

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 762*

Short Title: Real Property Electronic Recording. (Public)

Sponsors: Representatives Culpepper; Faison, LaRoque, and Martin.

Referred to: Judiciary IV.

March 17, 2005

A BILL TO BE ENTITLED
AN ACT TO ENACT THE UNIFORM REAL PROPERTY ELECTRONIC
RECORDING ACT, AS RECOMMENDED BY THE GENERAL STATUTES
COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 47 of the General Statutes is amended by adding a new Article to read:

"Article 1A.

"Uniform Real Property Electronic Recording Act.

"§ 47-16.1. Short title.

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

"§ 47-16.2. Definitions.

In this Article:

- (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 register of deeds.
- (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 register of deeds in an electronic form.
- (4) "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.
- (5) "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.

1 **"§ 47-16.3. Validity of electronic documents.**

2 (a) If a law requires, as a condition for recording, that a document be an original,
3 be on paper or another tangible medium, or be in writing, the requirement is satisfied by
4 an electronic document satisfying this Article.

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

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

13 **"§ 47-16.4. Recording of documents.**

14 (a) In this section, "paper document" means a document that is received by the
15 register of deeds in a form that is not electronic.

16 (b) A register of deeds:

17 (1) Who implements any of the functions listed in this section shall do so
18 in compliance with standards adopted by the Secretary of State.

19 (2) May receive, index, store, archive, and transmit electronic documents.

20 (3) May provide for access to, and for search and retrieval of, documents
21 and information by electronic means.

22 (4) Who accepts electronic documents for recording shall continue to
23 accept paper documents as authorized by law and shall place entries
24 for both types of documents in the same index.

25 (5) May convert paper documents accepted for recording into electronic
26 form.

27 (6) May convert into electronic form information recorded before the
28 register of deeds began to record electronic documents.

29 (7) May accept electronically any fee or tax that the register of deeds is
30 authorized to collect.

31 (8) May agree with other officials of this State or a political subdivision
32 thereof on procedures or processes to facilitate the electronic
33 satisfaction of conditions to recording and the electronic payment of
34 fees and taxes.

35 **"§ 47-16.5. Administration and standards.**

36 (a) Standard-Setting Agency. – The Secretary of State shall adopt standards to
37 implement this Article upon recommendation of the Electronic Recording Council. The
38 Secretary of State may direct the Council to revise any portion of the recommended
39 standards the Secretary deems inadequate or inappropriate. Technological standards and
40 specifications adopted by the Secretary of State to implement this Article are
41 engineering standards for the purposes of G.S. 150B-2(8a)h.

42 (b) Electronic Recording Council Created. – The Electronic Recording Council is
43 created in the Department of the Secretary of State to advise and assist the Secretary of
44 State in the adoption of standards to implement this Article. The Council shall review

1 the functions listed in G.S. 47-16.4 and shall formulate and recommend to the Secretary
2 standards for recording electronic documents and implementing the other functions
3 listed in G.S. 47-16.4. The Council shall report its findings and recommendations to the
4 Secretary of State at least once each calendar year. The Council shall advise the
5 Secretary of State on a continuing basis of the need to adopt, amend, revise, or repeal
6 standards. The Council may advise the Secretary of State on any other matter the
7 Secretary refers to the Council.

8 (c) Council Membership, Terms, and Vacancies. – The Council shall consist of
9 13 members as follows:

10 (1) Seven members appointed by the North Carolina Association of
11 Registers of Deeds. It is the intent of the General Assembly that the
12 North Carolina Association of Registers of Deeds shall appoint as
13 members a representative selection of registers of deeds from large,
14 medium, and small counties, urban and rural counties, and the different
15 geographic areas of this State.

16 (2) One member appointed by the North Carolina Bar Association.

17 (3) One member appointed by the North Carolina Society of Land
18 Surveyors.

19 (4) One member appointed by the North Carolina Bankers Association.

20 (5) One member appointed by the North Carolina Land Title Association.

