

# FLORIDA ELECTRONIC RECORDING ADVISORY COMMITTEE

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FINAL REPORT  
NOVEMBER 30, 2007



**THE FLORIDA  
ELECTRONIC RECORDING  
ADVISORY COMMITTEE REPORT**

*Prepared Pursuant to 695.27, F.S.*

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## **Section I: Introduction**

The Florida Legislature established the Florida Electronic Recording Advisory Committee (Advisory Committee) to advise the Florida Department of State regarding the adoption of standards to implement the Uniform Real Property Electronic Recording Act (URPERA). The Advisory Committee is composed of nine members representing a range of stakeholders in the real property recording process:

- Five members appointed by the Florida Association of Court Clerks and Comptrollers
- One attorney appointed by the Real Property, Probate and Trust Law Section of The Florida Bar
- Two members appointed by the Florida Land Title Association
- One member appointed by the Florida Bankers Association

The Advisory Committee, in accordance with the provisions of its authorizing legislation, used the electronic recording standards issued by the Property Records Industry Association (PRIA) as the foundation for its recommendations regarding the Florida standards. At this time, it does not appear that any formal extensions to the PRIA standards are necessary.

The Advisory Committee standards address the following issues:

- Data standards
- Web Portal
- Business Rules
- Security (transactional and organizational)
- Electronic signatures
- Notary acknowledgment
- File formats for electronic recording
- Processing of eRecordings in accordance with FS 695.11 and FS 28.222
- Records retention and preservation
- Payment of fees

The Advisory Committee will review the adopted Florida Electronic Recording Standards periodically in response to changes in the technological environment.

For a glossary of terms referenced in this document, see Appendix A. For acronyms referenced in this document, see Appendix B. For an explanation of electronic recording models, see Appendix C. For applicable Florida Statutes pertaining to electronic recording, see Appendix D.

## **Section II: Florida Electronic Recording Standards**

### **The Advisory Committee recommends that the Florida Department of State prescribe the following eRecording Standards**

- 1) Data Standards.** The PRIA standards, Versions 2.4.1 and higher, on electronic document formatting and document data fields are adopted for Florida eRecording.

PRIA data and document standards are the preferred standard for use by industry participants of electronic document recording. See Appendix E for a list of the PRIA standards and supporting documents.

It is further recommended that eRecording be offered and conducted at all three models of submission. See Appendix C for an explanation of e-recording models from the PRIA Implementation Guide.

Each County Recorder who accepts eRecordings shall provide open architecture for reception of electronic documents. All reception software, including portals, must support PRIA standards, Version 2.4.1 and subsequent.

- 2) Web Portals.** The Advisory Committee recognizes that the World Wide Web will be the most common delivery medium used for electronic documents, and, as such, sees the use of web portals as a useful tool to enable these transactions.

Web portals can take on a variety of forms, from simple single entry sites used by an individual County Recorder to support its own efforts, or by a collection of County Recorders, where the site provides both content and document routing. Web portals can be created by anyone, so long as the site supports all three PRIA models and complies with the security requirements recommended by this Advisory Committee. The Advisory Committee recommends that no mandatory Web portal be created or promoted. The County Recorder will decide which Web portal to use.

A document delivered over the Web should provide a minimum amount of information in the delivery package sufficient to identify and authenticate the sender to the County Recorder, while also itemizing the contents of the package.

Web portals can provide payment processing functionality or not. Payment processing capabilities are to be determined by the portal provider and the individual County Recorder. Payment processing, if supplied at the portal, should comply with industry standards and any rules that may be promulgated by this Advisory Committee from time to time. The Advisory Committee recognized that each County Recorder is

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able to decide its own approved methods of payment which could include credit cards, ACH, escrow accounts, electronic checks, etc.

**3) Business Rules.** E-Recording participants agree to abide by the County Recorder's Business Rules.

County Recorders shall establish and publish Business Rules that govern how eRecording will be conducted. A model set of Business Rules appears in Appendix H. County Recorders may modify this model set of Business Rules to fit the needs of individual counties. The Business Rules may be in electronic or hard copy format and may appear on a portal or the County Recorder's website. The parties' electronic acknowledgement of acceptance of the terms of the Business Rules is acceptable. The Business Rules must cover the following items:

- 1) Defined technical specifications
- 2) Document and indexing specifications
- 3) Hours of operations and processing schedules
- 4) Payment options
- 5) Termination terms
- 6) Document Rejection rights
- 7) Statement that any amendments and/or alterations to the Business Rules will be published with adequate notice before taking effect.
- 8) Statement identifying the venue of any litigation arising between the parties.

**4) Security.** Participants of eRecording shall develop security standards and policies based on industry-accepted security practices and protocols.

**Transactional Security:** 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. If the electronic document has been subject to those security measures identified in Chapter 6 of the "PRIA eRecording XML Implementation Guide For Version 2.4.1, Revision 2, Updated 03/0/2007" throughout the entire electronic document process of execution through recording, then the security obligations under these standards have been satisfied.

**Organizational Security:** Each County Recorder, who elects to accept electronic documents for recordation pursuant to F.S. 695.27, *et seq.*, shall implement reasonable measures such that each electronic document accepted for recordation is protected from alteration and unauthorized access.



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- 5) **Electronic Signatures.** While UETA and URPERA allow many types of electronic signatures, County Recorders are only required to accept electronic signatures that they have the technology to support. County Recorders have no responsibility to authenticate electronic signatures embedded within the body of the document.
  
- 6) **Notary Acknowledgement.** County Recorders have no responsibility for verifying or authenticating notary signatures and acknowledgments. Transactions filed pursuant to F.S. 695.27 must comply with F.S. 117.021 (electronic notarization), in those instances when an electronic notarization is used.

Requiring all eRecording transactions to comply with the eNotary statute (F.S. 117.021) would prevent the use of all PRIA models of eRecording because at least one of the models allows wet signature notary signatures to be scanned. There are also civil law notaries (F.S. 118.10) and Commissioners of Deeds appointed by the Governor for timeshare deeds (F.S. 721.97).

- 7) **File Formats for eRecording.** The Advisory Committee recommends that electronic recordings be converted to (if necessary) and preserved as TIFF or PDF files along with their associated metadata. Model 3 submissions shall be converted to TIFF or PDF until the viability of preserving these eRecordings in their native format (i.e., XML, XHTML) has been demonstrated.

Recommended Preservation File Formats are also referenced in Appendix F.

**TIFF:** The Tagged Image File Format (TIFF) is widely adopted within the property recording industry and by County Recorders that have imaging systems. TIFF is a non-proprietary format that is recommended for storing scanned images.

**PDF:** Portable Document Format (PDF) is another commonly used file format in the property recording industry. 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. PDF is based on publicly available specifications, and as of January 2007, Adobe, the creator of the format, is releasing the 1.7 version of the format to become an international standard through the International Standards Organization (ISO).

**XML:** Extensible Markup Language (XML) is the recommended file format for long-term preservation of any metadata.

**Metadata:** Metadata is commonly described as "data about data." Metadata is used to locate and manage information resources by classifying those resources and by

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capturing information not inherent in the resource. In the eRecording context, metadata may be generated automatically or created manually and it may be internal or external to the digital object itself.

- 8) **Processing eRecordings.** County Recorders will process eRecordings in accordance with FS 695.11 and FS 28.222.
  
- 9) **Records Retention and Preservation.** County Recorders must retain all records in their custody in accordance with Florida law and the requirements detailed in records retention schedules published by the Department of State's Division of Library and Information Services applicable to County Recorders.

The County Recorders' records retention schedule is available at:

<http://dlis.dos.state.fl.us/barm/genschedules/gsl1.pdf>.

**Microfilm:** The archival process for electronic records will require consistent and complex management in order to maintain authenticity and integrity. Digital preservation requires a well-developed plan and implementation with specific policies and procedures. Electronic records are subject to the same threats of destruction as other mediums such as natural or human-made disasters. There are the added challenges of hardware and software obsolescence, media longevity and migration, infrastructure failures and accidental damage from improper handling.

The majority of records in the custody of the County Recorder must be permanently preserved. The durability of electronic records has not been proven to be as enduring as microfilm. In order to secure and preserve information created and stored electronically, security microfilm is recommended; however, implementation of a written plan to refresh electronic media is acceptable. Microfilm is an analog technology that allows documents to be read with magnification and a light source. If necessary, microfilm can be converted into a digital format. Producing microfilm that is created within the guidelines of the American National Standards Institute (ANSI) and properly stored and handled should provide secure records for hundreds of years.

See also Appendix F for guidance on the long-term preservation of electronic recordings.

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- 10) Payment of Recording Fees.** Electronic payment of recording fees shall be collected by the County Recorder as prescribed in accordance with Florida law and accepted industry standards without incurring unreasonable electronic processing fees.

Payments are a prerequisite to all methods of recording. Whether or not a payment is attached to, or an authorization of payment is included in, an eRecording submission, the submission must incorporate some methodology for payment of fees associated with a particular document or set of documents.

Typical payment options include: ACH (Automated Clearing House), internal escrow accounts, credit and debit cards, and journal vouchers. The majority of County Recorders currently engaged in eRecording collect payment through ACH or by internal escrow accounts.

Fees are to be collected according to statute and in a manner consistent with the promotion of eRecording, and in accordance with accepted industry standards. Each County Recorder may collect eRecording fees in a manner compatible with its internal software and financial practices.

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**Section III: APPENDICES**

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## Appendix A

### GLOSSARY OF TERMS

(Compiled from PRIA's Uniform Real Property Recording Act Implementation Guide and the Report of the Kansas Electronic Recording Committee)

**Asymmetric encryption:** A method that uses two keys – a public key and a private key. Together, the keys constitute a key pair. Though the keys are mathematically related, it is not possible to deduce one from the other. The public key is published in a public repository and can be freely distributed. The private key remains secret, known only to the key holder.

**Authentication:** The act 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.

**Digital signature:** A type of electronic signature consisting of a transformation of an electronic message using an asymmetric encryption system such that a person having the initial message and the signer's public key can accurately determine whether:

- (1) the transformation was created using the private key that corresponds to the signer's public key; and
- (2) the initial message has not been altered since the transformation was made.

**Digitized signature:** A representation of a person's handwritten signature, existing as a computerized image file. Digitized signatures are just one of several types of electronic signatures, and have no relation to digital signatures.

**Document type definition (DTD):** A document created using the Standard Generalized Markup Language (SGML) that defines a unique markup language (such as XHTML or XML). A DTD includes a list of tags, attributes, and rules of usage.

**Electronic commerce:** Also known as eCommerce, it refers to trade that occurs electronically, usually over the Internet. Electronic commerce often involves buying, selling, and sharing information, extending both new and traditional services to customers via electronic means. Electronic commerce allows business to take advantage of email, the Web, and other online innovations to improve the business process and offer consumers more ways to access products, faster information transfer and ultimately decreasing costs.

**Electronic document:** A document that is received by the county recorder in an electronic form.

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**Electronic record:** A record created, generated, sent, communicated, received or stored by electronic means.

**Electronic notary:** A notary public who has been appointed by the Governor in accordance with Chapter 117, F.S. and who provides electronic notarial acts in compliance with s. 117.021, F.S.

**Electronic signature:** 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.

**Encrypt:** To apply an encryption key to a message in order to make it unreadable in an effort to prevent unintended use of the information.

**Extensible Markup Language (XML):** A computer language used to create markup languages. XML allows developers to specify a document type definition (DTD) or schema in order to devise new markup languages for general or specific uses.

**Hash function:** A mathematical algorithm that takes an electronic document and creates a document fingerprint. The document fingerprint is much smaller than the original document, and does not allow the reconstitution of the original document from the fingerprint. A slightly different document, processed through the same hash function, would produce very different document fingerprint. A hash function helps to secure data by providing a way to ensure that data is not tampered with.

**Florida Department of Revenue Return for Transfers of Interest in Real Property (Form DR-219):** Sales disclosure document required by Florida statute to accompany the recording of a deed.

**Key pair:** A set of keys, including a private key and a public key, used in asymmetric cryptography. Sometimes a key pair will be reserved for specific uses, such as creating digital signatures (signing pair) or encrypting secret information (encryption pair).

**Metadata:** Commonly described as "data about data." Metadata is used to locate and manage information resources by classifying those resources and by capturing information not inherent in the resource.

**Nonrepudiation:** Effectively implementing a process in such a way that the creator of a digital signature cannot deny having created it. Nonrepudiation involves supplying enough evidence about the identity of the signer and the integrity of a message so that the origin, submission, delivery, and integrity of the message cannot be denied. Protection of a user's private key is also a critical factor in ensuring nonrepudiation. The entire Public Key Infrastructure (PKI) industry exists to create and ensure the trust

necessary for nonrepudiation.

**Notary public:** “Notary public” and “notary” mean any person appointed by the Governor to perform notarial acts.

**Portable Document Format (PDF):** 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:** A Web site considered as an entry point to other Web sites, often by being or providing access to a search engine, useful content, and/or by functioning as a gateway to other Web locations. Portals are usually provided free of charge, in the hope that users will use of the site.

**Private Key:** A large, randomly generated prime number used in asymmetric encryption. The private key is used to encrypt a document fingerprint (the result of processing an electronic document through a hash function) to create a digital signature. A private key is generated by its holder at the same time a related public key is created. While the public half of a key pair is made available to anyone who wants it, the private key is only known by its owner, who must keep it absolutely secret to maintain its integrity.

**Proprietary:** Indicates that software or other employed technology is owned or controlled exclusively by the vendor. These solutions are not transferable to other systems and must be used only on the vendor’s systems.

**Public Key:** A large, randomly generated prime number that is used to decrypt an electronic document that has been encrypted with a private key. A public key is generated by its holder at the same time a related private key is created. Within the Public Key Infrastructure (PKI), public keys are used to verify digital signatures. Public keys are contained in digital certificates, published and otherwise distributed by the issuing certificate authority (CA).

**Public Key Infrastructure (PKI):** The framework of different entities working together to create trust in electronic transactions. The PKI industry facilitates signed transactions by using asymmetric cryptography to ensure security and verifiable authenticity. The PKI includes all parties, policies, agreements and technologies to a transaction. This sophisticated infrastructure allows all concerned parties to trust electronic transactions created within the standards set by the PKI industry.

**Schema:** A method for specifying the structure and content of specific types of electronic documents which use XML.

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**Secure Socket Layer (SSL):** A security technology that uses both asymmetric and symmetric cryptography to protect data transmitted over the Internet.

**Signature Authentication:** The process by which a digital signature is used to confirm a signer's identity and a document's validity.

**Signed Digital Document:** An electronic document that includes an embedded digital signature. The digital signature contains an encrypted document fingerprint, which allows anyone receiving the document to verify its validity using the process of signature authentication.

**SMART Doc™:** A SMART Doc™ is a technical framework for representing documents in an electronic format. This format links data, the visual representation of the form, and signature. The visual representation of the documents can utilize a variety of technologies such as XHTML, PDF, and TIFF. Previously SMART Docs™ were called eMortgage documents. In order to better describe the actual capabilities of the technology, the word "eMortgage" was replaced by the acronym "SMART" which represents: Securable, Manageable, Archivable, Retrievable, and Transferable.

**Submitting Party:** The entity that originates an electronic document. This is usually a bank, title company, attorney or anyone that inputs data into a specific template and/or associates an image and wishes to send the documentation for electronic recordation at the County.

**Tagged information file format (TIFF):** An image file format commonly used for photos, scanned documents, or other graphics. TIFF images are graphics that are made up of individual dots or pixels. Files in the TIFF format are distinguished by a .tif filename extension.

**Third party vendor:** Entity that may act as a middleman or liaison to an electronic transaction. The vendor will usually have some added value to the transaction such as verifying accuracy and completeness of index entries, authentication of the submitting party, or any other County specific requirement.

**Uniform Electronic Transaction Act (UETA):** A body of recommended legislation drafted in 1999 by the National Conference of Commissioners on Uniform State Laws (NCCUSL) for adoption by state legislatures. UETA allows electronic documents and digital signatures to stand as equals with their paper counterparts. Florida adopted a modified version of UETA (see F.S. 668.50 et seq.).

**Uniform Real Property Electronic Recording Act (URPERA):** A body of recommended legislation drafted in 2004 by the National Conference of Commissioners on Uniform State Laws (NCCUSL) for adoption by state legislatures. URPERA



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authorizes County Recorders to accept electronic documents for recording in accordance with established standards. Florida adopted a modified version of URPERA (see F.S. 695.27 et seq.).

**Wet signature:** An original representation of a person's name applied to a document.

**XML:** See Extensible Markup Language.

**XML Schema:** See Schema.

## Appendix B

### ACRONYMS USED IN THIS DOCUMENT

<b>ACH</b>	Automated Clearing House
<b>ANSI</b>	American National Standards Institute
<b>DOR</b>	Florida Department of Revenue
<b>DR-219</b>	Florida Department of Revenue Return for Transfers of Interest in Real Property
<b>DTD</b>	Document Type Definition
<b>E-SIGN</b>	Electronic Signatures in Global & National Commerce
<b>FTP</b>	File Transfer Protocol
<b>HTML</b>	HyperText Markup Language
<b>HTTP</b>	HyperText Transfer Protocol
<b>HTTPS</b>	HyperText Transfer Protocol Secure
<b>ISO</b>	International Standards Organization
<b>MISMO</b>	Mortgage Industry Standards Maintenance Organization
<b>MOU</b>	Memorandum of Understanding
<b>NCCUSL</b>	National Conference of Commissioners on Uniform State Laws
<b>OAIS</b>	Open Archival Information Systems
<b>PDF</b>	Portable Document Format
<b>PKI</b>	Public Key Infrastructure
<b>PIRA</b>	Property Records Industry Association
<b>SSL</b>	Secure Socket Layer
<b>TBP</b>	Trusted Business Partner
<b>TIFF</b>	Tagged Information File Format
<b>UETA</b>	Uniform Electronic Transaction Act
<b>URPERA</b>	Uniform Real Property Electronic Recording Act
<b>VPN</b>	Virtual Private Network
<b>XHTML</b>	Extensible HyperText Markup Language
<b>XML</b>	Extensible Markup Language

## **Appendix C**

### **ERECORDING MODELS EXPLAINED**

*Excerpted from the PRIA I-Guide©, as amended by Florida Electronic Recording Advisory Committee*

#### **2.3 eRecording Models**

Electronic recordings, whether as pilot projects or live production initiatives, have occurred in 24 states. From these efforts, three distinct models have emerged. The models are referred to as Models 1, 2 and 3. Each has distinctive characteristics. Each also brings certain benefits to the submitters.

Over time the improvements in delivery methods and document formats have improved the processes as well. From scanned paper documents, to electronically-signed images of the documents wrapped with XML data and securely signed, to completely electronic, XML-integrated documents using electronic and digital signatures, these models bring continuing benefits to participating County Recorders and document submitters. Ongoing progress with increasing value from added benefits are expected as mortgage, legal and recording industry standards are implemented.

##### **2.3.1 Model 1**

###### **Description**

This model is an extension of the paper-based closing or payoff processes. Documents are prepared and printed. The parties sign and notarize the paper documents with ink signatures. When complete, the signed and notarized paper documents are scanned and electronically sent to the County Recorder. Transmission is done by the submitting parties logging on to the County Recorder's computer system over a secure network after first identifying, or authenticating, themselves to the County Recorder's computer. The County Recorder makes the same determination of recordability as with paper documents, visually inspecting them for such things as signatures and acknowledgments as well as determining the recording fees.

Once the County Recorder accepts the documents for recording, the scanned image is "burned" with the recording information, including recording date and time as well as the unique recording reference number, such as book and page number or instrument number. Indexing is performed by the indexing staff of the County Recorder's office, as with paper documents. A copy of the recorded images is returned to the submitter, together with the recording endorsement data.

### **2.3.2 Model 2**

#### **Description**

Model 2 recordings may be paper or electronic based. A document image whether from a scanned paper document signed and notarized by ‘wet ink’ signatures or from an electronic document electronically signed and notarized, is wrapped in an XML wrapper containing the data necessary for processing, indexing and returning the document. In the case of a scanned paper document, Model 2 further extends Model 1 by adding data that improves the process, specifically the indexing process in the County Recorder’s office. In the case of an electronic document, it begins to improve the process for the settlement agent, lender or loan servicer submitting the document.

The model may support one or more of a number of graphics formats. Uncompressed TIFF (Tagged Image File Format) images are commonly used, because this format preserves the image in the most accurate and legible form.

The recordable documents are generally delivered to the County Recorder’s site by whatever means specified in the Business Rules.

Once imported into the County Recorder’s system, the County Recorder’s legacy system handles the recording functions. In this case the system imports the data from an XML wrapper, including index data. The recording process is partially automated, but the image may be visually inspected to determine that it meets recording requirements as well as possibly to validate against the data in the XML wrapper. The indexing data in the embedded image is not linked to the index data in the XML, so the County Recorder has no automated means to verify that it is the same.

If a document meets the requirements, it is recorded. The recording information is “burned” onto the image and returned to the submitter by means agreed upon by the parties. In some jurisdictions that use Model 2, the electronic recorded document is embedded into an XML wrapper with the recording information added so that the submitter can use the data in its internal processes.

### **2.3.3 Model 3**

#### **Description**

Under Model 3, documents are generated on a Trusted Business Partner’s document preparation system according to the PRIA standards. The document preparation person logs on to the system and enters the information necessary to complete the generation of the document. Once the document has been generated, the person signs it if she has the authority, or notifies the person with signing authority to sign. Secure access is required for all parties that must sign the document because

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Appendix C: eRecording Models Explained

signing is done by electronic signature.

Once the documents are electronically prepared, they are released for recording. The document preparation system compares each document against recording rules to ensure its recordability, and then calculates recording fees. Documents are submitted to the County Recorder's office pursuant to the terms of the Business Rules.

Documents received at the County Recorder's system are re-checked against the rules to determine whether or not they may be recorded. If not, they are returned to the submitter. Otherwise they are accepted for recording and the data for recording is extracted from the documents and passed to the legacy recording system. The endorsement data is received from the legacy system and entered onto the respective documents in XML format. If required, the XHTML is transformed to images for the County Recorder's archives and the documents with the recording endorsements are returned to the submitter.

## Appendix D

### RELATED STATUTES

While some sections of Florida law appear in their entirety in this appendix, it must be noted that references to recording exist throughout Florida law. County Recorders and eRecording submitters are to be governed at all times by current Florida law. All chapters are listed in numerical order, following the Florida Uniform Real Property Electronic Recording Act, for which this report was prepared.

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## **Florida Uniform Real Property Electronic Recording Act (F.S. 695.27)**

695.27 Uniform Real Property Electronic Recording Act.--

(1) **SHORT TITLE.**--This section may be cited as the "Uniform Real Property Electronic Recording Act."

(2) **DEFINITIONS.**--As used in this section:

(a) "Document" means information that is:

1. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

2. Eligible to be recorded in the Official Records, as defined in s. 28.222, and maintained by a county recorder.

(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 recorder in an electronic form.

