

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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, DECEMBER 13, 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 State of the Commonwealth.

1 "Document." Information that is:

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

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

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

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

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

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

18 "Person." Includes any of the following:

- 19 (1) A corporation.
- 20 (2) A partnership.
- 21 (3) A limited liability company.
- 22 (4) A business trust.
- 23 (5) An association.
- 24 (6) A government entity, including the Commonwealth.
- 25 (7) An estate.
- 26 (8) A trust.
- 27 (9) A foundation.
- 28 (10) An individual.

29 "Recorder." A county recorder of deeds, or a county official  
30 responsible for the recordation of documents in counties without

1 recorders of deeds.

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

6 Section 3. Validity of electronic documents.

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

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

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

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

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

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

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

1 acknowledgment and verification.

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

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

10 Section 4. Recording of documents.

11 (a) Recorder powers and duties.--

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

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

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

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

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

30 (6) A recorder may accept electronically any fee or tax

1 that the recorder is authorized to collect by any reasonable  
2 method of payment, including electronic payment.

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

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

11 (C) JURISDICTION.--RECORDING OR CAUSING A DOCUMENT TO BE  
12 RECORDED PURSUANT TO THIS ACT, EITHER DIRECTLY OR THROUGH AN  
13 AGENT, SHALL CONSTITUTE TRANSACTING BUSINESS IN THIS  
14 COMMONWEALTH FOR PURPOSES OF EMPOWERING A TRIBUNAL OF THIS  
15 COMMONWEALTH TO EXERCISE PERSONAL JURISDICTION OVER A PERSON,  
16 INCLUDING AN AGENT, AND AUTHORIZING SERVICE OF PROCESS OUTSIDE  
17 OF THIS COMMONWEALTH PURSUANT TO 42 PA.C.S. § 5322 (RELATING TO  
18 BASES OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE THIS  
19 COMMONWEALTH).

20 Section 5. Commission.

21 (a) Establishment; administration of act.

22 (1) The Electronic Recording Commission is established  
23 as an administrative board within the department. The  
24 department shall supply adequate administrative support to  
25 the commission in accordance with section 214 of the act of  
26 April 9, 1929 (P.L.177, No.175), known as The Administrative  
27 Code of 1929, including personnel, office space and any other  
28 assistance required by the commission to carry out its duties  
29 under this act. Policy determinations regarding the  
30 implementation of this act shall be made by the commission

1 and shall not be subject to review or approval by the  
2 department.

3 (2) The commission shall administer this act.

4 (b) Membership.--The commission shall consist of the  
5 following members:

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

7 (i) The President pro tempore of the Senate shall  
8 appoint two members. One member under this subparagraph  
9 must be a sitting recorder serving in a county of the  
10 first class through fourth class, and one member under  
11 this subparagraph must be a sitting recorder serving in a  
12 county of the fifth class through eighth class.

13 (ii) The Minority Leader of the Senate shall appoint  
14 two members. One member under this subparagraph must be a  
15 sitting recorder serving in a county of the first class  
16 through fourth class, and one member under this  
17 subparagraph must be a sitting recorder serving in a  
18 county of the fifth class through eighth class.

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

26 (iv) The Minority Leader of the House of  
27 Representatives shall appoint two members. One member  
28 under this subparagraph must be a sitting recorder  
29 serving in a county of the first class through fourth  
30 class, and one member under this subparagraph must be a

1 sitting recorder serving in a county of the fifth class  
2 through eighth class.

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

7 (i) The Pennsylvania Historical and Museum  
8 Commission.

9 (ii) The department.

10 (iii) The Pennsylvania Association of Notaries.

11 (iv) The Pennsylvania Land Title Association.

12 (v) The Pennsylvania Bankers Association.

13 (c) Terms.--

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

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

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

21 (e) Chair.--

22 (1) A member of the commission who is a recorder shall  
23 annually be elected by the members of the commission to serve  
24 as chair of the commission.

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

27 (3) Should the chair of the commission leave the  
28 commission or resign as chair, a member of the commission who  
29 is a recorder shall be elected by the members of the  
30 commission to complete the chair's annual term.

