

Jan Kalajainen

From: John Riddell [jriddell@simplifile.com]
Sent: Friday, August 08, 2014 9:10 AM
To: Jan Kalajainen
Subject: RE: Electronic Recording Commission

Comments from
John Riddell,
SimpliFile

Jan:

I have had a few people here at Simplifile review the document and here are some of the comments and possible corrections:

From my perspective, they seem fine with the noted comments below:

1 question I would have as an e-recording vendor on the draft regulations document:

Section 201.10 Agreement and Procedures. Item (8) is vague. How do we "review the qualifications.....and to approve the potential submitter". What are we reviewing and approving them for other than to submit? I wonder how we will know if we are complying?

As for the Best Practices document, I have these comments.

(3) – this would be too lengthy and complicated for submitters to understand and abide by any way. The item should really just say something like. Only minimal indexing will be required by the submitter and County should have a way within their receiver system to change the indexing based on the county's internal indexing criteria. Documents should not be rejected for indexing errors unless they affect the fee calculation capabilities of the County recording staff.

(5) – should say that "standard is ACH" it shouldn't say wire transfer as standard.

(8) – goes back to my concern about the draft regulation document item (8). They don't require that FedEx "Qualify" a paper submitter. Should we really be trying to Qualify an electronic document submitter? – we can track them but we shouldn't be expected to Qualify them.

Take them for what they are worth, assistance. Have a great weekend.

John

John Riddell
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From: Mark Ladd [mailto:mark.ladd@simplifile.com]

Sent: Thursday, August 07, 2014 3:37 PM

To: Becker, Nancy; Malfitano, Scott; jerry@erecordingpartners.net; shawnnai@americantitleinc.com; benk@americantitleinc.com; info@plta.org; Marc D. Jonas; 'bkearney@hrmml.com'

Cc: John Riddell

Subject: RE: Electronic Recording Commission

Comments from Simplifile -
Mark Ladd

Hello Nancy,

Thank you for the opportunity to provide input on these proposed eRecording rules. It is greatly appreciated by the industry.

First, congratulations on keeping them concise and yet comprehensive. I think you covered the major topics without being overly restrictive on market innovation.

Some of the items in the Best Practice document are codified in the rules. My feeling is that anything the rules make mandatory, don't need to be included in the Best Practices. After all, the first "best practice" is to abide by statutes and administrative rules.

Best Practice #2 recommends documents to "be scanned at 300 dpi minimum". The difference in file size between 300 dpi and 400 dpi can be significant. I've seen scanners with resolution up to 3200 dpi. That file would be huge! Just state that 300 dpi is the best practice.

There is a parenthetical phrase in Best Practice #2 that defines TIFF as ultra-high resolution but not searchable. If a document is scanned at a low resolution, saving it as a TIFF won't make it high resolution. And there are several folks who make software that can make TIFFs searchable. I don't think these items need to be defined in a best practice document. I'd recommend deleting the parenthetical portion.

Best Practice #8 (and Section 201.10(8)) is problematic for the eRecording vendors. Since there are no specific qualifications for submitters, it is hard for us to know if we are in compliance. I think that everything #8 is concerned about is covered by the contracts required in #9. If a submitter fails to comply with the rules, we can terminate our contract with them.

Last, under Best Practice #9, you will find members of the legal community who take exception to "enhancing" embossed seals. And since fewer and fewer notaries use embossed seals, I'm not sure this is necessary.

Overall, I don't see any show-stoppers. Good work on the part of the Commission.

Mark Ladd

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From: Malfitano, Scott [mailto:smalfita@cscinfo.com]
Sent: Thursday, August 07, 2014 11:44 AM
To: Becker, Nancy
Cc: Malfitano, Scott; McGivney, Thomas; Geramita, Chuck
Subject: RE: Electronic Recording Commission

Comments from CSC -
Scott Malfitano

Nancy --

Thanks for putting this together. We believe it could be extremely beneficial to all involved.

Would you like someone from the CSC Operations team on the September call?

Some feedback for you from CSC ---

Best Practices – page

(5) Payment options for recording fees and applicable taxes

Payment is preference of recorder – standard is ACH or wire transfer

-Wire Transfer is not common or preferred. ACH is the standard and preferred with Escrow as an option but not the standard.

(8) Responsibility of the delivery agent to review the qualifications of each potential submitter and to approve the potential submitter prior to granting access to the electronic document delivery system

Allow recorder to review rejection reason(s) when document is resubmitted

Keep same transaction number when resubmitting document

It may be very difficult (not possible now) to keep the same transaction number when resubmitting following as rejection.

Sec 201.3 - What PRIA version are you referring as there have been several? Your comment, “as amended from time to time” --- I’m assuming means the latest version?

Sec 201.7 – (b) not every back end (LRMS) can handle this in regards to delivery of the email and phone

Some suggestions to add to the best practice page ----

Accept documents from all delivery agents. Each delivery agent strives to bring our counties as much business as possible and helps us reduce costs and ensure same day payment. These delivery agents serve as our ambassadors to help educate national and local submitters on the benefits of eRecording in our counties and state.

Encourage your neighboring counties to embrace eRecording if they aren’t currently doing so. This will only elevate the opportunities for submitters to look at your county and the surrounding counties as a substantial reason why they should eRecord to save them time and money.

Scott

From: Malfitano, Scott [mailto:smalfita@cscinfo.com]
Sent: Thursday, August 07, 2014 2:06 PM
To: Becker, Nancy
Subject: RE: Electronic Recording Commission

Comments from Karl Klessig

Nancy – I received some additional feedback from Karl Klessig who serves on a few state commissions and who is also a PRIA board member.

In working on some of the other State Commissions CSC has worked with the commission to include the following as appendices as part of the regulations:

1. Acronyms Used in the Document
2. Glossary of Terms
3. eRecording Models Explained
4. Sample eRecording Memorandum of Understanding (MOU)
5. PRIA Recommended Standards and Guidelines
6. Document Standardization and Indexing Requirements
7. Frequently Asked Questions

Some of this is in the regulations such as the definitions. We have found that the more guidance the regulations have the more likely standardization will occur.

