

State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3695/P1

PJK:lmk:pg

rm  
P2  
↑ stays  
stay "Kay"

soon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

The /p1 was blue-sheeted but never submitted. Now Pam would like it to be a /p2 ~ is that ok?  
Thanks, Paula

ReGen  
✓+

1 AN ACT to create 706.25 of the statutes; relating to: the Uniform Real Property  
2 Electronic Recording Act.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

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

SECTION 1. 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.

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

3 (c) "Electronic" means a <sup>document</sup> document that is received by the register of deeds in  
4 an electronic form.

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

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

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

15 (2) VALIDITY OF ELECTRONIC DOCUMENTS. (a) If a law <sup>e</sup> requires, as a condition  
16 for recording, that a document be an original, be on paper or another tangible  
17 medium, or be in writing, the requirement is satisfied by an electronic document  
18 satisfying this section.

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

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

1 document or signature. A physical or electronic image of a stamp, impression, or seal  
2 need not accompany an electronic signature.

3 (3) RECORDING OF DOCUMENTS. (a) In this subsection, "paper document" means  
4 a document that is received by the register of deeds in a form that is not electronic.

5 (b) A register of deeds:

6 1. Who implements any of the functions listed in this subsection shall do so in  
7 compliance with standards established by the [Electronic Recording Commission]  
8 [name of state agency].

9 2. May receive, index, store, archive, and transmit electronic documents.

10 3. May provide for access to, and for search and retrieval of, documents and  
11 information by electronic means.

12 4. Who accepts electronic documents for recording shall continue to accept  
13 paper documents as authorized by state law and shall place entries for both types of  
14 documents in the same index.

15 5. May convert paper documents accepted for recording into electronic form.

16 6. May convert into electronic form information recorded before the register of  
17 deeds began to record electronic documents.

18 7. May accept electronically any fee that the register of deeds is authorized to  
19 collect.

20 8. May agree with other officials of a state or a political subdivision thereof, or  
21 of the United States, on procedures or processes to facilitate the electronic  
22 satisfaction of prior approvals and conditions precedent to recording and the  
23 electronic payment of fees.

24 (4) ADMINISTRATION AND STANDARDS.

25 [Alternative A]

Insert 3-8



1 (a) An [Electronic Recording Commission] consisting of [number] members  
2 appointed by the governor is created to adopt standards to implement this section.  
3 A majority of the members of the [commission] must be registers of deeds.

4 [End of Alternative A]

5 [Alternative B]

6 (a) The [name of state agency] shall adopt standards to implement this section.

7 [End of Alternative B]

8 (b) To keep the standards and practices of registers of deeds in this state in  
9 harmony with the standards and practices of recording offices in other jurisdictions  
10 that enact substantially this section and to keep the technology used by registers of  
11 deeds in this state compatible with technology used by recording offices in other  
12 jurisdictions that enact substantially this section, the [Electronic Recording  
13 Commission] [name of state agency], so far as is consistent with the purposes,  
14 policies, and provisions of this section, in adopting, amending, and repealing  
15 standards shall consider all of the following:

- 16 1. Standards and practices of other jurisdictions.
- 17 2. The most recent standards promulgated by national standard-setting  
18 bodies, such as the Property Records Industry Association.
- 19 3. The views of interested persons and governmental officials and entities.
- 20 4. The needs of counties of varying size, population, and resources.

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

24 (6) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

25 (a) *Except as provided in par. (b)*  
This section modifies, limits, and supersedes the federal Electronic Signatures in

Insert 4-7



1 Global and National Commerce Act, 15 USC 7001, et seq., but does not modify, limit,  
2 or supersede 15 USC 7001 (c) or authorize electronic delivery of any of the notices  
3 described in 15 USC 7003 (b).

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

6 (END)

*→ H (b) This section*

**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3695/P2ins  
PJK:lmk:pg

**INSERT 3-8**

\*\*\*\*NOTE: You must select between the two choices referred to in the subdivision above. See Alternatives A and B in sub. (4)

**(END OF INSERT 3-8)**

**INSERT 4-7**

\*\*\*\*NOTE: Do you want to create a commission to adopt standards or should an existing state agency have that responsibility? If you want an existing agency to adopt standards, which agency? Instead of a commission, a committee, which is temporary in nature, might be more appropriate. If you do want to create a commission, do you want it to be independent, created in a department, or attached to a department? If you want it created in or attached to a department, which one?

**(END OF INSERT 4-7)**

**Kahler, Pam**

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**From:** Tuschen, Terry  
**Sent:** Thursday, January 05, 2006 3:23 PM  
**To:** Kahler, Pam  
**Cc:** Tuschen, Terry  
**Subject:** FW: LRB 3695-P2  
**Attachments:** Comments on Wisconsin URPERA Legislation.doc

Hi Pam, I'm getting caught up after the break and the Register of Deeds folks submitted some suggested modifications to the draft. I told them that I would run it by you for your thoughts and whether or not the changes are consistent with the "uniform" idea and/or your drafting requirements. Let me know what you think and thanks much again.  
Terry

\*\*\*\*\*

Terry Tuschen  
Office of State Senator Fred Risser  
123 South, State Capitol  
Madison, WI 53702  
608.266.1627  
Terry.Tuschen@legis.state.wi.us

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**From:** Williquette\_CA [mailto:Williquette\_CA@co.brown.wi.us]  
**Sent:** Thursday, December 15, 2005 3:45 PM  
**To:** Tuschen, Terry  
**Subject:** LRB 3695-P2

Terry,

Marvel's comments are attached.

