

SENATE BILL NO. 88—COMMITTEE ON JUDICIARY

FEBRUARY 13, 2007

Referred to Committee on Judiciary

SUMMARY—Adopts the Uniform Real Property Electronic Recording Act. (BDR 10-461)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to records; adopting the Uniform Real Property Electronic Recording Act; requiring the Secretary of State to adopt certain regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county recorder to receive, record and index certain documents. Such documents generally must be submitted to a county recorder as a paper document. Existing law also establishes the format for such documents, sets forth various procedures for submitting, recording and indexing such documents and requires a county recorder to charge and collect certain fees relating to such documents. (NRS 111.310-111.365, chapter 247 of NRS)

This bill enacts the Uniform Real Property Electronic Recording Act, which gives each county recorder the option to receive, record, index, store, archive and transmit electronic documents in addition to paper documents. If a county recorder elects to receive and record electronic documents, the county recorder must follow the standards and practices adopted by the Secretary of State.

Section 10 of this bill allows a person to submit an electronic document for recording only if the county recorder has elected to receive and record such documents in accordance with the Uniform Act.

Section 11 of this bill provides that if a document is recordable in a paper format under existing law, an electronic document with the same content is also recordable if it satisfies the requirements of the Uniform Act. Further, if existing law requires a document to be signed before it can be recorded, an electronic signature satisfies that requirement.

Section 12 of this bill sets forth the powers and duties of county recorders under the Uniform Act. County recorders are authorized to provide access to documents and information by electronic means, to convert paper documents and other information into electronic form and to accept fees electronically. County



24 recorders are required to continue to accept paper documents as authorized by
25 existing law and to place both types of documents in the same index.

26 **Section 13** of this bill requires the Secretary of State to adopt by regulation the
27 standards and practices that a county recorder must follow if the county recorder
28 elects to receive and record electronic documents.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 111 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 15, inclusive, of this
3 act.

4 **Sec. 2.** *Sections 2 to 15, inclusive, of this act may be cited as*
5 *the Uniform Real Property Electronic Recording Act.*

6 **Sec. 3.** *As used in sections 2 to 15, inclusive, of this act,*
7 *unless the context otherwise requires, the words and terms defined*
8 *in sections 4 to 9, inclusive, of this act have the meanings ascribed*
9 *to them in those sections.*

10 **Sec. 4.** *“Document” means information that is:*

11 *1. Inscribed on a tangible medium or that is stored in an*
12 *electronic or other medium and is retrievable in perceivable form;*
13 *and*

14 *2. Eligible to be recorded in the records maintained by the*
15 *county recorder.*

16 **Sec. 5.** *“Electronic” means relating to technology having*
17 *electrical, digital, magnetic, wireless, optical, electromagnetic or*
18 *similar capabilities.*

19 **Sec. 6.** *“Electronic document” means a document that is*
20 *received by the county recorder in an electronic form.*

21 **Sec. 7.** *“Electronic signature” means an electronic sound,*
22 *symbol or process attached to or logically associated with a*
23 *document and executed or adopted by a person with the intent to*
24 *sign the document.*

25 **Sec. 8.** *“Person” means a natural person, corporation,*
26 *business trust, estate, trust, partnership, limited-liability company,*
27 *association, joint venture, public corporation, government or*
28 *governmental subdivision, agency or instrumentality or any other*
29 *legal or commercial entity.*

30 **Sec. 9.** *“State” means a state of the United States, the*
31 *District of Columbia, Puerto Rico, the United States Virgin*
32 *Islands or any territory or insular possession subject to the*
33 *jurisdiction of the United States.*

34 **Sec. 10.** *Sections 2 to 15, inclusive, of this act allow a person*
35 *to submit an electronic document for recording with a county*
36 *recorder only if the county recorder has elected to accept*



* S B 8 8 *

1 *electronic documents for recording in accordance with the*
2 *provisions of sections 2 to 15, inclusive, of this act.*

