

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 970 Session of 2011

INTRODUCED BY LONGIETTI, CALTAGIRONE, D. COSTA, DEASY, FLECK, GIBBONS, GINGRICH, HALUSKA, HENNESSEY, KOTIK, MARSHALL, MIRABITO, MURT, M. O'BRIEN, REICHLEY, K. SMITH, WHITE AND DALEY, MARCH 8, 2011

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 8, 2011

AN ACT

1 Providing for the validity of electronic documents; authorizing
2 county recorders of deeds to receive electronic documents as
3 a means for recording real property; granting powers and
4 duties to the county recorders of deeds; establishing the
5 Electronic Recording Commission; and prescribing standards of
6 uniformity.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Uniform Real
11 Property Electronic Recording Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Commission." The Electronic Recording Commission
17 established in section 5.

18 "Department." The Department of ~~Community and Economic~~





1 ~~Development~~ STATE of the Commonwealth.

2 "Document." Information that is:

3 (1) inscribed on a tangible medium or that is stored in
4 an electronic or other medium and is retrievable in
5 perceivable form; and

6 (2) eligible to be recorded in the land records
7 maintained by the recorder.

8 "Electronic." As defined under section 103 of the act of
9 December 16, 1999 (P.L.971, No.69), known as the Electronic
10 Transactions Act.

11 "Electronic document." A document that is received by the
12 recorder in an electronic form.

13 "Electronic signature." As defined under section 103 of the
14 act of December 16, 1999 (P.L.971, No.69), known as the
15 Electronic Transactions Act.

16 "Nonelectronic document." A document that is received by the
17 recorder in a form that is not electronic, including a document
18 on paper or microfilm.

19 "Person." Includes any of the following:

20 (1) A corporation.

21 (2) A partnership.

22 (3) A limited liability company.

23 (4) A business trust.

24 (5) An association.

25 (6) A government entity, including the Commonwealth.

26 (7) An estate.

27 (8) A trust.

28 (9) A foundation.

29 (10) An individual.

30 "Recorder." A county recorder of deeds, or a county official

1 responsible for the recordation of documents in counties without
2 recorders of deeds.

3 "State." A state of the United States, the District of
4 Columbia, Puerto Rico, the Virgin Islands or any territory or
5 insular possession subject to the jurisdiction of the United
6 States.

7 Section 3. Validity of electronic documents.

8 (a) Requirement for original.--If a law requires, as a
9 condition for recording, that a document be an original, either
10 on paper or another tangible medium, or be in writing, the
11 requirement is satisfied by an electronic document that complies
12 with the provisions of this act.

13 (b) Signature.--If a law requires, as a condition for
14 recording, that a document be signed, the requirement is
15 satisfied by an electronic signature.

16 (c) Notarization.--The following shall apply:

17 (1) A requirement that a document or a signature
18 associated with a document be notarized, acknowledged,
19 verified, witnessed or made under oath is satisfied if:

20 (i) The electronic signature of the person
21 authorized to perform that act, and all other information
22 required to be included, is attached to or logically
23 associated with the document or signature.

24 (ii) The act comports with the requirements of
25 Chapters 1, 3 and 5 of the act of December 16, 1999
26 (P.L.971, No.69), known as the Electronic Transactions
27 Act.

28 (iii) With respect to notarizations, the act
29 comports with the requirements and procedures of the act
30 of August 21, 1953 (P.L.1323, No.373), known as The

1 Notary Public Law, pertaining to electronic notarization,
2 acknowledgment and verification.

3 (2) A physical or electronic image of a stamp,
4 impression or seal need not accompany an electronic
5 signature.

6 (d) Record retention.--This act does not preclude the
7 Pennsylvania Historical and Museum Commission from specifying
8 additional requirements for retention of a record subject to the
9 commission's jurisdiction, including the requirement that the
10 recorder retain a record in a nonelectronic form.

11 Section 4. Recording of documents.

12 (a) Recorder powers and duties.--

13 (1) A recorder who implements any of the functions
14 listed in this section shall do so in compliance with
15 standards established by the commission.