Cathy Williquette  
Brown County Register of Deeds  
P.O. Box 23600  
Green Bay, WI 54305-3600  
920.448.4469 Voice  
920.448.4449 Fax  
williquette\_ca@co.brown.wi.us

*reply or forward*

Comments on Wisconsin URPERA Legislation

Page 1, Line 6 – delete “satisfies all of the following”, insert “is”

*our format*

Page 1, Line 7 – delete “The information is”

Page 1, Line 8 – insert “; and” at the end of the line

Page 1, Line 9 – delete “The information is”

Page 2, Line 3 – insert “document” after Electronic

*→ it is already there*

Page 2, Between Line 7 and Line 8 – NEW “Paper Document” means a document that is received by the register of deeds in a form that is not electronic

*?*

Page 3, Lines 3 & 4 – delete entire current subsection (a); insert “definition” after Recording of Documents

Page 3, Line 5 – delete (b) insert “A County Register of Deeds”

*→ ?  
→ specify*

Page 3, Line 6 – delete (1) insert “(a) Who .....

Page 3, Line 9 – delete (2) insert “(b) May receive .....

Page 3, Line 10 – delete (3) insert “(c) May provide....

Page 3, Line 12 – delete (4) insert “(d) Who accepts ....

Page 3, Line 15 – delete (5) insert “(e) May convert....

*9 → coreg of deeds*

Page 3, Line 16 – delete (6) insert “(f) May convert ....

Page 3, Line 18 – delete (h) insert “(g) May accept....

Page 3, Line 20 – delete (h) insert “(h) May agree.....

*467 → reg of deeds*

*473 w/ reg of deeds*



A. AN ELECTRONIC RECORDING COMMISSION IS ESTABLISHED CONSISTING OF SEVEN MEMBERS WHO ARE APPOINTED BY THE GOVERNOR. THE MEMBERSHIP SHALL CONSIST OF:

1. FOUR MEMBERS WHO ARE COUNTY REGISTER OF DEEDS IN THIS STATE.
2. ONE MEMBER WHO REPRESENTS AN ASSOCIATION OF TITLE COMPANIES. *insurance*
3. ONE MEMBER WHO REPRESENTS AN ASSOCIATION OF MORTGAGE BANKERS. *ok*
4. ONE MEMBER WHO REPRESENTS REAL PROPERTY LAWYERS. *practice real prop law*

B. THE ELECTRONIC RECORDING COMMISSION SHALL ADOPT (AND AMEND, IF NECESSARY) STANDARDS TO IMPLEMENT THIS ARTICLE. AFTER REVIEWING REAL PROPERTY AND RECORDING LAWS IN THIS STATE, THE ELECTRONIC RECORDING COMMISSION SHALL RECOMMEND TO THE LEGISLATURE WHAT LAWS, IF ANY, NEED TO BE MODIFIED AND WHAT THE MODIFICATIONS SHOULD BE. *additional*

C. TO KEEP THE STANDARDS AND PRACTICES OF COUNTY RECORDERS IN THIS STATE COMPATIBLE WITH THE STANDARDS AND PRACTICES OF RECORDING OFFICES IN OTHER JURISDICTIONS THAT ENACT A SUBSTANTIVE EQUIVALENT TO THIS ARTICLE, THE ELECTRONIC RECORDING COMMISSION SO FAR AS IS CONSISTENT WITH THIS ARTICLE, WHEN ADOPTING OR AMENDING STANDARDS SHALL CONSIDER ALL OF THE FOLLOWING: *why leave out technology part?*

1. STANDARDS AND PRACTICES OF OTHER JURISDICTIONS.
2. THE MOST RECENT STANDARDS ADOPTED 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 AND THE NEED FOR SECURITY PROTECTION TO ENSURE THAT ELECTRONIC DOCUMENTS ARE ACCURATE, AUTHENTIC, ADEQUATELY PRESERVED AND RESISTANT TO TAMPERING.

**Kahler, Pam**

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**From:** Tuschen, Terry  
**Sent:** Monday, January 09, 2006 8:37 AM  
**To:** Kahler, Pam  
**Cc:** Tuschen, Terry  
**Subject:** FW:  
**Attachments:** Comments on Wisconsin URPERA Legislation.doc

Hi Pam, here is some follow up comments re:LRB 3695-P2. Let me know what you think.  
Thanks again,  
Terry

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**From:** Williquette\_CA [mailto:Williquette\_CA@co.brown.wi.us]  
**Sent:** Friday, January 06, 2006 3:05 PM  
**To:** Tuschen, Terry  
**Cc:** Lemke Marvel  
**Subject:**

Terry,

Marvel Lemke and I reviewed the comments from the drafting attorney and offer the following comments. They are detailed in blue font on the attached.

