

2005 Senate Bill 616

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2005 WISCONSIN ACT 421

AN ACT *to amend* 15.01 (4) and 706.01 (4); and *to create* 15.107 (6) and 706.25 of the statutes; **relating to:** the Uniform Real Property Electronic Recording Act, creating an electronic recording council, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.01 (4) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

15.01 (4) "Council" means a part-time body appointed to function on a continuing basis for the study, and recommendation of solutions and policy alternatives, of the problems arising in a specified functional area of state government, except the Milwaukee River revitalization council has the powers and duties specified in s. 23.18, the council on physical disabilities has the powers and duties specified in s. 46.29 (1) and (2), and the state council on alcohol and other drug abuse has the powers and duties specified in s. 14.24, and the electronic recording council has the powers and duties specified in s. 706.25 (4).

SECTION 2. 15.107 (6) of the statutes is created to read:

15.107 (6) ELECTRONIC RECORDING COUNCIL. (a) There is created an electronic recording council which is attached to the department of administration under s. 15.03.

(b) The council shall be composed of the following members appointed for 3-year terms:

1. Four members who are registers of deeds in this state, except that one or more members under this subdi-

vision may be persons who are not currently registers of deeds but who held that office for at least 5 years.

2. One member who represents an association of title insurance companies.

3. One member who represents an association of bankers.

4. One member who represents attorneys who practice real property law.

SECTION 3. 706.01 (4) of the statutes is amended to read:

706.01 (4) "Conveyance" means a written instrument, evidencing a transaction governed by this chapter, that satisfies the requirements of s. 706.02, subject to s. 706.25.

SECTION 4. 706.25 of the statutes is created to read:
706.25 Uniform real property electronic recording act. (1) DEFINITIONS. In this section:

(a) "Document" means information that satisfies all of the following:

1. The information is inscribed on a tangible medium or it is stored in an electronic or other medium and is retrievable in perceivable form.

2. The information is eligible to be recorded in the land records maintained by the register of deeds.

(b) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electro-magnetic, or similar capabilities.

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(c) "Electronic document" means a document that is received by the register of deeds in an electronic form.

(d) "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.

(e) "Paper document" means a document that is received by the register of deeds in a form that is not electronic.

(f) "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.

(g) "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.

(2) VALIDITY OF ELECTRONIC DOCUMENTS. (a) 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 section.

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

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

(3) RECORDING OF DOCUMENTS. (a) A register of deeds may do any of the following:

1. Receive, index, store, archive, and transmit electronic documents.
2. Provide for access to, and for search and retrieval of, documents and information by electronic means.
3. Convert paper documents accepted for recording into electronic form.
4. Convert into electronic form information recorded before the register of deeds began to record electronic documents.
5. Accept electronically any fee that the register of deeds is authorized to collect.
6. 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.

(b) A register of deeds who accepts electronic documents for recording shall continue to accept paper docu-

ments as authorized by state law and shall place entries for both types of documents in the same index.

(c) A register of deeds who performs any of the functions specified in this subsection shall do so in compliance with standards established by the electronic recording council and promulgated by rule under sub. (4).

(4) ADMINISTRATION AND STANDARDS. (a) The electronic recording council shall adopt standards to implement this section. The department of administration shall promulgate by rule the standards adopted, amended, or repealed by the council under this paragraph.

(b) To keep the standards and practices of registers of deeds in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this section and to keep the technology used by registers of deeds in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this section, the electronic recording council, so far as is consistent with the purposes, policies, and provisions of this section, in adopting, amending, and repealing standards shall consider all of the following:

1. Standards and practices of other jurisdictions.
2. The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association.
3. The views of interested persons and governmental officials and entities.
4. The needs of counties of varying sizes, populations, and resources.
5. The need for security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

(c) The electronic recording council shall review the statutes related to real property and the statutes related to recording real property documents and shall recommend to the legislature any changes in the statutes that the council finds necessary or advisable.

(5) UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this section, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(6) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. (a) Except as provided in par. (b), this section modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 USC 7001, et seq.

(b) This section does not modify, limit, or supersede 15 USC 7001 (c) or authorize electronic delivery of any of the notices described in 15 USC 7003 (b).

(7) SHORT TITLE. This section may be cited as the Uniform Real Property Electronic Recording Act.

SECTION 5. Nonstatutory provisions.

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(1) INITIAL TERMS. Notwithstanding the length of terms of the members of the electronic recording council specified in section 15.107 (6) (b) (intro.) of the statutes, as created by this act, the initial members shall be appointed for the following terms:

- (a) Three members for terms that expire on July 1, 2009.
 - (b) Four members for terms that expire on July 1, 2010.
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