

# **FAQ for Town Clerks: The Regulation concerning Real Property Electronic Recording**

## **Connecticut State Library, Office of the Public Records Administrator**

### **1. What is electronic recording?**

Electronic recording, also known as eRecording, allows clerks to accept electronic documents for recording on the land records.

The term “electronic recording” essentially refers to “electronic document delivery.” It is defined as the delivery and return of an electronic document, using an electronic document delivery system, for the purpose of recording that document on the land records. All recording – whether for paper or electronic documents – continues to be handled within your land recording system.

### **2. Is eRecording a new technology?**

No; eRecording has been available in other states for many years. Connecticut is the 43rd state to allow for electronic recording.

Clerks in other states have reported improved efficiencies and reduced costs through the implementation of eRecording. Many submitters also prefer eRecording.

### **3. Are town clerks required to implement eRecording in their towns?**

No; the legislation allows each clerk to choose whether to implement eRecording in their town.

### **4. What is the statutory basis for electronic recording in Connecticut?**

CGS Chapter 92a, “Uniform Real Property Electronic Recording Act,” allows for the recording of electronic documents on the land records. It requires that town clerks who implement electronic recording do so in compliance with the regulation adopted by the State Librarian.

CGS Chapter 92a includes a number of important elements and should be read in conjunction with the regulation. [See CGS Chapter 92a: <http://www.cga.ct.gov/current/pub/chap092a.htm>]

### **5. What is the regulation that governs electronic recording?**

The Regulation concerning Real Property Electronic Recording has been adopted as Conn. Agencies Regs. Sections 7-35ee-1 through 7-35ee-10, effective April 1, 2013. [See Conn. Agencies Regs. Sections 7-35ee-1 through 7-35ee-10: <http://www.cslib.org/publicrecords/eRecordReg.htm>]

## 6. How was the regulation drafted?

As required under CGS Chapter 92a, the State Librarian drafted the regulation in consultation with the Public Records Administrator and the Real Property Electronic Recording Advisory Committee.

The committee included three town clerks; three attorneys experienced in real estate law; a designee of the Secretary of the State; the Public Records Administrator; an individual experienced in mortgage banking; an individual experienced in the business of title insurance; a notary public; an individual with experience performing title searches of real property; and a licensed real estate broker.

The committee held seven meetings from late 2009 through early 2012. Once completed, the proposed regulation was submitted for a series of reviews and approvals as required by statute.

## 7. What is the purpose of this regulation?

It is intended to ensure that electronic recording is implemented in a manner that is consistent with national and statewide practices and that the records and recordkeeping systems are maintained properly and securely.

## 8. Can you assist me in understanding the regulation as I review it?

Yes; we've provided a general overview of the ten sections of the regulation below. We hope this informal summary will assist you as you read through the regulation, but it cannot be referenced in place of the regulation:

- **Section 1:** This introductory section explains that town clerks may elect to accept electronic documents for recording; it is an option and not a requirement. Electronic recording must be in accordance with the regulation and with all applicable sections of the Connecticut General Statutes.
- **Section 2:** This section includes a number of definitions. Several of these are best understood through the use of examples. A "delivery agent" is typically an eRecording vendor, such as Simplifile, Corporation Service Company (CSC) or eRecording Partners Network (ePN). A legal firm, bank or other entity can also serve as a delivery agent if it uses its own in-house software system. An "electronic document delivery system" is the software system provided by a delivery agent. A "submitter" is the attorney, bank, or other individual/entity wishing to record a document. Note that certain definitions refer back to CGS Section 7-35bb, which can be found within CGS Chapter 92a.
- **Sections 3 – 5:** These sections establish technical standards for document models, data formats, and document formats that are consistent with those used in other jurisdictions throughout the country. Section 3 defines three broad electronic recording models. Section 4 specifies that

document formatting and data fields must follow industry-wide standards set by PRIA. Section 5 requires the use of TIFF and/or PDF files in accordance with their associated standards.

- **Sections 6 – 7:** These sections establish requirements for electronic signatures, electronic notarizations and document processing, to ensure compliance with existing state law and consistency throughout the state.
- **Sections 8 – 9:** These sections require that documents are transmitted, recorded and maintained in a secure manner; and that records are managed according to established retention, preservation and disclosure requirements.
- **Section 10:** This section requires an agreement between the town clerk and delivery agent that must address, at a minimum, ten listed items; several of these items are drawn from earlier sections of the regulation. In addition, this section states that the town clerk must set procedures for electronic recording in the municipality, addressing most of these same elements, and must post this information online and in the office.

## **9. Must clerks continue to maintain printed volumes and accept paper documents for recording?**

Yes; clerks who implement eRecording must continue to maintain indexes and land record volumes in accordance with the requirements of the Public Records Administrator, as specified in Section 7-35ee-9 of the regulation. The current requirements for printed indexes and volumes remain unchanged.

Clerks who implement eRecording must continue to accept paper documents for recording, as specified in Section 7-35dd of CGS Chapter 92a.

## **10. Should clerks work with one or with several delivery agents?**

Just as towns would not limit mail submissions to those sent through a single provider, such as UPS or FedEx, we would not recommend that towns limit electronic submissions to a single delivery agent.

If a delivery agent has a client base that includes submitters likely to record in your office, we would recommend that you work with that agent, provided that the agent meets the requirements of the regulation.

## **11. Has the State Library pre-approved the delivery agents?**

No; the State Library does not pre-approve delivery agents or review the terms of their agreements. With very few exceptions, the State Library does not review or approve vendor products or services. In most cases, as with electronic recording, it sets standards that municipalities must follow and must require their vendors to follow.

## **12. How do I set up eRecording in my town?**

First, contact your land recording vendor representative to check if your land recording system is ready to interface with the electronic document delivery systems. Some land recording vendors may charge to implement or maintain the service while others may not. As with any business agreement, it is up to the municipality to evaluate or negotiate any proposed costs. Delivery agents do not charge towns for their services.

Next, work with your land recording and delivery agent representatives to implement the eRecording system. Once an agreement is in place, the representatives will generally work together with you to set up and test the interface. The land recording representative may provide software training to the town clerk staff. For questions specific to eRecording, however, you may also find it helpful to check directly with your delivery agent representatives.

## **13. Who can I contact for more information?**

For questions regarding the regulation, please contact the Office of the Public Records Administrator, Connecticut State Library.

For questions regarding the implementation process, please speak directly with your land recording and delivery agent representatives.