16 (2) A recorder may receive, index, store, archive and
17 transmit electronic documents. A recorder who accepts
18 electronic documents for recording shall index the documents
19 in compliance with standards established by the commission.

20 (3) A recorder may provide for access to, and for search
21 and retrieval of, documents and information by electronic
22 means. A recorder who accepts electronic documents for
23 recording shall continue to accept nonelectronic documents as
24 authorized by State law and shall place entries for both
25 types of documents in the same index.

26 (4) A recorder may convert nonelectronic paper documents
27 accepted for recording into electronic form.

28 (5) A recorder may convert into electronic form
29 information recorded before the recorder began to record
30 electronic documents.

1 (6) A recorder may accept electronically any fee or tax
2 that the recorder is authorized to collect by any reasonable
3 method of payment, including electronic payment.

4 (7) A recorder may agree with other officials of a state
5 or a political subdivision of a state, or of the United
6 States, concerning procedures or processes to facilitate the
7 electronic satisfaction of prior approvals and conditions
8 precedent to recording and the electronic payment of fees and
9 taxes.

10 (b) No requirement.--This act does not require a recorder to
11 accept and record electronic documents.

12 Section 5. Commission.

13 (a) Establishment; administration of act.

14 (1) The Electronic Recording Commission is established
15 as an administrative board within the department. The
16 department shall supply adequate administrative support to
17 the commission in accordance with section 214 of the act of
18 April 9, 1929 (P.L.177, No.175), known as The Administrative
19 Code of 1929, including personnel, office space and any other
20 assistance required by the commission to carry out its duties
21 under this act. Policy determinations regarding the
22 implementation of this act shall be made by the commission
23 and shall not be subject to review or approval by the
24 department.

25 (2) The commission shall administer this act.

26 (b) Membership.--The commission shall consist of the
27 following members:

28 (1) Eight members shall be appointed as follows:

29 (i) The President pro tempore of the Senate shall
30 appoint two members. One member under this subparagraph

1 must be a sitting recorder serving in a county of the
2 first class through fourth class, and one member under
3 this subparagraph must be a sitting recorder serving in a
4 county of the fifth class through eighth class.

5 (ii) The Minority Leader of the Senate shall appoint
6 two members. One member under this subparagraph must be a
7 sitting recorder serving in a county of the first class
8 through fourth class, and one member under this
9 subparagraph must be a sitting recorder serving in a
10 county of the fifth class through eighth class.

11 (iii) The Speaker of the House of Representatives
12 shall appoint two members. One member under this
13 subparagraph must be a sitting recorder serving in a
14 county of the first class through fourth class, and one
15 member under this subparagraph must be a sitting recorder
16 serving in a county of the fifth class through eighth
17 class.

18 (iv) The Minority Leader of the House of
19 Representatives shall appoint two members. One member
20 under this subparagraph must be a sitting recorder
21 serving in a county of the first class through fourth
22 class, and one member under this subparagraph must be a
23 sitting recorder serving in a county of the fifth class
24 through eighth class.

25 (2) The Governor shall appoint five members, one from
26 and representing each of the following entities from a
27 nomination list containing a minimum of four nominees
28 provided to the Governor by each entity, as follows:

29 (i) The Pennsylvania Historical and Museum
30 Commission.



- 1 (ii) The ~~Department of State~~ DEPARTMENT.
- 2 (iii) The Pennsylvania Association of Notaries.
- 3 (iv) The Pennsylvania Land Title Association.
- 4 (v) The Pennsylvania Bankers Association.

5 (c) Terms.--

6 (1) Except as set forth in paragraph (2), each member
7 shall serve a three-year term.

8 (2) For initial terms under subsection (b)(1), each
9 appointing authority shall make one appointment for a one-
10 year term and one appointment for a two-year term.

11 (d) Vacancies.--A vacancy in membership shall be filled in
12 the same manner as the original appointment.

