

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) "Secretary" means the Secretary of State.

10 (8) "Commission" means the Illinois Electronic
11 Recording Commission.

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

16 Section 3. Validity of electronic documents.

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

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

24 (c) A requirement that a document or a signature associated
25 with a document be notarized, acknowledged, verified,

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

7 Section 4. Recording of documents.

8 (a) In this Section, "paper document" means a document that
9 is received by the county recorder in a form that is not
10 electronic.

11 (b) A county recorder:

12 (1) who implements any of the functions listed in this
13 Section shall do so in compliance with standards
14 established by the Illinois Electronic Recording
15 Commission and must follow the procedures of the Local
16 Records Act before destroying any original paper records as
17 part of a conversion process into an electronic or other
18 format.

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, within the Office of the Secretary of State, the
21 Illinois Electronic Recording Commission consisting of 15
22 commissioners as follows:

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

25 (2) The Secretary of State shall appoint the following

1 additional 14 commissioners:

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

3 (B) Three who are from lending institutions.

4 (C) One who is an attorney.

5 (D) Seven who are county recorders, no more than 4
6 of whom are from one political party, representative of
7 counties of varying size, geography, population, and
8 resources.

9 (3) On the effective date of this Act, the Secretary of
10 State or the Secretary's designee shall become the Acting
11 Chairperson of the Commission. The Secretary shall appoint
12 the initial commissioners within 60 days and hold the first
13 meeting of the Commission within 120 days, notifying
14 commissioners of the time and place of the first meeting
15 with at least 14 days' notice. At its first meeting the
16 Commission shall adopt, by a majority vote, such rules and
17 structure that it deems necessary to govern its operations,
18 including the title, responsibilities, and election of
19 officers. Once adopted, the rules and structure may be
20 altered or amended by the Commission by majority vote. Upon
21 the election of officers and adoption of rules or bylaws,
22 the duties of the Acting Chairperson shall cease.

23 (4) The Commission shall meet at least once every year
24 within the State of Illinois. The time and place of
25 meetings to be determined by the Chairperson and approved
26 by a majority of the Commission.

1 (5) Eight commissioners shall constitute a quorum.

2 (6) Commissioners shall receive no compensation for
3 their services but may be reimbursed for reasonable
4 expenses at current rates in effect at the Office of the
5 Secretary of State, directly related to their duties as
6 commissioners and participation at Commission meetings or
7 while on business or at meetings which have been authorized
8 by the Commission.

9 (7) Appointed commissioners shall serve terms of 3
10 years, which shall expire on December 1st. Five of the
11 initially appointed commissioners, including at least 2
12 county recorders, shall serve terms of one year, 5 of the
13 initially appointed commissioners, including at least 2
14 county recorders, shall serve terms of 2 years, and 4 of
15 the initially appointed commissioners shall serve terms of
16 3 years, to be determined by lot. The calculation of the
17 terms in office of the initially appointed commissioners
18 shall begin on the first December 1st after the
19 commissioners have served at least 6 months in office.

20 (8) The Chairperson shall declare a commissioner's
21 office vacant immediately after receipt of a written
22 resignation, death, a recorder commissioner no longer
23 holding the public office, or under other circumstances
24 specified within the rules adopted by the Commission, which
25 shall also by rule specify how and by what deadlines a
26 replacement is to be appointed.

1 (c) The Commission shall adopt and transmit to the
2 Secretary of State standards to implement this Act and shall be
3 the exclusive entity to set standards for counties to engage in
4 electronic recording in the State of Illinois.

5 (d) To keep the standards and practices of county recorders
6 in this State in harmony with the standards and practices of
7 recording offices in other jurisdictions that enact
8 substantially this Act and to keep the technology used by
9 county recorders in this State compatible with technology used
10 by recording offices in other jurisdictions that enact
11 substantially this Act, the Commission, so far as is consistent
12 with the purposes, policies, and provisions of this Act, in
13 adopting, amending, and repealing standards shall consider:

14 (1) standards and practices of other jurisdictions;

15 (2) the most recent standards promulgated by national
16 standard-setting bodies, such as the Property Records
17 Industry Association;

18 (3) the views of interested persons and governmental
19 officials and entities;

20 (4) the needs of counties of varying size, population,
21 and resources; and

22 (5) standards requiring adequate information security
23 protection to ensure that electronic documents are
24 accurate, authentic, adequately preserved, and resistant
25 to tampering.

26 (e) The Commission shall review the statutes related to

1 real property and the statutes related to recording real
2 property documents and shall recommend to the General Assembly
3 any changes in the statutes that the Commission deems necessary
4 or advisable.

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

22 (g) The Secretary of State shall provide administrative
23 support to the Commission, including the preparation of the
24 agenda and minutes for Commission meetings, distribution of
25 notices and proposed rules to commissioners, payment of bills
26 and reimbursement for expenses of commissioners.

1 (h) Standards and rules adopted by the Commission shall be
2 delivered to the Secretary of State. Within 60 days, the
3 Secretary shall either promulgate by rule the standards
4 adopted, amended, or repealed or return them to the Commission,
5 with findings, for changes. The Commission may override the
6 Secretary by a three-fifths vote, in which case the Secretary
7 shall publish the Commission's standards.

8 Section 6. (Blank).

9 Section 7. Relation to Electronic Signatures in Global and
10 National Commerce Act. This Act modifies, limits, and
11 supersedes the federal Electronic Signatures in Global and
12 National Commerce Act (15 U.S.C. Section 7001, et seq.) but
13 does not modify, limit, or supersede Section 101(c) of that Act
14 (15 U.S.C. Section 7001(c)) or authorize electronic delivery of
15 any of the notices described in Section 103(b) of that Act (15
16 U.S.C. Section 7003(b)).

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.