

1 format.

2 (2) may receive, index, store, archive, and transmit
3 electronic documents.

4 (3) may provide for access to, and for search and
5 retrieval of, documents and information by electronic
6 means, including the Internet, and on approval by the
7 county recorder of the form and amount, the county board
8 may adopt a fee for document detail or image retrieval on
9 the Internet.

10 (4) who accepts electronic documents for recording
11 shall continue to accept paper documents as authorized by
12 State law and shall place entries for both types of
13 documents in the same index.

14 (5) may convert paper documents accepted for recording
15 into electronic form.

16 (6) may convert into electronic form information
17 recorded before the county recorder began to record
18 electronic documents.

19 (7) may accept electronically any fee or tax that the
20 county recorder is authorized to collect.

21 (8) may agree with other officials of a state or a
22 political subdivision thereof, or of the United States, on
23 procedures or processes to facilitate the electronic
24 satisfaction of prior approvals and conditions precedent
25 to recording and the electronic payment of fees and taxes.

1 Section 5. Administration and standards.

2 (a) To adopt standards to implement this Act, there is
3 established, within the Office of the Secretary of State, the
4 Illinois Electronic Recording Commission consisting of 15
5 commissioners as follows:

6 (1) The Secretary of State or the Secretary's designee
7 shall be a permanent commissioner.

8 (2) The Secretary of State shall appoint the following
9 additional 14 commissioners:

10 (A) Three who are from the land title profession.

11 (B) Three who are from lending institutions.

12 (C) One who is an attorney.

13 (D) Seven who are county recorders, no more than 4
14 of whom are from one political party, representative of
15 counties of varying size, geography, population, and
16 resources.

17 (3) On the effective date of this Act, the Secretary of
18 State or the Secretary's designee shall become the Acting
19 Chairperson of the Commission. The Secretary shall appoint
20 the initial commissioners within 60 days and hold the first
21 meeting of the Commission within 120 days, notifying
22 commissioners of the time and place of the first meeting
23 with at least 14 days' notice. At its first meeting the
24 Commission shall adopt, by a majority vote, such rules and
25 structure that it deems necessary to govern its operations,
26 including the title, responsibilities, and election of

1 officers. Once adopted, the rules and structure may be
2 altered or amended by the Commission by majority vote. Upon
3 the election of officers and adoption of rules or by-laws,
4 the duties of the Acting Chairperson shall cease.

5 (4) The Commission shall meet at least once every year
6 within the State of Illinois. The time and place of
7 meetings to be determined by the Chairperson and approved
8 by a majority of the Commission.

9 (5) Eight commissioners shall constitute a quorum.

10 (6) Commissioners shall receive no compensation for
11 their services but may be reimbursed for reasonable
12 expenses at current rates in effect at the Office of the
13 Secretary of State, directly related to their duties as
14 commissioners and participation at Commission meetings or
15 while on business or at meetings which have been authorized
16 by the Commission.

17 (7) Appointed commissioners shall serve terms of 3
18 years, which shall expire on December 1st. Five of the
19 initially appointed commissioners, including at least 2
20 county recorders, shall serve terms of one year, 5 of the
21 initially appointed commissioners, including at least 2
22 county recorders, shall serve terms of 2 years, and 4 of
23 the initially appointed commissioners shall serve terms of
24 3 years, to be determined by lot. The calculation of the
25 terms in office of the initially appointed commissioners
26 shall begin on the first December 1st after the

1 commissioners have served at least 6 months in office.

2 (8) The Chairperson shall declare a commissioner's
3 office vacant immediately after receipt of a written
4 resignation, death, a recorder commissioner no longer
5 holding the public office, or under other circumstances
6 specified within the rules adopted by the Commission, which
7 shall also by rule specify how and by what deadlines a
8 replacement is to be appointed.

9 (b) The Commission shall adopt and transmit to the
10 Secretary of State standards to implement this Act and shall be
11 the exclusive entity to set standards for counties to engage in
12 electronic recording in the State of Illinois.

