

UNIFORM REAL PROPERTY ELECTRONIC

RECORDING

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

This bill adopts the Uniform Real Property Electronic Recording Act.

Highlighted Provisions:

This bill:

- defines terms;
- provides for the validity and recording of electronic documents; and
- creates the Electronic Recording Commission to adopt standards for recording electronic documents.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

ENACTS:

57-3a-101, Utah Code Annotated 1953

57-3a-102, Utah Code Annotated 1953

57-3a-201, Utah Code Annotated 1953

57-3a-202, Utah Code Annotated 1953

57-3a-301, Utah Code Annotated 1953



57-3a-401, Utah Code Annotated 1953

57-3a-402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-3a-101 is enacted to read:

CHAPTER 3a. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

Part 1. General Provisions

57-3a-101. Title.

This chapter is known as the "Uniform Real Property Electronic Recording Act."

Section 2. Section 57-3a-102 is enacted to read:

57-3a-102. Definitions.

As used in this chapter:

(1) "Document" means information that is:

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

(b) eligible to be recorded in the land records maintained by the county recorder.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means a document that is received by the county recorder in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section 3. Section 57-3a-201 is enacted to read:

Part 2. Electronic Documents

57-3a-201. Validity of electronic documents.

(1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter.

(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(3) (a) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature.

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

Section 4. Section **57-3a-202** is enacted to read:

57-3a-202. Recording of documents.

(1) In this section, "paper document" means a document that is received by the county recorder in a form that is not electronic.

(2) A county recorder:

(a) who implements any of the functions listed in this section shall do so in compliance with standards established by the Electronic Recording Commission;

(b) may receive, index, store, archive, and transmit electronic documents;

(c) may provide for access to, and for search and retrieval of, documents and information by electronic means;

(d) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(e) may convert paper documents accepted for recording into electronic form;

(f) may convert into electronic form information recorded before the county recorder began to record electronic documents;

(g) may accept electronically any fee that the county recorder is authorized to collect; and

(h) may agree with other officials of a state or a political subdivision thereof, or of the

United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

Section 5. Section **57-3a-301** is enacted to read:

Part 3. Electronic Recording Commission

57-3a-301. Administration and standards.

(1) (a) An Electronic Recording Commission consisting of five members appointed by the governor is created to adopt standards to implement this chapter.

(b) The members of the commission shall be county recorders.

(2) To keep the standards and practices of county recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act and to keep the technology used by county recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act, the Electronic Recording Commission, so far as is consistent with the purposes, policies, and provisions of this chapter, in adopting, amending, and repealing standards shall consider:

(a) standards and practices of other jurisdictions;

(b) the most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(c) the views of interested persons and governmental officials and entities;

(d) the needs of counties of varying size, population, and resources; and

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

(3) The commission may report to the Legislature's Business and Labor Interim Committee with any suggestions for legislation by November 30, 2007.

Section 6. Section **57-3a-401** is enacted to read:

Part 4. Application of the Uniform Real Property Electronic Recording Act

57-3a-401. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Real Property Electronic Recording Act.

Section 7. Section **57-3a-402** is enacted to read:

121 **57-3a-402. Relation to Electronic Signatures in Global and National Commerce**
122 **Act.**

123 This chapter modifies, limits, and supersedes the federal Electronic Signatures in
124 Global and National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify,
125 limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize
126 electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C.
127 Section 7003(b)).

128 Section 8. **Effective date.**

129 This bill takes effect on May 5, 2008, except for Section 57-3a-301, which takes effect
130 on May 1, 2007.

Legislative Review Note
as of 11-27-06 1:05 PM

Office of Legislative Research and General Counsel

S.B. 88 - Uniform Real Property Electronic Recording

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/13/2007, 3:55:48 PM, Lead Analyst: Eckersley, S.

Office of the Legislative Fiscal Analyst