Comments From Mark Aronson

Electronic Recording Commission Electronic Recording Standards

Title 4
Administration
Part VIII

Bureau of Commission, Elections and Legislation
Subpart G. Electronic Recording Standards
Chapter 201. Real Property Electronic Recording



Section 201.1. Real property electronic recording

This chapter applies to real property electronic recording in the office of the county recorder of deeds or other county official responsible for the recordation of documents in counties without recorders of deeds pursuant to the Uniform Real Property Electronic Recording Act (21 P.S. §§ 483.1 - 483.9) of the Pennsylvania Statutes. A recorder may elect to accept electronic documents for recording in accordance with this chapter and with all applicable sections of the laws of Pennsylvania, including, but not limited to, the Uniform Real Property Electronic Recording Act.

Sec. 201.2. Definitions

As used in this chapter:

- (1) "Delivery agent" means a party who has entered into an agreement with a recorder to deliver an electronic document from a submitter to a recorder and to return the recorded document to the submitter;
- (2) "Document" has the same meaning as provided in section 2 of the Act of July 5, 2012 (P.L. 935, No. 100), known as the Uniform Real Property Electronic Recording Act (21 P.S. § 483.2);
- (3) "Electronic" has the same meaning as provided in section 2 of the Act of July 5, 2012 (P.L. 935, No. 100), known as the Uniform Real Property Electronic Recording Act (21 P.S. § 483.2);
- (4) "Electronic document" has the same meaning as provided section 2 of the Act of July 5, 2012 (P.L. 935, No. 100), known as the Uniform Real Property Electronic Recording Act (21 P.S. § 483.2);
- (5) "Electronic document delivery system" means an automated system for the secure transmission of an electronic document between a submitter and a recorder;
- (6) "Electronic recording" means 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, using a land records management system;
- (7) "Electronic signature" has the same meaning as provided in section 2 of the Act of July 5, 2012 (P.L. 935, No. 100), known as the Uniform Real Property Electronic Recording Act (21 P.S. § 483.2);
- (8) "Land records management system" means a system for recording and indexing documents on the land records, accessing and maintaining the land records, and meeting the retention standards promulgated by the County Records Committee pursuant to the County Records Act (16 P.S. §§ 13001-13006);

- (9) "Land records management system vendor" means a party who provides a land records management system;
- (10) "Recorder" means a county recorder of deeds or other county official responsible for the recordation of documents in counties without recorders of deeds who has elected to accept electronic documents for recording;
- (11) "Property Records Industry Association" (PRIA) means the not-for-profit corporation, established jointly by government and business, to develop and promote national standards and best practices for the land records industry;
- (12) "Recording information" means the information added to a document at the time such document is recorded, including but not limited to, the date and time of receipt of such document for recording, the name and municipality of the recording officer, and the book and page of such document or other suitable indication of its location;
- (13) "Submitter" means a party who requests that an electronic document be recorded.

Sec. 201.3. Electronic Recording Models

Electronic documents shall conform to the current models and standards prescribed by the Property Records Industry Association (PRIA), as amended from time to time.

Sec. 201.4. Data Formats

Electronic recording shall meet technical standards for electronic document formatting and data fields as prescribed by the Property Records Industry Association (PRIA), as amended from time to time.

Sec. 201.5. Electronic Document Formats

Electronic documents shall be transmitted and stored as either TIFF or PDF files or in any future formats approved by the Pennsylvania Historical and Museum Commission.

COUNTY RECORDS COMMITTEE ?? → SEE JERMAN 201-98

Sec. 201.6. Electronic Signatures and Electronic Notarizations

(a) Documents containing electronic signatures or electronic notarizations shall conform to all applicable standards established by the Department of State and to all applicable sections of the laws of Pennsylvania, including, but not limited to, chapter 41 of the Pennsylvania Statutes (Uniform Electronic Recording Act, 73 P.S. § 2260.101, et seq.); the Act of July 5, 2012 (P.L. 935, No. 100), known as the Uniform Real Property Electronic Recording Act (21 P.S. § 483.1 et. seq) and the Act of October 9, 2013 (No. 73), known as the Revised Uniform Law on Notarial Acts (57 Pa.C.S. §§ 301-331).

(b) A recorder shall only be required to accept electronic documents containing electronic signatures or electronic notarizations that the recorder has the technology to support.

(c) A recorder shall not be responsible for authenticating electronic signatures or electronic notarizations.

Sec. 201.7. Electronic Recording Processing Requirements

(a) A recorder shall provide notice of confirmation or rejection of recording through the electronic document delivery system.

(1) A notice of confirmation shall include recording information for the electronic document accepted for recording and shall identify the electronic document accepted for recording.

(2) A notice of rejection shall include a brief explanation of the reason or reasons for rejection and shall identify the electronic document rejected for recording.

(3) If a recorder complies with the notice requirements, the failure of a submitter to receive actual notice of confirmation or rejection of a recording shall not affect the validity of the confirmation or rejection.

(b) A recorder may contact a submitter regarding an electronic document submitted for recording prior to sending a notice of confirmation or rejection. The delivery agent shall ensure that the submitter includes telephone or e-mail contact information with each such submission.

(c) A recorder shall receive electronic documents and enter the time of receipt in accordance with 16 P.S. §9731.

← ADD NAME OF ACT

Sec. 201.8. Security Requirements

(a) The recorder, the delivery agent and the land records management system vendor shall implement and maintain procedures to ensure the security of the electronic document delivery system and the land records management system, including the authenticity and integrity of the electronic documents and of the public record maintained by the recorder.