Thank you for all your help and we look forward to the bill being circulated for co-sponsors.

Cathy Williquette  
Brown County Register of Deeds  
P.O. Box 23600  
Green Bay, WI 54305-3600  
920.448.4469 Voice  
920.448.4449 Fax  
williquette\_ca@co.brown.wi.us

Comments on Wisconsin URPRA Legislation

Page 1, Line 6 – delete “satisfies all of the following”, insert “is”

Page 1, Line 7 – delete “The information is”

Page 1, Line 8 – insert “; and” at the end of the line

Page 1, Line 9 – delete “The information is”

The four changes above are actually how the uniform act was phrased, but that phrasing is inconsistent with Wisconsin drafting format. The substance is not changed when Wisconsin drafting format is used.

Page 2, Line 3 – insert “document” after Electronic

I do not understand this suggestion. This is how the line already appears. Line 1 defines “electronic” (the process) and line 3 defines “electronic document” (product transmitted by the process). If you do not add the word document you have two differing definitions for the same word.

Page 2, Between Line 7 and Line 8 – NEW “Paper Document” means a document that is received by the register of deeds in a form that is not electronic

I have no problem with placing this definition in the suggested location. The uniform act placed it in sub (3) because that is the only part of the act in which the phrase “paper document” is used, but it can just as logically be placed with the rest of the definitions in sub. (1).

Page 3, Lines 3 & 4 – delete entire current subsection (a); insert “definition” after Recording of Documents

If the definition of “paper document” is moved to sub. (1), par. (a) would be deleted, as suggested. I don't understand, however, why it is suggested that the word “definition” be added. Sorry for the confusion – we are asking to move par. (a) to definitions on page 1 therefore eliminating par. (a) in entirety. Also, suggest moving “register of deeds” down to begin sentence following therefore that line now becomes (a) versus (b)(1). We are not asking for the word “definition” to be added.

Page 3, Line 5 – delete (b) insert “A County Register of Deeds”

The only registers of deeds are county registers of deeds, so the addition of the word “county” is redundant. The statutes contain nine instances in which “county” appears before “register of deeds” and 464 instances in which “county” does not appear before “register of deeds.” Agree

Page 3, Line 6 – delete (1) insert “(a) Who .....

Page 3, Line 9 – delete (2) insert “(b) May receive .....

Page 3, Line 10 – delete (3) insert “(c) May provide....

Page 3, Line 12 – delete (4) insert “(d) Who accepts ....

Page 3, Line 15 – delete (5) insert “(e) May convert....

Page 3, Line 16 – delete (6) insert “(f) May convert ....

Page 3, Line 18 – delete (h) insert “(g) May accept....

Page 3, Line 20 – delete (h) insert “(h) May agree.....

If the definition of "paper document" is moved to sub. (1), the eight statutory units above would, indeed become paragraphs (with letters) instead of subdivisions (with numbers).

Page 4, Line 1 – insert

A. AN ELECTRONIC RECORDING COMMISSION IS ESTABLISHED CONSISTING OF SEVEN MEMBERS WHO ARE APPOINTED BY THE GOVERNOR. THE MEMBERSHIP SHALL CONSIST OF:

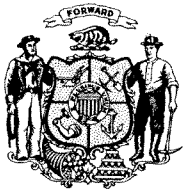
1. FOUR MEMBERS WHO ARE COUNTY REGISTER OF DEEDS IN THIS STATE.
2. ONE MEMBER WHO REPRESENTS AN ASSOCIATION OF TITLE COMPANIES.
3. ONE MEMBER WHO REPRESENTS AN ASSOCIATION OF MORTGAGE BANKERS.
4. ONE MEMBER WHO REPRESENTS REAL PROPERTY LAWYERS.

B. THE ELECTRONIC RECORDING COMMISSION SHALL ADOPT AND AMEND, IF NECESSARY, STANDARDS TO IMPLEMENT THIS ARTICLE. AFTER REVIEWING REAL PROPERTY AND RECORDING LAWS IN THIS STATE, THE ELECTRONIC RECORDING COMMISSION SHALL RECOMMEND TO THE LEGISLATURE WHAT LAWS, IF ANY, NEED TO BE MODIFIED AND WHAT THE MODIFICATIONS SHOULD BE.

C. TO KEEP THE STANDARDS AND PRACTICES OF COUNTY RECORDERS IN THIS STATE COMPATIBLE WITH THE STANDARDS AND PRACTICES OF RECORDING OFFICES IN OTHER JURISDICTIONS THAT ENACT A SUBSTANTIVE EQUIVALENT TO THIS ARTICLE, THE ELECTRONIC RECORDING COMMISSION SO FAR AS IS CONSISTENT WITH THIS ARTICLE, WHEN ADOPTING OR AMENDING STANDARDS SHALL CONSIDER ALL OF THE FOLLOWING:

1. STANDARDS AND PRACTICES OF OTHER JURISDICTIONS.
2. THE MOST RECENT STANDARDS ADOPTED 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 AND THE NEED FOR SECURITY PROTECTION TO ENSURE THAT ELECTRONIC DOCUMENTS ARE ACCURATE, AUTHENTIC, ADEQUATELY PRESERVED AND RESISTANT TO TAMPERING.