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

22 (1) standards and practices of other jurisdictions;

23 (2) the most recent standards promulgated by national
24 standard-setting bodies, such as the Property Records
25 Industry Association;

26 (3) the views of interested persons and governmental

1 officials and entities;

2 (4) the needs of counties of varying size, population,
3 and resources; and

4 (5) standards requiring adequate information security
5 protection to ensure that electronic documents are
6 accurate, authentic, adequately preserved, and resistant
7 to tampering.

8 (d) The Commission shall review the statutes related to
9 real property and the statutes related to recording real
10 property documents and shall recommend to the General Assembly
11 any changes in the statutes that the Commission deems necessary
12 or advisable.

13 (e) Funding. The Secretary of State may accept for the
14 Commission, for any of its purposes and functions, donations,
15 gifts, grants, and appropriations of money, equipment,
16 supplies, materials, and services from the federal government,
17 the State or any of its departments or agencies, a county or
18 municipality, or from any institution, person, firm, or
19 corporation. The Commission may authorize a fee payable by
20 counties engaged in electronic recording to fund its expenses.
21 Any fee shall be proportional based on county population or
22 number of documents recorded annually. On approval by a county
23 recorder of the form and amount, a county board may authorize
24 payment of any fee out of the special fund it has created to
25 fund document storage and electronic retrieval, as authorized
26 in Section 3-5018 of the Counties Code. Any funds received by

1 the Office of the Secretary of State for the Commission shall
2 be used entirely for expenses approved by and for the use of
3 the Commission.

4 (f) The Secretary of State shall provide administrative
5 support to the Commission, including the preparation of the
6 agenda and minutes for Commission meetings, distribution of
7 notices and proposed rules to commissioners, payment of bills
8 and reimbursement for expenses of commissioners.

9 (g) Standards and rules adopted by the Commission shall be
10 delivered to the Secretary of State. Within 60 days, the
11 Secretary shall either promulgate by rule the standards
12 adopted, amended, or repealed or return them to the Commission,
13 with findings, for changes. The Commission may override the
14 Secretary by a three-fifths vote, in which case the Secretary
15 shall publish the Commission's standards.

16 Section 6. (Blank).

17 Section 7. Relation to Electronic Signatures in Global and
18 National Commerce Act. This Act modifies, limits, and
19 supersedes the federal Electronic Signatures in Global and
20 National Commerce Act (15 U.S.C. Section 7001, et seq.) but
21 does not modify, limit, or supersede Section 101(c) of that Act
22 (15 U.S.C. Section 7001(c)) or authorize electronic delivery of
23 any of the notices described in Section 103(b) of that Act (15
24 U.S.C. Section 7003(b)).

1 Section 90. The Credit Agreements Act is amended by
2 changing Section 2 as follows:

3 (815 ILCS 160/2) (from Ch. 17, par. 7102)

4 Sec. 2. Credit agreements to be in writing.

5 (a) A debtor may not maintain an action on or in any way
6 related to a credit agreement unless the credit agreement is in
7 writing, expresses an agreement or commitment to lend money or
8 extend credit or delay or forbear repayment of money, sets
9 forth the relevant terms and conditions, and is signed by the
10 creditor and the debtor.

11 (b) This Section shall not constitute a defense to a claim
12 that arises out of bad faith conduct intended to unjustly
13 benefit a creditor or a third party. Mere failure by a creditor
14 to enter into a credit agreement with or to provide a written
15 commitment to a debtor, without more, shall not constitute bad
16 faith under this Section.

17 (c) By enacting this amendatory Act of the 95th General
18 Assembly, it is the intent of the General Assembly to make
19 explicit the original meaning of Section 2 of the Credit
20 Agreements Act. See Machinery Transports of Illinois v. Morton
21 Community Bank, 293 Ill.App.3d 207 (3rd Dist. 1997).

22 (d) This amendatory Act of the 95th General Assembly
23 applies to pending actions as well as actions commenced on or
24 after its effective date.

1 (Source: P.A. 86-613.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law."