(b) A recorder shall provide a secure method for accepting electronic documents through the electronic document delivery system and for recording and maintaining documents in the land records management system. Security standards implemented by a recorder shall accommodate electronic signatures and electronic notarizations of electronic documents in a manner that complies with the Uniform Real Property Electronic Recording Act (21 P.S. §§ 483.1 - 483.9) and the Revised Uniform Law on Notarial Acts (57 Pa.C.S. §§ 301-331) and any regulations of the Department of State on electronic notarizations.

(c) A delivery agent shall implement and maintain security procedures for all electronic transmissions to a recorder through the electronic document delivery system and shall be responsible for maintaining the security of the electronic document delivery system within the office of such delivery agent.

(d) Electronic document delivery systems and land records management systems shall protect against system and security failures and, in addition, shall provide backup, disaster recovery, and audit trail mechanisms. The delivery agent or land records management system vendor shall provide audit trail information to the recorder upon request.

(e) Electronic document delivery systems and land records management systems shall not permit any unauthorized party to modify, manipulate, insert or delete information, without detection, in electronic documents or in the public record maintained by the recorder.

(f) If a breach in security is detected by the recorder, delivery agent or land records management system vendor, such recorder, agent or vendor shall notify the other two parties immediately. The recorder, agent and vendor shall work cooperatively to take remedial action and to resolve any issues related to a breach.

Sec. 201.9. Records Retention, Preservation and Disclosure

(a) Land records and indexes are permanent records and shall be retained in accordance with the Act of August 14, 1963 (P.L. 839, No. 407), known as the County Records Act (16 P.S. §§ 13001-13006).

(b) Each recorder shall maintain a systematic program for microfilming the land records and indexes, producing archival quality microfilm that is stored at a secure off-site facility in accordance with rules and standards promulgated by the County Records Committee of the Pennsylvania Historical and Museum Commission.

(c) The recorder shall release computer-stored public records in accordance with the Act of February 14, 2008 (P.L. 6, No. 3), known as the Right to Know Law, 65 P.S. §§ 67.101-67.3104.

SPACE MISSING

↳ XTRA SPACE

Sec. 201.10. Agreement and Procedures

(a) The delivery agent and recorder shall enter into an agreement specifying the terms and conditions of participation in the recorder's electronic recording program. The provisions of the agreement shall be consistent with this chapter and with the Act of July 5, 2012 (P.L. 935, No. 100), known as the Uniform Real Property Electronic Recording Act.

At a minimum the agreement shall address the following items:

- (1) Accepted document types;
- (2) Defined technical specifications for data formats, electronic document formats, electronic transmissions and security;
- (3) Indexing fields required for each document type;
- (4) Electronic signature and electronic notarization requirements;
- (5) Payment options for recording fees and applicable taxes;
- (6) Hours during which electronic submissions will be accepted and processing schedules that affect order of acceptance;
- (7) Electronic document acceptance and rejection requirements and procedures;
- (8) Responsibility of the delivery agent to review the qualifications of each potential submitter and to approve the potential submitter prior to granting access to the electronic document delivery system; and
- (9) Responsibility of the delivery agent to enter into an agreement with each approved submitter, in which the submitter agrees to submit electronic documents for recording in accordance with all applicable state statutes and regulations and to maintain the security of the electronic document delivery system within the office of such submitter. No secondary agreement shall be required between the submitter and the recorder.

(b) A recorder may include in the agreement other procedures and requirements consistent with this chapter and with all applicable sections of the laws of Pennsylvania, including, but not limited to, the Act of July 5, 2012 (P.L. 935, No. 100), known as the Uniform Real Property Electronic Recording Act, in order to implement fully an electronic recording program.

(c) A recorder shall (1) establish procedures for electronic recording in the county, (2) post the procedures in the recorder's office, on the county's Internet web site, if available, and through the electronic document delivery system, and (3) make a copy of the procedures available on request. The procedures shall cover, at a minimum, the items listed in subdivisions (1) to (8), inclusive, of subsection (a) of this section.

Best practices – Electronic recording¹

(1) Accepted document types

There should be a standard format and specified fields for each document

(2) Defined technical specifications for data formats, electronic document formats, electronic transmissions and security

Documents submitted to recorder should be scanned at 300 dpi minimum

Documents should be in .tiff or .pdf format (.tiff is archival standard with ultra high resolution, but .tiff images are not searchable; .pdf images are)

Documents must be legible

Submitters should have same resolution and settings on computer screens

Submitters should comply with PRIA standards

(3) Indexing fields required for each document type

Recorders should provide submitters with indexing criteria – example, AKA, NKA, middle initials, company officers, etc.

(4) Electronic signature and electronic notarization requirements

(5) Payment options for recording fees and applicable taxes

Payment is preference of recorder – standard is ACH or wire transfer

(6) Hours during which electronic submissions will be accepted and processing schedules that affect order of acceptance

All documents (both paper and electronic) should be date and time-stamped upon receipt

All documents (both paper and electronic) should be recorded promptly and in the order received

Recording may occur during normal business hours, even if document is received after hours

(7) Electronic document acceptance and rejection requirements and procedures

Procedures (including fees for acceptance and rejection) should be posted publically so that submitters and the general public may have notice of them

(8) Responsibility of the delivery agent to review the qualifications of each potential submitter and to approve the potential submitter prior to granting access to the electronic document delivery system

Allow recorder to review rejection reason(s) when document is resubmitted

Keep same transaction number when resubmitting document

(9) Responsibility of the delivery agent to enter into an agreement with each approved submitter, in which the submitter agrees to submit electronic documents for recording in accordance with all applicable state statutes and regulations and to maintain the security of the electronic document delivery system within the office of such submitter. An agreement includes a contract, memorandum of understanding or any similar document.

Signatures on paper documents should be black or dark blue and legible for scanning

Documents should be typed, not handwritten. Printed legible copies may be accepted.

NO PAPER ANYWHERE ELSE

¹ This document is intended for use by Recorders of Deeds and submitters. It includes suggestions for best practices. These suggestions are not mandatory. However, the members of the Electronic Recording Commission highly recommend and encourage uniform adoption of e-recording by all Pennsylvania Recorders by January 1, 2017.