See the definition of "commission" in s. 15.01 (2). In which department should this commission be created? Department of Administration



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3695/P2

PJK:lmk:jf

stays "Kay" → P3  
r mison → stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note  
SOON  
(in 1-10)

and creating an electronic  
recording commission  
✓ Belen ✓

1 AN ACT to create 706.25 of the statutes; relating to: the Uniform Real Property  
2 Electronic Recording Act.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

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

Insert 1-3

3 SECTION 1. 706.25 of the statutes is created to read:  
4 **706.25 Uniform real property electronic recording act. (1) DEFINITIONS.**  
5 In this section:  
6 (a) "Document" means information that satisfies all of the following:  
7 1. The information is inscribed on a tangible medium or it is stored in an  
8 electronic or other medium and is retrievable in perceivable form.  
9 2. The information is eligible to be recorded in the land records maintained by  
10 the register of deeds.

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

3 (c) "Electronic document" means a document that is received by the register of  
4 deeds in an electronic form. *LPS: AS proof this word*  
*insert this into electronic copy*

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

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

12 (f) "State" means a state of the United States, the District of Columbia, Puerto  
13 Rico, the United States Virgin Islands, or any territory or insular possession subject  
14 to the jurisdiction of the United States. *LPS: PIS*

15 (2) VALIDITY OF ELECTRONIC DOCUMENTS. (a) If a law requires, as a condition for  
16 recording, that a document be an original, be on paper or another tangible medium,  
17 or be in writing, the requirement is satisfied by an electronic document satisfying  
18 this section. *remove "a" in electronic copy*

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

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

*Insert 2-7*

1 document or signature. A physical or electronic image of a stamp, impression, or seal  
2 need not accompany an electronic signature.

3 **(3) RECORDING OF DOCUMENTS.** (a) In this subsection, "paper document" means  
4 a document that is received by the register of deeds in a form that is not electronic.

5 (b) A register of deeds: *may do any of the following*

6 1. Who implements any of the functions listed in this subsection shall do so in  
7 compliance with standards established by the [Electronic Recording Commission]  
8 [name of state agency].

\*\*\*\*NOTE: You must select between the two choices referred to in the subdivision above. See Alternatives A and B in sub. (4).

9 1. ~~2. May~~ receive, index, store, archive, and transmit electronic documents.

10 2. ~~3. May~~ provide for access to, and for search and retrieval of, documents and  
11 information by electronic means.

12 4. Who accepts electronic documents for recording shall continue to accept  
13 paper documents as authorized by state law and shall place entries for both types of  
14 documents in the same index.

15 3. ~~5. May~~ convert paper documents accepted for recording into electronic form.

16 4. ~~6. May~~ convert into electronic form information recorded before the register of  
17 deeds began to record electronic documents.

18 5. ~~7. May~~ accept electronically any fee that the register of deeds is authorized to  
19 collect.

20 6. ~~8. May~~ agree with other officials of a state or a political subdivision thereof, or  
21 of the United States, on procedures or processes to facilitate the electronic  
22 satisfaction of prior approvals and conditions precedent to recording and the  
23 electronic payment of fees.

*Insert 3-23* →

(4) ADMINISTRATION AND STANDARDS.

[Alternative A]

(a) An [Electronic Recording Commission] consisting of [number] members appointed by the governor is created to adopt standards to implement this section. A majority of the members of the [commission] must be registers of deeds.

[End of Alternative A]

[Alternative B]

(a) The [name of state agency] shall adopt standards to implement this section.

[End of Alternative B]

\*\*\*NOTE: Do you want to create a commission to adopt standards or should an existing state agency have that responsibility? If you want an existing agency to adopt standards, which agency? Instead of a commission, a committee, which is temporary in nature, might be more appropriate. If you do want to create a commission, do you want it to be independent, created in a department, or attached to a department? If you want it created in or attached to a department, which one?

(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 Commission] [name of state agency], 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 size, population, and resources.

