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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **2394**

March 29, 2007

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to uniform acts; providing for the Uniform Real Property Electronic
1.3 Recording Act; amending Minnesota Statutes 2006, sections 14.03, subdivision
1.4 3; 507.24, subdivision 2; proposing coding for new law in Minnesota Statutes,
1.5 chapter 507.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2006, section 14.03, subdivision 3, is amended to read:

1.8 Subd. 3. **Rulemaking procedures.** (a) The definition of a rule in section 14.02,
1.9 subdivision 4, does not include:

1.10 (1) rules concerning only the internal management of the agency or other agencies
1.11 that do not directly affect the rights of or procedures available to the public;

1.12 (2) an application deadline on a form; and the remainder of a form and instructions
1.13 for use of the form to the extent that they do not impose substantive requirements other
1.14 than requirements contained in statute or rule;

1.15 (3) the curriculum adopted by an agency to implement a statute or rule permitting
1.16 or mandating minimum educational requirements for persons regulated by an agency,
1.17 provided the topic areas to be covered by the minimum educational requirements are
1.18 specified in statute or rule;

1.19 (4) procedures for sharing data among government agencies, provided these
1.20 procedures are consistent with chapter 13 and other law governing data practices.

1.21 (b) The definition of a rule in section 14.02, subdivision 4, does not include:

1.22 (1) rules of the commissioner of corrections relating to the release, placement, term,
1.23 and supervision of inmates serving a supervised release or conditional release term, the
1.24 internal management of institutions under the commissioner's control, and rules adopted
1.25 under section 609.105 governing the inmates of those institutions;

2.1 (2) rules relating to weight limitations on the use of highways when the substance
2.2 of the rules is indicated to the public by means of signs;

2.3 (3) opinions of the attorney general;

2.4 (4) the data element dictionary and the annual data acquisition calendar of the
2.5 Department of Education to the extent provided by section 125B.07;

2.6 (5) the occupational safety and health standards provided in section 182.655;

2.7 (6) revenue notices and tax information bulletins of the commissioner of revenue;

2.8 (7) uniform conveyancing forms adopted by the commissioner of commerce under
2.9 section 507.09; ~~or~~

2.10 (8) standards adopted by the Electronic Recording Commission established under
2.11 section 507.0945; or

2.12 (9) the interpretive guidelines developed by the commissioner of human services
2.13 to the extent provided in chapter 245A.

2.14 **Sec. 2. [507.0941] DEFINITIONS.**

2.15 For purposes of sections 507.0941 to 507.0948:

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

2.17 (i) inscribed on a tangible medium or that is stored in an electronic or other medium
2.18 and is retrievable in perceivable form; and

2.19 (ii) eligible to be recorded in the land records maintained by the recorder or registrar.

2.20 (2) "Electronic" means relating to technology having electrical, digital, magnetic,
2.21 wireless, optical, electromagnetic, or similar capabilities.

2.22 (3) "Electronic document" means a document that is received by the recorder or
2.23 registrar in an electronic form.

2.24 (4) "Electronic Recording Commission" means the commission established by
2.25 this act.

2.26 (5) "Electronic signature" means an electronic sound, symbol, or process attached
2.27 to or logically associated with a document and executed or adopted by a person with
2.28 the intent to sign the document.

2.29 (6) "Legislative Coordinating Commission" means the commission established by
2.30 section 3.303.

2.31 (7) "Paper document" means a document that a recorder or registrar receives in a
2.32 form that is not an electronic document.

2.33 (8) "Person" means an individual, corporation, business trust, estate, trust,
2.34 partnership, limited liability company, association, joint venture, public corporation,

3.1 government, or governmental subdivision, agency, or instrumentality, or any other legal or
 3.2 commercial entity.

3.3 (9) "Recorder" means the county recorder for the county in which a document is
 3.4 received.

3.5 (10) "Registrar" means the registrar of titles for the county in which a document is
 3.6 received.

3.7 **Sec. 3. [507.0942] UNIFORMITY OF APPLICATION AND CONSTRUCTION.**

3.8 In applying and construing this act, consideration must be given to the need to
 3.9 promote uniformity of the law with respect to the subject matter of this act among states
 3.10 that enact a law substantially similar to this act.

3.11 **Sec. 4. [507.0943] VALIDITY AND TIME OF RECORDING OF ELECTRONIC**
 3.12 **DOCUMENTS.**

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

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

3.18 (c) A requirement that a document or a signature associated with a document
 3.19 be attested, acknowledged, verified, witnessed, or made under oath is satisfied if the
 3.20 electronic signature of the person authorized to perform that act, and all other information
 3.21 required to be included, is attached to or logically associated with the document or
 3.22 signature. A physical or electronic image of a stamp, impression, or seal need not
 3.23 accompany an electronic signature.

3.24 (d) Notwithstanding the time of its delivery, an electronic document is recorded for
 3.25 purposes of chapter 507 at the earlier of (i) the time the electronic document is accepted for
 3.26 recording or (ii) the next close of the recorder's office hours following the time of delivery.

3.27 (e) Notwithstanding the time of its delivery, an electronic document is registered as
 3.28 to a parcel of registered land for purposes of chapters 508 and 508A when the electronic
 3.29 document is memorialized or otherwise noted on the certificate of title for the parcel.

3.30 **Sec. 5. [507.0944] RECORDING OF DOCUMENTS.**

3.31 (a) A recorder or registrar may:

3.32 (1) receive, index, store, archive, and transmit electronic documents;

3.33 (2) provide for access to documents and other information by electronic means;

4.1 (3) provide for search and retrieval of documents and other information by electronic
 4.2 means;

4.3 (4) index, store, and archive in electronic form paper documents accepted for
 4.4 recording;

4.5 (5) convert into electronic form the record of documents recorded or registered
 4.6 before the recorder or registrar began to record electronic documents;

4.7 (6) accept electronically any fee or tax that the recorder or registrar is authorized
 4.8 to collect; and

4.9 (7) agree with other officials of this state or a political subdivision of this state on
 4.10 procedures or processes to facilitate the electronic satisfaction of conditions to recording
 4.11 and the electronic payment of fees and taxes.

4.12 (b) A recorder who accepts electronic documents for recording shall:

4.13 (1) continue to accept paper documents; and

4.14 (2) place entries for paper documents and electronic documents in the same index.

4.15 (c) A registrar who accepts electronic documents for registration shall:

4.16 (1) continue to accept paper documents; and

4.17 (2) place entries for paper documents and electronic documents in the same index.

4.18 **Sec. 6. [507.0945] ADMINISTRATION.**

4.19 (a) An Electronic Recording Commission administered by the Legislative
 4.20 Coordinating Commission is created to adopt standards to implement this act. The
 4.21 Legislative Coordinating Commission shall promulgate by rule the standards adopted,
 4.22 amended, or repealed by the Electronic Recording Commission.

4.23 (b) The Electronic Recording Commission shall be appointed by the governor and
 4.24 consist of the following:

4.25 (1) three members who are recorders or registrars, including one from within the
 4.26 seven-county metropolitan area, one from outside the seven-county metropolitan area, and
 4.27 at least one of whom must be a recorder and one of whom must be a registrar;

4.28 (2) one member who represents an association of title insurance companies;

4.29 (3) one member who represents an association of bankers;

4.30 (4) one member who represents real property lawyers;

4.31 (5) one member who is an expert in the technological aspects of electronic real
 4.32 estate recording; and

4.33 (6) one member who is the state archivist appointed pursuant to section 138.17,
 4.34 who shall be a nonvoting member.

5.1 (c) Members of the Electronic Recording Commission shall serve four-year terms,
5.2 except that the initial appointments of recorders and registrars shall be for two years. All
5.3 initial terms shall commence on July 1, 2008. Members shall serve until their successors
5.4 are appointed. The governor may reappoint a member for successive terms.

5.5 (d) The chair of the Legislative Coordinating Commission shall call the first meeting
5.6 of the Electronic Recording Commission. At the first meeting and biennially thereafter,
5.7 the Electronic Recording Commission shall elect from its membership a chair and
5.8 vice-chair to serve two-year terms. Meetings may be called by the chair, the vice-chair, or
5.9 the head of the Legislative Coordinating Commission. Meetings shall be held as often as
5.10 necessary, but at least once a year.

5.11 (e) A majority of the voting members of the Electronic Recording Commission
5.12 constitutes a quorum to do business, and a majority of a quorum may act in any matter
5.13 within the jurisdiction of the Electronic Recording Commission.