(d) "Electronic signature" means an electronic sound, symbol, or process that is executed or adopted by a person with the intent to sign the document and is attached to or logically associated with a document such that, when recorded, it is assigned the same document number or a consecutive page number immediately following such document.

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

(f) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(3) **VALIDITY OF ELECTRONIC DOCUMENTS.**--

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

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

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

(4) **RECORDING OF DOCUMENTS.**--

(a) In this subsection, the term "paper document" means a document that is received by the county recorder in a form that is not electronic.

(b) A county recorder:

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1. Who implements any of the functions listed in this section shall do so in compliance with standards established by rule by the Department of State.
2. May receive, index, store, archive, and transmit electronic documents.
3. May provide for access to, and for search and retrieval of, documents and information by electronic means.
4. Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index.
5. May convert paper documents accepted for recording into electronic form.
6. May convert into electronic form information recorded before the county recorder began to record electronic documents.
7. May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording.

### (5) ADMINISTRATION AND STANDARDS.--

(a) The Department of State, by rule pursuant to ss. 120.536(1) and 120.54, shall prescribe standards to implement this section in consultation with the Electronic Recording Advisory Committee, which is hereby created. The Florida Association of Court Clerks and Comptrollers shall provide administrative support to the committee and technical support to the Department of State and the committee at no charge. The committee shall consist of nine members, as follows:

1. Five members appointed by the Florida Association of Court Clerks and Comptrollers, one of whom must be an official from a large urban charter county where the duty to maintain official records exists in a county office other than the clerk of court or comptroller.
2. One attorney appointed by the Real Property, Probate and Trust Law Section of The Florida Bar Association.
3. Two members appointed by the Florida Land Title Association.
4. One member appointed by the Florida Bankers Association.

(b) Appointed members shall serve a 1-year term. All initial terms shall commence on the effective date of this act. Members shall serve until their successors are appointed. An appointing authority may reappoint a member for successive terms. A vacancy on the committee shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(c) The first meeting of the committee shall be within 60 days of the effective date of this act. Thereafter, the committee shall meet at the call of the chair, but at least annually.

(d) The members of the committee shall serve without compensation and shall not claim per diem and travel expenses from the Secretary of State.

(e) To keep the standards and practices of county recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this section and to keep the technology used by county recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this section, the Department of State, in consultation with the

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committee, so far as is consistent with the purposes, policies, and provisions of this section, in adopting, amending, and repealing standards, shall consider:

1. Standards and practices of other jurisdictions.
2. The most recent standards adopted by national standard-setting bodies, such as the Property Records Industry Association.
3. The views of interested persons and governmental officials and entities.
4. The needs of counties of varying size, population, and resources.
5. Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

(f) The committee shall terminate on July 1, 2010.

(6) **UNIFORMITY OF APPLICATION AND CONSTRUCTION.**--In applying and construing this section, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(7) **RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**--This section modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. ss. 7001 et seq., but this section does not modify, limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or authorize electronic delivery of any of the notices described in s. 103(b) of that act, 15 U.S.C. s. 7003(b).

**History.**--s. 1, ch. 2007-233

## Chapter 28 Clerks of the Circuit Courts

**28.001 Definitions.**--As used in this chapter:

- (1) "Official records" means each instrument that the clerk of the circuit court is required or authorized to record in one general series called "Official Records" as provided for in s. 28.222.
- (2) "Public records" has the same meaning as in s. 119.011 and includes each official record.

**History.**--s. 1, ch. 94-348; s. 1, ch. 99-259.

**28.071 Clerk's seal.**--Each clerk shall provide a seal which shall have inscribed thereon substantially the words:

"Circuit Court"

"Clerk," "(Name of county)"

which shall be the official seal of the clerk of the circuit court in that county for authentication of all documents or instruments. It may be an imprint or impression type seal and shall be registered with the Department of State.

**History.**--s. 1, ch. 70-134; s. 1, ch. 70-439.

**28.222 Clerk to be county recorder.**--

- (1) The clerk of the circuit court shall be the recorder of all instruments that he or she may be required or authorized by law to record in the county where he or she is clerk.
- (2) The clerk of the circuit court shall record all instruments in one general series called "Official Records." He or she shall keep a register in which he or she shall enter at the time of filing the filing number of each instrument filed for record, the date and hour of filing, the kind of instrument, and the names of the parties to the instrument. The clerk shall maintain a general alphabetical index, direct and inverse, of all instruments filed for record. The register of Official Records must be available at each office where official records may be filed.
- (3) The clerk of the circuit court shall record the following kinds of instruments presented to him or her for recording, upon payment of the service charges prescribed by law:
  - (a) Deeds, leases, bills of sale, agreements, mortgages, notices or claims of lien, notices of levy, tax warrants, tax executions, and other instruments relating to the ownership, transfer, or encumbrance of or claims against real or personal property or any interest in it; extensions, assignments, releases, cancellations, or satisfactions of mortgages and liens; and powers of attorney relating to any of the instruments.
  - (b) Notices of lis pendens, including notices of an action pending in a United States court having jurisdiction in this state.
  - (c) Judgments, including certified copies of judgments, entered by any court of this state or by a United States court having jurisdiction in this state and assignments, releases, and satisfactions of the judgments.

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(d) That portion of a certificate of discharge, separation, or service which indicates the character of discharge, separation, or service of any citizen of this state with respect to the military, air, or naval forces of the United States. Each certificate shall be recorded without cost to the veteran, but the clerk shall receive from the board of county commissioners or other governing body of the county the service charge prescribed by law for the recording.

(e) Notices of liens for taxes payable to the United States and other liens in favor of the United States, and certificates discharging, partially discharging, or releasing the liens, in accordance with the laws of the United States.

(f) Certified copies of petitions, with schedules omitted, commencing proceedings under the <sup>1</sup>Bankruptcy Act of the United States, decrees of adjudication in the proceedings, and orders approving the bonds of trustees appointed in the proceedings.

(g) Certified copies of death certificates authorized for issuance by the Department of Health which exclude the information that is confidential under s. 382.008, and certified copies of death certificates issued by another state whether or not they exclude the information described as confidential in s. 382.008.

(h) Any other instruments required or authorized by law to be recorded.

(4) Any reference in these statutes to the filing of instruments affecting title to real or personal property with the clerk of the circuit court shall mean recording of the instruments.

(5) The clerk of the circuit court may maintain a separate book for maps, plats, and drawings recorded pursuant to chapters 177, 253, and 337.

(6) All instruments recorded in the Official Records shall always be open to the public, under the supervision of the clerk, for the purpose of inspection thereof and of making extracts therefrom; but the clerk shall not be required to perform any service in connection with such inspection or making of extracts without payment of service charges as provided in s. 28.24.

**History.**--ss. 2, 4, ch. 71-4; s. 24, ch. 81-259; s. 2, ch. 84-114; s. 2, ch. 92-25; s. 1, ch. 93-42; s. 100, ch. 94-119; s. 11, ch. 94-348; s. 1324, ch. 95-147; s. 2, ch. 95-214; s. 83, ch. 97-237; s. 3, ch. 99-259.

<sup>1</sup>**Note.**--Replaced by the 1978 Bankruptcy Code.

**28.2221 Electronic access to official records.--**

(1) The Legislature finds that a proper and legitimate state purpose is served by providing the public with access to public records and information on the Internet. The Legislature further finds that a proper and legitimate state purpose is also served by preventing disclosure of records and information made exempt by law from public disclosure.

(2) No later than January 1, 2002, the county recorder in each county shall provide a current index of documents recorded in the official records of the county for the period beginning no later than January 1, 1990, on a publicly available Internet website which shall also contain a document requisition point for obtaining images or copies of the documents reflected in the index and which has the capability of electronically providing the index data to a central statewide search site. The index shall be limited to grantor and grantee names, party names, date, book and page number, comments, and type of record.

(3) Each county recorder shall use appropriate Internet security measures to ensure that no person has the ability to alter or to modify records placed on the Internet by the county recorder.

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(4) Unless otherwise provided by law, no information retrieved electronically pursuant to this section shall be admissible in court as an authenticated document.

(5)(a) No county recorder or clerk of the court may place an image or copy of a public record, including an official record, on a publicly available Internet website for general public display if that image or copy is of a military discharge; death certificate; or a court file, record, or paper relating to matters or cases governed by the Florida Rules of Family Law, the Florida Rules of Juvenile Procedure, or the Florida Probate Rules.

(b) Any records specified in this subsection made available by the county recorder or clerk of the court on a publicly available Internet website for general public display prior to June 5, 2002, must be removed if the affected party identifies the record and requests that it be removed. Such request must be in writing and delivered by mail, facsimile, or electronic transmission, or in person to the county recorder or clerk of the court. The request must specify the identification page number of the document to be removed. No fee may be charged for the removal of a document pursuant to such request.

(c) No later than 30 days after June 5, 2002, notice of the right of any affected party to request removal of records pursuant to this subsection shall be conspicuously and clearly displayed by the county recorder or clerk of the court on the publicly available Internet website on which images or copies of the county's public records are placed and in the office of each county recorder or clerk of the court. In addition, no later than 30 days after June 5, 2002, the county recorder or the clerk of the court must have published, on two separate dates, a notice of such right in a newspaper of general circulation in the county where the county recorder's office is located as provided for in chapter 50. Such notice must contain appropriate instructions for making the removal request in person, by mail, by facsimile, or by electronic transmission. The notice shall state, in substantially similar form, that any person has a right to request that a county recorder or clerk of the court remove an image or copy of a public record, including an official record, from a publicly available Internet website if that image or copy is of a military discharge; death certificate; or a court file, record, or paper relating to matters or cases governed by the Florida Rules of Family Law, the Florida Rules of Juvenile Procedure, or the Florida Probate Rules. Such request must be made in writing and delivered by mail, facsimile, or electronic transmission, or in person to the county recorder or clerk of the court. The request must identify the document identification page number of the document to be removed. No fee will be charged for the removal of a document pursuant to such request.

(d) Any affected person may petition the circuit court for an order directing compliance with this subsection.

(e) By January 1, 2006, each county recorder or clerk of the court shall provide for electronic retrieval, at a minimum, of images of documents referenced as the index required to be maintained on the county's official records website by this section.

**History.**--s. 2, ch. 2000-164; s. 2, ch. 2002-302.

**28.223 Probate records; recordation.--**

(1) The clerk of the circuit shall record all wills and codicils admitted to probate, orders revoking the probate of any wills and codicils, letters of administration, orders affecting or describing real property, final orders, orders of final discharge, and orders of guardianship filed in the clerk's office. No other petitions, pleadings, papers, or other orders relating to probate matters shall be recorded except on the written direction of the court. The direction may be by incorporation in the order of the words "To be recorded," or words to that effect. Failure to record an order or a judgment shall not affect its validity.

(2) The clerk shall record all instruments under this section in Official Records and index them in the same manner as prescribed in s. 28.222.

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(3) All records of a court of this state heretofore exercising probate jurisdiction shall be placed, and remain, in the custody of the clerk and shall be the records of the circuit court. The circuit court may exercise judicial cognizance and power over them as it may over its own records.

(4) Certified transcripts of the whole or any part of probate or administration proceedings in any court of this state or of any foreign state or country may be recorded. If the certified copy is not a part of a pending probate proceeding in the court, the person causing it to be recorded shall pay the costs of recordation.

(5) The recording of any instrument required or permitted to be recorded under this section in a pending probate or administration proceeding in the county shall be included in the fees prescribed in s. 28.2401.

**28.24 Service charges by clerk of the circuit court.—**

The clerk of the circuit court shall charge for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide without charge to the state attorney, public defender, guardian ad litem, public guardian, attorney ad litem, criminal conflict and civil regional counsel, and private court-appointed counsel paid by the state, and to the authorized staff acting on behalf of each, access to and a copy of any public record, if the requesting party is entitled by law to view the exempt or confidential record, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration. The clerk of the circuit court may provide the requested public record in an electronic format in lieu of a paper format when capable of being accessed by the requesting entity.

Charges

(1) For examining, comparing, correcting, verifying, and certifying transcripts of record in appellate proceedings, prepared by attorney for appellant or someone else other than clerk, per page ..... 4.50

(2) For preparing, numbering, and indexing an original record of appellate proceedings, per instrument ..... 3.00

(3) For certifying copies of any instrument in the public records ..... 1.50

(4) For verifying any instrument presented for certification prepared by someone other than clerk, per page ..... 3.00

(5)(a) For making copies by photographic process of any instrument in the public records consisting of pages of not more than 14 inches by 8<sup>1</sup>/<sub>2</sub> inches, per page ..... 1.00

(b) For making copies by photographic process of any instrument in the public records of more than 14 inches by 8<sup>1</sup>/<sub>2</sub> inches, per page ..... 5.00

(6) For making microfilm copies of any public records:

(a) 16 mm 100' microfilm roll ..... 37.50

(b) 35 mm 100' microfilm roll ..... 52.50

(c) Microfiche, per fiche ..... 3.00



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- (7) For copying any instrument in the public records by other than photographic process, per page ..... 6.00
- (8) For writing any paper other than herein specifically mentioned, same as for copying, including signing and sealing ..... 6.00
- (9) For indexing each entry not recorded ..... 1.00
- (10) For receiving money into the registry of court:
- (a)1. First \$500, percent ..... 3
2. Each subsequent \$100, percent ..... 1.5
- (b) Eminent domain actions, per deposit ..... 150.00
- (11) For examining, certifying, and recording plats and for recording condominium exhibits larger than 14 inches by 8<sup>1</sup>/<sub>2</sub> inches:
- (a) First page ..... 30.00
- (b) Each additional page ..... 15.00
- (12) For recording, indexing, and filing any instrument not more than 14 inches by 8<sup>1</sup>/<sub>2</sub> inches, including required notice to property appraiser where applicable:
- (a) First page or fraction thereof ..... 5.00
- (b) Each additional page or fraction thereof ..... 4.00
- (c) For indexing instruments recorded in the official records which contain more than four names, per additional name ..... 1.00
- (d) An additional service charge shall be paid to the clerk of the circuit court to be deposited in the Public Records Modernization Trust Fund for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records:
1. First page ..... 1.00
2. Each additional page ..... 0.50

Said fund shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical assistance in modernizing the public records system of the office. In a county where the duty of maintaining official records exists in an office other than the office of the clerk of the circuit court, the clerk of the circuit court is entitled to 25 percent of the moneys deposited into the trust fund for equipment, maintenance of equipment, training, and technical assistance in modernizing the system for storing records in the office of the clerk of the circuit court. The fund may not be used for the payment of travel expenses, membership dues, bank charges, staff-recruitment costs, salaries or benefits of employees, construction costs, general operating expenses, or other costs not directly related to obtaining and maintaining equipment for public records systems or for the purchase of furniture or office supplies and equipment not related to the storage of records. On or before December 1, 1995, and on or before December 1 of each year immediately preceding each year during which the trust fund is scheduled for legislative review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a report on the Public Records Modernization Trust Fund with the President of the Senate and the Speaker of the House of Representatives. The report must itemize each expenditure made from the

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trust fund since the last report was filed; each obligation payable from the trust fund on that date; and the percentage of funds expended for each of the following: equipment, maintenance of equipment, personnel training, and technical assistance. The report must indicate the nature of the system each clerk uses to store, maintain, and retrieve public records and the degree to which the system has been upgraded since the creation of the trust fund.

(e) An additional service charge of \$4 per page shall be paid to the clerk of the circuit court for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records. From the additional \$4 service charge collected:

1. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to the Florida Association of Court Clerks and Comptroller, Inc., for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information System, in which system all clerks shall participate on or before January 1, 2006; \$1.90 shall be retained by the clerk to be deposited in the Public Records Modernization Trust Fund and used exclusively for funding court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall be distributed to the board of county commissioners to be used exclusively to fund court-related technology, and court technology needs as defined in s. 29.008(1)(f)2. and (h) for the state trial courts, state attorney, public defender, and criminal conflict and civil regional counsel in that county. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), notwithstanding any other provision of law, the county is not required to provide additional funding beyond that provided herein for the court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All court records and official records are the property of the State of Florida, including any records generated as part of the Comprehensive Case Information System funded pursuant to this paragraph and the clerk of court is designated as the custodian of such records, except in a county where the duty of maintaining official records exists in a county office other than the clerk of court or comptroller, such county office is designated the custodian of all official records, and the clerk of court is designated the custodian of all court records. The clerk of court or any entity acting on behalf of the clerk of court, including an association, shall not charge a fee to any agency as defined in s. 119.011, the Legislature, or the State Court System for copies of records generated by the Comprehensive Case Information System or held by the clerk of court or any entity acting on behalf of the clerk of court, including an association.

2. If the state becomes legally responsible for the costs of court-related technology needs as defined in s. 29.008(1)(f)2. and (h), whether by operation of general law or by court order, \$4 shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

- (13) Oath, administering, attesting, and sealing, not otherwise provided for herein ..... 3.00
- (14) For validating certificates, any authorized bonds, each ..... 3.00
- (15) For preparing affidavit of domicile ..... 5.00
- (16) For exemplified certificates, including signing and sealing ..... 6.00
- (17) For authenticated certificates, including signing and sealing ..... 6.00
- (18)(a) For issuing and filing a subpoena for a witness, not otherwise provided for herein (includes writing, preparing, signing, and sealing) ..... 6.00
- (b) For signing and sealing only ..... 1.50
- (19) For approving bond ..... 7.50

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- (20) For searching of records, for each year's search ..... 1.50
- (21) For processing an application for a tax deed sale (includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds ..... 60.00
- (22) For disbursement of excess proceeds of tax deed sale, first \$100 or fraction thereof ..... 10.00
- (23) Upon receipt of an application for a marriage license, for preparing and administering of oath; issuing, sealing, and recording of the marriage license; and providing a certified copy ..... 30.00
- (24) For solemnizing matrimony ..... 30.00
- (25) For sealing any court file or expungement of any record ..... 37.50
- (26)(a) For receiving and disbursing all restitution payments, per payment ..... 3.00
- (b) For receiving and disbursing all partial payments, other than restitution payments, for which an administrative processing service charge is not imposed pursuant to s. 28.246, per month ..... 5.00
- (c) For setting up a payment plan, a one-time administrative processing charge in lieu of a per month charge under paragraph (b) ..... 25.00
- (27) Postal charges incurred by the clerk of the circuit court in any mailing by certified or registered mail shall be paid by the party at whose instance the mailing is made.
- (28) For furnishing an electronic copy of information contained in a computer database: a fee as provided for in chapter 119.

**History.**--s. 1, ch. 3106, 1879; RS 1394; GS 1839; RGS 3084; ss. 1, 2, ch. 11893, 1927; CGL 4867; s. 2, ch. 29749, 1955; s. 1, ch. 63-45; s. 5, ch. 70-134; s. 1, ch. 77-284; s. 1, ch. 78-367; s. 1, ch. 79-266; s. 12, ch. 79-400; s. 1, ch. 82-205; s. 35, ch. 85-180; s. 2, ch. 85-249; s. 22, ch. 87-95; s. 2, ch. 87-145; s. 1, ch. 88-176; s. 1, ch. 92-200; ss. 5, 13, ch. 94-348; s. 5, ch. 95-214; s. 2, ch. 2000-144; s. 90, ch. 2003-261; s. 28, ch. 2003-402; s. 16, ch. 2004-265; s. 6, ch. 2005-236; s. 14, ch. 2007-62.

**28.29 Recording of orders and judgments.**--Orders of dismissal and final judgments of the courts in civil actions shall be recorded in official records. Other orders shall be recorded only on written direction of the court. The direction may be by incorporation in the order of the words "To be recorded" or words to that effect. Failure to record an order or judgment shall not affect its validity. The certified copy of a judgment, required under s. 55.10 to become a lien on real property, shall be recorded only when presented for recording with the statutory service charge.

**History.**--ss. 1-3, ch. 23825, 1947; s. 3, ch. 71-4; s. 2, ch. 72-320.

**28.30 Records; destruction; reproduction; electronic recordkeeping.**--

- (1) The purpose of this section and s. 28.31 is to make available for the use of the clerks of the circuit court of the several counties of the state sufficient space to enable them to efficiently administer the affairs of office.

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(2) The clerk of the circuit court of each county of the state is authorized to destroy and dispose of public records pursuant to the rules adopted by the Division of Library and Information Services of the Department of State pursuant to s. 257.36.

(3) Each clerk of the circuit court is authorized to photograph, microphotograph, or reproduce on film, or to maintain in an electronic recordkeeping system, any public record that the clerk may select. Such photographs, microphotographs, or other reproductions on film or reproductions from an electronic recordkeeping system shall be admissible in evidence with the same force and effect as the originals. Duly certified or authenticated reproductions of such photographs, microphotographs, reproductions on film, or reproductions from an electronic recordkeeping system shall be admitted in evidence equally with the original photographs, microphotographs, reproductions on film, or reproductions from an electronic recordkeeping system.

(4) The clerk of the circuit court shall follow procedures for electronic recordkeeping in accordance with rules adopted by the Division of Library and Information Services of the Department of State.

(5) Except when otherwise provided by law or applicable rule, a document that is submitted to the clerk of the circuit court by electronic transmission is deemed filed when the document is received and the date and time are acknowledged by the clerk, as opposed to the date and time of transmission. The clerk is not liable for malfunctions or errors occurring in the transmission of documents for filing by electronic means.

**History.**--ss. 1, 2, 3, 4, ch. 25433, 1949; s. 8, ch. 69-82; s. 6, ch. 94-348.

## Chapter 55 Judgments

**55.081 Statute of limitations, lien of judgment.**--Subject to the provisions of s. 55.10, no judgment, order, or decree of any court shall be a lien upon real or personal property within the state after the expiration of 20 years from the date of the entry of such judgment, order, or decree.

**History.**--s. 1, ch. 29954, 1955; s. 9, ch. 67-254; s. 1, ch. 87-67.

### **55.10 Judgments, orders, and decrees; lien of all, generally; extension of liens; transfer of liens to other security.**--

(1) A judgment, order, or decree becomes a lien on real property in any county when a certified copy of it is recorded in the official records or judgment lien record of the county, whichever is maintained at the time of recordation, provided that the judgment, order, or decree contains the address of the person who has a lien as a result of such judgment, order, or decree or a separate affidavit is recorded simultaneously with the judgment, order, or decree stating the address of the person who has a lien as a result of such judgment, order, or decree. A judgment, order, or decree does not become a lien on real property unless the address of the person who has a lien as a result of such judgment, order, or decree is contained in the judgment, order, or decree or an affidavit with such address is simultaneously recorded with the judgment, order, or decree. If the certified copy was first recorded in a county in accordance with this subsection between July 1, 1987, and June 30, 1994, then the judgment, order, or decree shall be a lien in that county for an initial period of 7 years from the date of the recording. If the certified copy is first recorded in accordance with this subsection on or after July 1, 1994, then the judgment, order, or decree shall be a lien in that county for an initial period of 10 years from the date of the recording.