Insert 4-22

Insert 4-17

(move up)

more

NO A

and

electronic recording commission

keep comma



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

4 (6) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

5 (a) Except as provided in par. (b), this section modifies, limits, and supersedes the  
6 federal Electronic Signatures in Global and National Commerce Act, 15 USC 7001,  
7 et seq. *↳ LPS: Pls insert this into electronic copy*

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

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

12 (END)

~~Insert 5-11~~

D-note

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3695/P3ins  
PJK:lmk:pg

INSERT 1-3

1           **SECTION 1.** 15.01 (2) of the statutes, as affected by 2005 Wisconsin Act 25, is  
2 amended to read:

3           15.01 (2) "Commission" means a 3-member governing body in charge of a  
4 department or independent agency or of a division or other subunit within a  
5 department, except for the Wisconsin waterways commission which shall consist of  
6 5 members, the electronic recording commission which shall consist of 7 members,  
7 and the parole commission which shall consist of 8 members. A Wisconsin group  
8 created for participation in a continuing interstate body, or the interstate body itself,  
9 shall be known as a "commission", but is not a commission for purposes of s. 15.06.  
10 The parole commission created under s. 15.145 (1) shall be known as a "commission",  
11 but is not a commission for purposes of s. 15.06. The sentencing commission created  
12 under s. 15.105 (27) shall be known as a "commission" but is not a commission for  
13 purposes of s. 15.06 (1) to (4m), (7), and (9).

History: 1977 c. 29, 274; 1979 c. 34; 1983 a. 27, 189, 371, 410, 538; 1985 a. 29, 120, 180; 1987 s. 27, 342, 399; 1989 a. 31, 107, 202; 1991 a. 39, 269, 315; 1993 a. 16, 107, 210, 215; 1995 a. 27 ss. 74 and 9145 (1); 1995 a. 442, 462; 1997 a. 27, 237; 2001 a. 16, 105, 109; 2005 a. 25.

14           **SECTION 2.** 15.06 (3) (a) 2. of the statutes is created to read:

15           15.06 (3) (a) 2. The members of the electronic recording commission.

16           **SECTION 3.** 15.105 (6) of the statutes is created to read:

17           15.105 (6) ELECTRONIC RECORDING COMMISSION. (a) There is created an  
18 electronic recording commission which is attached to the department of  
19 administration under s. 15.03.

20           (b) The commission shall be composed of the following members:

- 21           1. Four members who are registers of deeds in this state.
- 22           2. One member who represents an association of title insurance companies.
- 23           3. One member who represents an association of mortgage bankers.

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

2 (c) No member of the commission may receive any salary for services performed  
3 as a commission member. ✓ Each commission member shall be reimbursed for actual  
4 and necessary expenses incurred while performing official duties. ✓

~~(END OF INSERT 1-3)~~

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

6 706.01 (4) "Conveyance" means a written instrument, evidencing a transaction  
7 governed by this chapter, that satisfies the requirements of s. 706.02, subject to s.  
8 706.25. ✓

*(end of insert 1-3)*

History: 1971 c. 41; 1977 c. 253; 1983 a. 189, 455; 1993 a. 486; 1995 a. 227; 1999 a. 85; 2005 a. 41.

INSERT 2-4

\*\*\*NOTE: I have not changed this definition. ✓ I did not understand the instruction to add "document" after "electronic." ✓ In my copy of the draft, "document" already follows "electronic." ✓ The explanation that if "document" is not added after "electronic" there would be two definitions for the same word did not make sense to me. Paragraph (b) defines "electronic" and par. (c) defines "electronic document." Am I missing something? ✓

(END OF INSERT 2-4)

INSERT 2-7

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

(END OF INSERT 2-7)

INSERT 3-23

11 (b) A register of deeds who accepts electronic documents for recording shall  
12 continue to accept paper documents as authorized by state law and shall place  
13 entries for both types of documents in the same index. ✓

14 (c) A register of deeds who performs any of the functions specified in this  
15 subsection shall do so in compliance with standards established by the electronic  
16 recording commission. ✓

\*\*\*NOTE: I have changed the format of sub. (3) above so that it is consistent with Wisconsin drafting format. I did not do so in the previous version because the "fix" was not simple and straightforward and I wanted to get a first version out to you quickly.

(END OF INSERT 3-23)

**INSERT 4-17**

\*\*\*NOTE: I have not changed the language of the introductory paragraph above. It includes everything that was included in the uniform act. Should anything be changed?

(END OF INSERT 4-17)

**INSERT 4-22**

- 1           5. The need for security protection to ensure that electronic documents are  
2 accurate, authentic, adequately preserved, and resistant to tampering.  
3           (c) The electronic recording commission shall review the statutes related to real  
4 property and the statutes related to recording real property documents and shall  
5 recommend to the legislature any changes in the statutes that the commission finds  
6 necessary or advisable.

(END OF INSERT 4-22)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3695/P3dn

PJK:lmk:pg

lmk

(date)

This is still a preliminary draft since many changes were made and new language was added. ✓

See s. 15.06 for provisions in current law that apply to the electronic recording commission. I made the commission "attached" to DOA instead of "in" DOA because I assumed that you would want the commission to operate independently instead of under the direction of the secretary of administration. ✓

Are you or the registers of deeds you are working with aware of any current statutes that might conflict with this uniform act? ✓

I did not provide an initial applicability. ✓ I do not know what the current practice is with regard to recording electronic documents. ✓ Perhaps practices differ in different counties. If an initial applicability is included, such as making the act first apply to documents received for recording or recorded on the effective date, any electronic documents already recorded may be considered invalid or not properly recorded. ✓

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3695/P3dn  
PJK:lmk:rs

January 13, 2006

This is still a preliminary draft since many changes were made and new language was added.

