

HOUSE No. 37

So much of the recommendations of the Commission on Uniform State Laws (House, No. 26) as relates to the uniform real property electronic recording act. The Judiciary.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
—————

An Act relative to the Uniform Real Property Electronic Recording Act.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 36 the
2 following chapter:--

3 CHAPTER 36A

4 UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

5 SECTION 1. SHORT TITLE. This chapter may be cited as the Uniform Real Property
6 Electronic Recording Act.

7 SECTION 2. DEFINITIONS. In this chapter:

8 (1) "Document" means information that is:

9 (A) inscribed on a tangible medium or that is stored in an electronic or other
10 medium and is retrievable in perceivable form; and

11 (B) eligible to be recorded in the land records maintained by the registers of
12 deeds under chapter 36[and the recorder under chapter 185, collectively referred to herein as the
13 “register”].

14 (2) “Electronic” means relating to technology having electrical, digital, magnetic,
15 wireless, optical, electromagnetic, or similar capabilities.

16 (3) “Electronic document” means a document that is received by the recorder in an
17 electronic form.

18 (4) “Electronic signature” means an electronic sound, symbol, or process attached to or
19 logically associated with a document and executed or adopted by a person with the intent to sign
20 the document.

21 (5) “Person” means an individual, corporation, business trust, estate, trust, partnership,
22 limited liability company, association, joint venture, public corporation, government, or
23 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

24 (6) “State” means a state of the United States, the District of Columbia, Puerto Rico, the
25 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
26 the United States.

27 SECTION 3. VALIDITY OF ELECTRONIC DOCUMENTS.

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

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

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

38 SECTION 4. RECORDING OF DOCUMENTS.

39 (a) In this section, “paper document” means a document that is received by the register
40 in a form that is not electronic.

41 (b) A register:

42 (1) who implements any of the functions listed in this section shall do so in
43 compliance with standards established by the Secretary of the Commonwealth.

44 (2) may receive, index, store, archive, and transmit electronic documents.

45 (3) may provide for access to, and for search and retrieval of, documents and
46 information by electronic means.

47 (4) who accepts electronic documents for recording shall continue to accept paper
48 documents as authorized by state law and shall place entries for both types of documents in the
49 same index.

50 (5) may convert paper documents accepted for recording into electronic form.

51 (6) may convert into electronic form information recorded before the register
52 began to record electronic documents.

53 (7) may accept electronically any fee that the register is authorized to collect.

54 (8) may agree with other officials of a state or a political subdivision thereof, or
55 of the United States, on procedures or processes to facilitate the electronic satisfaction of prior
56 approvals and conditions precedent to recording and the electronic payment of fees and taxes.

57 SECTION 5. ADMINISTRATION AND STANDARDS.

58 (a) The Secretary of the Commonwealth, in consultation with the persons identified in
59 section 17 of chapter 110G, shall adopt standards to implement this Act.

60 (b) To keep the standards and practices of registers in this state in harmony with the
61 standards and practices of recording offices in other jurisdictions that enact substantially this Act
62 and to keep the technology used by registers in this Commonwealth compatible with technology
63 used by recording offices in other jurisdictions that enact substantially this Act, the Secretary of
64 the Commonwealth, so far as is consistent with the purposes, policies, and provisions of this act,
65 in adopting, amending, and repealing standards shall consider:

66 (1) standards and practices of other jurisdictions;

67 (2) the most recent standards promulgated by national standard-setting bodies,
68 such as the Property Records Industry Association;

69 (3) the views of interested persons and governmental officials and entities;

70 (4) the needs of counties and districts of varying size, population, and resources;
71 and

72 (5) standards requiring adequate information security protection to ensure that
73 electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

74 SECTION 6. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
75 applying and construing this Uniform Act, consideration must be given to the need to promote
76 uniformity of the law with respect to its subject matter among States that enact it.

77 SECTION 7. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
78 NATIONAL COMMERCE ACT. This act modifies, limits, and supersedes the federal
79 Electronic Signatures in Global and National Commerce Act (15 U.S.C. section 7001, et seq.)
80 but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. section 7001(c)) or
81 authorize electronic delivery of any of the notices described in section 103(b) of that Act (15
82 U.S.C. section 7003(b)).

83 SECTION 2. This Act takes effect on July first, two thousand and fourteen.