13 (e) Chair.--

14 (1) A member of the commission who is a recorder shall
15 annually be elected by the members of the commission to serve
16 as chair of the commission.

17 (2) A member of the commission may be elected chair of
18 the commission more than once.

19 (3) Should the chair of the commission leave the
20 commission or resign as chair, a member of the commission who
21 is a recorder shall be elected by the members of the
22 commission to complete the chair's annual term.

23 (f) Compensation.--Members of the commission shall not
24 receive compensation, but shall be reimbursed for reasonable
25 expenses incurred in performing official duties.

26 (g) Department.--The department shall provide office space,
27 resources and personnel to assist the commission in carrying out
28 its responsibilities.

29 Section 6. Administration and standards.

30 (a) Standards for implementation.--The commission shall

1 adopt standards to implement this act in the form of
2 administrative regulations. This act shall not impair the
3 validity of electronic documents and electronic signatures
4 utilized prior to the effective date of the standards adopted
5 under this subsection, except that such electronic documents or
6 electronic signatures shall comport with:

7 (1) Chapters 1, 3 and 5 of the act of December 16, 1999
8 (P.L.971, No.69), known as the Electronic Transactions Act.

9 (2) With respect to notarizations, the requirements and
10 procedures of the act of August 21, 1953 (P.L.1323, No.373),
11 known as The Notary Public Law, pertaining to electronic
12 notarization, acknowledgment and verification.

13 (b) Manner of formulating standards.--To keep the standards
14 and practices of recording offices in this Commonwealth in
15 harmony with the standards and practices of recording offices in
16 other jurisdictions that enact substantially this act and to
17 keep the technology used by recorders in this Commonwealth
18 compatible with technology used by recording offices in other
19 jurisdictions that enact substantially this act, the commission,
20 so far as is consistent with the purposes, policies and
21 provisions of this act, in adopting, amending and repealing
22 standards, shall do all of the following:

23 (1) Consult with electronic recording commissions in
24 other states.

25 (2) Consider the most recent standards promulgated by
26 the Property Records Industry Association or any successor
27 organization.

28 (3) Consider the standards and practices of and the
29 technology used by the other states.

30 (4) Consider the views of interested persons for the

1 purposes of obtaining guidance and assuring uniformity.

2 (5) Consider the needs of counties of varying size,
3 population and resources.

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

7 (c) Procedure.--

8 (1) Initial standards under this section shall be
9 promulgated as temporary regulations, in accordance with the
10 following:

11 (i) The rulemaking shall be exempt from all of the
12 following:

13 (A) Sections 201, 202, 203, 204 and 205 of the
14 act of July 31, 1968 (P.L.769, No.240), referred to
15 as the Commonwealth Documents Law.

16 (B) Sections 204(b) and 301(10) of the act of
17 October 15, 1980 (P.L.950, No.164), known as the
18 Commonwealth Attorneys Act.

19 (C) The act of June 25, 1982 (P.L.633, No.181),
20 known as the Regulatory Review Act.

21 (ii) The temporary regulations shall not be
22 effective for more than two years.

23 (2) The commission shall promulgate permanent
24 regulations in accordance with law.

25 (d) Conflict.--

26 (1) The powers and duties of the following may not be
27 exercised in a manner which is inconsistent with the powers
28 and duties exercised by the commission under this section:

29 (i) The county and Local Government Records
30 Committees under the act of May 9, 1949 (P.L.908,

1 No.250), entitled, as amended, "An act relating to public
2 records of political subdivisions other than cities and
3 counties of the first class; authorizing the recording
4 and copying of documents, plats, papers and instruments
5 of writing by digital, photostatic, photographic,
6 microfilm or other process, and the admissibility thereof
7 and enlargements thereof in evidence; providing for the
8 storage of duplicates and sale of microfilm and digital
9 copies of official records and for the destruction of
10 other records deemed valueless; and providing for the
11 services of the Pennsylvania Historical and Museum
12 Commission to political subdivisions."