See s. 15.06 for provisions in current law that apply to the electronic recording commission. I made the commission "attached" to DOA instead of "in" DOA because I assumed that you would want the commission to operate independently instead of under the direction of the secretary of administration.

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Senior Legislative Attorney  
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**Kahler, Pam**

---

**From:** Tuschen, Terry  
**Sent:** Wednesday, January 25, 2006 8:54 AM  
**To:** Kahler, Pam  
**Cc:** Tuschen, Terry  
**Subject:** FW: Comments on LRB 05-3695/P3  
**Attachments:** URPERA Draft Comments.doc

Hi Pam, here are the latest comments from the Registers of Deeds. After you review and decide one way or another, I'm cutting them off and telling them the bills going to be circulated as is. If something needs correcting later, we can do that. Or wait for Law Revision to handle it. I'm losing my patience with them. I do appreciate your patience in working with me through this.

Thanks, Terry

---

**From:** Williquette\_CA [mailto:Williquette\_CA@co.brown.wi.us]  
**Sent:** Tuesday, January 24, 2006 2:40 PM  
**To:** Tuschen, Terry  
**Subject:** Comments on LRB 05-3695/P3

Terry I am attaching our comments on the latest draft of LRB 05-3695/P3. As to the comment about Register of Deeds membership in the proposed commission, page 2, line 14, our main goal is to have the flexibility to allow at least one retired Register of Deeds to serve. The wording we submit is only a suggestion and certainly can be modified.

Cathy Williquette  
Brown County Register of Deeds  
P.O. Box 23600  
Green Bay, WI 54305-3600  
920.448.4469 Voice  
920.448.4449 Fax  
williquette\_ca@co.brown.wi.us

LRB 05-3695/P3 UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

COMMENTS FROM WISCONSIN REGISTER OF DEEDS ASSOCIATION

On page 2, in line 14, substitute: "Four members who are register of deeds in this state, or three members who are register of deeds in this state and one member who formerly served as a register of deeds for at least 5 years."

*I will allow any to be former (that way if not reflected don't have to leave com before end of term*

"Attached to DOA" is preferred. *that is how it drafted*

URPERA works hand in glove with UETA, Uniform Electronic Transmissions Act.

*UETA not in stats*

Initial applicability should be one month after signing and messaged. Applicability only sets up the commission; it does not establish standards and the bill calls for consideration of local resources in addition to setting standards to promote electronic transfers and security. Any electronic documents already recorded will not be considered invalid - there are statutes in place to guard against this and the commission (because of its composition) will be very sensitive to any "retroactive" moves.

*no delay - commission would not get appointed immediately anyway*

If legislation is adopted and the commission is formed does DOA then pay for the reimbursable expenses? If yes, and this is a point that would hold up getting this passed we'd support removing the reimbursement provision.

*keep reimb. language*

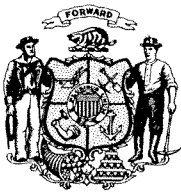
There may be some circularity between the definition (page 1, line 9) of "document" which specifies that a "document" must already be eligible for recording to qualify as a "document" and the provisions of Section 2 beginning at page 2 line 15 which sets out to declare that electronic submissions are eligible for recording. It seems the intent of the definition at page 1, line 9, is to import format-type requirements from existing laws. Maybe that should be specified.

*uniform act language*

*no change*

1-26 called Terry T. advised to change commission to council he agreed and specified 2-yr terms





State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3695/P8

PJK:lmk:rs

rm is run  
"Kay" → keep

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON  
(1-26)  
D-note

council, and granting authority  
rule-making authority

regenerate ↓

1 AN ACT to amend 15.01 (2) and 706.01 (4); and to create 15.06 (3) (a) 2., 15.105  
2 (6) and 706.25 of the statutes; relating to: the Uniform Real Property  
3 Electronic Recording Act and creating an electronic recording commission.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

Insert  
A →

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

4 SECTION 1. 15.01 (2) of the statutes, as affected by 2005 Wisconsin Act 25, is  
5 amended to read:  
6 15.01 (2) "Commission" means a 3-member governing body in charge of a  
7 department or independent agency or of a division or other subunit within a  
8 department, except for the Wisconsin waterways commission which shall consist of  
9 5 members, the electronic recording commission which shall consist of 7 members,  
10 and the parole commission which shall consist of 8 members. A Wisconsin group

1 created for participation in a continuing interstate body, or the interstate body itself,  
 2 shall be known as a "commission", but is not a commission for purposes of s. 15.06.  
 3 The parole commission created under s. 15.145 (1) shall be known as a "commission",  
 4 but is not a commission for purposes of s. 15.06. The sentencing commission created  
 5 under s. 15.105 (27) shall be known as a "commission" but is not a commission for  
 6 purposes of s. 15.06 (1) to (4m), (7), and (9).

7 **SECTION 2.** 15.06 (3) (a) 2. of the statutes is created to read:

8 15.06 (3) (a) 2. The members of the electronic recording commission.

