



2005 SENATE BILL 616

February 20, 2006 - Introduced by Senators RISSER, ROESSLER, GROTHMAN, LASSA and MILLER, cosponsored by Representatives KRAWCZYK, SHERMAN, BIES, NASS, MUSSER, VOS, F. LASEE, PARISI, MOLEPSKE, BERCEAU, GRONEMUS, OTT, ALBERS, STRACHOTA, SEIDEL and BALLWEG, by request of Wisconsin Register of Deeds Association. Referred to Committee on Judiciary, Corrections and Privacy.

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

Analysis by the Legislative Reference Bureau

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.

URPERA authorizes a register of deeds to perform various functions relating 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.

The bill creates the Electronic Recording Council (council), attached to the Department of Administration (DOA). The council has seven members who are

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nominated for three-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.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

12 15.107 (6) ELECTRONIC RECORDING COUNCIL. (a) There is created an electronic
13 recording council which is attached to the department of administration under s.
14 15.03.

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1 (b) The council shall be composed of the following members appointed for
2 3-year terms:

3 1. Four members who are registers of deeds in this state, except that one or
4 more members under this subdivision may be persons who are not currently
5 registers of deeds but who held that office for at least 5 years.

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

7 3. One member who represents an association of mortgage bankers.

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

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

10 706.01 (4) "Conveyance" means a written instrument, evidencing a transaction
11 governed by this chapter, that satisfies the requirements of s. 706.02, subject to s.
12 706.25.

13 **SECTION 4.** 706.25 of the statutes is created to read:

14 **706.25 Uniform real property electronic recording act. (1) DEFINITIONS.**

15 In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 1. Standards and practices of other jurisdictions.

9 2. The most recent standards promulgated by national standard-setting
10 bodies, such as the Property Records Industry Association.

11 3. The views of interested persons and governmental officials and entities.

12 4. The needs of counties of varying sizes, populations, and resources.

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

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

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

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

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