ADD

RUBBER

SEAL

Because documents become public record, legibility is very important: notary stamp, any
handwritten entries must be clear and understandable
If state requires use of embossed seals, they must be enhanced to appear visually

NOTARY

?

[3.] 2. (No change in text.)
 [4. No person other than a bona fide active member of the licensed organization plays, conducts or assists in the conduct of the game(s); and]
 [5.] 3. No person is paid for conducting or assisting in the conduct of the game(s)[.]; and
 4. **The bingo game does not involve the use of a device:**
 i. **Into which currency, coins, or tokens may be inserted;**
 ii. **From which currency, coins, tokens, or any receipt for monetary value can be dispensed; or**
 iii. **Which is capable of communicating with other such devices.**
 [(b) The special senior citizen bingo license shall be valid for a maximum period of two years or until suspended, revoked or modified by the Control Commission or the issuing municipality.]

STATE

(a)

STATE DIVISION OF ARCHIVES AND RECORDS MANAGEMENT

Records Management

Electronic Submission of Land Title Documents for Recordation

Proposed New Rules: N.J.A.C. 15:3-9

Authorized By: Kimberly M. Guadagno, Lieutenant Governor and Secretary of State, Department of State.

Authority: P.L. 2011, c. 217 (N.J.S.A. 46:26A and 26C)

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-122.

Submit written comments by September 19, 2014, to:

Postal Mail:

Kathleen Kisko, Assistant Secretary of State
 Department of State
 PO Box 300
 Trenton, NJ 08625-0300
 Fax: (609) 777-1764
 E-mail: Kathleen.Kisko@sos.state.nj.us

Overnight or hand delivery:

State House
 Secretary of State's Office
 125 West State Street
 Trenton, NJ 08625

The agency proposal follows:

Summary

P.L. 2011, c. 217, added new N.J.S.A. 46:26A-1 et seq., 46:26B-1 et seq., and 46:26C-1 et seq.. Chapters 26A and 26C establish a requirement for county clerks and registers of deeds and mortgages (referred to herein generically as "county recording officers" or "county recorders") to accept for recording electronically submitted land title documents no later than May 1, 2017, and allows county recording officers to accept electronically submitted land title documents prior to that date, provided they comply with the State's adopted rules and standards. The same chapters also require the Division of Archives and Records Management, in consultation with the county recording officers, to promulgate rules to implement this legislation by establishing format and technical requirements for recorded documents to foster Statewide uniformity in title recordation. The legislative mandates in these two chapters are addressed in proposed new N.J.A.C. 15:3-9.

N.J.S.A. 46:26B-1 et seq. establishes requirements for the approval of maps, plats, plans, right-of-way parcel maps, charts, or surveys of land by municipalities, and for filing of the same with county recording officers. This legislative mandate does not require the promulgation of administrative rules, and thus Chapter 26B is not addressed in proposed new N.J.A.C. 15:3-9.

The proposed new subchapter establishes rules and standards to ensure uniformity, integrity, and security in the process of submitting and receiving land title documents electronically for purposes of recordation, while allowing sufficient flexibility to county recording officers to meet this legal requirement without forcing onerous and expensive reengineering of business processes. Also, the proposed rules require that trusted submitters must submit electronic land title documents or packages of electronic documents to county recording officers in a manner consistent with the State's rules and standards, as well as with procedures and technology adopted by individual county recording officers. Finally, an electronic land title document or document package submitted to a county shall be received using the same procedures and technology as determined by each county recording officer in accordance with this subchapter.

From a historical perspective, P.L. 2011, c. 217 represented one of several steps towards compliance with the Uniform Electronic Transactions Act (UETA) passed by the New Jersey Legislature in 2001 (P.L. 2001, c. 116), which broadly requires the acceptance of electronic submission and recording alternatives to paper documents.

The principal stakeholders in this legislation are New Jersey's 21 county clerks and registers of deeds and mortgages (county recording officers), who collectively bear statutory responsibility for receiving, processing, and recording land title documents, and the land title industry (banks, mortgage and title insurance companies, law firms, etc.), which submits such documents for recording.

The proposed new subchapter contains the following provisions:

N.J.A.C. 15:3-9.1 identifies the purpose of the subchapter as the establishment of rules and standards for electronic submission of documents affecting real property, and for providing integrity and security of transmissions when county recorders accept and record real property documents using electronic methods.

N.J.A.C. 15:3-9.2 provides definitions of the terms "automated clearing house" or "ACH," "authentication, authenticated, and authenticate," "business requirements," "county recorder," "cover sheet," "Division," "electronic document," "electronic document package," "electronic document submission system" "electronic recording" or "eRecording," "electronic signature," "electronic submission," "electronic synopsis," "electronic transmission," "formatting," "land records management system," "MISMO," "portable document format" or "PDF," "portal" or "web portal," "PRIA," "reception," "recording fee," "submitter," "tagged image file format" or "TIFF," "third-party service," "transmitting party," "trusted submitter," and "trusted submitter agreement."

N.J.A.C. 15:3-9.3 establishes general requirements for county recorders to accept electronic documents and electronic document packages, and for trusted submitters to transmit electronic documents and electronic document packages in a manner consistent with each county recorder's procedures and technology.

N.J.A.C. 15:3-9.4 establishes general technical standards and implementation procedures for recording of electronic document submissions, the use of Internet-based systems, security of submissions, and for electronic signatures. The standards and implementation procedures are based on industry standards for electronic document submission, reception, formatting, and data fields, as promulgated by the Property Records Industry Association (PRIS) in PRIA standard 2.4.1, which is comprised of the following: Document Version 2.4.1 DTD; Notary Version 2.4.1; PRIA Request Version 2.4.2; and PRIA Response Version 2.4.1 (*eRecording XML Implementation Guide for Version 2.4.1, Revision 2*); considering the types of issues that impact secure processing of electronic documents (*Electronic Recording Security Considerations*, adopted by the PRIA Board on July 6, 2009); considering the evolving nature and definition of business models for electronic recording of documents (*Models of eRecording: A continuum of Electronic Recording Updated*, adopted by the PRIA Board on July 14, 2009); and understanding document indexing factors (*PRIA Position Paper: e-Document Index Data*, adopted by the PRIA Board on March 29, 2012). Finally, the subchapter incorporates system implementation guidelines as set forth in the Uniform Real Property Electronic Recording Act (URPERA Enactment and eRecording Standards Implementation Guide,



January 2006). All PRIA documents can be accessed via the Resource Library found at www.pria.us.

