

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 970 Session of
2011

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DALEY, MARCH 8, 2011

SENATOR MCILHINNEY, STATE GOVERNMENT, IN SENATE, AS AMENDED, MAY
8, 2012

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~~ MAY 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~~ IN ORDER TO PROVIDE ADEQUATE ADMINISTRATIVE ←
7 SUPPORT PURSUANT TO SUBSECTION (A) (1), THE DEPARTMENT MAY ENTER
8 INTO COOPERATIVE AGREEMENTS WITH OTHER PUBLIC OR PRIVATE
9 ORGANIZATIONS TO PROVIDE SUCH RESOURCES TO THE COMMISSION.

10 Section 6. Administration and standards.

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

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

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

24 (b) Manner of formulating standards.--To keep the standards
25 and practices of recording offices in this Commonwealth in
26 harmony with the standards and practices of recording offices in
27 other jurisdictions that enact substantially this act and to
28 keep the technology used by recorders in this Commonwealth
29 compatible with technology used by recording offices in other
30 jurisdictions that enact substantially this act, the commission,

1 so far as is consistent with the purposes, policies and
2 provisions of this act, in adopting, amending and repealing
3 standards, shall do all of the following:

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

6 (2) Consider the most recent standards promulgated by
7 the Property Records Industry Association or any successor
8 organization.

9 (3) Consider the standards and practices of and the
10 technology used by the other states.

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

13 (5) Consider the needs of counties of varying size,
14 population and resources.

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

18 (7) Consider the need to prevent and detect fraud.

19 (8) Provide methods to ensure that any person submitting
20 electronic documents for recording is approved as a trusted
21 submitter by the recording office and has provided sufficient
22 information to enable the recording office to identify and
23 contact the person if necessary to correct errors and prevent
24 fraud.

25 (9) Provide methods to ensure that information is
26 provided in connection with recording that is adequate to
27 identify and serve process upon a person or any agent of a
28 person causing a document to be recorded so as to facilitate
29 the availability of remedies for the improper or fraudulent
30 recording of documents.

1 (c) Procedure.--

2 (1) Initial standards under this section shall be
3 promulgated as temporary regulations, in accordance with the
4 following:

5 (i) The rulemaking shall be exempt from all of the
6 following:

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

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

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

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

17 (2) The commission shall promulgate permanent
18 regulations in accordance with law.

19 (d) Conflict.--

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

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

1 and enlargements thereof in evidence; providing for the
2 storage of duplicates and sale of microfilm and digital
3 copies of official records and for the destruction of
4 other records deemed valueless; and providing for the
5 services of the Pennsylvania Historical and Museum
6 Commission to political subdivisions."

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

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

25 (E) SUNSET.--THE COMMISSION SHALL TERMINATE ON JANUARY 1 OF ←
26 THE FOURTH YEAR AFTER THE EFFECTIVE DATE OF THIS ACT, UNLESS IT
27 IS REESTABLISHED BY ACTION OF THE GENERAL ASSEMBLY. PRIOR TO
28 TERMINATION, THE COMMISSION MAY OFFER RECOMMENDATIONS TO THE
29 GENERAL ASSEMBLY, INCLUDING RECOMMENDATIONS TO MODIFY THE DATE
30 THE COMMISSION SHALL TERMINATE.

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.