



SPONSOR: Rep. Roy & Sen. McBride

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 79
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE TO PROVIDE FOR REAL PROPERTY ELECTRONIC RECORDING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 1 of Title 25 of the Delaware Code by striking the present heading for subchapter V in its entirety and by adding a new subchapter heading and a new subchapter to read as follows:

“Subchapter V. Electronic Recording.

Section 180. Short Title.

This subchapter may be cited as the Uniform Real Property Electronic Recording Act.

Section 181. Definitions in this subchapter.

(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 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 recorder in an electronic form.

(4) ‘Electronic recording commission’ means the commission established by Section 184 of this subchapter.

(5) ‘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.

(6) ‘Paper document’ means a document that is received by the recorder in a form that is not electronic.

- (7) '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.
- (8) 'Recorder' means the Recorder of Deeds for the County in which a document is received.
- (9) '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 182. Validity of Electronic Documents.

- (a) If a law requires, as a condition for recording, that a document be an original, be on paper or other tangible medium, or be in writing, an electronic document satisfying this subchapter satisfies the law.
- (b) If a law requires, as a condition for recording, that a document be signed, an electronic signature satisfies the law.
- (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 is not required to accompany an electronic signature.

Section 183. Recording of Documents.

- (a) A recorder who implements any of the functions described in this Section shall do so in compliance with standards established by the electronic recording commission.
- (b) A recorder may receive, index, store, archive, and transmit electronic documents.
- (c) A recorder may provide for access to, and for search and retrieval of, documents and information by electronic means.
- (d) A recorder who accepts electronic documents for recording shall continue to accept paper documents and shall place entries for both types of documents in the same index.
- (e) A recorder may convert paper documents accepted for recording into electronic form. The recorder may convert into electronic form information recorded before the recorder began to record electronic documents.
- (f) Any fee or tax that a recorder is authorized to collect may be collected electronically.
- (g) A recorder and other officials of a state or a political subdivision thereof, or of the United States, may agree on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

Section 184. Uniform Standards.

- (a) An electronic recording commission is created to adopt standards to implement this Act. The commission must consist of the Recorder for each County of the State and two members at large appointed by the Secretary of State.
- (b) The electric recording commission shall promote harmony and uniformity of standards and practices in the use of electronic recording so far as is consistent with the purposes, policies, and provisions of this Act. When adopting, amending, and repealing standards, the commission shall consider standards and practices of other jurisdictions; the most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association; the views of interested persons and other governmental entities; the needs of counties of varying size, population, and resources; and the need for security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering”.

Section 2. Uniformity of Application and Construction.

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

Section 3. Relation to Electronic Signatures in Global and National Commerce Act.

This subchapter modifies limits and supersedes the Federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c) or Section 104 of that act (15 U.S.C. Section 7004), or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

Section 4. Effective Date.

This Act takes effect January 1, 2006.