



Sen. William R. Haine

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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) "Department" means the Illinois Department of
17 Financial and Professional Regulation.

18 (8) "Secretary" means the Secretary of the Illinois
19 Department of Financial and Professional Regulation.

20 (9) "Commission" means the Illinois Electronic
21 Recording Commission.

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

1 Section 3. Validity of electronic documents.

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

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

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

17 Section 4. Recording of documents.

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

21 (b) A county recorder:

22 (1) who implements any of the functions listed in this
23 Section shall do so in compliance with standards
24 established by the Illinois Electronic Recording
25 Commission.

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 as an autonomous entity within the Department of
3 Financial and Professional Regulation, the Illinois Electronic
4 Recording Commission, consisting of 9 commissioners as
5 follows:

6 (1) Members of the Illinois Association of County
7 Clerks and Recorders (IACCR), who are elected officials,
8 shall appoint: 5 who are county recorders representative of
9 counties of varying size, population, and resources; one
10 from recommendations by the Illinois Land Title
11 Association; one who is an attorney practicing real
12 property law from recommendations by the Illinois State Bar
13 Association; and one from recommendations by the Illinois
14 Mortgage Bankers Association.

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

17 (3) In the event that any of the recommending or
18 appointing associations named in paragraph (1) no longer
19 represent a majority of the members of their profession,
20 the Commission may, by majority vote, substitute a
21 different association which represents a greater plurality
22 of the same profession.

23 (b) The Commission shall be organized under the following
24 rules:

25 (1) Upon this Act becoming law, the President of the
26 Illinois Association of County Clerks and Recorders

1 (IACCR), or his or her designee, shall become Acting
2 Chairperson of the Commission and within 30 days solicit
3 appointments to the Commission by the IACCR and
4 recommendations for appointments from the associations.

5 (2) Upon receiving notification of a minimum 6
6 appointments to the Commission, the Acting Chairperson
7 shall set a place and time for the first meeting of the
8 Commission, which shall take place within 75 days of this
9 Act becoming law. At its first meeting the Commission shall
10 adopt, by a majority vote, such rules and structure that it
11 deems necessary to govern its operations, including the
12 title, responsibilities and election of permanent
13 officers. Once adopted, the rules and structure may be
14 altered or amended by the Commission by majority vote. Upon
15 the election of officers and adoption of rules or by-laws,
16 the duties of the Acting Chairperson shall cease.

17 (3) The Commission shall meet at least once every year
18 within the State of Illinois. The time and place of
19 meetings to be determined by the Chairperson and approved
20 by a majority of the Commission.

21 (4) Six commissioners shall constitute a quorum.

22 (5) Commissioners shall receive no compensation for
23 their services but may be reimbursed for reasonable
24 expenses at current rates in effect at the Department,
25 directly related to their duties as commissioners and
26 participation at Commission meetings or while on business

1 or at meetings which have been authorized by the
2 Commission.

3 (6) Commissioners shall serve terms of 3 years, which
4 shall expire on December 1st. Three commissioners first
5 taking office, including at least one county recorder,
6 shall serve terms of one year, and 3 commissioners
7 including at least 2 recorders, shall serve terms of 2
8 years, to be determined by lot. The calculation of the
9 terms in office of the first commissioners shall begin on
10 the first December 1st after commissioners have served at
11 least 6 months in office. The Commission Chairperson shall
12 notify the Secretary of the name, address, and related
13 affiliation, if any, of a commissioner within 30 days after
14 the appointment.

15 (7) The Chairperson shall declare a commissioner's
16 office vacant immediately after receipt of a written
17 resignation, death, or under other circumstances specified
18 within the rules adopted by the Commission, which shall
19 also by rule specify how and by what deadlines a
20 replacement is to be appointed.

21 (c) The Commission shall adopt and publish standards to
22 implement this Act and shall be the exclusive entity to set
23 standards for counties to engage in electronic recording in the
24 State of Illinois.

25 (d) To keep the standards and practices of county recorders
26 in this State in harmony with the standards and practices of

1 recording offices in other jurisdictions that enact
2 substantially this Act and to keep the technology used by
3 county recorders in this State compatible with technology used
4 by recording offices in other jurisdictions that enact
5 substantially this Act, the Commission, so far as is consistent
6 with the purposes, policies, and provisions of this Act, in
7 adopting, amending, and repealing standards shall consider:

8 (1) standards and practices of other jurisdictions;

9 (2) the most recent standards promulgated by national
10 standard-setting bodies, such as the Property Records
11 Industry Association;

12 (3) the views of interested persons and governmental
13 officials and entities;

14 (4) the needs of counties of varying size, population,
15 and resources, and;

16 (5) standards requiring adequate information security
17 protection to ensure that electronic documents are
18 accurate, authentic, adequately preserved, and resistant
19 to tampering.

20 (e) The Commission shall review the statutes related to
21 real property and the statutes related to recording real
22 property documents and shall recommend to the General Assembly
23 any changes in the statutes that the Commission deems necessary
24 or advisable.

25 (f) Funding: The Department may accept for the Commission,
26 for any of its purposes and functions, donations, gifts,

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

15 (g) The Department shall provide administrative support to
16 the Commission, including the preparation of the agenda and
17 minutes for Commission meetings, distribution of notices and
18 proposed rules to commissioners, payment of bills and
19 reimbursement for expenses of commissioners.

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

23 Section 6. (Blank).

24 Section 7. Relation to Electronic Signatures in Global and

1 National Commerce Act. This Act modifies, limits, and
2 supersedes the federal Electronic Signatures in Global and
3 National Commerce Act (15 U.S.C. Section 7001, et seq.) but
4 does not modify, limit, or supersede Section 101(c) of that Act
5 (15 U.S.C. Section 7001(c)) or authorize electronic delivery of
6 any of the notices described in Section 103(b) of that Act (15
7 U.S.C. Section 7003(b)).

8 Section 8. Effective date. This Act takes effect upon
9 becoming law."