

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 Section 2. Definitions. In this Act:

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

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

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

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

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

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

22 (5) "Person" means an individual, corporation,
23 business trust, estate, trust, partnership, limited

1 liability company, association, joint venture, public
2 corporation, government, or governmental subdivision,
3 agency, or instrumentality, or any other legal or
4 commercial entity.

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

9 (7) "Department" means the Illinois Department of
10 Financial and Professional Regulation.

11 (8) "Secretary" means the Secretary of the Illinois
12 Department of Financial and Professional Regulation.

13 (9) "Commission" means the Illinois Electronic
14 Recording Commission.

15 Any notifications required by this Act must be made in
16 writing and may be communicated by certified mail, return
17 receipt requested or electronic mail so long as receipt is
18 verified.

19 Section 3. Validity of electronic documents.

20 (a) If a law requires, as a condition for recording, that a
21 document be an original, be on paper or another tangible
22 medium, or be in writing, the requirement is satisfied by an
23 electronic document satisfying this Act.

24 (b) If a law requires, as a condition for recording, that a
25 document be signed, the requirement is satisfied by an

1 electronic signature.

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

10 Section 4. Recording of documents.

11 (a) In this Section, "paper document" means a document that
12 is received by the county recorder in a form that is not
13 electronic.

14 (b) A county recorder:

15 (1) who implements any of the functions listed in this
16 Section shall do so in compliance with standards
17 established by the Illinois Electronic Recording
18 Commission.

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

21 (3) may provide for access to, and for search and
22 retrieval of, documents and information by electronic
23 means, including the Internet, and on approval by the
24 county recorder of the form and amount, the county board
25 may adopt a fee for document detail or image retrieval on

1 the Internet.

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

6 (5) may convert paper documents accepted for recording
7 into electronic form.

8 (6) may convert into electronic form information
9 recorded before the county recorder began to record
10 electronic documents.

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

13 (8) may agree with other officials of a state or a
14 political subdivision thereof, or of the United States, on
15 procedures or processes to facilitate the electronic
16 satisfaction of prior approvals and conditions precedent
17 to recording and the electronic payment of fees and taxes.

18 Section 5. Administration and standards.

19 (a) To adopt standards to implement this Act, there is
20 established as an autonomous entity within the Department of
21 Financial and Professional Regulation, the Illinois Electronic
22 Recording Commission, consisting of 9 commissioners as
23 follows:

24 (1) Members of the Illinois Association of County
25 Clerks and Recorders (IACCR), who are elected officials,

1 shall appoint: 5 who are county recorders representative of
2 counties of varying size, population, and resources; one
3 from recommendations by the Illinois Land Title
4 Association; one who is an attorney practicing real
5 property law from recommendations by the Illinois State Bar
6 Association; and one from recommendations by the Illinois
7 Mortgage Bankers Association.

8 (2) The Secretary of Financial and Professional
9 Regulation or the Secretary's designee.

10 (3) In the event that any of the recommending or
11 appointing associations named in paragraph (1) no longer
12 represent a majority of the members of their profession,
13 the Commission may, by majority vote, substitute a
14 different association which represents a greater plurality
15 of the same profession.

16 (b) The Commission shall be organized under the following
17 rules:

18 (1) Upon this Act becoming law, the President of the
19 Illinois Association of County Clerks and Recorders
20 (IACCR), or his or her designee, shall become Acting
21 Chairperson of the Commission and within 30 days solicit
22 appointments to the Commission by the IACCR and
23 recommendations for appointments from the associations.

24 (2) Upon receiving notification of a minimum 6
25 appointments to the Commission, the Acting Chairperson
26 shall set a place and time for the first meeting of the

1 Commission, which shall take place within 75 days of this
2 Act becoming law. At its first meeting the Commission shall
3 adopt, by a majority vote, such rules and structure that it
4 deems necessary to govern its operations, including the
5 title, responsibilities and election of permanent
6 officers. Once adopted, the rules and structure may be
7 altered or amended by the Commission by majority vote. Upon
8 the election of officers and adoption of rules or bylaws,
9 the duties of the Acting Chairperson shall cease.

10 (3) The Commission shall meet at least once every year
11 within the State of Illinois. The time and place of
12 meetings to be determined by the Chairperson and approved
13 by a majority of the Commission.

14 (4) Six commissioners shall constitute a quorum.

15 (5) Commissioners shall receive no compensation for
16 their services but may be reimbursed for reasonable
17 expenses at current rates in effect at the Department,
18 directly related to their duties as commissioners and
19 participation at Commission meetings or while on business
20 or at meetings which have been authorized by the
21 Commission.

22 (6) Commissioners shall serve terms of 3 years, which
23 shall expire on December 1st. Three commissioners first
24 taking office, including at least one county recorder,
25 shall serve terms of one year, and 3 commissioners
26 including at least 2 recorders, shall serve terms of 2

1 years, to be determined by lot. The calculation of the
2 terms in office of the first commissioners shall begin on
3 the first December 1st after commissioners have served at
4 least 6 months in office. The Commission Chairperson shall
5 notify the Secretary of the name, address, and related
6 affiliation, if any, of a commissioner within 30 days after
7 the appointment.

8 (7) The Chairperson shall declare a commissioner's
9 office vacant immediately after receipt of a written
10 resignation, death, or under other circumstances specified
11 within the rules adopted by the Commission, which shall
12 also by rule specify how and by what deadlines a
13 replacement is to be appointed.

14 (c) The Commission shall adopt and publish standards to
15 implement this Act and shall be the exclusive entity to set
16 standards for counties to engage in electronic recording in the
17 State of Illinois.

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

- 1 (1) standards and practices of other jurisdictions;
- 2 (2) the most recent standards promulgated by national
3 standard-setting bodies, such as the Property Records
4 Industry Association;
- 5 (3) the views of interested persons and governmental
6 officials and entities;
- 7 (4) the needs of counties of varying size, population,
8 and resources, and;
- 9 (5) standards requiring adequate information security
10 protection to ensure that electronic documents are
11 accurate, authentic, adequately preserved, and resistant
12 to tampering.
- 13 (e) The Commission shall review the statutes related to
14 real property and the statutes related to recording real
15 property documents and shall recommend to the General Assembly
16 any changes in the statutes that the Commission deems necessary
17 or advisable.
- 18 (f) Funding: The Department may accept for the Commission,
19 for any of its purposes and functions, donations, gifts,
20 grants, and appropriations of money, equipment, supplies,
21 materials, and services from the federal government, the State
22 or any of its departments or agencies, a county or
23 municipality, or from any institution, person, firm, or
24 corporation. The Commission may authorize a fee payable by
25 counties engaged in electronic recording to fund its expenses.
26 Any fee shall be proportional based on county population or

1 number of documents recorded annually. On approval by a county
2 recorder of the form and amount, a county board may authorize
3 payment of any fee out of the special fund it has created to
4 fund document storage and electronic retrieval, as authorized
5 in Section 3-5018 of the Counties Code. Any funds received by
6 the Department for the Commission shall be used entirely for
7 expenses approved by and for the use of the Commission.

8 (g) The Department shall provide administrative support to
9 the Commission, including the preparation of the agenda and
10 minutes for Commission meetings, distribution of notices and
11 proposed rules to commissioners, payment of bills and
12 reimbursement for expenses of commissioners.

13 (h) Subject to review and approval of the Commission, the
14 Department shall promulgate by rule the standards adopted,
15 amended, or repealed by the Commission under this Act.

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 8. Effective date. This Act takes effect upon
2 becoming law.