

HOUSE BILL REPORT

EHB 2459

As Passed House:
January 28, 2008

Title: An act relating to real property electronic recording.

Brief Description: Creating the uniform real property electronic recording act.

Sponsors: By Representatives Kelley, Ross, Simpson, Hudgins, Upthegrove and Warnick; by request of Secretary of State.

Brief History:

Committee Activity:

Local Government: 1/15/08 [DP].

Floor Activity:

Passed House: 2/28/08, 92-0.

Brief Summary of Engrossed Bill

- Adopts the Uniform Real Property Electronic Recording Act, establishing the definitions, standards, procedures, and authority needed by county auditors related to the implementation of a system for the recording, storage, and transmission of documents existing in electronic form.
- Authorizes the official recording of an electronic document and the acceptance of a legally required signature, notarization, verification, or acknowledgment when received electronically in accordance with specified requirements.
- Requires the Secretary of State to create and appoint an "E-Recording Standards Commission" to review electronic recording standards and to make recommendations regarding the implementation of standardized rules for such recording.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 7 members: Representatives Simpson, Chair; Takko, Vice Chair; Warnick, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Eddy, Nelson and Schmick.

Staff: Lyset Cadena (786-7291) and Thamas Osborn (786-7129).

Background:

Uniform Real Property Electronic Recording Act

The Uniform Real Property Electronic Recording Act (URPERA) is the product of the National Conference of Commissioners on Uniform State Laws (NCCUSL), an organization that authors and promotes uniform, comprehensive statutory frameworks intended for nationwide adoption pertaining to many areas of law where national uniformity is deemed beneficial.

In its prefatory note to the URPERA, the NCCUSL explains:

"The Uniform Real Property Electronic Recording Act was drafted to remove any doubt about the authority of the recorder to receive and record documents and information in electronic form. Its fundamental principle is that any requirements of state law describing or requiring that a document be an original, on paper, or in writing are satisfied by a document in electronic form. Furthermore, any requirement that the document contain a signature or acknowledgment is satisfied by an electronic signature or acknowledgment. The act (URPERA) specifically authorizes a recorder, at the recorder's option, to accept electronic documents for recording and to index and store those documents."

Washington Electronic Authentication Act

The Washington Electronic Authentication Act (Act) (chapter 19.34 RCW) creates standards and procedures for the use of digital electronic signature technology in commercial transactions. The Act authorizes the Secretary of State to establish rules and procedures governing the use of electronic signatures in order to ensure the authenticity and reliability of electronic messages.

Duties and Authority of County Auditors

The county auditor is responsible for the recoding of specified documents required by law to be part of the public record kept by a county. The documents that must be recorded by a county auditor include judgements, liens, deeds, mortgages, and many other categories of documents pertaining to property ownership and real estate transactions. State law specifies requirements that must be met by an auditor when exercising his or her recording duties and specifically authorizes an auditor to record document in electronic format.

Summary of Engrossed Bill:

The adoption of the URPERA creates a new chapter in the Revised Code of Washington creating the definitions, standards, procedures, and authority needed by county auditors for the

implementation of a system for the recording, storage, and transmission of documents existing in electronic form.

County auditors are provided with the explicit authority needed for the official recording and transmission of an electronic document and the acceptance of a legally required signature, notarization, verification, or acknowledgment when received electronically in accordance with specified requirements.

The Secretary of State is required to create and appoint an E-Recording Standards Commission (Commission) to review electronic recording standards and make recommendations regarding the implementation of electronic recording standards. A majority of the Commission must be county auditors or recorders, but may also include treasurers, assessors, land title company representatives, escrow agents, mortgage bankers, and others whom the Secretary of State deems appropriate.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The URPERA allows for the creation of unified standards in receiving and recording documents and information in an electronic format. Currently, there are 3,600 recording entities nationwide planning to make the transition from paper-based recording to an electronic recording format. The URPERA helps states develop electronic recording standards that will work between jurisdictions and across state lines. The adoption of the URPERA does not mandate counties to adopt electronic recording standards, but it does authorize counties already accepting electronic documents to abide by the electronic recording standards.

Persons Testifying: Representative Kelley, prime sponsor; Dennis Cooper, Uniform Law Commission; and Megan Moreno, Secretary of State's Office.

Persons Signed In To Testify But Not Testifying: None.