(2) The lien provided for in subsection (1) or an extension of that lien as provided by this subsection may be extended for an additional period of 10 years, subject to the limitation in subsection (3), by rerecording a certified copy of the judgment, order, or decree prior to the expiration of the lien or the expiration of the extended lien and by simultaneously recording an affidavit with the current address of the person who has a lien as a result of the judgment, order, or decree. The extension shall be effective from the date the certified copy of the judgment, order, or decree is rerecorded. The lien or extended lien will not be extended unless the affidavit with the current address is simultaneously recorded.

(3) In no event shall the lien upon real property created by this section be extended beyond the period provided for in s. 55.081 or beyond the point at which the lien is satisfied, whichever occurs first.

(4) This act shall apply to all judgments, orders, and decrees of record which constitute a lien on real property; except that any judgment, order, or decree recorded prior to July 1, 1987, shall remain a lien on real property until the period provided for in s. 55.081 expires or until the lien is satisfied, whichever occurs first.

(5) Any lien claimed under this section may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either depositing in the clerk's office a sum of money or filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state. Such deposit or bond shall be in an amount equal to the amount demanded in such claim of lien plus interest thereon at the legal rate for 3 years plus \$500 to apply on any court costs which may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment, order, or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded and costs plus \$500 for court costs. Upon such deposit being made or such bond being filed, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon the filing of the certificate of transfer, the real property shall thereupon be released

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from the lien claimed, and such lien shall be transferred to said security. The clerk shall be entitled to a service charge of up to \$15 for making and serving the certificate. If the transaction involves the transfer of multiple liens, an additional service charge of up to \$7.50 for each additional lien shall be charged. Any number of liens may be transferred to one such security.

(6) Any excess of the security over the aggregate amount of any judgments, orders, or decrees rendered, plus costs actually taxed, shall be repaid to the party filing the security or his or her successor in interest. Any deposit of money shall be considered as paid into court and shall be subject to the provisions of law relative to payments of money into court and the disposition of these payments.

(7) Any party having an interest in such security or the property from which the lien was transferred may at any time, and any number of times, file a complaint in chancery in the circuit court of the county where such security is deposited for an order:

- (a) To require additional security;
- (b) To require reduction of security;
- (c) To require change or substitution of sureties;
- (d) To require payment or discharge thereof; or
- (e) Relating to any other matter affecting said security.

**History.**--s. 1, ch. 10166, 1925; s. 1, ch. 14749, 1931; ss. 1-3, ch. 17998, 1937; s. 2, ch. 19270, 1939; CGL 1940 Supp. 4865(3); s. 9, ch. 67-254; s. 1, ch. 71-56; s. 1, ch. 77-462; s. 2, ch. 87-67; s. 7, ch. 87-145; s. 12, ch. 91-45; s. 10, ch. 93-250; s. 15, ch. 94-348; s. 1357, ch. 95-147; s. 7, ch. 2000-258; s. 1, ch. 2001-130; s. 68, ch. 2003-402; s. 47, ch. 2004-265.

**55.141 Satisfaction of judgments and decrees; duties of clerk.--**

(1) All judgments and decrees for the payment of money rendered in the courts of this state and which have become final, may be satisfied at any time prior to the actual levy of execution issued thereon by payment of the full amount of such judgment or decree, with interest thereon, plus the costs of the issuance, if any, of execution thereon into the registry of the court where rendered.

(2) Upon such payment, the clerk shall execute and record in the official records a satisfaction of judgment upon payment of the recording charge prescribed in s. 28.24(12). Upon payment of the amount required in subsection (1) and the recording charge required by this subsection and execution and recordation of the satisfaction by the clerk, any lien created by the judgment is satisfied and discharged.

(3) The satisfaction of judgment executed by the clerk must be substantially in the following form:

Satisfaction of Judgment by Clerk

The undersigned Clerk acknowledges on this \_\_\_\_\_ day of (month), (year), receipt from (identity of party making payment) of \$ (total amount received), comprised of \$ \_\_\_\_\_ face amount of the judgment; \$ \_\_\_\_\_ interest accruing on the judgment through the date of payment; \$ \_\_\_\_\_ costs of issuance of any execution; and \$ \_\_\_\_\_ for recording.

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Pursuant to section 55.141, Florida Statutes, said sum is paid to satisfy the lien and to discharge that certain final judgment in favor of (name of judgment holder) whose last known address, if known, is (address if shown on face of judgment or in recorded affidavit pursuant to section 55.10(1), Florida Statutes.) against (name of judgment debtor) recorded in Official Records Volume/Book \_\_\_\_\_, page \_\_\_\_\_ of the public records of \_\_\_\_\_ County, Florida.

Upon the execution of this satisfaction, said judgment is satisfied and discharged.

If an address for the judgment holder was provided under section 55.10(1), Florida Statutes, I certify that a copy of this notice has been sent to the judgment holder at said address by certified mail with return receipt requested or by registered mail if the notice is to be sent outside the continental United States.

Clerk of Court

(4) If an address for the judgment holder was provided under s. 55.10(1), the clerk shall formally send a copy of the satisfaction to the judgment holder at that address by certified mail with return receipt or by registered mail if the notice is to be sent outside the continental United States. If an address is not provided under s. 55.10(1) or if delivery cannot be effected to such address, the clerk may, but is not obligated to, make reasonable attempts to locate the judgment holder. The discharge of the lien by the issuance of the satisfaction is not dependent upon the delivery of notice by the clerk.

(5) Upon application of the judgment holder, the clerk shall pay over to the judgment holder the full amount of the payment received, less the clerk's fees for issuing execution on such judgment, if any has been issued; less the clerk's fees for receiving into and paying out of the registry of the court such payment; less the clerk's fees for recording the satisfaction of judgment; and, if the clerk incurred expenses in locating the judgment holder, less the reasonable expenses so incurred.

**History.**--ss. 1, 2, 3, ch. 22672, 1945; s. 9, ch. 67-254; s. 2, ch. 77-354; s. 4, ch. 82-205; s. 296, ch. 95-147; s. 69, ch. 2003-402; s. 48, ch. 2004-265; s. 1, ch. 2005-241.

**Note.**--Former s. 55.62.

## Chapter 117 Notaries Public

### 117.021 Electronic notarization.--

- (1) Any document requiring notarization may be notarized electronically. The provisions of ss. 117.01, 117.03, 117.04, 117.05(1)-(11), (13), and (14), 117.105, and 117.107 apply to all notarizations under this section.
- (2) In performing an electronic notarial act, a notary public shall use an electronic signature that is:
  - (a) Unique to the notary public;
  - (b) Capable of independent verification;
  - (c) Retained under the notary public's sole control; and
  - (d) Attached to or logically associated with the electronic document in a manner that any subsequent alteration to the electronic document displays evidence of the alteration.
- (3) When a signature is required to be accompanied by a notary public seal, the requirement is satisfied when the electronic signature of the notary public contains all of the following seal information:
  - (a) The full name of the notary public exactly as provided on the notary public's application for commission;
  - (b) The words "Notary Public State of Florida";
  - (c) The date of expiration of the commission of the notary public; and
  - (d) The notary public's commission number.
- (4) Failure of a notary public to comply with any of the requirements of this section may constitute grounds for suspension of the notary public's commission by the Executive Office of the Governor.
- (5) The Department of State may adopt rules to ensure the security, reliability, and uniformity of signatures and seals authorized in this section.

**History.**--s. 1, ch. 2007-257.



## **Chapter 118 International Notaries**

### **Civil-Law Notary (F.S. 118.10)**

#### 118.10 Civil-law notary.--

(1) As used in this section, the term:

(a) "Authentic act" means an instrument executed by a civil-law notary referencing this section, which instrument includes the particulars and capacities to act of any transacting parties, a confirmation of the full text of any necessary instrument, the signatures or their legal equivalent of any transacting parties, the signature and seal of a civil-law notary, and such other information prescribed by the Secretary of State.

(b) "Civil-law notary" means a person who is a member in good standing of The Florida Bar, who has practiced law for at least 5 years, and who is appointed by the Secretary of State as a civil-law notary.

(c) "Protocol" means a registry maintained by a civil-law notary in which the acts of the civil-law notary are archived.

(2) The Secretary of State shall have the power to appoint civil-law notaries and administer this section.

(3) A civil-law notary is authorized to issue authentic acts and thereby may authenticate or certify any document, transaction, event, condition, or occurrence. The contents of an authentic act and matters incorporated therein shall be presumed correct. A civil-law notary may also administer an oath and make a certificate thereof when it is necessary for execution of any writing or document to be attested, protested, or published under the seal of a notary public. A civil-law notary may also take acknowledgments of deeds and other instruments of writing for record, and solemnize the rites of matrimony, as fully as other officers of this state. A civil-law notary is not authorized to issue authentic acts for use in a jurisdiction if the United States Department of State has determined that the jurisdiction does not have diplomatic relations with the United States or is a terrorist country, or if trade with the jurisdiction is prohibited under the Trading With the Enemy Act of 1917, as amended, 50 U.S.C. ss. 1, et seq.

(4) The authentic acts, oaths and acknowledgments, and solemnizations of a civil-law notary shall be recorded in the civil-law notary's protocol in a manner prescribed by the Secretary of State.

(5) The Secretary of State may adopt rules prescribing:

(a) The form and content of authentic acts, oaths, acknowledgments, solemnizations, and signatures and seals or their legal equivalents;

(b) Procedures for the permanent archiving of authentic acts, maintaining records of acknowledgments, oaths and solemnizations, and procedures for the administration of oaths and taking of acknowledgments;

(c) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this chapter;

(d) Educational requirements and procedures for testing applicants' knowledge of all matters relevant to the appointment, authority, duties or legal or ethical responsibilities of a civil-law notary;

(e) Procedures for the disciplining of civil-law notaries, including, but not limited to, the suspension and revocation of appointments for failure to comply with the requirements of this chapter or the rules of the Department of State, or for misrepresentation or fraud regarding the civil-law notary's authority, the effect of the civil-law notary's authentic acts, or the identities or acts of the parties to a transaction;

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(f) Bonding or errors and omissions insurance requirements, or both, for civil-law notaries; and

(g) Other matters necessary for administering this section.

(6) The Secretary of State shall not regulate, discipline, or attempt to discipline any civil-law notary for, or with regard to, any action or conduct that would constitute the practice of law in this state, except by agreement with The Florida Bar. The Secretary of State shall not establish as a prerequisite to the appointment of a civil-law notary any test containing any question that inquires of the applicant's knowledge regarding the practice of law in the United States, unless such test is offered in conjunction with an educational program approved by The Florida Bar for continuing legal education credit.

(7) The powers of civil-law notaries include, but are not limited to, all of the powers of a notary public under any law of this state.

(8) This section shall not be construed as abrogating the provisions of any other act relating to notaries public, attorneys, or the practice of law in this state.

**History.**--s. 7, ch. 97-241; s. 1, ch. 97-278; ss. 10, 20, ch. 98-246; s. 74, ch. 99-251.

## Chapter 119 Public Records

### 119.01 General state policy on public records.--

(1) It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

(2)(a) Automation of public records must not erode the right of access to those records. As each agency increases its use of and dependence on electronic recordkeeping, each agency must provide reasonable public access to records electronically maintained and must ensure that exempt or confidential records are not disclosed except as otherwise permitted by law.

(b) When designing or acquiring an electronic recordkeeping system, an agency must consider whether such system is capable of providing data in some common format such as, but not limited to, the American Standard Code for Information Interchange.

(c) An agency may not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of the agency, including public records that are online or stored in an electronic recordkeeping system used by the agency.

(d) Subject to the restrictions of copyright and trade secret laws and public records exemptions, agency use of proprietary software must not diminish the right of the public to inspect and copy a public record.

(e) Providing access to public records by remote electronic means is an additional method of access that agencies should strive to provide to the extent feasible. If an agency provides access to public records by remote electronic means, such access should be provided in the most cost-effective and efficient manner available to the agency providing the information.

(f) Each agency that maintains a public record in an electronic recordkeeping system shall provide to any person, pursuant to this chapter, a copy of any public record in that system which is not exempted by law from public disclosure. An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium, and the agency may charge a fee in accordance with this chapter. For the purpose of satisfying a public records request, the fee to be charged by an agency if it elects to provide a copy of a public record in a medium not routinely used by the agency, or if it elects to compile information not routinely developed or maintained by the agency or that requires a substantial amount of manipulation or programming, must be in accordance with s. 119.07(4).

(3) If public funds are expended by an agency in payment of dues or membership contributions for any person, corporation, foundation, trust, association, group, or other organization, all the financial, business, and membership records of that person, corporation, foundation, trust, association, group, or other organization which pertain to the public agency are public records and subject to the provisions of s. 119.07.

**History.**--s. 1, ch. 5942, 1909; RGS 424; CGL 490; s. 1, ch. 73-98; s. 2, ch. 75-225; s. 2, ch. 83-286; s. 4, ch. 86-163; ss. 1, 5, ch. 95-296; s. 2, ch. 2004-335; s. 1, ch. 2005-251.

#### 119.011 Definitions.--As used in this chapter, the term:

(1) "Actual cost of duplication" means the cost of the material and supplies used to duplicate the public record, but does not include labor cost or overhead cost associated with such duplication.

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(2) "Agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(3)(a) "Criminal intelligence information" means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

(b) "Criminal investigative information" means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

(c) "Criminal intelligence information" and "criminal investigative information" shall not include:

1. The time, date, location, and nature of a reported crime.
2. The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.071(2)(h).
3. The time, date, and location of the incident and of the arrest.
4. The crime charged.
5. Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(h), and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.07(1) until released at trial if it is found that the release of such information would:
  - a. Be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness; and
  - b. Impair the ability of a state attorney to locate or prosecute a codefendant.
6. Informations and indictments except as provided in s. 905.26.

(d) The word "active" shall have the following meaning:

1. Criminal intelligence information shall be considered "active" as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.
2. Criminal investigative information shall be considered "active" as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

In addition, criminal intelligence and criminal investigative information shall be considered "active" while such information is directly related to pending prosecutions or appeals. The word "active" shall not apply to information in cases which are barred from prosecution under the provisions of s. 775.15 or other statute of limitation.

(4) "Criminal justice agency" means:

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- (a) Any law enforcement agency, court, or prosecutor;
  - (b) Any other agency charged by law with criminal law enforcement duties;
  - (c) Any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or
  - (d) The Department of Corrections.
- (5) "Custodian of public records" means the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.
- (6) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.
- (7) "Duplicated copies" means new copies produced by duplicating, as defined in s. 283.30.
- (8) "Exemption" means a provision of general law which provides that a specified record or meeting, or portion thereof, is not subject to the access requirements of s. 119.07(1), s. 286.011, or s. 24, Art. I of the State Constitution.
- (9) "Information technology resources" means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training.
- (10) "Proprietary software" means data processing software that is protected by copyright or trade secret laws.
- (11) "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.
- (12) "Redact" means to conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information.
- (13) "Sensitive," for purposes of defining agency-produced software that is sensitive, means only those portions of data processing software, including the specifications and documentation, which are used to:
- (a) Collect, process, store, and retrieve information that is exempt from s. 119.07(1);
  - (b) Collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or
  - (c) Control and direct access authorizations and security measures for automated systems.

**History.**--s. 1, ch. 67-125; s. 2, ch. 73-98; s. 3, ch. 75-225; ss. 1, 2, ch. 79-187; s. 8, ch. 85-53; s. 1, ch. 88-188; s. 5, ch. 93-404; s. 5, ch. 93-405; s. 5, ch. 95-207; s. 6, ch. 95-296; s. 10, ch. 95-398; s. 40, ch. 96-406; s. 2, ch. 97-90; s. 3, ch. 2004-335; s. 43, ch. 2005-251.

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**119.021 Custodial requirements; maintenance, preservation, and retention of public records.--**

(1) Public records shall be maintained and preserved as follows:

(a) All public records should be kept in the buildings in which they are ordinarily used.

(b) Insofar as practicable, a custodian of public records of vital, permanent, or archival records shall keep them in fireproof and waterproof safes, vaults, or rooms fitted with noncombustible materials and in such arrangement as to be easily accessible for convenient use.

(c)1. Record books should be copied or repaired, renovated, or rebound if worn, mutilated, damaged, or difficult to read.

2. Whenever any state, county, or municipal records are in need of repair, restoration, or rebinding, the head of the concerned state agency, department, board, or commission; the board of county commissioners of such county; or the governing body of such municipality may authorize that such records be removed from the building or office in which such records are ordinarily kept for the length of time required to repair, restore, or rebind them.

3. Any public official who causes a record book to be copied shall attest and certify under oath that the copy is an accurate copy of the original book. The copy shall then have the force and effect of the original.

(2)(a) The Division of Library and Information Services of the Department of State shall adopt rules to establish retention schedules and a disposal process for public records.

(b) Each agency shall comply with the rules establishing retention schedules and disposal processes for public records which are adopted by the records and information management program of the division.

(c) Each public official shall systematically dispose of records no longer needed, subject to the consent of the records and information management program of the division in accordance with s. 257.36.

(d) The division may ascertain the condition of public records and shall give advice and assistance to public officials to solve problems related to the preservation, creation, filing, and public accessibility of public records in their custody. Public officials shall assist the division by preparing an inclusive inventory of categories of public records in their custody. The division shall establish a time period for the retention or disposal of each series of records. Upon the completion of the inventory and schedule, the division shall, subject to the availability of necessary space, staff, and other facilities for such purposes, make space available in its records center for the filing of semicurrent records so scheduled and in its archives for noncurrent records of permanent value, and shall render such other assistance as needed, including the microfilming of records so scheduled.

(3) Agency orders that comprise final agency action and that must be indexed or listed pursuant to s. 120.53 have continuing legal significance; therefore, notwithstanding any other provision of this chapter or any provision of chapter 257, each agency shall permanently maintain records of such orders pursuant to the applicable rules of the Department of State.

(4)(a) Whoever has custody of any public records shall deliver, at the expiration of his or her term of office, to his or her successor or, if there be none, to the records and information management program of the Division of Library and Information Services of the Department of State, all public records kept or received by him or her in the transaction of official business.

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(b) Whoever is entitled to custody of public records shall demand them from any person having illegal possession of them, who must forthwith deliver the same to him or her. Any person unlawfully possessing public records must within 10 days deliver such records to the lawful custodian of public records unless just cause exists for failing to deliver such records.

**History.**--s. 2, ch. 67-125; s. 3, ch. 83-286; s. 753, ch. 95-147; s. 5, ch. 2004-335.

**119.07 Inspection and copying of records; photographing public records; fees; exemptions.--**

(1)(a) Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

(b) A custodian of public records or a person having custody of public records may designate another officer or employee of the agency to permit the inspection and copying of public records, but must disclose the identity of the designee to the person requesting to inspect or copy public records.

(c) A custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith. A good faith response includes making reasonable efforts to determine from other officers or employees within the agency whether such a record exists and, if so, the location at which the record can be accessed.

(d) A person who has custody of a public record who asserts that an exemption applies to a part of such record shall redact that portion of the record to which an exemption has been asserted and validly applies, and such person shall produce the remainder of such record for inspection and copying.

(e) If the person who has custody of a public record contends that all or part of the record is exempt from inspection and copying, he or she shall state the basis of the exemption that he or she contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute.

(f) If requested by the person seeking to inspect or copy the record, the custodian of public records shall state in writing and with particularity the reasons for the conclusion that the record is exempt or confidential.

(g) In any civil action in which an exemption to this section is asserted, if the exemption is alleged to exist under or by virtue of s. 119.071(1)(d) or (f), (2)(d),(e), or (f), or (4)(c), the public record or part thereof in question shall be submitted to the court for an inspection in camera. If an exemption is alleged to exist under or by virtue of s. 119.071(2)(c), an inspection in camera is discretionary with the court. If the court finds that the asserted exemption is not applicable, it shall order the public record or part thereof in question to be immediately produced for inspection or copying as requested by the person seeking such access.

(h) Even if an assertion is made by the custodian of public records that a requested record is not a public record subject to public inspection or copying under this subsection, the requested record shall, nevertheless, not be disposed of for a period of 30 days after the date on which a written request to inspect or copy the record was served on or otherwise made to the custodian of public records by the person seeking access to the record. If a civil action is instituted within the 30-day period to enforce the provisions of this section with respect to the requested record, the custodian of public records may not dispose of the record except by order of a court of competent jurisdiction after notice to all affected parties.

(i) The absence of a civil action instituted for the purpose stated in paragraph (g) does not relieve the custodian of public records of the duty to maintain the record as a public record if the record is in fact a

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public record subject to public inspection and copying under this subsection and does not otherwise excuse or exonerate the custodian of public records from any unauthorized or unlawful disposition of such record.

(2)(a) As an additional means of inspecting or copying public records, a custodian of public records may provide access to public records by remote electronic means, provided exempt or confidential information is not disclosed.

(b) The custodian of public records shall provide safeguards to protect the contents of public records from unauthorized remote electronic access or alteration and to prevent the disclosure or modification of those portions of public records which are exempt or confidential from subsection (1) or s. 24, Art. I of the State Constitution.

(c) Unless otherwise required by law, the custodian of public records may charge a fee for remote electronic access, granted under a contractual arrangement with a user, which fee may include the direct and indirect costs of providing such access. Fees for remote electronic access provided to the general public shall be in accordance with the provisions of this section.

(3)(a) Any person shall have the right of access to public records for the purpose of making photographs of the record while such record is in the possession, custody, and control of the custodian of public records.

(b) This subsection applies to the making of photographs in the conventional sense by use of a camera device to capture images of public records but excludes the duplication of microfilm in the possession of the clerk of the circuit court where a copy of the microfilm may be made available by the clerk.

(c) Photographing public records shall be done under the supervision of the custodian of public records, who may adopt and enforce reasonable rules governing the photographing of such records.

(d) Photographing of public records shall be done in the room where the public records are kept. If, in the judgment of the custodian of public records, this is impossible or impracticable, photographing shall be done in another room or place, as nearly adjacent as possible to the room where the public records are kept, to be determined by the custodian of public records. Where provision of another room or place for photographing is required, the expense of providing the same shall be paid by the person desiring to photograph the public record pursuant to paragraph (4)(e).

(4) The custodian of public records shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law. If a fee is not prescribed by law, the following fees are authorized:

(a)1. Up to 15 cents per one-sided copy for duplicated copies of not more than 14 inches by 8<sup>1</sup>/<sub>2</sub> inches;

2. No more than an additional 5 cents for each two-sided copy; and

3. For all other copies, the actual cost of duplication of the public record.

(b) The charge for copies of county maps or aerial photographs supplied by county constitutional officers may also include a reasonable charge for the labor and overhead associated with their duplication.

(c) An agency may charge up to \$1 per copy for a certified copy of a public record.

(d) If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel



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providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.