3 **Sec. 11.** 1. *If a law requires, as a condition for recording,*
4 *that a document be an original, be on paper or another tangible*
5 *medium, or be in writing, the requirement is satisfied by an*
6 *electronic document satisfying the provisions of sections 2 to 15,*
7 *inclusive, of this act.*

8 2. *If a law requires, as a condition for recording, that a*
9 *document be signed, the requirement is satisfied by an electronic*
10 *signature.*

11 3. *A requirement that a document or a signature associated*
12 *with a document be notarized, acknowledged, verified, witnessed*
13 *or made under oath is satisfied if the electronic signature of the*
14 *person authorized to perform that act, and all other information*
15 *required to be included, is attached to or logically associated with*
16 *the document or signature. A physical or electronic image of a*
17 *stamp, impression or seal need not accompany an electronic*
18 *signature.*

19 **Sec. 12.** 1. *As used in this section, "paper document"*
20 *means a document that is received by the county recorder in a*
21 *form that is not electronic.*

22 2. *A county recorder:*

23 (a) *Who implements any of the functions listed in this section*
24 *shall do so in compliance with standards established by the*
25 *Secretary of State.*

26 (b) *May receive, index, store, archive and transmit electronic*
27 *documents.*

28 (c) *May provide for access to, and for search and retrieval of,*
29 *documents and information by electronic means.*

30 (d) *Who accepts electronic documents for recording shall*
31 *continue to accept paper documents as authorized by state law and*
32 *shall place entries for both types of documents in the same index.*

33 (e) *May convert paper documents accepted for recording into*
34 *electronic form.*

35 (f) *May convert into electronic form information recorded*
36 *before the county recorder began to record electronic documents.*

37 (g) *May accept electronically any fee or tax that the county*
38 *recorder is authorized to collect.*

39 (h) *May agree with other officials of a state or a political*
40 *subdivision thereof, or of the United States, on procedures or*
41 *processes to facilitate the electronic satisfaction of prior approvals*
42 *and conditions precedent to recording and the electronic payment*
43 *of fees and taxes.*



1 **Sec. 13. 1. The Secretary of State shall adopt by regulation**
2 **standards to implement the provisions of sections 2 to 15,**
3 **inclusive, of this act.**

4 **2. To keep the standards and practices of county recorders in**
5 **this State in harmony with the standards and practices of**
6 **recording offices in other jurisdictions that enact substantially the**
7 **Uniform Real Property Electronic Recording Act and to keep the**
8 **technology used by county recorders in this State compatible with**
9 **technology used by recording offices in other jurisdictions that**
10 **enact substantially the Uniform Real Property Electronic**
11 **Recording Act, the Secretary of State, so far as is consistent with**
12 **the purposes, policies and provisions of sections 2 to 15, inclusive,**
13 **of this act, shall consider in adopting, amending and repealing the**
14 **standards required by this section:**

15 **(a) Standards and practices of other jurisdictions;**

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

19 **(c) The views of interested persons and governmental officials**
20 **and entities;**

21 **(d) The needs of counties of varying size, population and**
22 **resources; and**

23 **(e) Standards requiring adequate information security**
24 **protection to ensure that electronic documents are accurate,**
25 **authentic, adequately preserved and resistant to tampering.**

26 **Sec. 14. In applying and construing the Uniform Real**
27 **Property Electronic Recording Act, consideration must be given to**
28 **the need to promote uniformity of the law with respect to its**
29 **subject matter among states that enact it.**

30 **Sec. 15. Sections 2 to 15, inclusive, of this act modify, limit**
31 **and supersede the federal Electronic Signatures in Global and**
32 **National Commerce Act, 15 U.S.C. §§ 7001 et seq., but do not**
33 **modify, limit or supersede Section 101(c) of that Act, 15 U.S.C. §**
34 **7001(c), or authorize electronic delivery of any of the notices**
35 **described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).**