9 **SECTION 3.** 15.105 (6) of the statutes is created to read:

10 15.105 (6) ELECTRONIC RECORDING <sup>COUNCIL</sup> ~~COMMISSION~~ (a) There is created an  
 11 electronic recording <sup>council</sup> ~~commission~~ which is attached to the department of  
 12 administration under s. 15.03.

13 (b) The ~~commission~~ <sup>council</sup> shall be composed of the following members:

- 14 1. Four members who are registers of deeds in this state.
- 15 2. One member who represents an association of title insurance companies.
- 16 3. One member who represents an association of mortgage bankers.
- 17 4. One member who represents attorneys who practice real property law.

18 (c) No member of the commission may receive any salary for services performed  
 19 as a commission member. Each commission member shall be reimbursed for actual  
 20 and necessary expenses incurred while performing official duties.

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

22 706.01 (4) "Conveyance" means a written instrument, evidencing a transaction  
 23 governed by this chapter, that satisfies the requirements of s. 706.02, subject to s.  
 24 706.25.

25 **SECTION 5.** 706.25 of the statutes is created to read:

Insert 2-8

3 year terms

insert 2-14

1           **706.25 Uniform real property electronic recording act. (1) DEFINITIONS.**

2           In this section:

3           (a) “Document” means information that satisfies all of the following:

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

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

8           (b) “Electronic” means relating to technology having electrical, digital,  
9           magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

12          (d) “Electronic signature” means an electronic sound, symbol, or process  
13          attached to or logically associated with a document and executed or adopted by a  
14          person with the intent to sign the document.

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

17          (f) “Person” means an individual, corporation, business trust, estate, trust,  
18          partnership, limited liability company, association, joint venture, public corporation,  
19          government, or governmental subdivision, agency, or instrumentality, or any other  
20          legal or commercial entity.

21          (g) “State” means a state of the United States, the District of Columbia, Puerto  
22          Rico, the United States Virgin Islands, or any territory or insular possession subject  
23          to the jurisdiction of the United States.

24          **(2) VALIDITY OF ELECTRONIC DOCUMENTS.** (a) If a law requires, as a condition for  
25          recording, that a document be an original, be on paper or another tangible medium,

1 or be in writing, the requirement is satisfied by an electronic document satisfying  
2 this section.

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

5 (c) A requirement that a document or a signature associated with a document  
6 be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if  
7 the electronic signature of the person authorized to perform that act, and all other  
8 information required to be included, is attached to or logically associated with the  
9 document or signature. A physical or electronic image of a stamp, impression, or seal  
10 need not accompany an electronic signature.

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

- 13 1. Receive, index, store, archive, and transmit electronic documents.
- 14 2. Provide for access to, and for search and retrieval of, documents and  
15 information by electronic means.
- 16 3. Convert paper documents accepted for recording into electronic form.
- 17 4. Convert into electronic form information recorded before the register of  
18 deeds began to record electronic documents.
- 19 5. Accept electronically any fee that the register of deeds is authorized to  
20 collect.
- 21 6. Agree with other officials of a state or a political subdivision thereof, or of the  
22 United States, on procedures or processes to facilitate the electronic satisfaction of  
23 prior approvals and conditions precedent to recording and the electronic payment of  
24 fees.

1 (b) A register of deeds who accepts electronic documents for recording shall  
2 continue to accept paper documents as authorized by state law and shall place  
3 entries for both types of documents in the same index.

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

\*\*\*\*NOTE: I have changed the format of sub. (3,) above, so that it is consistent with Wisconsin drafting format. I did not do so in the previous version because the "fix" was not simple and straightforward and I wanted to get a first version out to you quickly.

7 (4) ADMINISTRATION AND STANDARDS. (a) The electronic recording ~~commission~~ *council*  
8 shall adopt standards to implement this section. *Insert 5-8*

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

\*\*\*\*NOTE: I have not changed the language of the introductory paragraph above. It includes everything that was included in the uniform act. Should anything be changed?

- 17 1. Standards and practices of other jurisdictions.
- 18 2. The most recent standards promulgated by national standard-setting
- 19 bodies, such as the Property Records Industry Association.
- 20 3. The views of interested persons and governmental officials and entities.
- 21 4. The needs of counties of varying sizes, populations, and resources.

1 5. The need for security protection to ensure that electronic documents are  
2 accurate, authentic, adequately preserved, and resistant to tampering.

3 (c) The electronic recording ~~commission~~ <sup>council</sup> shall review the statutes related to real  
4 property and the statutes related to recording real property documents and shall  
5 recommend to the legislature any changes in the statutes that the ~~commission~~ <sup>council</sup> finds  
6 necessary or advisable.

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

10 (6) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

11 (a) Except as provided in par. (b), this section modifies, limits, and supersedes the  
12 federal Electronic Signatures in Global and National Commerce Act, 15 USC 7001,  
13 et seq.

