



Filed: 5/23/2007

09500SB0319ham001

LRB095 10815 AJ0 36184 a

1 AMENDMENT TO SENATE BILL 319

2 AMENDMENT NO. _____. Amend Senate Bill 319 by replacing
3 everything after the enacting clause with the following:

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

1 received by the recorder in an electronic form.

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

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

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

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

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

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

23 Section 3. Validity of electronic documents.

24 (a) If a law requires, as a condition for recording, that a
25 document be an original, be on paper or another tangible

1 medium, or be in writing, the requirement is satisfied by an
2 electronic document satisfying this Act.

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

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

14 Section 4. Recording of documents.

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

18 (b) A county recorder:

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

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

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

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

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

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

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

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

25 Section 5. Administration and standards.

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

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

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

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

10 (B) Three who are from lending institutions.

11 (C) One who is an attorney.

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

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

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

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

8 (5) Eight commissioners shall constitute a quorum.

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

16 (7) Appointed commissioners shall serve terms of 3
17 years, which shall expire on December 1st. Five of the
18 initially appointed commissioners, including at least 2
19 county recorders, shall serve terms of one year, 5 of the
20 initially appointed commissioners, including at least 2
21 county recorders, shall serve terms of 2 years, and 4 of
22 the initially appointed commissioners shall serve terms of
23 3 years, to be determined by lot. The calculation of the
24 terms in office of the initially appointed commissioners
25 shall begin on the first December 1st after the
26 commissioners have served at least 6 months in office.

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

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

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

21 (1) standards and practices of other jurisdictions;

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

25 (3) the views of interested persons and governmental
26 officials and entities;

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

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

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

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

1 be used entirely for expenses approved by and for the use of
2 the Commission.

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

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

15 Section 6. (Blank).

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

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