(e)1. Where provision of another room or place is necessary to photograph public records, the expense of providing the same shall be paid by the person desiring to photograph the public records.

2. The custodian of public records may charge the person making the photographs for supervision services at a rate of compensation to be agreed upon by the person desiring to make the photographs and the custodian of public records. If they fail to agree as to the appropriate charge, the charge shall be determined by the custodian of public records.

(5) When ballots are produced under this section for inspection or examination, no persons other than the supervisor of elections or the supervisor's employees shall touch the ballots. If the ballots are being examined before the end of the contest period in s. 102.168, the supervisor of elections shall make a reasonable effort to notify all candidates by telephone or otherwise of the time and place of the inspection or examination. All such candidates, or their representatives, shall be allowed to be present during the inspection or examination.

(6) An exemption contained in this chapter or in any other general or special law shall not limit the access of the Auditor General, the Office of Program Policy Analysis and Government Accountability, or any state, county, municipal, university, board of community college, school district, or special district internal auditor to public records when such person states in writing that such records are needed for a properly authorized audit, examination, or investigation. Such person shall maintain the exempt or confidential status of that public record and shall be subject to the same penalties as the custodian of that record for public disclosure of such record.

(7) An exemption from this section does not imply an exemption from s. 286.011. The exemption from s. 286.011 must be expressly provided.

(8) The provisions of this section are not intended to expand or limit the provisions of Rule 3.220, Florida Rules of Criminal Procedure, regarding the right and extent of discovery by the state or by a defendant in a criminal prosecution or in collateral postconviction proceedings. This section may not be used by any inmate as the basis for failing to timely litigate any postconviction action.

**History.**--s. 7, ch. 67-125; s. 4, ch. 75-225; s. 2, ch. 77-60; s. 2, ch. 77-75; s. 2, ch. 77-94; s. 2, ch. 77-156; s. 2, ch. 78-81; ss. 2, 4, 6, ch. 79-187; s. 2, ch. 80-273; s. 1, ch. 81-245; s. 1, ch. 82-95; s. 36, ch. 82-243; s. 6, ch. 83-215; s. 2, ch. 83-269; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-18; s. 1, ch. 85-45; s. 1, ch. 85-73; s. 1, ch. 85-86; s. 7, ch. 85-152; s. 1, ch. 85-177; s. 4, ch. 85-301; s. 2, ch. 86-11; s. 1, ch. 86-21; s. 1, ch. 86-109; s. 2, ch. 87-399; s. 2, ch. 88-188; s. 1, ch. 88-384; s. 1, ch. 89-29; s. 7, ch. 89-55; s. 1, ch. 89-80; s. 1, ch. 89-275; s. 2, ch. 89-283; s. 2, ch. 89-350; s. 1, ch. 89-531; s. 1, ch. 90-43; s. 63, ch. 90-136; s. 2, ch. 90-196; s. 4, ch. 90-211; s. 24, ch. 90-306; ss. 22, 26, ch. 90-344; s. 116, ch. 90-360; s. 78, ch. 91-45; s. 11, ch. 91-57; s. 1, ch. 91-71; s. 1, ch. 91-96; s. 1, ch. 91-130; s. 1, ch. 91-149; s. 1, ch. 91-219; s. 1, ch. 91-288; ss. 43, 45, ch. 92-58; s. 90, ch. 92-152; s. 59, ch. 92-289; s. 217, ch. 92-303; s. 1, ch. 93-87; s. 2, ch. 93-232; s. 3, ch. 93-404; s. 4, ch. 93-405; s. 4, ch. 94-73; s. 1, ch. 94-128; s. 3, ch. 94-130; s. 67, ch. 94-164; s. 1, ch. 94-176; s. 1419, ch. 95-147; ss. 1, 3, ch. 95-170; s. 4, ch. 95-207; s. 1, ch. 95-320; ss. 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 19, 20, 22, 23, 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, 36, ch. 95-398; s. 1, ch. 95-399; s. 121, ch. 95-418; s. 3, ch. 96-178; s. 1, ch. 96-230; s. 5, ch. 96-268; s. 4, ch. 96-290; s. 41, ch. 96-406; s. 18, ch. 96-410; s. 1, ch. 97-185; s. 1, ch. 98-9; s. 7, ch. 98-137; s. 1, ch. 98-255; s. 1, ch. 98-259; s. 128, ch. 98-403; s. 2, ch. 99-201; s. 27, ch. 2000-164; s. 54, ch. 2000-349; s. 1, ch. 2001-87; s. 1, ch. 2001-108; s. 1, ch. 2001-249; s. 29, ch. 2001-261; s. 33, ch. 2001-266; s. 1, ch. 2001-364; s. 1, ch. 2002-67; ss. 1, 3, ch. 2002-257; s. 2, ch. 2002-391; s. 11, ch. 2003-1; s. 1, ch. 2003-100; ss. 1, 2, ch. 2003-110; s. 1, ch. 2003-137; ss. 1, 2, ch. 2003-157; ss. 1, 2, ch. 2004-9; ss. 1, 2, ch. 2004-32; ss. 1, 2, ch. 2004-62; ss. 1, 3, ch. 2004-95; s. 7, ch. 2004-335; ss. 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25,

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26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, ch. 2005-251; s. 74, ch. 2005-277; s. 1, ch. 2007-39; ss. 2, 4, ch. 2007-251.

**119.071 General exemptions from inspection or copying of public records.--**

(1) AGENCY ADMINISTRATION.--

(a) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination has the right to review his or her own completed examination.

(b)1.a. Sealed bids or proposals received by an agency pursuant to invitations to bid or requests for proposals are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) or within 10 days after bid or proposal opening, whichever is earlier.

b. If an agency rejects all bids or proposals submitted in response to an invitation to bid or request for proposals and the agency concurrently provides notice of its intent to reissue the invitation to bid or request for proposals, the rejected bids or proposals remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) concerning the reissued invitation to bid or request for proposals or until the agency withdraws the reissued invitation to bid or request for proposals. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

2.a. A competitive sealed reply in response to an invitation to negotiate, as defined in s. 287.012, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) or until 20 days after the final competitive sealed replies are all opened, whichever occurs earlier.

b. If an agency rejects all competitive sealed replies in response to an invitation to negotiate and concurrently provides notice of its intent to reissue the invitation to negotiate and reissues the invitation to negotiate within 90 days after the notice of intent to reissue the invitation to negotiate, the rejected replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) concerning the reissued invitation to negotiate or until the agency withdraws the reissued invitation to negotiate. A competitive sealed reply is not exempt for longer than 12 months after the initial agency notice rejecting all replies.

c. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

(c) Any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d)1. A public record that was prepared by an agency attorney (including an attorney employed or retained by the agency or employed or retained by another public officer or agency to protect or represent the interests of the agency having custody of the record) or prepared at the attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative

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proceedings, or that was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the conclusion of the litigation or adversarial administrative proceedings. For purposes of capital collateral litigation as set forth in s. 27.7001, the Attorney General's office is entitled to claim this exemption for those public records prepared for direct appeal as well as for all capital collateral litigation after direct appeal until execution of sentence or imposition of a life sentence.

2. This exemption is not waived by the release of such public record to another public employee or officer of the same agency or any person consulted by the agency attorney. When asserting the right to withhold a public record pursuant to this paragraph, the agency shall identify the potential parties to any such criminal or civil litigation or adversarial administrative proceedings. If a court finds that the document or other record has been improperly withheld under this paragraph, the party seeking access to such document or record shall be awarded reasonable attorney's fees and costs in addition to any other remedy ordered by the court.

(e) Any videotape or video signal that, under an agreement with an agency, is produced, made, or received by, or is in the custody of, a federally licensed radio or television station or its agent is exempt from s. 119.07(1).

(f) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software that is sensitive are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive shall not prohibit an agency head from sharing or exchanging such software with another public agency.

<sup>2</sup>(g)1. United States Census Bureau address information, which includes maps showing structure location points, agency records verifying addresses, and agency records identifying address errors or omissions, held by an agency pursuant to the Local Update of Census Addresses Program, Title 13, United States Code, Pub. L. No. 103-430, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Such information may be released to another agency or governmental entity in the furtherance of its duties and responsibilities under the Local Update of Census Addresses Program.

3. An agency performing duties and responsibilities under the Local Update of Census Addresses Program shall have access to any other confidential or exempt information held by another agency if such access is necessary in order to perform its duties and responsibilities under the program.

4. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

### (2) AGENCY INVESTIGATIONS.--

(a) All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Whenever criminal intelligence information or criminal investigative information held by a non-Florida criminal justice agency is available to a Florida criminal justice agency only on a confidential or similarly restricted basis, the Florida criminal justice agency may obtain and use such information in accordance with the conditions imposed by the providing agency.

(c)1. Active criminal intelligence information and active criminal investigative information are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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2.a. A request made by a law enforcement agency to inspect or copy a public record that is in the custody of another agency and the custodian's response to the request, and any information that would identify whether a law enforcement agency has requested or received that public record are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, during the period in which the information constitutes active criminal intelligence information or active criminal investigative information.

b. The law enforcement agency that made the request to inspect or copy a public record shall give notice to the custodial agency when the criminal intelligence information or criminal investigative information is no longer active so that the request made by the law enforcement agency, the custodian's response to the request, and information that would identify whether the law enforcement agency had requested or received that public record are available to the public.

c. This exemption is remedial in nature, and it is the intent of the Legislature that the exemption be applied to requests for information received before, on, or after the effective date of this paragraph.

(d) Any information revealing surveillance techniques or procedures or personnel is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any comprehensive inventory of state and local law enforcement resources compiled pursuant to part I, chapter 23, and any comprehensive policies or plans compiled by a criminal justice agency pertaining to the mobilization, deployment, or tactical operations involved in responding to emergencies, as defined in s. 252.34(3), are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and unavailable for inspection, except by personnel authorized by a state or local law enforcement agency, the office of the Governor, the Department of Legal Affairs, the Department of Law Enforcement, or the Department of Community Affairs as having an official need for access to the inventory or comprehensive policies or plans.

(e) Any information revealing the substance of a confession of a person arrested is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the criminal case is finally determined by adjudication, dismissal, or other final disposition.

(f) Any information revealing the identity of a confidential informant or a confidential source is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(g) When the alleged victim chooses not to file a complaint and requests that records of the complaint remain confidential, all records relating to an allegation of employment discrimination are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(h)1. Any criminal intelligence information or criminal investigative information including the photograph, name, address, or other fact or information which reveals the identity of the victim of the crime of sexual battery as defined in chapter 794; the identity of the victim of a lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age, as defined in chapter 800; or the identity of the victim of the crime of child abuse as defined by chapter 827 and any criminal intelligence information or criminal investigative information or other criminal record, including those portions of court records and court proceedings, which may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in chapter 794, chapter 800, or chapter 827, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

<sup>3</sup>2. In addition to subparagraph 1., any criminal intelligence information or criminal investigative information that is a photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under chapter 794, chapter 800, or chapter 827, regardless of whether the photograph, videotape, or image identifies the victim, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to photographs, videotapes, or images held as criminal intelligence information or criminal investigative information before, on, or after the effective date of the exemption.

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(i) Any criminal intelligence information or criminal investigative information that reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(j)1. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any information not otherwise held confidential or exempt from s. 119.07(1) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this section.

2.a. Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which reveals that minor's identity, including, but not limited to, the minor's face; the minor's home, school, church, or employment telephone number; the minor's home, school, church, or employment address; the name of the minor's school, church, or place of employment; or the personal assets of the minor; and which identifies that minor as the victim of a crime described in this subparagraph, held by a law enforcement agency, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any governmental agency that is authorized to have access to such statements by any provision of law shall be granted such access in the furtherance of the agency's statutory duties, notwithstanding the provisions of this section.

b. A public employee or officer who has access to a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145 may not willfully and knowingly disclose videotaped information that reveals the minor's identity to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense. A person who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) SECURITY.--

(a)1. As used in this paragraph, the term "security system plan" includes all:

a. Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems;

b. Threat assessments conducted by any agency or any private entity;

c. Threat response plans;

d. Emergency evacuation plans;

e. Sheltering arrangements; or

f. Manuals for security personnel, emergency equipment, or security training.

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2. A security system plan or portion thereof for:

- a. Any property owned by or leased to the state or any of its political subdivisions; or
- b. Any privately owned or leased property

held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to security system plans held by an agency before, on, or after the effective date of this paragraph.

3. Information made confidential and exempt by this paragraph may be disclosed by the custodian of public records to:

- a. The property owner or leaseholder; or
- b. Another state or federal agency to prevent, detect, guard against, respond to, investigate, or manage the consequences of any attempted or actual act of terrorism, or to prosecute those persons who are responsible for such attempts or acts.

(b)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed:

- a. To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;
- b. To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or
- c. Upon a showing of good cause before a court of competent jurisdiction.

4. The entities or persons receiving such information shall maintain the exempt status of the information.

<sup>4</sup>(c) Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development, which documents are held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to any such documents held by an agency before, on, or after the effective date of this act. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to the owner or owners of the structure in question or the owner's legal representative; or upon a showing of good cause before a court of competent jurisdiction. As used in this paragraph, the term:

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1. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

a. For single-performance facilities:

(I) Provides single-performance facilities; or

(II) Provides more than 10,000 permanent seats for spectators.

b. For serial-performance facilities:

(I) Provides parking spaces for more than 1,000 motor vehicles; or

(II) Provides more than 4,000 permanent seats for spectators.

2. "Entertainment or resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

3. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership which:

a. Provides onsite parking for more than 250 motor vehicles;

b. Encompasses 500,000 square feet or more of gross floor area; or

c. Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily serve or deal onsite with the general public.

4. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:

a. Encompasses more than 400,000 square feet of gross floor area; or

b. Provides parking spaces for more than 2,500 motor vehicles.

5. "Office development" means any office building or park operated under common ownership, development plan, or management that encompasses 300,000 or more square feet of gross floor area.

6. "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.

This exemption does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

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(4) AGENCY PERSONNEL INFORMATION.--

(a)1. The social security numbers of all current and former agency employees which numbers are contained in agency employment records are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. An agency that is the custodian of a social security number specified in subparagraph 1. and that is not the employing agency shall maintain the exempt status of the social security number only if the employee or the employing agency of the employee submits a written request for confidentiality to the custodial agency. However, upon a request by a commercial entity as provided in sub-subparagraph (5)(a)7.b., the custodial agency shall release the last four digits of the exempt social security number, except that a social security number provided in a lien filed with the Department of State shall be released in its entirety. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

(b) Medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such information may be disclosed if the person to whom the information pertains or the person's legal representative provides written permission or pursuant to court order.

(c) Any information revealing undercover personnel of any criminal justice agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d)1. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1). The home addresses, telephone numbers, and photographs of firefighters certified in compliance with s. 633.35; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1). The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from s. 119.07(1). The home addresses, telephone numbers, social security numbers, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. The home addresses, telephone numbers, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor



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contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. The home addresses, telephone numbers, social security numbers, and photographs of current or former United States attorneys and assistant United States attorneys; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former United States attorneys and assistant United States attorneys; and the names and locations of schools and day care facilities attended by the children of current or former United States attorneys and assistant United States attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

4. The home addresses, telephone numbers, social security numbers, and photographs of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; and the names and locations of schools and day care facilities attended by the children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

5. The home addresses, telephone numbers, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

6. The home addresses, telephone numbers, places of employment, and photographs of current or former guardians ad litem, as defined in s. 39.820, and the names, home addresses, telephone numbers, and places of employment of the spouses and children of such persons, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the guardian ad litem provides a written statement that the guardian ad litem has made reasonable efforts to protect such information from being accessible through other means available to the public. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

7. The home addresses, telephone numbers, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, juvenile detention officers, house parents I and II, house parent supervisors, group treatment leaders, group treatment leader supervisors, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

8. An agency that is the custodian of the personal information specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., or subparagraph 7. and that is not

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the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., or subparagraph 7. shall maintain the exempt status of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

### (5) OTHER PERSONAL INFORMATION.--

(a)1.a. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes.

b. The Legislature recognizes that the social security number can be used as a tool to perpetuate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual.

c. The Legislature intends to monitor the use of social security numbers held by agencies in order to maintain a balanced public policy.

2.a. An agency may not collect an individual's social security number unless the agency has stated in writing the purpose for its collection and unless it is:

(I) Specifically authorized by law to do so; or

(II) Imperative for the performance of that agency's duties and responsibilities as prescribed by law.

b. Social security numbers collected by an agency may not be used by that agency for any purpose other than the purpose provided in the written statement.

3. An agency collecting an individual's social security number shall provide that individual with a copy of the written statement required in subparagraph 2.

4.a. Each agency shall review whether its collection of social security numbers is in compliance with subparagraph 2. If the agency determines that collection of a social security number is not in compliance with subparagraph 2., the agency shall immediately discontinue the collection of social security numbers for that purpose.

b. Each agency shall certify to the President of the Senate and the Speaker of the House of Representatives its compliance with this subparagraph no later than January 31, 2008.

5. Social security numbers held by an agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to social security numbers held by an agency before, on, or after the effective date of this exemption.

6. Social security numbers may be disclosed to another agency or governmental entity if disclosure is necessary for the receiving agency or entity to perform its duties and responsibilities.

7.a. For purposes of this subsection, the term:

(I) "Commercial activity" means the provision of a lawful product or service by a commercial entity. Commercial activity includes verification of the accuracy of personal information received by a commercial entity in the normal course of its business; use for insurance purposes; use in identifying and preventing fraud; use in matching, verifying, or retrieving information; and use in research activities. It

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does not include the display or bulk sale of social security numbers to the public or the distribution of such numbers to any customer that is not identifiable by the commercial entity.

(II) "Commercial entity" means any corporation, partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association that performs a commercial activity in this state.

b. An agency may not deny a commercial entity engaged in the performance of a commercial activity access to social security numbers, provided the social security numbers will be used only in the performance of a commercial activity and provided the commercial entity makes a written request for the social security numbers. The written request must:

(I) Be verified as provided in s. 92.525;

(II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

(III) Contain the commercial entity's name, business mailing and location addresses, and business telephone number; and

(IV) Contain a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the performance of a commercial activity. The aggregate of these requests shall serve as the basis for the agency report required in subparagraph 9.

c. An agency may request any other information reasonably necessary to verify the identity of a commercial entity requesting the social security numbers and the specific purposes for which the numbers will be used.

8.a. Any person who makes a false representation in order to obtain a social security number pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable by a fine not exceeding \$500 per violation.

9.a. Every agency shall file a report with the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year.

b. The report required under sub-subparagraph a. shall list:

(I) The identity of all commercial entities that have requested social security numbers during the preceding calendar year; and

(II) The specific purpose or purposes stated by each commercial entity regarding its need for social security numbers.

c. If no disclosure requests were made, the agency shall so indicate.

10. Any affected person may petition the circuit court for an order directing compliance with this paragraph.

11. This paragraph does not supersede any other applicable public records exemptions existing prior to May 13, 2002, or created thereafter.

(b) Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to bank account numbers

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and debit, charge, and credit card numbers held by an agency before, on, or after the effective date of this exemption.

<sup>5</sup>(c) Any information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child, including, but not limited to, the name, home address, telephone number, social security number, or photograph of the child; the names and locations of schools attended by such child; and the names, home addresses, and social security numbers of parents or guardians of such child is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Information made exempt pursuant to this paragraph may be disclosed by court order upon a showing of good cause. This exemption applies to records held before, on, or after the effective date of this exemption.

(d) All records supplied by a telecommunications company, as defined by s. 364.02, to an agency which contain the name, address, and telephone number of subscribers are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e) Any information provided to an agency for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his or her name for ridesharing, as defined in s. 341.031, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(f) Medical history records and information related to health or property insurance provided to the Department of Community Affairs, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency by an applicant for or a participant in a federal, state, or local housing assistance program are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Governmental entities or their agents shall have access to such confidential and exempt records and information for the purpose of auditing federal, state, or local housing programs or housing assistance programs. Such confidential and exempt records and information may be used in any administrative or judicial proceeding, provided such records are kept confidential and exempt unless otherwise ordered by a court.

(g)1. Biometric identification information held by an agency before, on, or after the effective date of this exemption is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this paragraph, the term "biometric identification information" means:

- a. Any record of friction ridge detail;
- b. Fingerprints;
- c. Palm prints; and
- d. Footprints.

2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

**History.**--s. 4, ch. 75-225; ss. 2, 3, 4, 6, ch. 79-187; s. 1, ch. 82-95; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-18; s. 1, ch. 85-45; s. 1, ch. 85-86; s. 4, ch. 85-301; s. 2, ch. 86-11; s. 1, ch. 86-109; s. 2, ch. 88-188; s. 1, ch. 88-384; s. 1, ch. 89-80; s. 63, ch. 90-136; s. 4, ch. 90-211; s. 78, ch. 91-45; s. 1, ch. 91-96; s. 1, ch. 91-149; s. 90, ch. 92-152; s. 1, ch. 93-87; s. 2, ch. 93-232; s. 3, ch. 93-404; s. 4, ch. 93-405; s. 1, ch. 94-128; s. 3, ch. 94-130; s. 1, ch. 94-176; s. 1419, ch. 95-147; ss. 1, 3, ch. 95-170; s. 4, ch. 95-207; s. 1, ch. 95-320; ss. 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 20, 29, 31, 32, 33, 34, ch. 95-398; s. 3, ch. 96-178; s. 41, ch. 96-406; s. 18, ch. 96-410; s. 1, ch. 98-9; s. 7, ch. 98-137; s. 1, ch. 98-259; s. 2, ch. 99-201; s. 27, ch. 2000-164; s. 1, ch. 2001-249; s. 29, ch. 2001-261; s. 1, ch. 2001-361; s. 1, ch. 2001-364; s. 1, ch. 2002-67; s. 1,

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ch. 2002-256; s. 1, ch. 2002-257; ss. 2, 3, ch. 2002-391; s. 11, ch. 2003-1; s. 1, ch. 2003-16; s. 1, ch. 2003-100; s. 1, ch. 2003-137; ss. 1, 2, ch. 2003-157; ss. 1, 2, ch. 2004-9; ss. 1, 2, ch. 2004-32; ss. 1, 3, ch. 2004-95; s. 7, ch. 2004-335; s. 4, ch. 2005-213; s. 41, ch. 2005-236; ss. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, ch. 2005-251; s. 14, ch. 2006-1; s. 1, ch. 2006-158; s. 1, ch. 2006-180; s. 1, ch. 2006-181; s. 1, ch. 2006-211; s. 1, ch. 2006-212; s. 13, ch. 2006-224; s. 1, ch. 2006-284; s. 1, ch. 2006-285; s. 1, ch. 2007-93; s. 1, ch. 2007-95; s. 1, ch. 2007-250; s. 1, ch. 2007-251.

<sup>1</sup>**Note.**--Section 12, ch. 2006-224, provides that "[n]otwithstanding any law to the contrary, a state agency under the individual control of the Attorney General, the Chief Financial Officer, or the Commissioner of Agriculture is subject to this act."