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

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

7 Section 6. Administration and standards.

8 (a) Standards for implementation.--The commission shall  
9 adopt standards to implement this act in the form of  
10 administrative regulations. This act shall not impair the  
11 validity of electronic documents and electronic signatures  
12 utilized prior to the effective date of the standards adopted  
13 under this subsection, except that such electronic documents or  
14 electronic signatures shall comport with:

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

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

21 (b) Manner of formulating standards.--To keep the standards  
22 and practices of recording offices in this Commonwealth in  
23 harmony with the standards and practices of recording offices in  
24 other jurisdictions that enact substantially this act and to  
25 keep the technology used by recorders in this Commonwealth  
26 compatible with technology used by recording offices in other  
27 jurisdictions that enact substantially this act, the commission,  
28 so far as is consistent with the purposes, policies and  
29 provisions of this act, in adopting, amending and repealing  
30 standards, shall do all of the following:



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

3 (2) Consider the most recent standards promulgated by  
4 the Property Records Industry Association or any successor  
5 organization.

6 (3) Consider the standards and practices of and the  
7 technology used by the other states.

8 (4) Consider the views of interested persons for the  
9 purposes of obtaining guidance and assuring uniformity.

10 (5) Consider the needs of counties of varying size,  
11 population and resources.

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

15 (7) CONSIDER THE NEED TO PREVENT AND DETECT FRAUD. ←

16 (8) PROVIDE METHODS TO ENSURE THAT ANY PERSON SUBMITTING  
17 ELECTRONIC DOCUMENTS FOR RECORDING IS APPROVED AS A TRUSTED  
18 SUBMITTER BY THE RECORDING OFFICE AND HAS PROVIDED SUFFICIENT  
19 INFORMATION TO ENABLE THE RECORDING OFFICE TO IDENTIFY AND  
20 CONTACT THE PERSON IF NECESSARY TO CORRECT ERRORS AND PREVENT  
21 FRAUD.

22 (9) PROVIDE METHODS TO ENSURE THAT INFORMATION IS  
23 PROVIDED IN CONNECTION WITH RECORDING THAT IS ADEQUATE TO  
24 IDENTIFY AND SERVE PROCESS UPON A PERSON OR ANY AGENT OF A  
25 PERSON CAUSING A DOCUMENT TO BE RECORDED SO AS TO FACILITATE  
26 THE AVAILABILITY OF REMEDIES FOR THE IMPROPER OR FRAUDULENT  
27 RECORDING OF DOCUMENTS.

28 (c) Procedure.--

29 (1) Initial standards under this section shall be  
30 promulgated as temporary regulations, in accordance with the

1 following:

2 (i) The rulemaking shall be exempt from all of the  
3 following:

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

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

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

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

14 (2) The commission shall promulgate permanent  
15 regulations in accordance with law.

16 (d) Conflict.--

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

20 (i) The county and Local Government Records  
21 Committees under the act of May 9, 1949 (P.L.908,  
22 No.250), entitled, as amended, "An act relating to public  
23 records of political subdivisions other than cities and  
24 counties of the first class; authorizing the recording  
25 and copying of documents, plats, papers and instruments  
26 of writing by digital, photostatic, photographic,  
27 microfilm or other process, and the admissibility thereof  
28 and enlargements thereof in evidence; providing for the  
29 storage of duplicates and sale of microfilm and digital  
30 copies of official records and for the destruction of

1 other records deemed valueless; and providing for the  
2 services of the Pennsylvania Historical and Museum  
3 Commission to political subdivisions."

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

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

22 Section 7. Construction of act.

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

26 Section 8. Relation to Electronic Signatures in Global and  
27 National Commerce Act.

28 Under the authority granted by section 102 of the Electronic  
29 Signatures in Global and National Commerce Act (Public Law  
30 106-229, 15 U.S.C. § 7002), this act modifies, limits and

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

8 Section 9. Savings provision.

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

11 (1) Section 5 of the act of March 18, 1875 (P.L.32,  
12 No.36), entitled "An act requiring recorders of deeds to  
13 prepare and keep in their respective offices general, direct  
14 and ad sectum indexes of deeds and mortgages recorded  
15 therein, prescribing the duty of said recorders and declaring  
16 that the entries in said general indexes shall be notice to  
17 all persons."

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

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

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

30 Section 10. Repeal.

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

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

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

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

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

19 Section 11. Effective date.

20 This act shall take effect immediately.