



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 970

PRINTERS NO. 3493

PRIME SPONSOR: Longietti

COST / (SAVINGS)

FUND	FY 2011/12	FY 2012/13
General Fund	\$0	Minimal
County Funds	\$0	\$0

SUMMARY: Creates the Uniform Real Property Electronic Recording Act. This legislation would take effect immediately and would sunset the January 1 of the fourth year following enactment.

ANALYSIS: This legislation provides for the validity of electronic documents; grants powers and duties to county recorders of deeds regarding electronic documents; establishes the Electronic Recording Commission; and requires the Commission to adopt administrative regulations for implementation.

If a law requires, as a condition for recording, that a document be an original or be in writing, the requirement is satisfied by an electronic document that complies with the provisions of this bill. Likewise, a requirement that a document be signed is satisfied by an electronic signature.

A requirement that a document or signature be notarized, acknowledged, verified, witnessed or made under oath is satisfied if:

- the electronic signature of the person authorized to perform the act, and all other information required to be included, is attached to or logically associated with the document or signature;
- the act comports with the requirements of Sections 1, 3, and 5 of the Electronic Transactions Act; and
- with respect to notarizations, the act comports with the Notary Public Law, as it pertains to electronic notarization, acknowledgement and verification.

Specifies County Recorder of Deeds powers and duties:

- A recorder who implements any of the functions in this section must do so in compliance with standards established by the Electronic Recording Commission.
- A recorder may receive, index, store, archive and transmit electronic documents.

- A recorder may provide electronic access (and a means for electronic search and retrieval) to documents and information. The recorder must continue to accept nonelectronic documents as authorized by state law and shall place entries for both types of documents in the same index.
- A recorder may convert nonelectronic paper documents accepted for recording into electronic form.
- A recorder may convert into electronic form information recorded before the recorder began to record electronic documents.
- A recorder may accept any authorized fee or tax electronically.
- A recorder may agree with other officials of a state or a political subdivision of a state, or of the United States, concerning procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

Establishes that the Electronic Recording Commission is within the Pennsylvania Department of State (DOS). In order to provide adequate administrative support to the Commission, DOS may enter into cooperative agreements with other organizations. Policy determinations made by the Commission regarding the implementation of this legislation are not subject to review or approval by DOS.

The Commission will consist of the following 13 members:

- Two members appointed by the President pro tempore of the Senate
- Two members appointed by the Minority Leader of the Senate
- Two members appointed by the Speaker of the House
- Two members appointed by the Minority Leader of the House

(One appointee for each caucus must be a sitting recorder for a county of the first through fourth class, and one must be a sitting recorder for a county of the fifth through eighth class.)

- Five members appointed by the Governor from a nomination list provided to him by each of the following entities:
 - PA Historical and Museum Commission
 - PA Association of Notaries
 - PA Land Title Association
 - PA Bankers Association
 - PA Department of State

Each member of the Commission is appointed for a three-year term. However, for the initial appointment, the legislative caucuses shall each appoint one member for a one-year term and one member for a two-year term. Vacancies on the Commission are filled in the same manner as the original appointment. The chair of the Commission is elected by the Commission and must be a recorder. The Department of State is required to provide office space, resources and personnel to assist the Commission in carrying out its responsibilities.

The Commission will adopt standards to implement the bill in the form of administrative regulations. This legislation will not impair the validity of electronic documents and signatures utilized prior to the effective date of standards adopted, if the electronic documents and signatures comport with the requirements of Sections 1, 3, and 5 of the Electronic Transactions Act and the Notary Public Law, as it pertains to electronic notarization, acknowledgement and verification.

To keep the standards, practices and technology of recorders in Pennsylvania in harmony with those of recording offices in other jurisdictions, the Commission shall do all of the following:

- Consult with electronic recording commissions in other states.
- Consider the most recent standards promulgated by the Property Records Industry Association or its successor organization.
- Consider the standards, practices and technology used by other states.
- Consider the views of interested persons for the purpose of obtaining guidance and assuring uniformity.
- Consider the needs of counties of varying size, population and resources.
- Provide for adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved and resistant to tampering.

The Commission will promulgate initial standards, in the form of temporary regulations (which shall not be effective for more than two years), and this rulemaking shall be exempt from:

- Sections 201-205 of the Commonwealth Documents Law
- 204(b) and 301(10) of the Commonwealth Attorneys Act
- The Regulatory Review Act

The Commission will promulgate permanent regulations in accordance with law. Likewise, standards issued by the Commission will supersede standards, policies and procedures of these entities.

The powers and duties of the following entities may not be exercised in a manner that is inconsistent with the powers and duties of the Commission:

- The County and Local Government Records Committees under Act 250 of 1949 (Recording and Copying of Political Subdivision Records)
- An officer of a first-class county or city under Act 311 of 1949 (Authorizing Records to be Copied)

This legislation modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, but does not modify, limit or supersede Section 101(c) of the Act (related to consumer disclosures) or authorize electronic delivery of any of the notices (court orders, utility shutoffs, mortgage foreclosures, health/life insurance cancellation, product recalls) described in Section 103(b).

Nothing in this bill shall be construed to repeal any of the following:

- Section 5 of Act 36 of 1875 (Indexes of Deeds)
- Section 10 of Act 53 of 1909 (Format and Language of Deeds)
- Section 3 of Act 40 of 1931 (Written Agreements Pertaining to Real Property)
- The Uniform Parcel Identifier Law (Act 1 of 1988)

The following acts and parts of acts are repealed insofar as they prohibit electronic filing of satisfaction pieces:

- Sections 3 and 7 of Act 392 of 1955 (Satisfaction of Mortgages in First Class Cities/Counties)
- Section 4 of Act 382 of 1961 (Satisfaction of Mortgages in Second-Eighth Class Counties)
- The Mortgage Satisfaction Act (Act 197 of 2002)

FISCAL IMPACT: The Department of State has indicated that the President of the Pennsylvania Recorder of Deeds Association (PRODA) has committed their organization to providing administrative support services to the Electronics Recording Commission.

In their commitment letter, PRODA has offered to assist in offsetting such expenses of the Board members by hosting a meeting at their annual convention, providing scheduling for meetings, and distributing agendas and minutes via email to all members. The President of PRODA also states that with the approval of the body, the organization will cover its members' travel costs who are Commission members. The letter also states that to further reduce Commission member expenses, the use of telephone conferencing and electronic meeting services provided by the Department are expected to be utilized for many or most of the meetings. Therefore, enactment of this legislation would a minimal fiscal impact, at best, on Commonwealth funds.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: June 29, 2011

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.