36 **Sec. 16. Chapter 247 of NRS is hereby amended by adding**
37 **thereto a new section to read as follows:**

38 **1. A county recorder may elect to accept electronic documents**
39 **for recording in accordance with the provisions of sections 2 to 15,**
40 **inclusive, of this act.**

41 **2. If a county recorder elects to accept electronic documents**
42 **for recording and there is a conflict between the provisions of**
43 **sections 2 to 15, inclusive, of this act and the provisions of this**
44 **chapter, the provisions of sections 2 to 15, inclusive, of this act**
45 **control.**



Sec. 17. NRS 247.005 is hereby amended to read as follows:

247.005 **1.** As used in this chapter, unless the context otherwise requires, "document" means a written instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing, without regard to:

~~(1)~~ **(a)** The form in which the document is received by a county recorder;

~~(2)~~ **(b)** The method used to transmit the document to a county recorder; or

~~(3)~~ **(c)** The method used by a county recorder to store, access or retrieve the document.

2. If a county recorder elects to accept electronic documents for recording in accordance with the provisions of sections 2 to 15, inclusive, of this act, the term also includes an electronic document that satisfies the provisions of sections 2 to 15, inclusive, of this act.

Sec. 18. NRS 247.110 is hereby amended to read as follows:

247.110 **1.** When a document authorized, entitled or required by law to be recorded is deposited in the county recorder's office for recording, the county recorder shall:

(a) Endorse upon it the time when it was received, noting:

(1) The year, month, day, hour and minute of its reception;

(2) The document number; and

(3) The amount of fees collected for recording the document.

(b) Record the document without delay, together with the acknowledgments, proofs and certificates, written upon or annexed to it, with the plats, surveys, schedules and other papers thereto annexed, in the order in which the papers are received for recording.

(c) Note at the upper right corner of the record and upon the document, except a map, so recorded the exact time of its reception and the name of the person at whose request it was recorded.

(d) Upon request, place a stamp or other notation upon one copy of the document presented at the time of recording to reflect the information endorsed upon the original pursuant to subparagraphs (1) and (2) of paragraph (a) and as evidence that he received the original, and return the copy to the person who presented it.

2. In addition to the information described in paragraph (a) of subsection 1, a county recorder may endorse upon a document the book and page where the document is recorded.

3. Except as otherwise provided in this section, ~~and~~ subsection 4 of NRS 247.305 ~~and~~ **and sections 2 to 15, inclusive, of this act**, a document, except a map, certificate or affidavit of death, military discharge or document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the



1 Treasury, that is submitted for recording must be on a form
2 authorized by NRS 104.9521 for the type of filing or must:

3 (a) Be on white, 20-pound paper that is 8 1/2 inches by 11
4 inches in size.

5 (b) Have a margin of 1 inch on the left and right sides and at the
6 bottom of each page.

7 (c) Have a space of 3 inches by 3 inches at the upper right
8 corner of the first page and have a margin of 1 inch at the top of
9 each succeeding page.

10 (d) Not be on sheets of paper that are bound together at the side,
11 top or bottom.

12 (e) Not contain printed material on more than one side of each
13 page.

14 (f) Not have any documents or other materials physically
15 attached to the paper.

16 (g) Not contain:

17 (1) Colored markings to highlight text or any other part of
18 the document;

19 (2) A stamp or seal that overlaps with text or a signature on
20 the document, except in the case of a validated stamp or seal of a
21 professional engineer or land surveyor who is licensed pursuant to
22 chapter 625 of NRS;

23 (3) Text that is smaller than a 10-point Times New Roman
24 font and is printed in any ink other than black; or

25 (4) More than 9 lines of text per vertical inch.

26 4. The provisions of subsection 3 do not apply to a document
27 submitted for recording that has been filed with a court and which
28 conforms to the formatting requirements established by the court.

29 5. A document is recorded when the information required
30 pursuant to this section is placed on the document and is entered in
31 the record of the county recorder.