13 (ii) An officer of a county of the first class or of
14 a city of the first class under the act of May 11, 1949
15 (P.L.1076, No.311), entitled, as amended, "An act
16 authorizing the recording, copying and recopying, of
17 documents, plats, papers, written instruments, records
18 and books on file or of record, and the replacement and
19 certification of originals previously filed and of
20 record, by officers of counties of the first class and of
21 cities of the first class, by photostatic, photographic,
22 microphotographic, microfilm, or other mechanical
23 process; relating to the effect and use of such copies,
24 records, reproductions, replacements and transcripts, or
25 certified copies thereof; providing for a recording fee
26 and its use; and providing for revision of and entries to
27 be made on originals and copies so produced or replaced."

28 (2) Standards under this section shall supersede
29 standards, policies and procedures of the persons listed in
30 paragraph (1) to the extent of any inconsistency.

1 Section 7. Construction of act.

2 As far as practicable, the commission shall administer this
3 act so as to promote uniformity of the law with respect to its
4 subject matter among states that enact it.

5 Section 8. Relation to Electronic Signatures in Global and
6 National Commerce Act.

7 Under the authority granted by section 102 of the Electronic
8 Signatures in Global and National Commerce Act (Public Law
9 106-229, 15 U.S.C. § 7002), this act modifies, limits and
10 supersedes the Electronic Signatures in Global and National
11 Commerce Act but does not modify, limit or supersede section
12 101(c) of the Electronic Signatures in Global and National
13 Commerce Act (15 U.S.C. § 7001(c)) or authorize electronic
14 delivery of any of the notices described in section 103(b) of
15 the Electronic Signatures in Global and National Commerce Act
16 (15 U.S.C. § 7003(b)).

17 Section 9. Savings provision.

18 Nothing in this act shall be construed to repeal any of the
19 following acts or parts of acts:

20 (1) Section 5 of the act of March 18, 1875 (P.L.32,
21 No.36), entitled "An act requiring recorders of deeds to
22 prepare and keep in their respective offices general, direct
23 and ad sectum indexes of deeds and mortgages recorded
24 therein, prescribing the duty of said recorders and declaring
25 that the entries in said general indexes shall be notice to
26 all persons."

27 (2) Section 10 of the act of April 1, 1909 (P.L.91,
28 No.53), entitled "An act relating to deeds for conveying or
29 releasing lands, construing words and phrases used therein,
30 and prescribing a form of deed and acknowledgment which may

1 be used for conveying or releasing lands."

2 (3) Section 3 of the act of April 24, 1931 (P.L.48,
3 No.40), entitled "An act requiring the recording of certain
4 written agreements pertaining to real property, and
5 prescribing the effect thereof as to subsequent purchasers,
6 mortgagees, and judgment creditors of the parties thereto."

7 (4) The act of January 15, 1988 (P.L.1, No.1), known as
8 the Uniform Parcel Identifier Law.

9 Section 10. Repeal.

10 (a) Specific.--The following acts and parts of acts are
11 repealed insofar as they prohibit electronic filing of
12 satisfaction pieces allowed by this act:

13 (1) Sections 3 and 7 of the act of March 15, 1956 (1955
14 P.L.1280, No.392), entitled "An act relating to the
15 satisfaction of mortgages in cities and counties of the first
16 class by the recording of a satisfaction piece, prescribing
17 forms therefor, and fixing the fees thereof."

18 (2) Section 4 of the act of July 26, 1961 (P.L.887,
19 No.382), entitled, as amended, "An act relating to the
20 satisfaction of mortgages in counties of the second, second
21 A, third, fourth, fifth, sixth, seventh and eighth class by
22 the recording of a satisfaction piece, prescribing forms
23 therefor, and fixing fees for the recording thereof."

24 (3) The act of December 9, 2002 (P.L.1530, No.197),
25 known as the Mortgage Satisfaction Act.

26 (b) General.--All acts and parts of acts are repealed
27 insofar as they are inconsistent with this act.

28 Section 11. Effective date.

29 This act shall take effect immediately.