21 (6) One member appointed by the North Carolina Association of
22 Assessing Officers.

23 (7) The Secretary of Cultural Resources or the Secretary's designee.

24 In making appointments to the Council, each appointing authority shall select
25 appointees with the ability and commitment to fulfill the purposes of the Council.

26 Appointed members shall serve four-year terms, except that the initial appointments
27 by the North Carolina Bar Association, the North Carolina Bankers Association, the
28 North Carolina Association of Assessing Officers, and three of the initial appointments
29 by the North Carolina Association of Registers of Deeds shall be for two years. All
30 initial terms shall commence on the effective date of this Article. Members shall serve
31 until their successors are appointed. An appointing authority may reappoint a member
32 for successive terms. A vacancy on the Council shall be filled in the same manner in
33 which the original appointment was made, and the term shall be for the balance of the
34 unexpired term.

35 (d) Council Meetings and Officers. – The Secretary of State shall call the first
36 meeting of the Council. At the first meeting and biennially thereafter, the Council shall
37 elect from its membership a chair and a vice-chair to serve two-year terms. Meetings
38 may be called by the chair, the vice-chair, or the Secretary of State. Meetings shall be
39 held as often as necessary, but at least once a year.

40 (e) Council Compensation. – None of the members of the Council shall receive
41 compensation for serving on the Council, but Council members shall receive per diem,
42 subsistence, and travel expenses in accordance with G.S. 138-5 and G.S. 138-6, as
43 applicable.

1 (f) Staff and Other Assistance. – As soon as practicable and as needed thereafter,
2 the Council shall identify the information technology expertise it needs and report its
3 needs to the Secretary of State. The Council shall also report any other expertise needed
4 to fulfill its responsibilities. The Secretary of State shall provide professional and
5 clerical staff and other services and supplies, including meeting space, as needed for the
6 Council to carry out its duties in an effective manner. The Secretary of State may
7 appoint additional committees to advise and assist the Council in its work.

8 The Council shall consult with the North Carolina Local Government Information
9 Systems Association, and may consult with any other person the Council deems
10 appropriate, to advise and assist the Council in its work.

11 (g) Uniformity of Standards. – To keep the standards and practices of registers of
12 deeds in this State in harmony with the standards and practices of recording offices in
13 other jurisdictions that enact substantially this Article and to keep the technology used
14 by registers of deeds in this State compatible with technology used by recording offices
15 in other jurisdictions that enact substantially this Article, the Secretary of State and the
16 Council shall consider all of the following in carrying out their responsibilities under
17 this Article, so far as is consistent with its purposes, policies, and provisions:

18 (1) Standards and practices of other jurisdictions.

19 (2) The most recent standards promulgated by national standard-setting
20 bodies, such as the Property Records Industry Association.

21 (3) The views of interested persons and other governmental officials and
22 entities.

23 (4) The needs of counties of varying size, population, and resources.

24 **"§ 47-16.6. Uniformity of application and construction.**

25 In applying and construing this Article, consideration must be given to promoting
26 uniformity of interpretation of the Uniform Real Property Electronic Recording Act
27 among states that enact it.

28 **"§ 47-16.7. Relation to Electronic Signatures in Global and National Commerce**
29 **Act.**

30 This Article modifies, limits, and supersedes the federal Electronic Signatures in
31 Global and National Commerce Act (15 U.S.C. § 7001, et seq.) but does not modify,
32 limit, or supersede section 101(c) of that act (15 U.S.C. § 7001(c)) or authorize
33 electronic delivery of any of the notices described in Section 103(b) of that act (15
34 U.S.C. § 7003(b))."

35 **SECTION 2.** The Revisor of Statutes shall cause to be printed along with
36 this act all relevant portions of the official comments to the Uniform Real Property
37 Electronic Recording Act and all explanatory comments of the drafters of this act as the
38 Revisor deems appropriate.

39 **SECTION 3.** This act is effective when it becomes law.