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AN ACT

RELATING TO RECORDING REAL PROPERTY DOCUMENTS; ENACTING THE
UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT; PROVIDING FOR
THE OPTIONAL RECORDING OF ELECTRONIC REAL PROPERTY DOCUMENTS
BY COUNTY CLERKS AND THE VALIDITY OF REAL PROPERTY DOCUMENTS
WITH ELECTRONIC SIGNATURES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Uniform Real Property Electronic Recording Act".

Section 2. DEFINITIONS.--As used in the Uniform Real
Property Electronic Recording Act:

A. "document" means information that is:

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

(2) eligible to be recorded in the land
records maintained by a county clerk;

B. "electronic" means relating to technology
having electrical, digital, magnetic, wireless, optical,
electromagnetic or similar capabilities;

C. "electronic document" means a document that is
received by a county clerk in an electronic form;

D. "electronic signature" means an electronic
sound, symbol or process attached to or logically associated

1 with a document and executed or adopted by a person with the
2 intent to sign the document;

3 E. "person" means an individual, corporation,
4 business trust, estate, trust, partnership, limited liability
5 company, association, joint venture, public corporation,
6 government or governmental subdivision, agency or
7 instrumentality or any other legal or commercial entity; and

8 F. "state" means a state of the United States, the
9 District of Columbia, Puerto Rico, the United States Virgin
10 Islands or any territory or insular possession subject to the
11 jurisdiction of the United States.

12 Section 3. VALIDITY OF ELECTRONIC DOCUMENTS.--

13 A. If a law requires, as a condition for
14 recording, that a document be an original, be on paper or
15 another tangible medium or be in writing, the requirement is
16 satisfied by an electronic document satisfying the Uniform
17 Real Property Electronic Recording Act.

18 B. If a law requires, as a condition for
19 recording, that a document be signed, the requirement is
20 satisfied by an electronic signature.

21 C. A requirement that a document or a signature
22 associated with a document be notarized, acknowledged,
23 verified, witnessed or made under oath is satisfied if the
24 electronic signature of the person authorized to perform that
25 act and all other information required to be included is

1 attached to or logically associated with the document or
2 signature. A physical or electronic image of a stamp,
3 impression or seal need not accompany an electronic
4 signature.

5 Section 4. RECORDING OF DOCUMENTS.--

6 A. In this section, "paper document" means a
7 document that is received by the county clerk in a form that
8 is not electronic.

9 B. A county clerk:

10 (1) who implements any of the functions
11 listed in this section shall do so in compliance with
12 standards established by the information technology
13 commission and the state commission of public records, in
14 consultation with the county clerks of New Mexico, pursuant
15 to Section 5 of the Uniform Real Property Electronic
16 Recording Act;

17 (2) may receive, index, store, archive and
18 transmit electronic documents;

19 (3) may provide for access to and for search
20 and retrieval of documents and information by electronic
21 means;

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

1 (5) may convert paper documents accepted for
2 recording into electronic form;

3 (6) may convert into electronic form
4 information recorded before the county clerk began to record
5 electronic documents;

6 (7) may accept electronically any fee that
7 the county clerk is authorized to collect; and

8 (8) may agree with other officials of a
9 state, of a political subdivision of a state or of the United
10 States on procedures or processes to facilitate the
11 electronic satisfaction of prior approvals and conditions
12 precedent to recording and the electronic payment of fees.

13 Section 5. ADMINISTRATION AND STANDARDS.--

14 A. The information technology commission and the
15 state commission of public records, in consultation with the
16 county clerks of New Mexico, shall adopt standards to
17 implement the Uniform Real Property Electronic Recording Act.

18 B. To keep the standards and practices of county
19 clerks in this state in harmony with the standards and
20 practices of recording offices in other jurisdictions that
21 enact substantially the Uniform Real Property Electronic
22 Recording Act and to keep the technology used by county
23 clerks in this state compatible with technology used by
24 recording offices in other jurisdictions that enact
25 substantially the Uniform Real Property Electronic Recording

1 Act, the information technology commission and the state
2 commission of public records, in consultation with the county
3 clerks of New Mexico, so far as is consistent with the
4 purposes, policies and provisions of the Uniform Real
5 Property Electronic Recording Act, in adopting, amending and
6 repealing standards shall consider:

7 (1) standards and practices of other
8 jurisdictions;

9 (2) the most recent standards promulgated by
10 national standard-setting bodies, such as the property
11 records industry association;

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

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

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

20 C. The secretary of state may adopt and promulgate
21 rules to implement the provisions of Subsection C of Section
22 3 of the Uniform Electronic Recording Act by providing for
23 the electronic notarization, acknowledgment, verification,
24 swearing or affirming under oath and other notarial acts by
25 notaries public with respect to a document or signature.

1 Section 6. UNIFORMITY OF APPLICATION AND
2 CONSTRUCTION.--In applying and construing the Uniform Real
3 Property Electronic Recording Act, consideration shall be
4 given to the need to promote uniformity of the law with
5 respect to its subject matter among states that enact it.

6 Section 7. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
7 AND NATIONAL COMMERCE ACT.--The Uniform Real Property
8 Electronic Recording Act modifies, limits and supersedes the
9 federal Electronic Signatures in Global and National Commerce
10 Act but does not modify, limit or supersede Section 101(c) of
11 that act or authorize electronic delivery of any of the
12 notices described in Section 103(b) of that act.

13 Section 8. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2007. _____

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