N.J.A.C. 15:3-9.5 establishes business requirements and guidelines by county recorders and PRIA for submission of electronic documents and electronic document packages by trusted submitters. The business requirements and guidelines center on requirements contained in *eRecording Business Requirements (Business Requirements Documents)* dated March 8, 2008), developed by PRIA and the Mortgage Industry Standards Maintenance Organization (MISMO). This document describes the business requirements to allow for the recording of electronic recordable instruments in common electronic document formats, such as MISMO SMART Doc®, eSigned PDF and Adobe Intelligent Document Format, and Microsoft® Word with embedded-XML. A copy of the current standards and guidelines for submission of electronic documents can be accessed via the Resource Library found at www.pria.us.

N.J.A.C. 15:3-9.6 establishes requirements for notarization of electronic documents under the New Jersey Uniform Electronic Transactions Act and eliminates county recorders' responsibility to verify or authenticate notary signatures.

N.J.A.C. 15:3-9.7 establishes rules for the return and rejection of electronically submitted documents by county recorders, if such documents do not meet the requirements of N.J.S.A. 46:26A-6.a. as to form, compliance with applicable recording statutes, and payment of fees.

N.J.A.C. 15:3-9.8 establishes requirements for conversion of electronically submitted documents to TIFF format, and for county recorders to maintain and preserve recorded documents in their "native" or original format pursuant to retention requirements of the State Records Committee.

N.J.A.C. 15:3-9.9 outlines requirements for retention and preservation of all records in the custody of county recorders, including permanent and long-term imaged documents.

N.J.A.C. 15:3-9.10 establishes a requirement for county recorders to accept payment of recording fees by electronic means and permits county recorders to do so in a manner compatible with their existing internal software, financial practices, and applicable rules in N.J.A.C. 5:30-9.

N.J.A.C. 15:3-9.11 establishes a requirement for county recorders to post publicly their business policies and procedures for submitting documents electronically, including: types of documents that can be submitted electronically, guidelines for using a third-party portal for submission, indexing specifications, hours of operation and processing schedules, payment options, and advance notice of amendments or alteration to these policies and procedures.

N.J.A.C. 15:3-9.12 establishes requirements for every electronic document submitter, transmitting party, and third-party submission service to complete and sign a Trusted Submitter Agreement or third-party agreement application with the county recorder(s) prior to receiving authorization to submit documents electronically; and sets forth the minimum terms and conditions for participation to be included in such agreements.

N.J.A.C. 15:3-9.13 outlines standards and guidelines for use of an electronic synopsis of electronic documents or electronic document packages submitted to county recorders on or before May 1, 2017, including specific data fields required in an electronic synopsis; establishes guidelines for submitting document images with an imaged cover sheet if no electronic synopsis is used; requires the Division to issue a common schematic formula comprising specific data fields for printed cover sheets to be adopted, posted publicly, and used by each county recorder after validation by the Division; and requires that cover sheets shall be treated as part of each submitted document for purposes of page-based display and fee calculation.

A 60-day comment period on this notice of proposal is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed new rules will have a positive social impact by outlining and setting forth the process whereby real property documents and related financial instruments may be submitted electronically for recording by county recording offices. Facilitating electronic submission and recording

alternative for public records will enhance the speed and efficiency of real estate transactions, while simultaneously ensuring the accuracy, integrity, security, and permanence of recordings of such transactions, and reducing the counties' administrative costs for processing recordings. This benefits all New Jersey residents because it will facilitate commerce, decrease government operational costs, and improve public records preservation and access.

Economic Impact

The proposed new rules regarding electronically submitted documents will enhance the speed and efficiency of submitting land title transactions by the real estate and financial industries, while simultaneously ensuring the accuracy, integrity, security, and permanence of recordings of such transactions, and reducing the counties recording offices' administrative processing costs. Electronic submission of land title and related financial documents will facilitate commerce, decrease government operational costs, and improve public records preservation and access.

Federal Standards Statement

Executive Order No. 27 (1194) and P.L. 1995, c. 65, require that a State agency that adopts or amends rules that exceed Federal standards or requirements include in the rulemaking a comparison with Federal law. The proposed new rules are not subject to and do not exceed Federal standards or requirements; therefore, a Federal standards analysis is not required.

Jobs Impact

It is not anticipated that any jobs will be generated or lost as a result of the proposed new rules.

Agriculture Industry Impact

The proposed new rules will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed new rules have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rules do not impose reporting, recordkeeping and compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as the rule only impose requirements on the counties. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed new rules will have no appreciable impact on housing affordability in the State of New Jersey, and the rules will not cause any noticeable change in the average costs associated with housing because the proposed new rules deal only with the process of submitting real property documents electronically for recording purposes.

Smart Growth Development Impact Analysis

The proposed new rules will have no appreciable impact on the number of housing units or the availability of affordable housing in this State, and will have no effect on smart growth development in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan. This is because the proposed new rules have nothing to do with housing production within Planning Areas 1 or 2, designated centers, or anywhere else in the State of New Jersey. The proposed new rules deal only with the process of submitting real property documents electronically for recording purposes.

Full text of the proposed new rules follows:

SUBCHAPTER 9. RULES REGARDING ELECTRONICALLY SUBMITTED DOCUMENTS AFFECTING REAL PROPERTY IN THE OFFICES OF NEW JERSEY COUNTY CLERKS AND REGISTERS OF DEEDS AND MORTGAGES

15:3-9.1 Purpose

The purpose of this subchapter is to establish electronic submission standards and practices for documents affecting real property and to provide for integrity and security of transmissions when county recorders accept and record real property documents using electronic methods.