<sup>2</sup>**Note.**--Section 2, ch. 2007-250, provides that "[t]he Legislature finds that it is a public necessity that United States Census Bureau address information, which includes maps showing structure location points, agency records verifying addresses, and agency records identifying address errors or omissions, held by an agency be made confidential and exempt from public records requirements. Pursuant to the Local Update Census Addresses Program, Title 13, United States Code, Pub. L. No. 103-430, United States Census Bureau address information must be kept confidential. Further, all individuals directly involved in reviewing such information and any individuals with access to such information are required to sign a confidentiality agreement to preserve the confidentiality of the address information. Without this exemption, agencies would be prevented from participating in the program. As such, the effective and efficient administration of the Local Update of Census Addresses Program would be hindered at the federal level. Further, it could result in a negative fiscal impact on the state."

<sup>3</sup>**Note.**--Section 2, ch. 2003-157, provides that "[s]ubparagraph 2. of paragraph [(h)] of subsection [(2)] of section [119.071], Florida Statutes, is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2008, unless reviewed and saved from repeal through reenactment by the Legislature."

<sup>4</sup>**Note.**--Section 2, ch. 2004-9, provides that "[s]ection [119.071(3)(c)], Florida Statutes, is subject to the Open Government Sunset Review Act of 1995, in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2009, unless reviewed and reenacted by the Legislature."

<sup>5</sup>**Note.**--Section 2, ch. 2004-32, provides that "[p]aragraph [(c)] of subsection [(5)] of s. [119.071], Florida Statutes, is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature."

Note.--

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."

B. Portions former ss. 119.07(6), 119.072, and 119.0721.

### **119.0714 Court files; court records; official records.--**

(1) COURT FILES.--Nothing in this chapter shall be construed to exempt from s. 119.07(1) a public record that was made a part of a court file and that is not specifically closed by order of court, except:

(a) A public record that was prepared by an agency attorney or prepared at the attorney's express direction as provided in s. 119.071(1)(d).

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- (b) Data processing software as provided in s. 119.071(1)(f).
  - (c) Any information revealing surveillance techniques or procedures or personnel as provided in s. 119.071(2)(d).
  - (d) Any comprehensive inventory of state and local law enforcement resources, and any comprehensive policies or plans compiled by a criminal justice agency, as provided in s. 119.071(2)(d).
  - (e) Any information revealing the substance of a confession of a person arrested as provided in s. 119.071(2)(e).
  - (f) Any information revealing the identity of a confidential informant or confidential source as provided in s. 119.071(2)(f).
  - (g) Any information revealing undercover personnel of any criminal justice agency as provided in s. 119.071(4)(c).
  - (h) Information or records that may reveal the identity of a person who is a victim of a sexual offense as provided in s. 119.071(2)(h).
  - (i) Social security numbers as provided in s. 119.071(5)(a).
  - (j) Bank account numbers and debit, charge, and credit card numbers as provided in s. 119.071(5)(b).
- (2) COURT RECORDS.--
- (a) Until January 1, 2011, if a social security number or a bank account, debit, charge, or credit card number is included in a court file, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of such number or by the holder's attorney or legal guardian.
  - (b) A request for redaction must be a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.
  - (c) A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.
  - (d) The clerk of the court has no liability for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in court records filed on or before January 1, 2011.
  - (e)1. On January 1, 2011, and thereafter, the clerk of the court must keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.
2. Section 119.071(5)(a)7. and 8. does not apply to the clerks of the court with respect to court records.
- (3) OFFICIAL RECORDS.--
- (a) Any person who prepares or files a record for recording in the official records as provided in chapter 28 may not include in that record a social security number or a bank account, debit, charge, or credit card number unless otherwise expressly required by law.

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- (b)1. If a social security number or a bank account, debit, charge, or credit card number is included in an official record, such number may be made available as part of the official records available for public inspection and copying unless redaction is requested by the holder of such number or by the holder's attorney or legal guardian.
2. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder must use his or her best effort, as provided in paragraph (h), to keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and to keep complete bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.
3. Section 119.071(5)(a)7. and 8. does not apply to the county recorder with respect to official records.
- (c) The holder of a social security number or a bank account, debit, charge, or credit card number, or the holder's attorney or legal guardian, may request that a county recorder redact from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records, or otherwise made electronically available to the public, his or her social security number or bank account, debit, charge, or credit card number contained in that official record.
- (d) A request for redaction must be a signed, legibly written request and must be delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the record that contains the number to be redacted.
- (e) The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.
- (f) A fee may not be charged for redacting a social security number or a bank account, debit, charge, or credit card number.
- (g) A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing, and shall immediately and conspicuously post on any Internet website or remote electronic site made available by the county recorder and used for the ordering or display of official records or images or copies of official records, a notice stating, in substantially similar form, the following:
1. On or after October 1, 2002, any person preparing or filing a record for recordation in the official records may not include a social security number or a bank account, debit, charge, or credit card number in such document unless required by law.
  2. Any person has a right to request a county recorder to remove from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records, or otherwise made electronically available to the general public, any social security number contained in an official record. Such request must be made in writing and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. A fee may not be charged for the redaction of a social security number pursuant to such a request.
- (h) If the county recorder accepts or stores official records in an electronic format, the county recorder must use his or her best efforts to redact all social security numbers and bank account, debit, charge, or credit card numbers from electronic copies of the official record. The use of an automated program for redaction shall be deemed to be the best effort in performing the redaction and shall be deemed in compliance with the requirements of this subsection.

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(i) The county recorder is not liable for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, filed with the county recorder.

**History.**--s. 2, ch. 79-187; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-86; s. 1, ch. 86-109; s. 2, ch. 88-188; s. 26, ch. 90-344; s. 36, ch. 95-398; s. 7, ch. 2004-335; s. 2, ch. 2005-251; s. 2, ch. 2007-251.

**Note.**--Subsection (1) former s. 119.07(6).



## Chapter 201 Excise Tax on Documents

**201.01 Documents taxable, generally.**--There shall be levied, collected, and paid the taxes specified in this chapter, for and in respect to the several documents, bonds, debentures or certificates of stock and indebtedness, and other documents, instruments, matters, writings, and things described in the following sections, or for or in respect of the vellum, parchment, paper, or any other medium whether tangible, electronic, or otherwise, upon which such document, instrument, matter, writing, or thing, or any of them, is written, printed, or created electronically or otherwise, by any person who makes, signs, executes, issues, sells, removes, consigns, assigns, records, or ships the same, or for whose benefit or use the same are made, signed, executed, issued, sold, removed, consigned, assigned, recorded, or shipped in the state. Unless exempt under s. 201.24 or under any state or federal law, if the United States, the state, or any political subdivision of the state is a party to a document taxable under this chapter, any tax specified in this chapter shall be paid by a nonexempt party to the document. The documentary stamp taxes shall be paid on all recordable instruments requiring documentary stamp tax according to law, prior to recordation. With respect to mortgages or trust deeds which do not incorporate the certificate of indebtedness, a notation shall be made on the note or certificate that the tax has been paid on the mortgage or trust deed.

**History.**--s. 1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); s. 1, ch. 61-278; s. 1, ch. 77-414; s. 6, ch. 87-102; s. 5, ch. 96-395; s. 2, ch. 2007-233.

### **201.02 Tax on deeds and other instruments relating to real property or interests in real property.**--

(1) On deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person by his or her direction, on each \$100 of the consideration therefor the tax shall be 70 cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 70 cents for each \$100 or fractional part thereof of the consideration therefor. For purposes of this section, consideration includes, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed. If the consideration paid or given in exchange for real property or any interest therein includes property other than money, it is presumed that the consideration is equal to the fair market value of the real property or interest therein.

(2) The tax imposed by subsection (1) shall also be payable upon documents by which the right is granted to a tenant-stockholder to occupy an apartment in a building owned by a cooperative apartment corporation or in a dwelling on real property owned by any other form of cooperative association as defined in s. 719.103.

(3) The tax imposed by subsection (2) shall be paid by the purchaser, and the document recorded in the office of the clerk of the circuit court as evidence of ownership.

(4) The tax imposed by subsection (1) shall also be payable upon documents which convey or transfer, pursuant to s. 689.071, any beneficial interest in lands, tenements, or other real property, or any interest therein, even though such interest may be designated as personal property, notwithstanding the provisions of s. 689.071(6). The tax shall be paid upon execution of any such document.

(5) All conveyances of real property to a partner from a partnership which property was conveyed to the partnership after July 1, 1986, are taxable if:

(a) The partner receiving the real property from the partnership is a partner other than the partner who conveyed the real property to the partnership; or

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(b) The partner receiving the real property from the partnership is the partner who conveyed the real property to the partnership and there is a mortgage debt or other debt secured by such real property for which the partner was not personally liable prior to conveying the real property to the partnership.

For purposes of this subsection, the value of the consideration paid for the conveyance of the real property to the partner from the partnership includes, but is not limited to, the amount of any outstanding mortgage debt or other debt which the partner pays or agrees to pay in exchange for the real property, regardless of whether the partner was personally liable for the debts of the partnership prior to the conveyance to the partner from the partnership.

(6) Taxes imposed by this section shall not apply to any assignment, transfer, or other disposition, or any document, which arises out of a transfer of real property from a nonprofit organization to the Board of Trustees of the Internal Improvement Trust Fund, to any state agency, to any water management district, or to any local government. For purposes of this subsection, "nonprofit organization" means an organization whose purpose is the preservation of natural resources and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The Department of Revenue shall provide a form, or a place on an existing form, for the nonprofit organization to indicate its exempt status.

(7) Taxes imposed by this section do not apply to a deed, transfer, or conveyance between spouses or former spouses pursuant to an action for dissolution of their marriage wherein the real property is or was their marital home or an interest therein. Taxes paid pursuant to this section shall be refunded in those cases in which a deed, transfer, or conveyance occurred 1 year before a dissolution of marriage. This subsection applies in spite of any consideration as defined in subsection (1). This subsection does not apply to a deed, transfer, or conveyance executed before July 1, 1997.

(8) Taxes imposed by this section do not apply to a contract to sell the residence of an employee relocating at his or her employer's direction or to documents related to the contract, which contract is between the employee and the employer or between the employee and a person in the business of providing employee relocation services. In the case of such transactions, taxes apply only to the transfer of the real property comprising the residence by deed that vests legal title in a named grantee.

(9) A certificate of title issued by the clerk of court under s. 45.031(5) in a judicial sale of real property under an order or final judgment issued pursuant to a foreclosure proceeding is subject to the tax imposed by subsection (1). However, the amount of the tax shall be computed based solely on the amount of the highest and best bid received for the property at the foreclosure sale. This subsection is intended to clarify existing law and shall be applied retroactively.

(10)(a) In recognition of the special escrow requirements that apply to sales of timeshare interests in timeshare plans pursuant to s. 721.08, tax on deeds or other instruments conveying any interest in Florida real property which are executed in conjunction with the sale by a developer of a timeshare interest in a timeshare plan is due and payable on the earlier of the date on which:

1. The deed or other instrument conveying the interest in Florida real property is recorded; or
2. All of the conditions precedent to the release of the purchaser's escrowed funds or other property pursuant to s. 721.08(2)(c) have been met, regardless of whether the developer has posted an alternative assurance. Tax due pursuant to this subparagraph is due and payable on or before the 20th day of the month following the month in which these conditions were met.

(b)1. If tax has been paid to the department pursuant to subparagraph (a)2., and the deed or other instrument conveying the interest in Florida real property with respect to which the tax was paid is subsequently recorded, a notation reflecting the prior payment of the tax must be made upon the deed or other instrument conveying the interest in Florida real property.

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2. Notwithstanding paragraph (a), if funds are designated on a closing statement as tax collected from the purchaser, but a default or cancellation occurs pursuant to s. 721.08(2)(a) or (b) and no deed or other instrument conveying interest in Florida real property has been recorded or delivered to the purchaser, the tax must be paid to the department on or before the 20th day of the month following the month in which the funds are available for release from escrow unless the funds have been refunded to the purchaser.

(c) The department may adopt rules to administer the method for reporting tax due under this subsection.

**History.**--s. 1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); s. 1, ch. 57-397; s. 1, ch. 63-533; s. 1, ch. 70-304; s. 1, ch. 71-362; ss. 2, 3, ch. 79-350; ss. 1, 4, ch. 81-33; s. 6, ch. 85-347; s. 10, ch. 86-152; s. 34, ch. 87-6; s. 7, ch. 90-132; s. 2, ch. 91-192; s. 9, ch. 92-32; s. 1, ch. 92-288; s. 2, ch. 92-317; s. 1049, ch. 95-147; s. 2, ch. 97-191; s. 1, ch. 2002-8; s. 8, ch. 2002-218; s. 4, ch. 2005-280; s. 8, ch. 2006-175; s. 2, ch. 2006-274.

**201.0205 Counties that have implemented ch. 83-220; inapplicability of 10-cent tax increase by s. 2, ch. 92-317, Laws of Florida.**--The 10-cent tax increase in the documentary stamp tax levied by s. 2, chapter 92-317, does not apply to deeds and other taxable instruments relating to real property located in any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida. Each such county and each eligible jurisdiction within such county shall not be eligible to participate in programs funded pursuant to s. 201.15(9). However, each such county and each eligible jurisdiction within such county shall be eligible to participate in programs funded pursuant to s. 201.15(10).

**History.**--s. 34, ch. 92-317; s. 15, ch. 2007-5.

**201.022 Consideration for realty; filing of return condition precedent to recordation; penalty; compensation of clerks; failure to file does not impair validity.**--

(1) As a condition precedent to the recordation of any deed transferring an interest in real property, the grantor or the grantee or agent for grantee shall execute and file a return with the clerk of the circuit court, who may accept the return electronically. The return shall state the actual consideration paid for the interest in real property. The return shall state the parcel identification number maintained by the county property appraiser in a manner prescribed by the department. If the parcel is a split or cutout parcel, the return shall state the parent parcel identification number if the parcel identification number has not been assigned. The return shall not be recorded or otherwise become a public record and shall be confidential as provided by s. 193.074, and shall be exempt from the provisions of s. 119.07(1), except that the Department of Environmental Protection or, through the Department of Environmental Protection, its contract appraiser, shall have access to the return to verify the consideration paid in any transfer of an interest in real property, when such transfer is considered as part of an appraisal for a proposed land acquisition project conducted pursuant to any Department of Environmental Protection land acquisition program. The Department of Environmental Protection or its contract appraiser shall not disclose the contents of the return to any other public or private entity. The original return shall be forwarded to the Department of Revenue, and a copy shall be forwarded to the property appraiser.

(2) If the return required by this section is not executed and filed, any person who is required by this section to execute and file a return with the clerk of the circuit court and who fails to do so shall be liable for a penalty of \$25. The penalty imposed by this subsection shall be in addition to any other penalty imposed by the revenue laws of this state. The penalty may be compromised as provided in s. 213.21.

(3) If the return required by this section is not executed and filed, the clerk of the circuit court is required to execute and file the return, on paper or electronically, with the department. The clerk shall be compensated 1.0 percent of the tax paid on deeds as the cost of processing the return required by this section in the form of a deduction from the amount of the tax due and remitted by the clerk, and the department shall allow the deduction to the clerk paying and remitting the tax in the manner provided by

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the department. However, no deduction or allowance shall be granted when there is a manifest failure to maintain proper records or make proper reports. The compensation provided herein shall be in addition to that provided in s. 201.11(2).

(4) Failure of any grantee or the grantee's agent to execute and file with the clerk of the circuit court a return required in subsection (1) does not impair the validity of any deed heretofore or hereafter recorded transferring an interest in real property.

**History.**--s. 13, ch. 86-300; s. 3, ch. 87-217; s. 1, ch. 87-306; s. 26, ch. 88-119; s. 7, ch. 90-217; s. 43, ch. 90-360; s. 138, ch. 91-112; s. 10, ch. 92-32; s. 6, ch. 92-319; s. 45, ch. 94-356; s. 1483, ch. 95-147; s. 6, ch. 96-395; s. 57, ch. 96-406; s. 3, ch. 2007-233.

## **Chapter 475, Part IV, Commercial Real Estate Leasing Commission Lien Act (ss. 475.800 – 475.813)**

### **475.807 Recording lien notice; effectiveness.--**

(1)(a) After a commission is earned under this part, the broker may record a lien notice in the public records maintained by the clerk of court in the county or counties in which the commercial real estate is located. The lien notice shall be recorded no later than the earlier of:

1. Ninety days after the tenant takes possession of the leased premises or, in the case of a renewal commission that requires the broker to perform additional services as provided in s. 475.803(3), 90 days after the broker performs the additional services required for the renewal commission; or
2. The date on which the owner who is obligated to pay the commission records in the public records a deed or assignment transferring the owner's interest in the commercial real estate to a bona fide purchaser for value.

(b) A broker who fails to record a lien notice within the time period prescribed by this section may not enforce a lien for the claimed commission under this part, and a lien notice that is recorded outside of the time period prescribed by this section is void.

(2) Within 7 days after recording the lien notice, the broker shall deliver a copy of the lien notice to the owner obligated to pay the claimed commission.

(3) The broker's lien created by this part against the commercial real estate is perfected by such recording of the lien notice and takes priority under this part as of the date of the recording of the lien notice. The priority of the lien notice does not relate back to the date of the brokerage agreement.

(4) If the commission is to be paid in installments and any of those installments are due after the lease is executed, the lien notice is valid only to the extent that moneys remain unpaid by the owner to the broker.

(5) A recorded lien notice is effective under this part only with respect to leases made by the owner named in the lien notice, and the lien notice is ineffective with respect to any leases that are made by:

- (a) A bona fide purchaser for value of the commercial real estate;
- (b) A purchaser at any mortgage foreclosure sale of the commercial real estate; or
- (c) Any successor owner acquiring the commercial real estate from a purchaser described in paragraph (a) or paragraph (b).

(6) Whenever a lien notice is recorded and a condition or event occurs or fails to occur that would preclude the broker from receiving the claimed commission under the terms of the brokerage agreement, including the filing of a lien notice in a manner that does not comply with this part, the broker shall, within 7 days following demand by the owner, record a written release of the lien notice in the public records of the county where the lien notice was recorded.

(7) If a broker records a lien notice pursuant to this section and the claimed commission is paid or the lien notice is otherwise discharged or satisfied pursuant to this part, the broker shall, within 7 days after the commission is paid or the lien notice is otherwise discharged or satisfied, record a written release of the lien notice in the public records of the county where the lien notice was recorded.

(8)(a) Except as provided in paragraph (b), a lien notice recorded by a broker under this part for a claimed commission expires 2 years after the date of recording, unless within that time the broker commences an

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action to foreclose the lien under s. 475.809 and records a notice of lis pendens in the public records of the county where the lien notice was recorded.

(b) To the extent that a lien notice recorded by a broker under this part claims an automatic renewal commission that is earned but not then payable, the lien notice expires 10 years after the date of recording, unless within that time the broker commences an action to foreclose the lien under s. 475.809 and records a notice of lis pendens in the public records of the county where the lien notice was recorded. If the owner remains obligated to pay a commission to the broker, the broker may extend the expiration date of a lien notice for an automatic renewal commission by recording an extension notice in the same public records within the last 6 months before such expiration date. An extension notice shall refer to the recording information of the original lien notice, shall state that the owner remains obligated to pay a commission to the broker, and shall include the same information and be executed in the same manner as required by s. 475.805(1) for the original lien notice. A timely recorded extension notice shall extend the expiration date of the original recorded lien notice by 10 additional years. Successive extension notices may be recorded for so long as the owner remains obligated to pay a commission to the broker. Within 10 days after recording an extension notice, the broker shall deliver a copy thereof to the owner.

(c) The owner or the owner's agent or attorney may elect to shorten the time within which the broker shall commence an action to foreclose a lien under s. 475.809, or to enforce a claim against a transfer bond or other security under s. 475.811, by recording in the clerk's office a notice of contest in substantially the following form:

**NOTICE OF CONTEST OF BROKER'S LIEN**

To: (Name and address of broker)

You are notified that the undersigned contests the lien notice filed by you on \_\_\_\_\_, (year) , and recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, of the public records of \_\_\_\_\_ County, Florida, and that the time within which you may file suit to enforce your lien is limited to 60 days from the date of service of this notice. This \_\_\_\_\_ day of \_\_\_\_\_, (year) .

Signed: (Owner or Attorney)

The lien of any broker upon whom such a notice of contest is served and who fails to institute a suit to enforce the lien within 60 days after service of such notice of contest shall be extinguished automatically. The clerk shall mail a copy of the notice of contest to the broker at the address shown in the lien notice or most recent amendment thereto and shall certify to such service on the face of the notice of contest and record the notice of contest. Service of the notice of contest by the clerk shall be deemed complete upon mailing.

(9) Neither the recording of a broker's lien notice or any extension thereof nor the recording of any lis pendens to foreclose a broker's lien thereunder shall constitute notice to any creditor or subsequent purchaser pursuant to s. 695.01 or chapter 712 of the existence of any lease described in the lien notice, extension notice, or lis pendens.

**History.**--s. 2, ch. 2005-275; s. 16, ch. 2006-210.

## Chapter 668 Electronic Commerce

### Florida Electronic Signature Act of 1996 (F.S. 668.001-668.006)

**668.001 Short title.**--This act may be cited as the "Electronic Signature Act of 1996."

**History.**--s. 1, ch. 96-224.

**Note.**--Former s. 282.70.

**668.002 Legislative intent.**--It is the intent of the Legislature that this act:

- (1) Facilitate economic development and efficient delivery of government services by means of reliable electronic messages.
- (2) Enhance public confidence in the use of electronic signatures.
- (3) Minimize the incidence of forged electronic signatures and fraud in electronic commerce.
- (4) Foster the development of electronic commerce through the use of electronic signatures to lend authenticity and integrity to writings in any electronic medium.
- (5) Assure that proper management oversight and accountability are maintained for agency-conducted electronic commerce.

**History.**--s. 2, ch. 96-224.

**Note.**--Former s. 282.71.

**668.003 Definitions.**--As used in this act:

- (1) "Certificate" means a computer-based record which:
  - (a) Identifies the certification authority.
  - (b) Identifies the subscriber.
  - (c) Contains the subscriber's public key.
  - (d) Is digitally signed by the certification authority.
- (2) "Certification authority" means a person who issues a certificate.
- (3) "Digital signature" means a type of electronic signature that transforms a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine:
  - (a) Whether the transformation was created using the private key that corresponds to the signer's public key.

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(b) Whether the initial message has been altered since the transformation was made.

A "key pair" is a private key and its corresponding public key in an asymmetric cryptosystem, under which the public key verifies a digital signature the private key creates. An "asymmetric cryptosystem" is an algorithm or series of algorithms which provide a secure key pair.

(4) "Electronic signature" means any letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party with an intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing.

