

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 791

A bill 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:

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

3 Sec. 2. As used in this act:

4 (a) "Commission" means the electronic recording commission
5 created in section 5.

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

1 deeds.

2 (c) "Electronic" means relating to technology having
3 electrical, digital, magnetic, wireless, optical, electromagnetic,
4 or similar capabilities.

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

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

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

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

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

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

25 (3) A requirement that a document or a signature associated
26 with a document be notarized, acknowledged, verified, witnessed, or
27 made under oath is satisfied if the electronic signature of the

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

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

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

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

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

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

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

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

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

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

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

6 (4) This act does not invalidate electronic documents recorded
7 under this act, the uniform electronic transactions act, 2000 PA
8 305, MCL 450.831 to 450.849, or the federal electronic signatures
9 in global and national commerce act, 15 USC 7001 to 7031, before
10 the establishment of standards under this act by the electronic
11 recording commission.

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

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

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

19 (i) Four shall be county registers of deeds.

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

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

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

27 (2) The appointed members of the commission shall serve for

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

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

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

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

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

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

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

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

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

16 (a) Standards and practices of other jurisdictions.

17 (b) The most recent standards promulgated by national
18 standard-setting bodies, such as the property records industry
19 association.

20 (c) The views of interested persons and governmental officials
21 and entities.

22 (d) The needs of counties of varying size, population, and
23 resources.

24 (e) Standards requiring adequate information security
25 protection to ensure that electronic documents are accurate,
26 authentic, adequately preserved, and resistant to tampering.

27 Sec. 6. In applying and construing this uniform act,

1 consideration must be given to the need to promote uniformity of
2 the law with respect to its subject matter among states that enact
3 it.

4 Sec. 7. This act modifies, limits, and supersedes the federal
5 electronic signatures in global and national commerce act, 15 USC
6 7001, et seq., but does not modify, limit, or supersede section
7 101(c) of that act, 15 USC 7001(c), or authorize electronic
8 delivery of any of the notices described in section 103(b) of that
9 act, 15 USC 7003(b).