

Act No. 123
Public Acts of 2010
Approved by the Governor
July 19, 2010
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July 19, 2010
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**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Senator Van Woerkom

ENROLLED SENATE BILL No. 791

AN ACT to create the uniform real property electronic recording act; and to create an electronic recording commission and provide for its powers and duties.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the “uniform real property electronic recording act”.

Sec. 2. As used in this act:

(a) “Commission” means the electronic recording commission created in section 5.

(b) “Document” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, and that is eligible to be recorded in the land records maintained by the county register of deeds.

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

(d) “Electronic document” means a document that is received by the county register of deeds in an electronic form.

(e) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(f) “Paper document” means a document that is received by the county register of deeds in a form that is not electronic.

(g) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

Sec. 3. (1) If a law requires as a condition for recording that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document.

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

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

(4) This section does not require that a register of deeds accept electronic documents for recording.

Sec. 4. (1) A county register of deeds who implements any of the functions listed in subsection (2) shall do so in compliance with any standards established by the electronic recording commission.

(2) A county register of deeds may do any of the following:

(a) Receive, index, store, archive, and transmit electronic documents.

(b) Provide for access to, and for search and retrieval of, documents and information by electronic means.

(c) Convert paper documents accepted for recording into electronic form.

(d) Convert into electronic form information recorded before the county register of deeds began to record electronic documents.

(e) Accept electronically any fee or tax that the county register of deeds is authorized to collect.

(f) Agree with other officials of a state or a political subdivision of a state, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees or taxes.

(3) A county register of deeds who accepts electronic documents for recording shall continue to accept paper documents for recording as authorized by state law. The county register of deeds shall place entries for both types of documents in the same index.

(4) This act does not invalidate electronic documents recorded under this act, the uniform electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849, or the federal electronic signatures in global and national commerce act, 15 USC 7001 to 7031, before the establishment of standards under this act by the electronic recording commission.

Sec. 5. (1) Effective January 1, 2011, an electronic recording commission is created within the department of technology, management, and budget. The commission consists of 8 members, as follows:

(a) The director of the department of technology, management, and budget or his or her designee, who shall be a nonvoting member.

(b) Seven members appointed by the governor, as follows:

(i) Four shall be county registers of deeds.

(ii) One shall be an individual who is engaged in the land title profession.

(iii) One shall be an individual who is engaged in the business of banking.

(iv) One shall be an individual who is an attorney licensed to practice law in this state and whose practice emphasizes real property matters.

(2) The appointed members of the commission shall serve for terms of 2 years or until a successor is appointed, whichever is later, except that of the members first appointed 3 shall serve for 1 year, 2 shall serve for 2 years, and 2 shall serve for 3 years.

(3) If a vacancy occurs on the commission, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.

(4) The governor may remove an appointed member of the commission for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(5) The first meeting of the commission shall be called by the director of the department of technology, management, and budget. At the first meeting, the commission shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the commission shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 5 or more members.

(6) A majority of the members of the commission constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members present and serving are required for official action of the commission.

(7) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Members of the commission shall serve without compensation. However, members of the commission may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the commission.

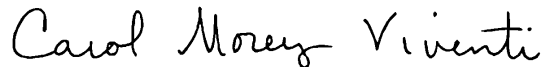
(10) The commission shall adopt standards to implement this act. To keep the standards and practices of county registers of deeds in this state in harmony with the standards and practices of offices of county registers of deeds in other jurisdictions that enact substantially this act, and to keep the technology used by county registers of deeds in this state compatible with technology used by offices of county registers of deeds in other jurisdictions that enact substantially this act, the commission, so far as is consistent with the purposes, policies, and provisions of this act, in adopting, amending, and repealing standards, shall consider all of the following:

- (a) Standards and practices of other jurisdictions.
- (b) The most recent standards promulgated by national standard-setting bodies, such as the property records industry association.
- (c) The views of interested persons and governmental officials and entities.
- (d) The needs of counties of varying size, population, and resources.
- (e) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

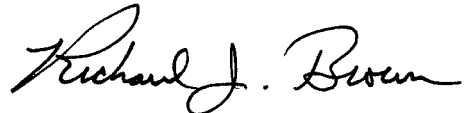
Sec. 6. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 7. This act modifies, limits, and supersedes the federal electronic signatures in global and national commerce act, 15 USC 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 USC 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 USC 7003(b).

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor