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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 3790

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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 real property; providing for electronic recording; proposing coding for
1.3 new law in Minnesota Statutes, chapter 507.

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

1.5 Section 1. **[507.0941] DEFINITIONS.**

1.6 For purposes of sections 507.0941 to 507.0948:

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

1.8 (i) inscribed on a tangible medium or that is stored in an electronic or other medium

1.9 and is retrievable in perceivable form; and

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

1.11 (2) "Electronic" means relating to technology having electrical, digital, magnetic,

1.12 wireless, optical, electromagnetic, or similar capabilities.

1.13 (3) "Electronic document" means a document that is received by the recorder or

1.14 registrar in an electronic form.

1.15 (4) "Electronic real estate recording commission" and "commission" mean the

1.16 commission established by sections 507.0941 to 507.0948.

1.17 (5) "Electronic signature" means an electronic sound, symbol, or process attached

1.18 to or logically associated with a document and executed or adopted by a person with

1.19 the intent to sign the document.

1.20 (6) "Legislative Coordinating Commission" means the commission established by

1.21 section 3.303.

1.22 (7) "Paper document" means a document that a recorder or registrar receives in a

1.23 form that is not an electronic document.

2.1 (8) "Person" means an individual, corporation, business trust, estate, trust,
 2.2 partnership, limited liability company, association, joint venture, public corporation,
 2.3 government, or governmental subdivision, agency, or instrumentality, or any other legal or
 2.4 commercial entity.

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

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

2.9 **Sec. 2. [507.0942] UNIFORMITY OF APPLICATION AND CONSTRUCTION.**

2.10 Persons applying or construing this act must consider the need to promote uniformity
 2.11 of the law with respect to the subject matter of this act among states that enact a law
 2.12 substantially similar to this act.

2.13 **Sec. 3. [507.0943] VALIDITY AND TIME OF RECORDING OF ELECTRONIC**
 2.14 **DOCUMENTS.**

2.15 (a) If a law requires, as a condition for recording, that a document be an original, be
 2.16 on paper or another tangible medium, or be in writing, the requirement is satisfied by an
 2.17 electronic document satisfying this act. If a law requires or refers to something related to
 2.18 tangible media including, without limitation, book, certificate, floor plan, page, volume,
 2.19 or words derived from them, the requirement or reference is satisfied by an electronic
 2.20 document satisfying this act.

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

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

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

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

3.1 (f) A law that authorizes or requires any act to be performed with respect to any
3.2 document affecting real property that is to be filed in the office of the recorder or registrar
3.3 shall be deemed satisfied if the act is performed electronically in accordance with the
3.4 standards established by the electronic real estate recording commission. By way of
3.5 illustration, the acts referred to in this section include, without limitation, the following
3.6 words as well as words derived from them: affix, apply, attest, bind, certify, conform,
3.7 contain, copy, deliver, draw, duplicate, endorse, enter, file, form, hold, issue, leave, make,
3.8 mark, mount, note, open, present, print, proffer, receive, recite, record, refer, register, seal,
3.9 send, sign, stamp, state, store, subscribe, witness, and write.

3.10 **Sec. 4. [507.0944] RECORDING OF DOCUMENTS.**

3.11 (a) A recorder or registrar may:

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

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

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

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

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

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

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

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

3.26 (1) continue to accept paper documents; and

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

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

3.29 (1) continue to accept paper documents; and

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

3.31 **Sec. 5. [507.0945] ADMINISTRATION.**

3.32 (a) An Electronic Real Estate Recording Commission administered by the
3.33 Legislative Coordinating Commission is created to adopt standards to implement this act.

4.1 The Legislative Coordinating Commission shall promulgate by rule the standards adopted,
4.2 amended, or repealed by the Electronic Real Estate Recording Commission.

4.3 (b) The Electronic Real Estate Recording Commission shall consist of the following:

4.4 (1) three members appointed by the Minnesota Association of County Officials who
4.5 are county employees, including one from within the seven-county metropolitan area, one
4.6 from outside the seven-county metropolitan area, and at least one of whom is a county
4.7 recorder and at least one of whom is a registrar of titles;

4.8 (2) one member appointed by the Minnesota Land Title Association;

4.9 (3) one member who represents the Minnesota Bankers Association;

4.10 (4) one member who represents the Section of Real Property Law of the Minnesota
4.11 State Bar Association;

4.12 (5) one nonvoting member who is appointed by the other members of the commission
4.13 and an expert in the technological aspects of electronic real estate recording; and

4.14 (6) one member who is the state archivist appointed pursuant to section 138.17.

4.15 (c) Members of the Electronic Real Estate Recording Commission shall serve
4.16 four-year terms, except that (1) the initial appointments of county employees shall be for
4.17 two years and (2) the expert in the technological aspects of electronic real estate recording
4.18 shall serve at the pleasure of a majority of the other members of the commission. All
4.19 initial terms shall commence on July 1, 2008. Members shall serve until their successors
4.20 are appointed. Any member may be reappointed for successive terms.

4.21 (d) The state archivist shall call the first meeting of the Electronic Real Estate
4.22 Recording Commission. At the first meeting and biennially thereafter, the commission
4.23 shall elect from its membership a chair and vice-chair to serve two-year terms. Meetings
4.24 may be called by the chair or the vice-chair or the head of the Legislative Coordinating
4.25 Commission. Meetings shall be held as often as necessary, but at least once a year.

4.26 (e) A majority of the voting members of the Electronic Real Estate Recording
4.27 Commission constitutes a quorum to do business, and a majority of a quorum may act
4.28 in any matter within the jurisdiction of the commission.

4.29 (f) As soon as practicable and as needed thereafter, the Electronic Real Estate
4.30 Recording Commission shall identify the information-technology expertise it requires
4.31 and report its needs to the Legislative Coordinating Commission. The Electronic Real
4.32 Estate Recording Commission also shall report any other expertise it needs to fulfill its
4.33 responsibilities. The Legislative Coordinating Commission shall provide professional and
4.34 clerical staff and other services and supplies, including meeting space, as needed for the
4.35 Electronic Real Estate Recording Commission to carry out its duties in an effective manner.

5.1 Sec. 6. **[507.0946] STANDARDS.**

5.2 To keep the standards and practices of recorders and registrars in this state in
5.3 harmony with the standards and practices of recorders' and registrars' offices in other
5.4 jurisdictions that enact a law that is substantially similar to this act, and to keep the
5.5 technology used by recorders and registrars in this state compatible with technology
5.6 used by recorders' and registrars' offices in other jurisdictions that enact a law that is
5.7 substantially similar to this act, the Electronic Real Estate Recording Commission, so
5.8 far as is consistent with the purposes, policies, and provisions of this act, in adopting,
5.9 amending, and repealing standards, shall consider:

5.10 (1) standards and practices of other jurisdictions;

5.11 (2) the most recent standards promulgated by national standard-setting bodies;

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

5.13 (4) the needs of counties of varying size, population, and resources; and

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

5.17 Sec. 7. **[507.0947] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
5.18 **AND NATIONAL COMMERCE ACT.**

5.19 This act modifies, limits, and supersedes the federal Electronic Signatures in Global
5.20 and National Commerce Act, United States Code, title 15, section 7001, et seq., but does
5.21 not modify, limit, or supersede section 101(c) of that act, United States Code, title 15,
5.22 section 7001(c), or authorize electronic delivery of any of the notices described in section
5.23 103(b) of that act, United States Code, title 15, section 7003(b).

5.24 Sec. 8. **[507.0948] TITLE.**

5.25 This act may be cited as the Minnesota Real Property Electronic Recording Act.

5.26 Sec. 9. **EFFECTIVE DATE.**

5.27 This act is effective July 1, 2008.