**History.**--s. 4, ch. 96-224.

**Note.**--Former s. 282.72.

**668.004 Force and effect of electronic signature.**--Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.

**History.**--s. 5, ch. 96-224.

**Note.**--Former s. 282.73.

**668.006 Control procedures.**--The head of each agency shall be responsible for adopting and implementing control processes and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic commerce.

**History.**--s. 7, ch. 96-224.

**Note.**--Former s. 282.75.



## **Florida Uniform Electronic Transaction Act (F.S. 668.50)**

### **668.50 Uniform Electronic Transaction Act.--**

- (1) SHORT TITLE.--This section may be cited as the "Uniform Electronic Transaction Act."
- (2) DEFINITIONS.--As used in this section:
  - (a) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under provisions of law otherwise applicable to a particular transaction.
  - (b) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.
  - (c) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
  - (d) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this act and other applicable provisions of law.
  - (e) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
  - (f) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
  - (g) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
  - (h) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
  - (i) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of this state, including a county, municipality, or other political subdivision of this state and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
  - (j) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or other similar representations of knowledge.
  - (k) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.
  - (l) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.
  - (m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including public records as defined in s. 119.011.

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(n) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(o) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(p) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, insurance, or governmental affairs.

(3) SCOPE.--

(a) Except as otherwise provided in paragraph (b), this section applies to electronic records and electronic signatures relating to a transaction.

(b) This section does not apply to a transaction to the extent the transaction is governed by:

1. A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;
2. The Uniform Commercial Code other than s. 671.107 and chapters 672 and 680;
3. The Uniform Computer Information Transactions Act; or
4. Rules relating to judicial procedure.

(c) This section applies to an electronic record or electronic signature otherwise excluded under paragraph (b) to the extent such record or signature is governed by a provision of law other than those specified in paragraph (b).

(d) A transaction subject to this section is also subject to other applicable provisions of substantive law.

(4) PROSPECTIVE APPLICATION.--This section applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after July 1, 2000.

(5) USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES; VARIATION BY AGREEMENT.--

(a) This section does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This section applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this paragraph may not be waived by agreement.

(d) Except as otherwise provided in this section, the effect of any provision of this section may be varied by agreement. The presence in certain provisions of this section of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

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(e) Whether an electronic record or electronic signature has legal consequences is determined by this section and other applicable provisions of law.

(6) CONSTRUCTION AND APPLICATION.--This section shall be construed and applied to:

(a) Facilitate electronic transactions consistent with other applicable provisions of law.

(b) Be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices.

(c) Effectuate its general purpose to make uniform the law with respect to the subject of this section among states enacting similar legislation.

(7) LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS.--

(a) A record or signature may not be denied legal effect or enforceability solely because the record or signature is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in the formation of the contract.

(c) If a provision of law requires a record to be in writing, an electronic record satisfies such provision.

(d) If a provision of law requires a signature, an electronic signature satisfies such provision.

(8) PROVISION OF INFORMATION IN WRITING; PRESENTATION OF RECORDS.--

(a) If parties have agreed to conduct a transaction by electronic means and a provision of law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or the sender's information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a provision of law other than this section requires a record to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner, the following rules apply:

1. The record must be posted or displayed in the manner specified in the other provision of law.

2. Except as otherwise provided in subparagraph (d)2., the record must be sent, communicated, or transmitted by the method specified in the other provision of law.

3. The record must contain the information formatted in the manner specified in the other provision of law.

(c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, provided:

1. To the extent a provision of law other than this section requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under paragraph (a) that the information be in the form of an electronic record capable of retention may also be varied by agreement.

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2. A requirement under a law other than this section to send, communicate, or transmit a record by first-class mail, postage prepaid, or other regular United States mail, may be varied by agreement to the extent permitted by the other provision of law.

(9) ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE.--

(a) An electronic record or electronic signature is attributable to a person if the record or signature was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under paragraph (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

(10) EFFECT OF CHANGE OR ERROR.--If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(a) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(b) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

1. Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person.
2. Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record.
3. Has not used or received any benefit or value from the consideration, if any, received from the other person.

(c) If paragraphs (a) and (b) do not apply, the change or error has the effect provided by the other provision of law, including the law of mistake, and the parties' contract, if any.

(d) Paragraphs (b) and (c) may not be varied by agreement.

(11) NOTARIZATION AND ACKNOWLEDGMENT.--

(a) If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized by applicable law to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record. Neither a rubber stamp nor an impression type seal is required for an electronic notarization.

(b) A first-time applicant for a notary commission must submit proof that the applicant has, within 1 year prior to the application, completed at least 3 hours of interactive or classroom instruction, including electronic notarization, and covering the duties of the notary public. Courses satisfying this section may be

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offered by any public or private sector person or entity registered with the Executive Office of the Governor and must include a core curriculum approved by that office.

### (12) RETENTION OF ELECTRONIC RECORDS; ORIGINALS.--

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

1. Accurately reflects the information set forth in the record after the record was first generated in final form as an electronic record or otherwise.
2. Remains accessible for later reference.

(b) A requirement to retain a record in accordance with paragraph (a) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy paragraph (a) by using the services of another person if the requirements of paragraph (a) are satisfied.

(d) If a provision of law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with paragraph (a).

(e) If a provision of law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (a).

(f) A record retained as an electronic record in accordance with paragraph (a) satisfies a provision of law requiring a person to retain a record for evidentiary, audit, or similar purposes, unless a provision of law enacted after July 1, 2000, specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

(13) ADMISSIBILITY IN EVIDENCE.--In a proceeding, evidence of a record or signature may not be excluded solely because the record or signature is in electronic form.

(14) AUTOMATED TRANSACTIONS.--In an automated transaction, the following rules apply:

(a) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(b) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(c) The terms of the contract are determined by the substantive law applicable to the contract.

(15) TIME AND PLACE OF SENDING AND RECEIVING.--

(a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when the record:

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1. Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.
2. Is in a form capable of being processed by that system.
3. Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when the record enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and is in a form capable of being processed by that system.

(c) Paragraph (b) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under paragraph (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this paragraph, the following rules apply:

1. If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.
2. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under paragraph (b) even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in paragraph (b) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under paragraph (a), or purportedly received under paragraph (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable provisions of law. Except to the extent permitted by the other provisions of law, the requirements of this paragraph may not be varied by agreement.

(h) An automated transaction does not establish the acceptability of an electronic record for recording purposes.

(16) TRANSFERABLE RECORDS.--

(a) For purposes of this paragraph, "transferable record" means an electronic record that:

1. Would be a note under chapter 673, or a document under chapter 677, if the electronic record were in writing.
2. The issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

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(c) A system satisfies paragraph (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

1. A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in subparagraphs 4., 5., and 6., unalterable.
2. The authoritative copy identifies the person asserting control as the person to which the transferable record was issued or, if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred.
3. The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian.
4. Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control.
5. Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy.
6. Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in s. 671.201(21), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under s. 673.3021, s. 677.501, or <sup>1</sup>s. 679.308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this paragraph.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

**(17) CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES.--**Each governmental agency shall determine whether, and the extent to which, such agency will create and retain electronic records and convert written records to electronic records.

**(18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.--**

(a) Except as otherwise provided in paragraph (12)(f), each governmental agency shall determine whether, and the extent to which, such agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the state technology office, in consultation with the governmental agency, giving due consideration to security, may specify:

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1. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.

2. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

3. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

4. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(c) Except as otherwise provided in paragraph (12)(f), this section does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

(d) Service charges and fees otherwise established by law applicable to the filing of nonelectronic records shall apply in kind to the filing of electronic records.

(19) INTEROPERABILITY.--The governmental agency which adopts standards pursuant to subsection (18) may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the Federal Government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

(20) SEVERABILITY.--If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

History.--s. 1, ch. 2000-164; s. 49, ch. 2004-335; s. 22, ch. 2007-134.

<sup>1</sup>Note.--Repealed by s. 3, ch. 2001-198.



## Chapter 689 Conveyances of Land and Declarations of Trust

**689.01 How real estate conveyed.**--No estate or interest of freehold, or for a term of more than 1 year, or any uncertain interest of, in or out of any messuages, lands, tenements or hereditaments shall be created, made, granted, transferred or released in any other manner than by instrument in writing, signed in the presence of two subscribing witnesses by the party creating, making, granting, conveying, transferring or releasing such estate, interest, or term of more than 1 year, or by the party's agent thereunto lawfully authorized, unless by will and testament, or other testamentary appointment, duly made according to law; and no estate or interest, either of freehold, or of term of more than 1 year, or any uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments, shall be assigned or surrendered unless it be by instrument signed in the presence of two subscribing witnesses by the party so assigning or surrendering, or by the party's agent thereunto lawfully authorized, or by the act and operation of law. No seal shall be necessary to give validity to any instrument executed in conformity with this section. Corporations may convey in accordance with the provisions of this section or in accordance with the provisions of ss. 692.01 and 692.02.

**History.**--s. 1, Nov. 15, 1828; RS 1950; GS 2448; RGS 3787; CGL 5660; s. 4, ch. 20954, 1941; s. 751, ch. 97-102.

### **689.02 Form of warranty deed prescribed.**--

(1) Warranty deeds of conveyance to land may be in the following form, viz.:

"This indenture, made this \_\_\_\_ day of \_\_\_\_ A.D.\_\_\_\_, between \_\_\_\_\_, of the County of \_\_\_\_ in the State of \_\_\_\_\_, party of the first part, and \_\_\_\_\_, of the County of \_\_\_\_\_, in the State of \_\_\_\_\_, party of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of \_\_\_\_\_ dollars, to her or him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said party of the second part, her or his heirs and assigns forever, the following described land, to wit:

And the said party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever."

(2) The form for warranty deeds of conveyance to land shall include a blank space for the property appraiser's parcel identification number describing the property conveyed, which number, if available, shall be entered on the deed before it is presented for recording, and blank spaces for the social security numbers of the grantees named in the deed, if available, which numbers may be entered on the deed before it is presented for recording. The failure to include such blank spaces, or the parcel identification number, or any social security number, or the inclusion of an incorrect parcel identification number or social security number, shall not affect the validity of the conveyance or the recordability of the deed. Such parcel identification number shall not constitute a part of the legal description of the property otherwise set forth in the deed and shall not be used as a substitute for the legal description of the property being conveyed, nor shall a social security number serve as a designation of the grantee named in the deed.

**History.**--s. 1, ch. 4038, 1891; GS 2449; RGS 3788; CGL 5661; s. 1, ch. 87-66; s. 17, ch. 88-176; s. 60, ch. 89-356; s. 752, ch. 97-102.

**689.04 How executed.**--Such deeds shall be executed and acknowledged as is now or may hereafter be provided by the law regulating conveyances of realty by deed.

**History.**--s. 3, ch. 4038, 1891; GS 2451; RGS 3790; CGL 5663.

## **Chapter 694 Certain Conveyances Made Valid**

**694.09 Certified copies admissible in evidence.**--A copy of any of the instruments referred to in s. 694.08 duly certified, under the hand and seal of office of the officer in whose office the same may be recorded, to be a true and correct copy of the original, on file or of record in her or his office, shall in all cases and in all courts be admitted and received in evidence with the like effect and force as the original thereof might be.

**History.**--s. 2, ch. 10169, 1925; CGL 5696; s. 760, ch. 97-102.

## Chapter 695 Record of Conveyances of Real Estate

### 695.01 Conveyances to be recorded.--

(1) No conveyance, transfer, or mortgage of real property, or of any interest therein, nor any lease for a term of 1 year or longer, shall be good and effectual in law or equity against creditors or subsequent purchasers for a valuable consideration and without notice, unless the same be recorded according to law; nor shall any such instrument made or executed by virtue of any power of attorney be good or effectual in law or in equity against creditors or subsequent purchasers for a valuable consideration and without notice unless the power of attorney be recorded before the accruing of the right of such creditor or subsequent purchaser.

(2) Grantees by quitclaim, heretofore or hereafter made, shall be deemed and held to be bona fide purchasers without notice within the meaning of the recording acts.

**History.**--ss. 4, 9, Nov. 15, 1828; RS 1972; GS 2480; RGS 3822; CGL 5698; s. 10, ch. 20954, 1941; s. 8, ch. 85-63.

**695.015 Conveyances by law between governmental agencies, recording.**--All laws which purport to convey title to real property from one governmental agency or political subdivision to another shall be recorded in the public records of the county or counties in which the property is located, and such laws shall contain a provision requiring such recording.

**History.**--s. 1, ch. 70-103.

### 695.02 Blank or master form of instruments may be recorded.--

(1) Any person may have a blank or master form of mortgage or other instrument conveying, transferring or reserving an interest in, or creating a lien on, real or personal property, filed, indexed and recorded in the office of the clerk of the circuit court.

(2) When any such blank or master form is filed with the clerk of the circuit court, she or he shall record and index the same in the manner provided by law for recording and indexing mortgages and such other instruments respectively, except that the name of the person whose name appears on such blank or master form shall be inserted in the indexes as grantor and also as grantee.

(3) When any instrument conveying, transferring or reserving an interest in, or creating a lien on, real or personal property, incorporates by reference the provisions, terms, covenants, conditions, obligations, powers and other contents, or any of them, set forth in any such recorded blank or master form, such incorporation by reference, for all purposes, shall be equivalent to setting forth in extenso in such instrument that which is incorporated by reference.

**History.**--ss. 1, 2, 3, 4, ch. 17109, 1935; CGL 1936 Supp. 5698(1); s. 219, ch. 77-104; s. 762, ch. 97-102.

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**695.03 Acknowledgment and proof; validation of certain acknowledgments; legalization or authentication before foreign officials.**--To entitle any instrument concerning real property to be recorded, the execution must be acknowledged by the party executing it, proved by a subscribing witness to it, or legalized or authenticated by a civil-law notary or notary public who affixes her or his official seal, before the officers and in the form and manner following:

(1) **WITHIN THIS STATE.**--An acknowledgment or proof made within this state may be made before a judge, clerk, or deputy clerk of any court; a United States commissioner or magistrate; or a notary public or civil-law notary of this state, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. All affidavits and acknowledgments heretofore made or taken in this manner are hereby validated.

(2) **WITHOUT THIS STATE BUT WITHIN THE UNITED STATES.**--An acknowledgment or proof made out of this state but within the United States may be made before a civil-law notary of this state or a commissioner of deeds appointed by the Governor of this state; a judge or clerk of any court of the United States or of any state, territory, or district; a United States commissioner or magistrate; or a notary public, justice of the peace, master in chancery, or registrar or recorder of deeds of any state, territory, or district having a seal, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. If the acknowledgment or proof is made before a notary public who does not affix a seal, it is sufficient for the notary public to type, print, or write by hand on the instrument, "I am a Notary Public of the State of (state) , and my commission expires on (date) ."

(3) **WITHIN FOREIGN COUNTRIES.**--If the acknowledgment, legalization, authentication, or proof is made in a foreign country, it may be made before a commissioner of deeds appointed by the Governor of this state to act in such country; before a notary public of such foreign country or a civil-law notary of this state or of such foreign country who has an official seal; before an ambassador, envoy extraordinary, minister plenipotentiary, minister, commissioner, charge d'affaires, consul general, consul, vice consul, consular agent, or other diplomatic or consular officer of the United States appointed to reside in such country; or before a military or naval officer authorized by the Laws or Articles of War of the United States to perform the duties of notary public, and the certificate of acknowledgment, legalization, authentication, or proof must be under the seal of the officer. A certificate legalizing or authenticating the signature of a person executing an instrument concerning real property and to which a civil-law notary or notary public of that country has affixed her or his official seal is sufficient as an acknowledgment. For the purposes of this section, the term "civil-law notary" means a civil-law notary as defined in chapter 118 or an official of a foreign country who has an official seal and who is authorized to make legal or lawful the execution of any document in that jurisdiction, in which jurisdiction the affixing of her or his official seal is deemed proof of the execution of the document or deed in full compliance with the laws of that jurisdiction.

All affidavits, legalizations, authentications, and acknowledgments heretofore made or taken in the manner set forth above are hereby validated.

**History.**--RS 1973; ch. 5404, 1905; GS 2481; ss. 1, 2, ch. 7849, 1919; RGS 3823; CGL 5699; s. 7, ch. 22858, 1945; s. 1, ch. 28225, 1953; s. 1, ch. 69-79; s. 1, ch. 71-53; s. 26, ch. 73-334; s. 3, ch. 80-173; s. 1, ch. 84-97; s. 763, ch. 97-102; s. 21, ch. 98-246.

**695.04 Requirements of certificate.**--The certificate of the officer before whom the acknowledgment or proof is taken, except for a certificate legalizing or authenticating the signature of a person executing an instrument concerning real property pursuant to s. 695.03(3), shall contain and set forth substantially the matter required to be done or proved to make such acknowledgment or proof effectual.

**History.**--RS 1974; GS 2482; RGS 3824; CGL 5700; s. 2, ch. 84-97.

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**695.07 Use of scrawl as seal.**--A scrawl or scroll, printed or written, affixed as a seal to any written instrument shall be as effectual as a seal.

**History.**--s. 1, ch. 4148, 1893; GS 2484; RGS 3826; CGL 5704.

**695.09 Identity of grantor.**--No acknowledgment or proof shall be taken, except as set forth in s. 695.03(3), by any officer within or without the United States unless the officer knows, or has satisfactory proof, that the person making the acknowledgment is the individual described in, and who executed, such instrument or that the person offering to make proof is one of the subscribing witnesses to such instrument.

**History.**--RS 1975; GS 2486; RGS 3828; CGL 5706; s. 3, ch. 84-97; s. 765, ch. 97-102.

**695.11 Instruments deemed to be recorded from time of filing.**--All instruments which are authorized or required to be recorded in the office of the clerk of the circuit court of any county in the State of Florida, and which are to be recorded in the "Official Records" as provided for under s. 28.222, and which are filed for recording on or after the effective date of this act, shall be deemed to have been officially accepted by the said officer, and officially recorded, at the time she or he affixed thereon the consecutive official register numbers required under s. 28.222, and at such time shall be notice to all persons. The sequence of such official numbers shall determine the priority of recordation. An instrument bearing the lower number in the then-current series of numbers shall have priority over any instrument bearing a higher number in the same series.

**History.**--s. 1, ch. 3592, 1885; RS 1977; GS 2488; RGS 3830; CGL 5708; s. 1, ch. 17217, 1935; s. 1, ch. 67-442; s. 766, ch. 97-102.

**695.12 Imperfect record.**--Whenever any instrument authorized or required by law to be recorded in any county either has been or may be so imperfectly or erroneously recorded as to require a new record thereof, if the officer who so recorded the same be still in office, she or he shall, upon demand of the owner of such instrument, or person controlling the same, record it anew free of any charge or fee than the fee allowed by law for one perfect record thereof.

**History.**--s. 1, ch. 3896, 1889; RS 1978; GS 2489; RGS 3831; CGL 5709; s. 767, ch. 97-102.

**695.13 Want of certificate of record.**--Whenever any instrument authorized or required by law to be recorded shall appear to be recorded in the appropriate record book in the proper office, whether the record shall be in the handwriting of the officer whose duty it was to record such instrument, or in the handwriting of any other person, the record shall be presumed to have been made by the officer whose duty it was to make it, and the absence of a certificate of such officer that such instrument was recorded by her or him shall in no wise affect the validity of the record.

**History.**--s. 1, ch. 3894, 1889; RS 1979; GS 2490; RGS 3832; CGL 5710; s. 768, ch. 97-102.

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**695.14 Unsigned certificate of record.**--Whenever any unsigned certificate on such record of the instruments mentioned in s. 695.13 shall contain the date of filing or of recording such instrument, it shall be prima facie evidence of the time of filing or of recording such instrument.

**History.**--s. 2, ch. 3894, 1889; RS 1980; GS 2491; RGS 3833; CGL 5711.

**695.18 Indorsement by clerk.**--Upon recording said deed, patent or certified copy, the clerk of the court shall indorse thereon and also upon the record made by her or him the following:

"This deed and patent (or certified copy as the case may be) having been presented to me on the \_\_\_\_ day of \_\_\_\_ for record, and same appearing to me to be genuine and to have been made and issued by the authority of the United States Government, I have duly recorded same in \_\_\_\_ on page \_\_\_\_ of the public records of my office.

Witness my hand and official seal at \_\_\_\_ Florida, this \_\_\_\_ day of \_\_\_\_

(Clerk.) "

**History.**--s. 2, ch. 8565, 1921; CGL 5715; s. 770, ch. 97-102.

**695.19 Certified copies of recorded instruments may be recorded.**--Certified copies of deeds, mortgages, powers of attorney and all other instruments of any kind which have been or may hereafter be duly recorded or filed among the public records of any county in this state may be recorded or rerecorded among the public records of any other county in this state as fully and in the same manner and with like effect as if such certified copy were the original instrument.

**History.**--s. 1, ch. 11989, 1927; CGL 5717.

**695.25 Short form of acknowledgment.**--The forms of acknowledgment set forth in this section may be used, and are sufficient for their respective purposes, under any law of this state. The forms shall be known as "Statutory Short Forms of Acknowledgment" and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

(1) For an individual acting in his or her own right:

STATE OF \_\_\_\_  
COUNTY OF \_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging) , who is personally known to me or who has produced (type of identification) as identification.

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

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(Title or rank)

(Serial number, if any)

(2) For a corporation:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) , a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced (type of identification) as identification.

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any)

(3) For a partnership:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent) , partner (or agent) on behalf of (name of partnership) , a partnership. He/she is personally known to me or has produced (type of identification) as identification.

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any)

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(4) For an individual acting as principal by an attorney in fact:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact, who is personally known to me or who has produced (type of identification) as identification on behalf of (name of principal) .

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any)

(5) By any public officer, trustee, or personal representative:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name and title of position) , who is personally known to me or who has produced (type of identification) as identification.

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any) .

**History.**--s. 1, ch. 73-62; s. 10, ch. 91-291; s. 7, ch. 93-62; s. 772, ch. 97-102.

**695.26 Requirements for recording instruments affecting real property.--**

(1) No instrument by which the title to real property or any interest therein is conveyed, assigned, encumbered, or otherwise disposed of shall be recorded by the clerk of the circuit court unless:



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- (a) The name of each person who executed such instrument is legibly printed, typewritten, or stamped upon such instrument immediately beneath the signature of such person and the post-office address of each such person is legibly printed, typewritten, or stamped upon such instrument;
  - (b) The name and post-office address of the natural person who prepared the instrument or under whose supervision it was prepared are legibly printed, typewritten, or stamped upon such instrument;
  - (c) The name of each witness to the instrument is legibly printed, typewritten, or stamped upon such instrument immediately beneath the signature of such witness;
  - (d) The name of any notary public or other officer authorized to take acknowledgments or proofs whose signature appears upon the instrument is legibly printed, typewritten, or stamped upon such instrument immediately beneath the signature of such notary public or other officer authorized to take acknowledgment or proofs;
  - (e) A 3-inch by 3-inch space at the top right-hand corner on the first page and a 1-inch by 3-inch space at the top right-hand corner on each subsequent page are reserved for use by the clerk of the court; and
  - (f) In any instrument other than a mortgage conveying or purporting to convey any interest in real property, the name and post-office address of each grantee in such instrument are legibly printed, typewritten, or stamped upon such instrument.
- (2) If a name or address is printed, typewritten, or stamped on an instrument in a position other than the position required by subsection (1), the clerk of the circuit court may, in her or his discretion, accept the instrument for recordation if she or he determines that the connection between the signature and the name or the name and the address is apparent.
- (3) This section does not apply to:
- (a) An instrument executed before July 1, 1991.
  - (b) A decree, order, judgment, or writ of any court.
  - (c) An instrument executed, acknowledged, or proved outside of this state.
  - (d) A will.
  - (e) A plat.
  - (f) An instrument prepared or executed by any public officer other than a notary public.
- (4) The failure of the clerk of the circuit court to comply with this section does not impair the validity of the recordation or of the constructive notice imparted by recordation.