15:3-9.2 Definitions

The following words and phrases, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“ACH” or “automated clearing house” means the network processing and delivery system that provides for the distribution and settlement of electronic credits and debits among financial institutions administered and subject to rules of National Automated Clearing House Association (NACHA) and the Federal Reserve Board.

“Authentication,” “authenticated,” or “authenticate” means the act or effect of tying an action or result to the person claiming to have performed the action. “Authentication” generally requires a password or encryption key to perform and the process will fail if the password or key is incorrect.

“Business requirements” means the information, steps, and process required by any individual county recorder for accepting submissions of electronic documents for recording.

“County recorder” means the county clerk or register of deeds and mortgages, as appropriate to each county.

“Cover sheet” means a physical document that provides summary information concerning a real property transaction and subject to the requirement described in this subchapter.

“Division” means the New Jersey Division of Archives and Records Management or its successor agency.

“Electronic document” means a document that is received by a county recorder, in an electronic form, meeting the document standards of this subchapter.

“Electronic document package” means a set of documents or information in electronic form that is transmitted to the county recorder; the package may be described as a technical specification of how the documents or information should be organized in electronic media for interchange between the county recorder and the trusted submitter or transmitting party.

“Electronic document submission system” means the computer program, and the hardware components that host it, that receives electronic documents and electronic document packages submitted for recording.

“Electronic recording” or “eRecording” means the indexing and insertion of electronic documents received and accepted by county recorders into the permanent repository of records of the counties of this State.

“Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

“Electronic submission” means the reception by the county recorder of an electronically transmitted document or electronic document package.

“Electronic synopsis” means information required and formatted in a manner specified in this subchapter that can be read by a county recorder’s electronic document submission system.

“Electronic transmission” means an electronic communication not directly involving the physical transfer of a document in a tangible medium and that may be retained, retrieved, and reviewed by the submitter and the county recorder, and that may be directly reproduced in a tangible medium.

“Formatting” means the appearance or attributes of the document.

“Land records management system” means the computer software or electronic system used by a county recorder’s office to index and store both document images and searchable attributes that identify the document.

“MISMO” means the Mortgage Industry Standards Maintenance Organization, a subsidiary of the Mortgage Bankers Association (MBA), Washington, DC. Information on MISMO and MISMO standards can be found at www.mismo.org.

“Portable Document Format” or “PDF” means a file format created by Adobe Systems, Inc. that uses the PostScript printer description language to create documents. PDF files capture the appearance of the original document, can store both text and images, are difficult to modify, and can be rendered with free, cross-platform viewer software.

“Portal” or “web portal” means a website considered as an entry point to other websites, often by being or providing access to useful content, as well as functioning as a gateway to other web locations.

“PRIA” means the Property Records Industry Association. PRIA is a not-for-profit association representing business and government members of the property records industry.

“Reception” means the receiving of the electronic document(s).

“Recording fee” means any fee or tax imposed by statute, chargeable or receivable by the county recorder as a prerequisite to recording a document.

“Submitter” means the person or entity that originates an electronic submission or delivers it to the transmitting party for transmission to the county recorder.

“Tagged Image File Format” or “TIFF” means a non-proprietary, defined file format for storing bit-mapped images.

“Third-party service” means a company that consolidates or aggregates electronic submissions from individual submitters and submits them electronically to the county recorder.

“Transmitting party” means the person or entity that electronically transmits an electronic document to the county recorder. This can be the submitter, but is often a service that specializes in transmitting electronic documents to a county recorder.

“Trusted submitter” means a party that has a trusted submitter agreement accepted by and on file with the county recorder in order to record documents electronically.

“Trusted Submitter Agreement” means the agreement to be signed by any party who wishes to become a trusted submitter.

15:3-9.3 General requirements

(a) By no later than May 1, 2017, all county recorders shall accept electronic documents and electronic document packages that are submitted for recordation pursuant to this chapter. Electronic submissions may include electronic synopses as set forth at N.J.A.C. 15:3-9.13.

(b) A trusted submitter shall submit an electronic document or an electronic document package to a county recorder in a manner that is consistent with procedures and technology adopted by individual county recorders. An electronic document or electronic document package submitted to a county recorder shall be received using procedures and technology as determined by the county recorder in accordance with this subchapter.

15:3-9.4 Standards

(a) General technical standards and implementation for recording of electronic submissions is as follows:

1. Electronic documents and electronic document packages shall be submitted in a manner consistent with the business requirements, technology, and technical standards for the submission of electronic documents adopted by the Property Records Industry Association. Information on PRIA and the specific requirements and standards are found on the PRIA website at: www.pria.us.

2. The following standards for document formatting and document data fields promulgated by PRIA are incorporated herein by reference, as amended and supplemented, and available via the PRIA Resource Library at www.pria.us:

- i. PRIA Request Version 2.4.2;
- ii. PRIA Response Version 2.4.2;
- iii. Document Version 2.4.1;
- iv. Notary Version 2.4.1;
- v. eRecording XML Implementation Guide for Version 2.4.1, Revision 2;
- vi. URPERA Enactment and eRecording Standards Implementation Guide, January 2006;
- vii. PRIA “Electronic Recording Security Considerations,” adopted by the PRIA Board on July 6, 2009;
- viii. PRIA “Models of eRecording: A Continuum of Electronic Recording Updated,” adopted by the PRIA Board on July 14, 2009; and
- ix. PRIA “Position Paper: e-Document Index Data,” adopted by the PRIA Board on March 28, 2012.

3. County recorders may adopt, change, or revoke policies to provide the data and transmission elements and attributes of the electronic document submission system used by the county recorder to permit

submitters to design applications to submit directly to the system, not inconsistent with existing laws or rules.

