

# SENATE BILL No. 791

September 9, 2009, Introduced by Senator VAN WOERKOM and referred to the Committee on Local, Urban and State Affairs.

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

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

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

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

14       (c) Continue to accept paper documents for recording as  
15 authorized by state law while also accepting electronic documents  
16 for recording. The county register of deeds shall place entries for  
17 both types of documents in the same index.

18       (d) Convert paper documents accepted for recording into  
19 electronic form.

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

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

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

1 payment of fees or taxes.

2           Sec. 5. (1) An electronic recording commission is created  
3 within the department of information technology. The commission  
4 consists of 7 members, as follows:

5           (a) The director of the department of information technology  
6 or his or her designee.

7           (b) Six members appointed by the governor, 3 of whom shall be  
8 county registers of deeds and 3 of whom shall be individuals who  
9 are engaged in the land title profession.

10           (2) The appointed members of the commission shall serve for  
11 terms of 2 years or until a successor is appointed, whichever is  
12 later, except that of the members first appointed 2 shall serve for  
13 1 year, 2 shall serve for 2 years, and 2 shall serve for 3 years.

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

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

20           (5) The first meeting of the commission shall be called by the  
21 director of the department of information technology. At the first  
22 meeting, the commission shall elect from among its members a  
23 chairperson and other officers as it considers necessary or  
24 appropriate. After the first meeting, the commission shall meet at  
25 least quarterly, or more frequently at the call of the chairperson  
26 or if requested by 4 or more members.

27           (6) A majority of the members of the commission constitute a

1 quorum for the transaction of business at a meeting of the  
2 commission. A majority of the members present and serving are  
3 required for official action of the commission.

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

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

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

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

26 (a) Standards and practices of other jurisdictions.

27 (b) The most recent standards promulgated by national

1 standard-setting bodies, such as the property records industry  
2 association.

3 (c) The views of interested persons and governmental officials  
4 and entities.

5 (d) The needs of counties of varying size, population, and  
6 resources.

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

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

14 Sec. 7. This act modifies, limits, and supersedes the federal  
15 electronic signatures in global and national commerce act, 15 USC  
16 7001, et seq., but does not modify, limit, or supersede section  
17 101(c) of that act, 15 USC 7001(c), or authorize electronic  
18 delivery of any of the notices described in section 103(b) of that  
19 act, 15 USC 7003(b).