**History.**--s. 1, ch. 90-183; ss. 8, 22, ch. 94-348; s. 773, ch. 97-102.

## Chapter 696 Record of Contracts; Photographic Recording

**696.01 Contracts for sale of realty must be acknowledged in order to be recorded.**--No contract, agreement, or other instrument purporting to contain an agreement to purchase or sell real estate shall be recorded in the public records of any county in the state, unless such contract, agreement or other instrument is acknowledged by the vendor in the manner provided by law for the acknowledgment of deeds; and where there is no acknowledgment on the part of the vendor, the recording officers in the various counties of this state shall refuse to accept such instrument for record.

**History.**--s. 1, ch. 11813, 1927; CGL 5719.

**696.03 When agreement executed by agent or attorney may be recorded.**--No contract or agreement or other instrument purporting to contain an agreement to sell or purchase real estate, which has been executed by an agent or attorney in fact shall be recorded in any of the public records of this state, unless the authority of such agent or attorney in fact to execute the instrument sought to be recorded is produced and recorded by the recording officer, or is already recorded in the county where such instrument is sought to be recorded; and for the purposes of ss. 696.01-696.04 no authority for the execution of instruments by an agent or attorney in fact shall be accepted which is not executed in the manner provided by law for the execution of deeds.

**History.**--s. 3, ch. 11813, 1927; CGL 5721.

### **696.05 Photographic recording by clerk of circuit court.--**

(1) In every county in this state, the clerk of the circuit court may record any and all instruments filed for record by photographic process, this phrase being used in its most general sense and including miniature photographic, microfilming or microphotographic processes or any other photographic, mechanical or other process heretofore or hereafter devised, however designated, such as may be recommended by the clerk from time to time and approved by the board of county commissioners. The board of county commissioners shall provide out of the general revenue fund adequate equipment and supplies for making and preserving such records in accordance with the process so recommended and approved, and shall also provide adequate equipment for reproduction, and for viewing where said recording process is miniature photographic, microfilming or microphotographic, it being the intent hereof that such records shall be readily available for public inspection and copying. The clerk of the circuit court may note on the index to the photographic record of a mortgage or lien a note of assignment or a note of satisfaction of the mortgage or lien.

(2) All instruments heretofore recorded and all action of the boards of county commissioners and clerks of the circuit courts heretofore performed in the purchase of photographic equipment and its use in accordance with the provisions of this act are hereby validated and shall be held good and valid. All service charges shall be as provided in s. 28.24.

**History.**--s. 1, ch. 10300, 1925; CGL 1936 Supp. 5722(1); ss. 1, 2, 3, 4, ch. 22051, 1943; s. 8, ch. 29749, 1955; s. 1, ch. 59-429; s. 1, ch. 61-186; s. 28, ch. 70-134.

## **Chapter 698 Chattel Mortgages**

**698.01 To be recorded.**--No chattel mortgage shall be valid or effectual against creditors or subsequent purchasers for a valuable consideration and without notice unless it be recorded, or unless the property included in it be delivered to the mortgagee and continue to remain truly and bona fide in her or his possession.

**History.**--RS 1983; GS 2496; RGS 3833; CGL 5726; s. 779, ch. 97-102.

## Chapter 701 Assignment and Cancellation of Mortgages

701.041 Title insurer; mortgage release certificate.--

(1) DEFINITIONS.--For purposes of this section:

(a) "Estoppel letter" means a statement of the amount of:

1. The unpaid balance of a loan secured by a mortgage, including principal, interest, and any other charges properly due under or secured by the mortgage.
2. Interest on a per-day basis for the unpaid balance.

(b) "Mortgagee" means:

1. The grantee of a mortgage; or
2. If a mortgage has been assigned of record, the last person to whom the mortgage has been assigned of record.

(c) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage. A person transmitting an estoppel letter is the mortgage servicer for the mortgage described in the estoppel letter.

(d) "Mortgagor" means the grantor of a mortgage.

(e) "Record" means to record with the clerk of the circuit court or the comptroller in the county or counties in which the real property securing the mortgage is located.

(f) "Title insurer" means a corporation or other business entity authorized and licensed to transact the business of insuring titles to interests in real property in this state under chapter 624.

(2) CERTIFICATE OF RELEASE.--An officer or duly appointed agent of a title insurer may, on behalf of a mortgagor or a person who acquired from the mortgagor title to all or a part of the property described in a mortgage, execute a certificate of release that complies with the requirements of this section and record the certificate of release in the real property records of each county in which the mortgage is recorded if a satisfaction or release of the mortgage has not been executed and recorded after the date payment in full of the loan secured by the mortgage was made in accordance with a payoff statement furnished by the mortgagee or the mortgage servicer.

(3) CONTENTS.--A certificate of release executed under this section must contain:

(a) The name of the mortgagor, the name of the original mortgagee, and, if applicable, the mortgage servicer; the date of the mortgage; the date of recording; and the volume and page or document number in the real property records in which the mortgage is recorded, together with similar information for the last recorded assignment of the mortgage.

(b) A statement that the mortgage being released is eligible for release under this section.

(c) The name of the title insurer filing the certificate of release, a statement that the person executing the certificate of release is an officer or a duly appointed agent of the title insurer, a statement that the title insurer is authorized and licensed to transact the business of insuring titles to interests in real property in this state under chapter 624 or chapter 626, and, if executed by a duly appointed agent, shall further provide the recording information of the appointment of such agent as required by subsection (4).

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(d) A statement that the certificate of release is made on behalf of the mortgagor or a person who acquired title from the mortgagor to all or a part of the property described in the mortgage.

(e) A statement that the mortgagee or mortgage servicer provided an estoppel letter which was used to make payment in full of the unpaid balance of the loan secured by the mortgage.

(f) A statement that payment in full of the unpaid balance of the loan secured by the mortgage was made in accordance with the estoppel letter and that a copy of the certificate of release was sent to the mortgagee or mortgage servicer that provided the estoppel letter.

(4) EXECUTION.--

(a) A certificate of release authorized by subsection (2) must be duly executed, sworn to or affirmed under penalty of perjury before a notary public, and recorded and may be executed by an officer of a title insurer or by a duly appointed agent of a title insurer. Such delegation to an agent by a title insurer shall not relieve the title insurer of any liability for damages caused by the agent for the execution or recordation of a certificate of release.

(b) The appointment of an agent must be duly executed, acknowledged, and recorded by an officer of a title insurer and must state:

1. The title insurer as the principal.
2. The identity of the person, partnership, or corporation authorized to act as agent to execute and record certificates of release provided for in this section on behalf of the title insurer.
3. That the agent has the full authority to execute and record certificates of release provided for in this section on behalf of the title insurer.

(c) A separate appointment of agent shall not be necessary for each certificate of release provided that at least one such appointment is recorded in the county in which the mortgaged property is located. The appointment of agent must be rerecorded where necessary to establish authority of the agent, but such authority shall continue until a revocation of appointment is recorded in the office of the county recorder in which the appointment of agent was recorded.

(d) After recordation of a title insurer's revocation of appointment in the office of the county recorder in which the appointment was recorded, the agent whose appointment is revoked in such county shall have no further authority to execute or record certificates of release as provided in this section on behalf of that title insurer with respect to any mortgages recorded in that county, and no such certificate of release thereafter executed or recorded by that agent on behalf of that title insurer shall be effective to release any mortgage recorded in that county.

(5) EFFECT.--For purposes of releasing the mortgage, a certificate of release containing the information and statements provided for in subsection (3) and executed as provided in subsection (4) is entitled to be recorded with the county recorder and operates as a release of the mortgage described in the certificate of release. The county recorder shall rely upon the certificate to release the mortgage. Recording of a certificate of release by a title insurer or its agent shall not relieve the mortgagor, or the mortgagor's successors or assigns, from any personal liability on the loan or other obligations secured by the mortgage. A certificate of release recorded pursuant to this section fulfills any other obligation of the mortgagee or mortgage servicer to file a satisfaction or release of the mortgage.

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(6) LIABILITY OF TITLE INSURER AND TITLE INSURANCE AGENT.--

(a) In addition to any other remedy provided by law, a title insurer and title insurance agent recording a certificate of release under this section shall be liable to the holder of the obligation secured by the mortgage for actual damage sustained due to the recording of the certificate of release. Reasonable costs and attorneys' fees shall be awarded to the prevailing party.

(b) The title insurer named in a certificate of release filed by a duly appointed agent shall be liable pursuant to this subsection without regard to whether the title insurer authorized the specific certificate of release recorded by the agent.

(c) The title insurer and title insurance agent shall have no liability under this subsection if the title insurer or title insurance agent shows that payment in full of the unpaid balance of the loan secured by the mortgage was made in accordance with the estoppel letter furnished by the mortgagee or the mortgage servicer.

(d) Liability of a title insurer pursuant to this section shall be considered to be a title insurance claim on real property in this state pursuant to s. 627.7865.

(7) RECORDING.--If a mortgage is recorded in more than one county and a certificate of release is recorded in one of such counties, a certified copy of the certificate of release may be recorded in another of such counties with the same effect as the original. In all cases, the certificate of release shall be entered and indexed as satisfactions of mortgage are entered and indexed.

(8) APPLICATION.--This section applies only to a mortgage that secures a loan in the principal amount of \$500,000 or less as determined from the recorded mortgage and contains no disclosure of record that the mortgage secures an open-end or revolving line of credit agreement.

**History.**--s. 1, ch. 2005-122; s. 9, ch. 2007-44.

## Chapter 712 Marketable Record of Titles to Real Property

### 712.06 Contents of notice; recording and indexing.--

(1) To be effective, the notice referred to in s. 712.05 shall contain:

(a) The name or description of the claimant or the homeowners' association desiring to preserve any covenant or restriction and the name and particular post office address of the person filing the claim or the homeowners' association.

(b) The name and post office address of an owner, or the name and post office address of the person in whose name said property is assessed on the last completed tax assessment roll of the county at the time of filing, who, for purpose of such notice, shall be deemed to be an owner; provided, however, if a homeowners' association is filing the notice, then the requirements of this paragraph may be satisfied by attaching to and recording with the notice an affidavit executed by the appropriate member of the board of directors of the homeowners' association affirming that the board of directors of the homeowners' association caused a statement in substantially the following form to be mailed or hand delivered to the members of that homeowners' association:

#### STATEMENT OF MARKETABLE TITLE ACTION

The [name of homeowners' association] (the "Association") has taken action to ensure that the [name of declaration, covenant, or restriction], recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, of the public records of \_\_\_\_\_ County, Florida, as may be amended from time to time, currently burdening the property of each and every member of the Association, retains its status as the source of marketable title with regard to the transfer of a member's residence. To this end, the Association shall cause the notice required by chapter 712, Florida Statutes, to be recorded in the public records of \_\_\_\_\_ County, Florida. Copies of this notice and its attachments are available through the Association pursuant to the Association's governing documents regarding official records of the Association.

(c) A full and complete description of all land affected by such notice, which description shall be set forth in particular terms and not by general reference, but if said claim is founded upon a recorded instrument or a covenant or a restriction, then the description in such notice may be the same as that contained in such recorded instrument or covenant or restriction, provided the same shall be sufficient to identify the property.

(d) A statement of the claim showing the nature, description, and extent of such claim or, in the case of a covenant or restriction, a copy of the covenant or restriction, except that it shall not be necessary to show the amount of any claim for money or the terms of payment.

(e) If such claim is based upon an instrument of record or a recorded covenant or restriction, such instrument of record or recorded covenant or restriction shall be deemed sufficiently described to identify the same if the notice includes a reference to the book and page in which the same is recorded.

(f) Such notice shall be acknowledged in the same manner as deeds are acknowledged for record.

(2) Such notice shall be filed with the clerk of the circuit court of the county or counties where the land described therein is situated, together with a true copy thereof. The clerk shall enter, record, and index said notice in the same manner that deeds are entered, recorded, and indexed, as though the claimant were the grantee in the deed and the purported owner were the grantor in a deed, and the clerk shall charge the same fees for recording thereof as are charged for recording deeds. In those counties where the circuit court clerk maintains a tract index, such notice shall also be indexed therein.

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(3) The clerk of the circuit court shall, upon such filing, mail by registered or certified mail to the purported owner of said property, as stated in such notice, a copy thereof and shall enter on the original, before recording the same, a certificate showing such mailing. For preparing the certificate, the claimant shall pay to the clerk the service charge as prescribed in s. 28.24(8) and the necessary costs of mailing, in addition to the recording charges as prescribed in s. 28.24(12). If the notice names purported owners having more than one address, the person filing the same shall furnish a true copy for each of the several addresses stated, and the clerk shall send one such copy to the purported owners named at each respective address. Such certificate shall be sufficient if the same reads substantially as follows:

I hereby certify that I did on this \_\_\_\_\_, mail by registered (or certified) mail a copy of the foregoing notice to each of the following at the address stated:

(Clerk of the circuit court)

of \_\_\_\_\_ County, Florida,

By (Deputy clerk)

The clerk of the circuit court is not required to mail to the purported owner of such property any such notice that pertains solely to the preserving of any covenant or restriction or any portion of a covenant or restriction.

(4) Failure of any purported owner to receive the mailed notice shall not affect the validity of the notice or vitiate the effect of the filing of such notice.

**History.**--s. 6, ch. 63-133; s. 5, ch. 77-354; s. 7, ch. 82-205; s. 57, ch. 95-211; s. 4, ch. 97-202; s. 2, ch. 2003-79; s. 110, ch. 2003-402.



## **Chapter 713, Liens, generally**

### **Part I Construction Liens**

#### **713.07 Priority of liens.--**

- (1) Liens under ss. 713.03 and 713.04 shall attach at the time of recordation of the claim of lien and shall take priority as of that time.
- (2) Liens under ss. 713.05 and 713.06 shall attach and take priority as of the time of recordation of the notice of commencement, but in the event a notice of commencement is not filed, then such liens shall attach and take priority as of the time the claim of lien is recorded.
- (3) All such liens shall have priority over any conveyance, encumbrance or demand not recorded against the real property prior to the time such lien attached as provided herein, but any conveyance, encumbrance or demand recorded prior to the time such lien attaches and any proceeds thereof, regardless of when disbursed, shall have priority over such liens.
- (4) If construction ceases or the direct contract is terminated before completion and the owner desires to recommence construction, he or she may pay all lienors in full or pro rata in accordance with s. 713.06(4) prior to recommencement in which event all liens for the recommenced construction shall take priority from such recommencement; or the owner may record an affidavit in the clerk's office stating his or her intention to recommence construction and that all lienors giving notice have been paid in full except those listed therein as not having been so paid in which event 30 days after such recording, the rights of any person acquiring any interest, lien, or encumbrance on said property or of any lienor on the recommenced construction shall be paramount to any lien on the prior construction unless such prior lienor records a claim of lien within said 30-day period. A copy of said affidavit shall be served on each lienor named therein. Before recommencing, the owner shall record and post a notice of commencement for the recommenced construction, as provided in s. 713.13.

**History.--**s. 1, ch. 63-135; s. 6, ch. 65-456; s. 35, ch. 67-254; s. 804, ch. 97-102; s. 6, ch. 2007-221.

**Note.--**Former s. 84.071

#### **713.08 Claim of lien.--**

- (1) For the purpose of perfecting her or his lien under this part, every lienor, including laborers and persons in privity, shall record a claim of lien which shall state:
  - (a) The name of the lienor and the address where notices or process under this part may be served on the lienor.
  - (b) The name of the person with whom the lienor contracted or by whom she or he was employed.
  - (c) The labor, services, or materials furnished and the contract price or value thereof. Materials specially fabricated at a place other than the site of the improvement for incorporation in the improvement but not so incorporated and the contract price or value thereof shall be separately stated in the claim of lien.
  - (d) A description of the real property sufficient for identification.
  - (e) The name of the owner.

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- (f) The time when the first and the last item of labor or service or materials was furnished.
  - (g) The amount unpaid the lienor for such labor or services or materials and for unpaid finance charges due under the lienor's contract.
  - (h) If the lien is claimed by a person not in privity with the owner, the date and method of service of the notice to owner. If the lien is claimed by a person not in privity with the contractor or subcontractor, the date and method of service of the copy of the notice on the contractor or subcontractor.
- (2) The claim of lien may be prepared by the lienor or the lienor's employee or attorney and shall be signed and sworn to or affirmed by the lienor or the lienor's agent acquainted with the facts stated therein.
- (3) The claim of lien shall be sufficient if it is in substantially the following form, and includes the following warning:

**WARNING!**

**THIS LEGAL DOCUMENT REFLECTS THAT A CONSTRUCTION LIEN HAS BEEN PLACED ON THE REAL PROPERTY LISTED HEREIN. UNLESS THE OWNER OF SUCH PROPERTY TAKES ACTION TO SHORTEN THE TIME PERIOD, THIS LIEN MAY REMAIN VALID FOR ONE YEAR FROM THE DATE OF RECORDING, AND SHALL EXPIRE AND BECOME NULL AND VOID THEREAFTER UNLESS LEGAL PROCEEDINGS HAVE BEEN COMMENCED TO FORECLOSE OR TO DISCHARGE THIS LIEN.**

**CLAIM OF LIEN**

State of \_\_\_\_\_  
County of \_\_\_\_\_

Before me, the undersigned notary public, personally appeared \_\_\_\_\_, who was duly sworn and says that she or he is (the lienor herein) (the agent of the lienor herein \_\_\_\_\_), whose address is \_\_\_\_\_; and that in accordance with a contract with \_\_\_\_\_, lienor furnished labor, services, or materials consisting of \_\_\_\_\_ on the following described real property in \_\_\_\_\_ County, Florida:

(Legal description of real property)

owned by \_\_\_\_\_ of a total value of \$\_\_\_\_\_, of which there remains unpaid \$\_\_\_\_\_, and furnished the first of the items on \_\_\_\_\_, (year) , and the last of the items on \_\_\_\_\_, (year) ; and (if the lien is claimed by one not in privity with the owner) that the lienor served her or his notice to owner on \_\_\_\_\_, (year) , by \_\_\_\_\_; and (if required) that the lienor served copies of the notice on the contractor on \_\_\_\_\_, (year) , by \_\_\_\_\_ and on the subcontractor, \_\_\_\_\_, on \_\_\_\_\_, (year) , by \_\_\_\_\_.

(Signature)

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, (year) , by (name of person making statement) .

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

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Type of Identification Produced \_\_\_\_\_

However, the negligent inclusion or omission of any information in the claim of lien which has not prejudiced the owner does not constitute a default that operates to defeat an otherwise valid lien.

(4)(a) The omission of any of the foregoing details or errors in such claim of lien shall not, within the discretion of the trial court, prevent the enforcement of such lien as against one who has not been adversely affected by such omission or error.

(b) Any claim of lien recorded as provided in this part may be amended at any time during the period allowed for recording such claim of lien, provided that such amendment shall not cause any person to suffer any detriment by having acted in good faith in reliance upon such claim of lien as originally recorded. Any amendment of the claim of lien shall be recorded in the same manner as provided for recording the original claim of lien.

(c) The claim of lien shall be served on the owner. Failure to serve any claim of lien in the manner provided in s. 713.18 before recording or within 15 days after recording shall render the claim of lien voidable to the extent that the failure or delay is shown to have been prejudicial to any person entitled to rely on the service.

(5) The claim of lien may be recorded at any time during the progress of the work or thereafter but not later than 90 days after the final furnishing of the labor or services or materials by the lienor. However, if the original contract is terminated under s. 713.07(4), a claim for a lien attaching prior to such termination may not be recorded after 90 days following the date of such termination or 90 days after the final furnishing of labor, services, or materials by the lienor, whichever occurs first. The claim of lien shall be recorded in the clerk's office. If such real property is situated in two or more counties, the claim of lien shall be recorded in the clerk's office in each of such counties. The recording of the claim of lien shall be constructive notice to all persons of the contents and effect of such claim. The validity of the lien and the right to record a claim therefor shall not be affected by the insolvency, bankruptcy, or death of the owner before the claim of lien is recorded.

**History.**--s. 1, ch. 63-135; s. 7, ch. 65-456; s. 35, ch. 67-254; s. 6, ch. 77-353; s. 5, ch. 80-97; s. 4, ch. 92-286; s. 3, ch. 96-383; s. 1765, ch. 97-102; s. 13, ch. 98-246; s. 4, ch. 99-386; s. 4, ch. 2003-177; s. 8, ch. 2005-227; s. 7, ch. 2007-221.

**Note.**--Former s. 84.081.

**713.13 Notice of commencement.--**

(1)(a) Except for an improvement that is exempt pursuant to s. 713.02(5), an owner or the owner's authorized agent before actually commencing to improve any real property, or recommencing completion of any improvement after default or abandonment, whether or not a project has a payment bond complying with s. 713.23, shall record a notice of commencement in the clerk's office and forthwith post either a certified copy thereof or a notarized statement that the notice of commencement has been filed for recording along with a copy thereof. The notice of commencement shall contain the following information:

1. A description sufficient for identification of the real property to be improved. The description should include the legal description of the property and also should include the street address and tax folio number of the property if available or, if there is no street address available, such additional information as will describe the physical location of the real property to be improved.

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2. A general description of the improvement.
  3. The name and address of the owner, the owner's interest in the site of the improvement, and the name and address of the fee simple titleholder, if other than such owner.
  4. The name and address of the contractor.
  5. The name and address of the surety on the payment bond under s. 713.23, if any, and the amount of such bond.
  6. The name and address of any person making a loan for the construction of the improvements.
  7. The name and address within the state of a person other than himself or herself who may be designated by the owner as the person upon whom notices or other documents may be served under this part; and service upon the person so designated constitutes service upon the owner.
- (b) The owner, at his or her option, may designate a person in addition to himself or herself to receive a copy of the lienor's notice as provided in s. 713.06(2)(b), and if he or she does so, the name and address of such person must be included in the notice of commencement.
- (c) If the contract between the owner and a contractor named in the notice of commencement expresses a period of time for completion for the construction of the improvement greater than 1 year, the notice of commencement must state that it is effective for a period of 1 year plus any additional period of time. Any payments made by the owner after the expiration of the notice of commencement are considered improper payments.
- (d) A notice of commencement must be in substantially the following form:

Permit No. \_\_\_\_\_

Tax Folio No. \_\_\_\_\_

NOTICE OF COMMENCEMENT

State of \_\_\_\_\_  
County of \_\_\_\_\_

The undersigned hereby gives notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes, the following information is provided in this Notice of Commencement.