(b) Use of internet-based systems is as follows:

1. An electronic submission delivered over the Internet shall provide a minimum amount of information sufficient to identify and authenticate the submitter to the county recorder, while also itemizing the contents of the package.

2. Payment processing services shall be determined by the county recorder and any third-party service provider used by the county recorder, and may include credit cards, ACH, escrow accounts, electronic checks, the Federal Reserve Wire Network (FedWire) transfer, a bank wire transfer, or other payment methods and are subject to N.J.A.C. 5:30-9, Government Electronic Receipt Acceptance.

(c) Security standards are as follows:

1. The county recorder shall implement procedures and requirements in order to ensure the security of the electronic submission process, including the authenticity and integrity of the electronic documents, the maintenance of the public record, and the use of a portal, if chosen as the means for electronic document delivery. Such procedures and requirements must be consistent with N.J.S.A. 46:26A-1 et seq., and 46:26C-1 et seq., and this chapter.

2. All electronic documents must be secured in such a way that both the transmitting and receiving parties are assured of each other's identity and that no unauthorized party can view or alter the electronic document during transmission, processing, and delivery. The security measures identified in Chapter 6 of the PRIA eRecording XML Implementation Guide, as appropriate to the recording procedures used by the county recorder shall satisfy this requirement.

3. The electronic submission system, the land records management system, and a third-party servicer, if chosen as the medium for electronic document delivery, shall not permit any unauthorized party to modify or alter, access, manipulate, insert, or delete information, without detection, in the submitted electronic document or electronic document package received by the county recorder. This requirement shall not prevent a county recorder from, with approval of a submitter, making index and marginal notations to a recorded document in the public record in order to facilitate its recordation.

4. The electronic submission system, the land records management system, and a portal, if chosen as the medium for electronic document delivery, shall be designed to protect against system and security failures; in addition, these systems shall provide for backup, disaster recovery, and audit trail mechanisms.

5. If a breach in security is detected by the county recorder, submitter, transmitting party, or portal company or operator, the other parties shall be notified immediately.

6. PRIA's "Electronic Recording Security Considerations" document serves as guidance to the types of issues that need to be considered as part of a comprehensive security analysis of systems and processes. This document also provides a sample methodology that can be utilized by organizations as a self-assessment security tool.

(d) Electronic signatures. County recorders are only required to accept electronic signatures that are consistent with this subchapter and are supported by the technology in use by the county recorder. County recorders have no responsibility to authenticate electronic signatures embedded within the body of a document.

15:3-9.5 Business requirements and guidelines for electronic documents

In addition to any individual county recorder's developed business requirements for electronic submissions, when a county recorder accepts electronic submissions, a trusted submitter shall comply with the requirements contained in "eRecording Business Requirements (Business Requirements Document)" dated March 2008, developed by PRIA and MISMO, which is incorporated herein by reference, as amended and supplemented. A copy of the current standards and guidelines for submission of electronic documents is available via the PRIA Resource Library at www.pria.us.

15:3-9.6 Notarization of documents

An electronic document shall be notarized under provisions contained in the New Jersey Uniform Electronic Transactions Act, N.J.S.A.

12A:12-11, Notarized signatures or records. County recorders have no responsibility for verifying or authenticating notary signatures.

15:3-9.7 Return and rejection of documents

The submitter of a recorded electronic document is the party entitled to the return of the document. Electronic documents that are recorded shall be returned with recording information upon recordation. A document may be rejected only if it does not meet the requirements set forth in N.J.S.A. 46:26A-6.a. If a document is rejected, the document shall be returned to the submitter along with a statement of all grounds for its rejection in accordance with N.J.S.A. 46:26A-6.c. If a document is rejected for technical reasons (for example, the county recorder's requirement is to accept a TIFF document for recording and the submitter submits a PDF document) the county recorder shall return the document to the submitter along with a statement of all grounds for technical rejection.

15:3-9.8 File formats

Electronically submitted documents shall be converted to TIFF format and stored in accordance with N.J.A.C. 15:3-4. Additionally, county recorders shall maintain, store, and preserve recorded documents in their "native" or original format for such periods of time as required by the State Records Committee, such as MISMO SMART Doc®, eSigned PDF and Adobe Intelligent Document Format, and Microsoft® Word with embedded-XML.

15:3-9.9 Records retention and preservation

County recorders must retain all records in their custody in accordance with New Jersey law and the requirements detailed in records retention schedules published by the Division applicable to county recorders at <http://www.state.nj.us/treasury/revenue/rms/retention.shtml#gs>. Maintenance and preservation of permanent or long-term imaged documents shall be in accordance with this chapter.

15:3-9.10 Method of payment

Each county recorder receiving electronic documents shall accept payment of recording fees by electronic means. Each county recorder may collect fees from electronically submitted electronic documents or electronic document packages in a manner compatible with its internal software, financial practices, and N.J.A.C. 5:30-9.

15:3-9.11 Business policies and procedures

(a) County recorders shall post business policies and procedures to assist customers submitting documents electronically. The policies and procedures shall set forth the county recorder's implementation of this chapter.

(b) Business policies and procedures may be in electronic or hard copy format and may appear on a third-party service's or the county recorder's website. All parties' electronic acknowledgement of the terms of the business policies and procedures is acceptable.

(c) Business policies and procedures must cover, at a minimum, the implementation of the following:

1. The types of documents that can be submitted as an electronic document or electronic document package and the technical specifications for submission;

2. Guidance concerning the use of any third-party portal for submission of documents;

3. Indexing specifications;

4. Hours of operations and processing schedules;

5. Payment options; and

6. A statement that any amendments or alterations to the business policies and procedures will be published with a minimum advanced notice of 30 days before taking effect.

(d) A county recorder may include in its business policies and procedures other requirements consistent with N.J.S.A. 46:26A-1 et seq., and 46:26C-1 et seq., in order to assist submitters with information necessary to facilitate submission of documents.