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

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

18 (END)

Insert 6-17

D-note

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3695/lins  
PJK:lmk:rs

INSERT A

This bill is the Uniform Real Property Electronic Recording Act (URPERA). URPERA provides that: a) if a statute requires a document to be an original, on paper or another tangible medium, or in writing as a condition for recording in the office of the register of deeds, an electronic document satisfies those requirements; b) if a statute requires a document to be signed as a condition for recording, an electronic signature satisfies that requirement; and c) if a document or signature must be notarized, acknowledged, verified, witnessed, or made under oath, the electronic signature of a person authorized to perform that act attached to or associated with the document or signature satisfies that requirement.

*relating* ← ~~respect~~ URPERA authorizes a register of deeds to perform various functions ~~with~~ respect to the recording of electronic documents, including: receiving, indexing, and storing electronic documents; providing access to documents and information by electronic means; converting paper documents accepted for recording into electronic format; and accepting fees electronically. URPERA also requires a register of deeds who accepts electronic documents for recording to continue to accept paper documents.

*three* → The bill creates the Electronic Recording Council (council), attached to the Department of Administration (DOA). The council has seven members who are nominated for ~~two~~ year terms by the governor and appointed with the advice and consent of the senate. The members consist of four current or former registers of deeds, one member who represents an association of title insurance companies, one member who represents an association of mortgage bankers, and one member who represents attorneys who practice real property law. The council must develop standards for implementing URPERA after considering various specified factors, such as standards and practices of other jurisdictions, standards promulgated by the Property Records Industry Association, and the views of government officials. DOA must promulgate the standards by rule. In addition, the council must review the statutes relating to real property and to recording real property documents and recommend to the legislature any changes that are necessary or advisable.

*FE-S* → (END OF INSERT A)

INSERT 2-8

- 1           SECTION 1. 15.01 (4) of the statutes, as affected by 2005 Wisconsin Act 25, is  
2 amended to read:  
3           15.01 (4) "Council" means a part-time body appointed to function on a  
4 continuing basis for the study, and recommendation of solutions and policy  
5 alternatives, of the problems arising in a specified functional area of state

*Ins 2-8 contd*

1 government, except the Milwaukee River revitalization council has the powers and  
2 duties specified in s. 23.18, the council on physical disabilities has the powers and  
3 duties specified in s. 46.29 (1) and (2), and the state council on alcohol and other drug  
4 abuse has the powers and duties specified in s. 14.24, and the electronic recording  
5 council has the powers and duties specified in s. 706.25 (4).

History: 1977 c. 29, 274; 1979 c. 34; 1983 a. 27, 189, 371, 410, 538; 1985 a. 29, 120, 180; 1987 s. 27, 342, 399; 1989 a. 31, 107, 202; 1991 a. 39, 269, 315; 1993 a. 16, 107, 210, 215; 1995 a. 27 ss. 74 and 9145 (1); 1995 a. 442, 462; 1997 a. 27, 237; 2001 a. 16, 105, 109; 2005 a. 25.

(END OF INSERT 2-8)

**INSERT 2-14**

6 *wofh*; except that one or more members under this subdivision may be persons who  
7 are not currently registers of deeds but who held that office for at least 5 years

(END OF INSERT 2-14)

**INSERT 5-8**

8 *wofh* The department of administration shall promulgate by rule the standards  
9 adopted, amended, or repealed by the council under this paragraph.

(END OF INSERT 5-8)

**INSERT 6-17**

10 **SECTION 2. Nonstatutory provisions.**

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

- 14 (a) Three members for terms that expire on July 1, 2007. *mg*
- 15 (b) Four members for terms that expire on July 1, 2009. *m10*

(END OF INSERT 6-17)



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3695/1dn

PJK:lmk/rs

↑  
Stays

(date)

The "commission" was changed to a "council" because that type of part-time entity was more appropriate for the duties of the entity created in this bill. See s. 15.01(4) for a definition of "council" and s. 15.09 for the provisions that apply to all councils.

The effective date is not delayed because the council members will not be appointed immediately anyway. Getting the council up and running will take some time.

I did not change the language regarding the definition of "document." The language referred to was directly from the uniform act.

Finally, the four members on the council who are registers of deeds was modified to allow one or more (even all, if necessary) to be former registers of deeds, as long as they held that office for at least five years. That way, a former register of deeds may be appointed or a register of deeds who holds the office when appointed may retain the office for his or her complete two-year term even if he or she is not reelected, for one reason or another, during his or her term on the council, as long as he or she held the office for the requisite time. *three*

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I made the terms three years long to facilitate staggering.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3695/1dn  
PJK:lmk:jf

January 31, 2006

The "commission" was changed to a "council" because that type of part-time entity was more appropriate for the duties of the entity created in this bill. See s. 15.01 (4) for a definition of "council" and s. 15.09 for the provisions that apply to all councils.

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**Basford, Sarah**

---

**From:** Sen.Risser  
**Sent:** Monday, February 06, 2006 2:41 PM  
**To:** LRB.Legal  
**Cc:** Tuschen, Terry  
**Subject:** Draft Review: LRB 05-3695/1 Topic: Uniform real property electronic recording act

Please Jacket LRB 05-3695/1 for the SENATE.