5.14 (f) As soon as practicable and as needed thereafter, the Electronic Recording
5.15 Commission shall identify the information-technology expertise it requires and report
5.16 its needs to the Legislative Coordinating Commission. The Electronic Recording
5.17 Commission also shall report any other expertise it needs to fulfill its responsibilities.
5.18 The Legislative Coordinating Commission shall provide professional and clerical staff
5.19 and other services and supplies, including meeting space, as needed for the Electronic
5.20 Recording Commission to carry out its duties in an effective manner.

5.21 **Sec. 7. [507.0946] STANDARDS.**

5.22 To keep the standards and practices of recorders and registrars in this state consistent
5.23 with the standards and practices of recorders' and registrars' offices in other jurisdictions
5.24 that enact a law that is substantially similar to this act, and to keep the technology used
5.25 by recorders and registrars in this state compatible with technology used by recorders'
5.26 and registrars' offices in other jurisdictions that enact a law that is substantially similar to
5.27 this act, the Electronic Recording Commission, so far as is consistent with the purposes,
5.28 policies, and provisions of this act, in adopting, amending, and repealing standards shall
5.29 consider:

- 5.30 (1) standards and practices of other jurisdictions;
5.31 (2) the most recent standards promulgated by national standard-setting bodies;
5.32 (3) the views of interested persons and governmental officials and entities;
5.33 (4) the needs of counties of varying size, population, and resources; and

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

6.4 **Sec. 8. [507.0947] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
 6.5 **AND NATIONAL COMMERCE ACT.**

6.6 This act modifies, limits, and supersedes the federal Electronic Signatures in Global
 6.7 and National Commerce Act, United States Code, title 15, section 7001, et seq., but does
 6.8 not modify, limit, or supersede section 101(c) of that act, United States Code, title 15,
 6.9 section 7001(c), or authorize electronic delivery of any of the notices described in section
 6.10 103(b) of that act, United States Code, title 15, section 7003(b).

6.11 **Sec. 9. [507.0948] TITLE.**

6.12 Sections 507.0941 to 507.0948 may be cited as the "Minnesota Uniform Real
 6.13 Property Electronic Recording Act."

6.14 **Sec. 10. Minnesota Statutes 2006, section 507.24, subdivision 2, is amended to read:**

6.15 **Subd. 2. **Original signatures required.**** (a) Unless otherwise provided by law, an
 6.16 instrument affecting real estate that is to be recorded as provided in this section or other
 6.17 applicable law must contain the original signatures of the parties who execute it and of the
 6.18 notary public or other officer taking an acknowledgment. However, a financing statement
 6.19 that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the
 6.20 signatures of the debtor or the secured party; or (2) an acknowledgment.

6.21 (b) Any electronic instruments, including signatures and seals, affecting real estate
 6.22 may only be recorded as part of a pilot project for the electronic filing of real estate
 6.23 documents implemented by the task force created in Laws 2000, chapter 391, or by
 6.24 the Electronic Real Estate Recording Task Force created under section 507.094. The
 6.25 Electronic Real Estate Recording Task Force created under section 507.094 may amend
 6.26 standards set by the task force created in Laws 2000, chapter 391, and may set new or
 6.27 additional standards and establish pilot projects to the full extent permitted in section
 6.28 507.094, subdivision 2, paragraph (b). Documents recorded in conformity with those
 6.29 standards and in those pilot projects are deemed to meet the requirements of this section.

6.30 (c) A county that participated in the pilot project for the electronic filing of real
 6.31 estate documents under the task force created in Laws 2000, chapter 391, may continue to
 6.32 record or file documents electronically, if:

6.33 (1) the county complies with standards adopted by the task force; and

7.1 (2) the county uses software that was validated by the task force.

7.2 (d) A county that did not participate in the pilot project may record or file a real
7.3 estate document electronically, if:

7.4 (i) (1) the document to be recorded or filed is of a type included in the pilot project
7.5 for the electronic filing of real estate documents under the task force created in Laws
7.6 2000, chapter 391;

7.7 (ii) (2) the county complies with the standards adopted by the task force;

7.8 (iii) (3) the county uses software that was validated by the task force; and

7.9 (iv) (4) the task force created under section 507.094, votes to accept a written
7.10 certification of compliance with paragraph (b), clause (2), of this section by the county
7.11 board and county recorder of the county to implement electronic filing under this section.

7.12 (e) (e) Notices filed pursuant to section 168A.141, subdivisions 1 and 3, need not
7.13 contain an acknowledgment.

7.14 Sec. 11. **EFFECTIVE DATE.**

7.15 This act is effective July 1, 2008.