15:3-9.12 Agreements for electronic submission

(a) Submissions to the county recorder shall be as follows:

1. Every trusted submitter or transmitting party, including third-party servicers, shall complete and sign a Trusted Submitter Agreement

application with the county recorder(s). Upon notice of acceptance of the Trusted Submitter Agreement by the county recorder, the trusted submitter or transmitting party shall be authorized to submit documents electronically subject to policies established by the county recorder pursuant to N.J.A.C. 15:3-9.11. A Trusted Submitter Agreement application can be obtained from the county recorder's office.

2. The trusted submitter or transmitting party and the county recorder shall enter into an agreement specifying the terms and conditions of participation in the county recorder's electronic submission program. The provisions of the agreement shall be consistent with N.J.S.A. 46:26A-1 et seq., and 46:26C-1 et seq. At a minimum, the agreement shall address the following items:

- i. Accepted electronic submissions in the county;
- ii. Accepted document types in the county;
- iii. Defined technical specifications for data formats, document formats, electronic transmissions, and security;
- iv. Indexing fields required for each document type;
- v. Electronic signature and notarization requirements;
- vi. Payment options for recording fees and applicable taxes;
- vii. Hours during which electronic submissions will be accepted and processing schedules that affect order of acceptance;
- viii. Liabilities and responsibilities of the parties transacting electronically;
- ix. Document acceptance and rejection requirements and procedures when documents do not comply with technical specifications for data formats, document formats, electronic transmission, or security;
- x. Communication methods and contact information; and
- xi. Breach of agreement by the trusted submitter or transmitting party.

3. A county recorder may include in the agreement other procedures and requirements consistent with N.J.S.A. 46:26A-1 et seq., and 46:26C-1 et seq., in order to implement fully an electronic submission program.

(b) Third-party submission service shall be as follows:

1. If a third-party service is used to submit electronic documents to the county recorder, the county recorder shall require any trusted submitter or transmitting party to complete and sign an agreement with the organization operating the third-party service and with the county recorder.

2. The third-party agreement will govern the use, terms, and conditions of software and its related products, services, and website. The provisions of the agreement shall be consistent with N.J.S.A. 46:26A-1 et seq., and 46:26C-1 et seq. Administrative or technical information regarding computer hardware, software, and networks which, if disclosed, would jeopardize computer security shall not be subject to public disclosure. At a minimum, the agreement shall address the following items concerning electronic submission of electronic documents:

- i. Licenses and sublicenses involved in the use of a portal;
- ii. Information about the functions and features of a portal;
- iii. Code of conduct or guidelines for using a portal as the medium for electronic document delivery;
- iv. Requirements for electronic communications and website access between the trusted submitter or transmitting party and a portal;
- v. Requirements for the submission of data or information to a portal;
- vi. Liabilities and responsibilities of the parties;
- vii. Contact information;
- viii. Breach of agreement by the parties;
- ix. The portal's connectivity requirements; and
- x. Network information concerning the portal's website and any external sites connecting with the portal.

15:3-9.13 Standards and use of electronic synopsis and cover sheets

(a) Use of electronic synopsis. Effective May 1, 2017, or as implemented by individual county recorders prior to that date, electronic documents and electronic document packages may include an electronic synopsis that is consistent with this section.

1. The following data fields shall constitute an electronic synopsis and shall meet PRIA attribute and technical standards. The data fields shall state:

- i. The nature of the document;
- ii. The date of the document;

iii. The names of the parties to the document and any other names by which the document is to be indexed;

iv. If the document is a deed conveying title to real property:

(1) The lot and block number or other real property tax designation of the real property conveyed or a statement that the information is not available;

(2) The consideration for the conveyance; and

(3) The mailing address of the grantee; and

v. If the document is an assignment, release, or satisfaction of a mortgage or an agreement respecting a mortgage, it states the book and page number or the document identifying number of the mortgage to which it relates if the mortgage has been given such a number.

(b) Standards and use of image submissions without electronic synopsis. Effective May 1, 2017, or as implemented by individual county recorders prior to that date, document images without electronic synopses that are submitted to the county recorder may include an image of a cover sheet that is consistent with (c) below.

(c) Standards and use of printed cover sheets. The Division shall issue a common schematic format that shall serve as the basis for cover sheets. The format shall include the following elements that shall be used by individual county recorders in preparing individual cover sheets for their office.

1. The following data fields shall be included in a printed cover sheet:

i. The nature of the document;

ii. The date of the document;

iii. The names of the parties to the document and any other names by which the document is to be indexed;

iv. If the document is a deed conveying title to real property:

(1) The lot and block number or other real property tax designation of the real property conveyed or a statement that the information is not available;

(2) The consideration for the conveyance; and

(3) The mailing address of the grantee; and

v. If the document is an assignment, release, or satisfaction of a mortgage or an agreement respecting a mortgage, it states the book and page number or the document identifying number of the mortgage to which it relates if the mortgage has been given such a number.

2. Each county recorder shall adopt a form of cover sheet based on the Division-adopted schematic that is formatted to meet the needs of recordation procedures established by each county recorder and that is compliant with this subsection. Each county recorder shall obtain validation from the Division of its compliance with this section. Once validated, each county recorder shall post each on their website and shall provide the web address of each item to the Division to post on the Division's website.

3. The cover sheet shall be treated as part of the submitted document and the appropriate fee, based on the page-based display, shall be calculated as part of the transaction.

TREASURY — GENERAL

(a)

GOVERNOR'S COUNCIL ON ALCOHOLISM AND DRUG ABUSE

Notice of Administrative Correction Rules of the Governor's Council on Alcoholism and Drug Abuse

Proposed Readoption with Amendments: N.J.A.C. 17:40

Take notice that the Governor's Council on Alcoholism and Drug Abuse discovered an error in the notice of proposal of the readoption with amendments of N.J.A.C. 17:40, published in the July 7, 2014, New Jersey Register at 46 N.J.R. 1589(a). The e-mail address to which comments on the notice may be submitted that appears in the notice,