1. Description of property: (legal description of the property, and street address if available) .
2. General description of improvement:\_\_\_\_\_.
3. Owner information:\_\_\_\_\_.
- a. Name and address:\_\_\_\_\_.
- b. Interest in property:\_\_\_\_\_.
- c. Name and address of fee simple titleholder (if other than Owner):\_\_\_\_\_.

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4.a. Contractor: (name and address) .

b. Contractor's phone number:\_\_\_\_\_.

5. Surety

a. Name and address:\_\_\_\_\_.

b. Phone number:\_\_\_\_\_.

c. Amount of bond: \$\_\_\_\_\_.

6.a. Lender: (name and address) .

b. Lender's phone number:\_\_\_\_\_.

7.a. Persons within the State of Florida designated by Owner upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7., Florida Statutes: (name and address) .

b. Phone numbers of designated persons:\_\_\_\_\_.

8.a. In addition to himself or herself, Owner designates \_\_\_\_\_ of \_\_\_\_\_ to receive a copy of the Lienor's Notice as provided in Section 713.13(1)(b), Florida Statutes.

b. Phone number of person or entity designated by owner:\_\_\_\_\_.

9. Expiration date of notice of commencement (the expiration date is 1 year from the date of recording unless a different date is specified)\_\_\_\_\_.

**WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.**

(Signature of Owner or Owner's Authorized Officer/Director/Partner/Manager)

(Signatory's Title/Office)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, (year) , by (name of person) as (type of authority, . . . e.g. officer, trustee, attorney in fact) for (name of party on behalf of whom instrument was executed) .

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

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Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

Verification pursuant to Section 92.525, Florida Statutes.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true to the best of my knowledge and belief.

(Signature of Natural Person Signing Above)

(e) A copy of any payment bond must be attached at the time of recordation of the notice of commencement. The failure to attach a copy of the bond to the notice of commencement when the notice is recorded negates the exemption provided in s. 713.02(6). However, if a payment bond under s. 713.23 exists but was not attached at the time of recordation of the notice of commencement, the bond may be used to transfer any recorded lien of a lienor except that of the contractor by the recordation and service of a notice of bond pursuant to s. 713.23(2). The notice requirements of s. 713.23 apply to any claim against the bond; however, the time limits for serving any required notices shall begin running from the later of the time specified in s. 713.23 or the date the notice of bond is served on the lienor.

(f) The giving of a notice of commencement is effective upon the filing of the notice in the clerk's office.

(g) The owner must sign the notice of commencement and no one else may be permitted to sign in his or her stead.

(2) If the improvement described in the notice of commencement is not actually commenced within 90 days after the recording thereof, such notice is void and of no further effect.

(3) The recording of a notice of commencement does not constitute a lien, cloud, or encumbrance on real property, but gives constructive notice that claims of lien under this part may be recorded and may take priority as provided in s. 713.07. The posting of a copy does not constitute a lien, cloud, or encumbrance on real property, nor actual or constructive notice of any of them.

(4) This section does not apply to an owner who is constructing improvements described in s. 713.04.

(5)(a) A notice of commencement that is recorded within the effective period may be amended to extend the effective period, change erroneous information in the original notice, or add information that was omitted from the original notice. However, in order to change contractors, a new notice of commencement or notice of recommencement must be executed and recorded.

(b) The amended notice must identify the official records book and page where the original notice of commencement is recorded, and a copy of the amended notice must be served by the owner upon the contractor and each lienor who serves notice before or within 30 days after the date the amended notice is recorded.

(6) Unless otherwise provided in the notice of commencement or a new or amended notice of commencement, a notice of commencement is not effectual in law or equity against a conveyance, transfer, or mortgage of or lien on the real property described in the notice, or against creditors or subsequent purchasers for a valuable consideration, after 1 year after the date of recording the notice of commencement.

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(7) A lender must, prior to the disbursement of any construction funds to the contractor, record the notice of commencement in the clerk's office as required by this section; however, the lender is not required to post a certified copy of the notice at the construction site. The posting of the notice at the construction site remains the owner's obligation. The failure of a lender to record the notice of commencement as required by this subsection renders the lender liable to the owner for all damages sustained by the owner as a result of the failure. Whenever a lender is required to record a notice of commencement, the lender shall designate the lender, in addition to others, to receive copies of notices to owner. This subsection does not give any person other than the owner a claim or right of action against a lender for failure to record a notice of commencement.

**History.**--s. 1, ch. 63-135; s. 9, ch. 65-456; s. 35, ch. 67-254; s. 14, ch. 77-353; s. 7, ch. 80-97; s. 4, ch. 88-397; s. 6, ch. 90-109; s. 2, ch. 91-102; s. 4, ch. 96-383; s. 1766, ch. 97-102; s. 14, ch. 98-246; s. 6, ch. 2001-211; s. 9, ch. 2005-227; s. 8, ch. 2007-221.

**Note.**--Former s. 84.131.

**713.132 Notice of termination.--**

(1) An owner may terminate the period of effectiveness of a notice of commencement by executing, swearing to, and recording a notice of termination that contains:

(a) The same information as the notice of commencement;

(b) The recording office document book and page reference numbers and date of the notice of commencement;

(c) A statement of the date as of which the notice of commencement is terminated, which date may not be earlier than 30 days after the notice of termination is recorded;

(d) A statement specifying that the notice applies to all the real property subject to the notice of commencement or specifying the portion of such real property to which it applies;

(e) A statement that all lienors have been paid in full; and

(f) A statement that the owner has, before recording the notice of termination, served a copy of the notice of termination on the contractor and on each lienor who has given notice. The owner is not required to serve a copy of the notice of termination on any lienor who has executed a waiver and release of lien upon final payment in accordance with s. 713.20.

(2) An owner has the right to rely on a contractor's affidavit given under s. 713.06(3)(d), except with respect to lienors who have already given notice, in connection with the execution, swearing to, and recording of a notice of termination. However, the notice of termination must be accompanied by the contractor's affidavit.

(3) An owner may not record a notice of termination except after completion of construction, or after construction ceases before completion and all lienors have been paid in full or pro rata in accordance with s. 713.06(4). If an owner or a contractor, by fraud or collusion, knowingly makes any fraudulent statement or affidavit in a notice of termination or any accompanying affidavit, the owner and the contractor, or either of them, as the case may be, is liable to any lienor who suffers damages as a result of the filing of the fraudulent notice of termination; and any such lienor has a right of action for damages occasioned thereby.

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(4) A notice of termination is effective to terminate the notice of commencement at the later of 30 days after recording of the notice of termination or the date stated in the notice of termination as the date on which the notice of commencement is terminated, provided that the notice of termination has been served pursuant to paragraph (1)(f) on the contractor and on each lienor who has given notice.

**History.**--s. 7, ch. 90-109; s. 5, ch. 92-286; s. 3, ch. 97-219; s. 4, ch. 98-135.

**713.19 Assignment of lien.**--A lien or prospective lien, except that of a laborer, may be assigned by the lienor at any time before its discharge. The assignment may be recorded in the clerk's office.

**History.**--s. 1, ch. 63-135; s. 12, ch. 65-456; s. 35, ch. 67-254.

**Note.**--Former s. 84.191.

**718.105 Recording of declaration.**--

(1) When executed as required by s. 718.104, a declaration together with all exhibits and all amendments is entitled to recordation as an agreement relating to the conveyance of land.

(2) Graphic descriptions of improvements constituting exhibits to a declaration, when accompanied by the certificate of a surveyor required by s. 718.104, may be recorded as a part of a declaration without approval of any public body or officer.

(3) The clerk of the circuit court recording the declaration may, for his or her convenience, file the exhibits of a declaration which contains graphic descriptions of improvements in a separate book, and shall indicate the place of filing upon the margin of the record of the declaration.

(4)(a) If the declaration does not have the certificate or the survey or graphic description of the improvements required under s. 718.104(4)(e), the developer shall deliver therewith to the clerk an estimate, signed by a surveyor authorized to practice in this state, of the cost of a final survey or graphic description providing the certificate prescribed by s. 718.104(4)(e), and shall deposit with the clerk the sum of money specified in the estimate.

(b) The clerk shall hold the money until an amendment to the declaration is recorded that complies with the certificate requirements of s. 718.104(4)(e). At that time, the clerk shall pay to the person presenting the amendment to the declaration the sum of money deposited, without making any charge for holding the sum, receiving it, or paying out, other than the fees required for recording the condominium documents.

(c) If the sum of money held by the clerk has not been paid to the developer or association as provided in paragraph (b) by 3 years after the date the declaration was originally recorded, the clerk in his or her discretion may notify, in writing, the registered agent of the association that the sum is still available and the purpose for which it was deposited. If the association does not record the certificate within 90 days after the clerk has given the notice, the clerk may disburse the money to the developer. If the developer cannot be located, the clerk shall disburse the money to the Division of Florida Land Sales, Condominiums, and Mobile Homes for deposit in the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund.

(5) When a declaration of condominium is recorded pursuant to this section, a certificate or receipted bill shall be filed with the clerk of the circuit court in the county where the property is located showing that all taxes due and owing on the property have been paid in full as of the date of recordation.



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**History.**--s. 1, ch. 76-222; s. 1, ch. 77-174; s. 8, ch. 78-340; s. 3, ch. 90-151; s. 852, ch. 97-102; s. 1, ch. 99-350.

**713.901 Florida Uniform Federal Lien Registration Act.--**

(1) **SHORT TITLE.**--This section may be cited as the "Florida Uniform Federal Lien Registration Act."

(2) **SCOPE.**--This section applies only to federal tax liens and to other federal liens, notices of which, under any act of Congress or any regulation adopted pursuant thereto, are required or permitted to be filed in the same manner as notices of federal tax liens.

(3) **PLACE OF FILING.**--

(a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens, notices of which, under any act of Congress or any regulation adopted pursuant thereto, are required or permitted to be filed in the same manner as notices of federal tax liens, must be filed in accordance with this section.

(b) Notices of liens upon real property for obligations payable to the United States, and certificates and notices affecting the liens, shall be filed in the office of the clerk of the circuit court of the county in which the real property subject to the liens is situated. If by law the county recorder and custodian of the official records of a county is other than the clerk of the circuit court, a reference in this section to the clerk of the circuit court shall be deemed to be the county recorder so designated by law.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States, and certificates and notices affecting the liens, shall be filed as follows:

1. If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State.

2. If the person against whose interest the lien applies is a trust that is not covered by subparagraph 1., in the office of the Secretary of State.

3. If the person against whose interest the lien applies is the estate of a decedent, in the office of the Secretary of State.

4. In all other cases, in the office of the clerk of the circuit court of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

(4) **EXECUTION OF NOTICES AND CERTIFICATES.**--Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his or her delegate, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed, and no other attestation, certification, or acknowledgment is necessary.

(5) **DUTIES OF FILING OFFICER.**--

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in paragraph (b) is presented to a filing officer who is:

1. The Secretary of State or his or her designee, the filing officer shall cause the notice to be marked, held, and indexed in accordance with the provisions of ss. 55.202 and 55.203.

2. Any other officer described in subsection (3), the filing officer shall mark and index the notice or certificate in the same manner as other instruments filed for recording in the official records.

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(b) If a certificate of release, nonattachment, discharge, or subordination of any lien, or if a refiled notice of federal lien, is presented to the Secretary of State for filing, he or she shall:

1. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files.
2. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.
3. Cause a refiled notice of federal lien to be marked, held, and indexed as if the refiled notice were a continuation statement within the meaning of the Uniform Commercial Code.

(6) FEES.--

(a) The charges or fees of the Secretary of State, with respect to a notice or certificate filed under this section, or for searching records with respect thereto, are:

1. For filing a notice of lien, which fee shall include the cost of filing a certificate of release or nonstatement for said notice of lien, \$25.
2. For indexing of each additional debtor or secured party, \$3.
3. For each additional facing page attached to a notice or certificate, \$3.
4. For use of a nonapproved form, \$5.
5. For filing a certificate of discharge or subordination, \$12.
6. For filing a refiled notice of federal lien, \$12.
7. For filing any other document required or permitted to be filed under this act, \$12.
8. For certifying any record, \$10.

(b) The charges or fees of the clerks of the circuit court with respect to a notice or certificate filed under this section shall be the same as prescribed in s. 28.24, relating to instruments recorded in the official records.

(7) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among the states enacting it and to permit a filing officer, including the Secretary of State, who is now using a paper filing system to record notices of liens, certificates, and other notices affecting federal tax liens or other federal liens to use a filing system consisting of paper or an electronic or magnetic medium, or some combination thereof, as he or she considers appropriate, and to permit federal officials to file notices of liens upon real or personal property for obligations payable to the United States, and certificates and notices affecting those liens, under the filing system being maintained by the Secretary of State or the filing officer.

**History.**--s. 1, ch. 92-25; s. 837, ch. 97-102; s. 17, ch. 2001-154; s. 31, ch. 2007-134

## Chapter 721 Vacation and Timeshare Plans

### **721.16 Liens for overdue assessments; liens for labor performed on, or materials furnished to, a timeshare unit.--**

(1) The managing entity has a lien on a timeshare interest for any assessment levied against that timeshare interest from the date such assessment becomes due. The managing entity also has a lien on a timeshare interest of any purchaser for the cost of any maintenance, repairs, or replacement resulting from an act of such purchaser or purchaser's guest that results in damage to the timeshare property or facilities made available to the purchasers.

(2) The managing entity may bring an action in its name to foreclose a lien under subsection (1) in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

(3) The lien is effective from the date of recording a claim of lien in the public records of the county or counties in which the accommodations and facilities constituting the timeshare plan are located. The claim of lien shall state the name of the timeshare plan and identify the timeshare interest for which the lien is effective, state the name of the purchaser, state the assessment amount due, and state the due dates. Notwithstanding any provision of s. 718.116(5)(a) or s. 719.108(4) to the contrary, the lien is effective until satisfied or until 5 years have expired after the date the claim of lien is recorded unless, within that time, an action to enforce the lien is commenced pursuant to subsection (2). A claim of lien for assessments may include only assessments which are due when the claim is recorded. A claim of lien shall be signed and acknowledged by an officer or agent of the managing entity. Upon full payment, the person making the payment is entitled to receive a satisfaction of the lien.

(4) A judgment in any action or suit brought under this section shall include costs and reasonable attorney's fees for the prevailing party.

(5) Labor performed on a timeshare unit, or materials furnished to a timeshare unit, shall not be the basis for the filing of a lien pursuant to part I of chapter 713, the Construction Lien Law, against the timeshare unit of any timeshare-period owner not expressly consenting to or requesting the labor or materials.

(6) This section shall not apply to personal property timeshare plans.

**History.--**s. 1, ch. 81-172; s. 53, ch. 85-62; s. 4, ch. 88-403; s. 27, ch. 90-109; s. 26, ch. 90-151; s. 23, ch. 2000-302; s. 15, ch. 2004-279.

### **721.97 Timeshare commissioner of deeds.--**

(1) The Governor may appoint commissioners of deeds to take acknowledgments, proofs of execution, or oaths in any foreign country, in international waters, or in any possession, territory, or commonwealth of the United States outside the 50 states. The term of office is 4 years. Commissioners of deeds shall have authority to take acknowledgments, proofs of execution, and oaths in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other writing to be used or recorded in connection with a timeshare estate, personal property timeshare interest, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state; provided such instrument or writing is executed outside the United States. Such acknowledgments, proofs of execution, and oaths must be taken or made in the manner directed by the laws of this state, including but not limited to s. 117.05(4), (5)(a), and (6), Florida Statutes 1997, and certified by a commissioner of deeds. The

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certification must be endorsed on or annexed to the instrument or writing aforesaid and has the same effect as if made or taken by a notary public licensed in this state.

(2) Any person seeking to be appointed a commissioner of deeds must take and subscribe to an oath, before a notary public in this state or any other state, or a person authorized to take oaths in another country, to well and faithfully execute and perform the duties of such commissioner of deeds. The oath must be filed with the Department of State prior to the person being commissioned.

(3) Official acts performed by any previously appointed commissioners of deeds, between May 30, 1997, and the effective date of this part, are declared valid as though such official acts were performed in accordance with and under the authority of this part.

**History.**--s. 14, ch. 98-36; s. 18, ch. 98-322; s. 32, ch. 2004-279; s. 13, ch. 2007-75.

## Appendix E

### PRIA STANDARDS AND GUIDELINES

The most current version of the following PRIA standards and guidelines may be found at: [www.pria.us](http://www.pria.us).

#### Technical Standards

- PRIA Document Version 2.4.1 or higher (XML)  
([https://maxvps029.maximumasp.com/V029U14MFC/PRIA/xmldocuments/FinalDocs2006/September/PRIA\\_DOCUMENT\\_v2\\_4\\_1.zm9](https://maxvps029.maximumasp.com/V029U14MFC/PRIA/xmldocuments/FinalDocs2006/September/PRIA_DOCUMENT_v2_4_1.zm9))
- PRIA Notary Version 2.4.1 or higher (XML)  
([https://maxvps029.maximumasp.com/V029U14MFC/PRIA/xmldocuments/FinalDocs2006/September/PRIA\\_NOTARY\\_v2\\_4\\_1.zm9](https://maxvps029.maximumasp.com/V029U14MFC/PRIA/xmldocuments/FinalDocs2006/September/PRIA_NOTARY_v2_4_1.zm9))
- PRIA Request Version 2.4.1 or higher (XML)  
([https://maxvps029.maximumasp.com/V029U14MFC/PRIA/xmldocuments/FinalDocs2006/PRIA\\_REQUEST\\_2\\_4\\_1.zip](https://maxvps029.maximumasp.com/V029U14MFC/PRIA/xmldocuments/FinalDocs2006/PRIA_REQUEST_2_4_1.zip))
- PRIA Response Version 2.4.1 or higher (XML)  
([https://maxvps029.maximumasp.com/V029U14MFC/PRIA/xmldocuments/FinalDocs2006/PRIA\\_RESPONSE\\_2\\_4\\_1.zip](https://maxvps029.maximumasp.com/V029U14MFC/PRIA/xmldocuments/FinalDocs2006/PRIA_RESPONSE_2_4_1.zip))

#### Guidelines

- PRIA URPERA Enactment and eRecording Standards Implementation Guide  
([http://www.pria.us/uniformelectronicrecording/PRIAURPERAGuide3\\_1\\_05\\_Cert.pdf](http://www.pria.us/uniformelectronicrecording/PRIAURPERAGuide3_1_05_Cert.pdf))
- PRIA eRecording XML Implementation Guide (Technical iGuide)  
([https://maxvps029.maximumasp.com/V029U14MFC/PRIA/Papers/iGuide/PRIATEchnical\\_iGuide\\_10\\_2006.zip](https://maxvps029.maximumasp.com/V029U14MFC/PRIA/Papers/iGuide/PRIATEchnical_iGuide_10_2006.zip))

## **Appendix F**

### **ELECTRONIC RECORDS RETENTION AND PRESERVATION GUIDELINES**

The Florida Department of State Division of Library and Information Services Bureau of Archives and Records Management has published Electronic Records and Records Management Practices, first created in 1996, updated and printed in March 2006. All County Recorders who decide to participate in eRecording shall have reviewed and taken steps to comply with this document. The document can be obtained at:

<http://dlis.dos.state.fl.us/barm/handbooks/electronic.pdf>

**Appendix G**

**FLORIDA DEPARTMENT OF REVENUE FORM DR-219**

As of the date of issuance of this report, there has been no statutory or administrative change to the requirement to present, at the time of recording, Form DR-219 with any document transferring an interest in real property. The form may be obtained at:

<http://dor.myflorida.com/dor/forms/2001/DR219.pdf>

## **Appendix H**

### **MODEL COUNTY RECORDER BUSINESS RULES**

The following Business Rules are included as a model form, and are not intended to be a complete or final document. Each County Recorder that offers electronic recording of documents will need to revise and/or modify these model Business Rules to describe specific login parameters, transmission protocols, and other technical and legal requirements; however, each set of Business Rules published by a County Recorder shall contain the following mandatory elements:

- 1) A section setting forth technical specifications
- 2) A section setting forth document and indexing specifications
- 3) A section defining hours of operations and processing schedules
- 4) A section describing how eRecording documents will be processed in accordance with F.S. 695.11 and F.S. 28.222
- 5) A section setting forth payment requirements and/or options
- 6) A section setting forth termination terms
- 7) A section setting forth document rejection practices
- 8) A statement that any amendments and/or alterations to the Business Rules will be published with adequate notice before taking effect

The Business Rules may be in electronic or hard copy format and may appear on a portal or County Recorder's website. Any amendments or modifications to the published Business Rules can be made by the County Recorder with at least 15 days notice. The parties' electronic acknowledgement of acceptance of the terms of the Business Rules is acceptable.



**FLORIDA COUNTY RECORDER  
ELECTRONIC RECORDING  
BUSINESS RULES**

As County Recorder for \_\_\_\_\_ County, it is my intent to accept electronically transmitted and received documents for recording into \_\_\_\_\_ County's Official Records. What follows are the Business Rules which I have established to comply with the rules prescribed by the Department of State and recommended by the Florida Electronic Recording Advisory Committee.

Signed:

Dated:

These Business Rules will stay in effect until notice is given of a pending change. I will generally provide at least 15 days notice of any changes.

**1. Electronic Recording:**

eRecording is defined based on the level of automation and structure of the transaction. I have decided to accept Model 1, Model 2, and Model 3 transmissions.

**2. Program Eligibility:**

eRecording requires a close working relationship as well as mutual trust between my office and the submitting entity. All parties to the eRecording transaction desire to operate and maintain a secure recording system that safeguards parties to recordation from deceit, fraud and forgery. These Business Rules outline the procedures and practices for the trusted relationship between my office and all submitters. Participation in the eRecording program is voluntary and the decision to do so is a business judgment.

**3. County Requirements:**

The eRecording Program of \_\_\_\_\_ County is defined by the requirements included in these Business Rules.

Attachment A provides the technical specifications including format, models of eRecording supported, transmission protocols, and security requirements of the electronic records. All eRecording participants must agree to provide transmissions following the specifications outlined.

Attachment B contains the document and indexing specifications for the eRecording program. For each document type, the expected document code is provided, along with the expected indexing information.

Attachment C contains the processing schedules and hours of operation for the eRecording Program.

Attachment D provides the eRecording payment requirements.

#### **4. eRecording Submitter Responsibilities:**

eRecording submitters are expected to abide by Florida law. eRecording allows submitters to prepare, sign and/or transmit documents and business records in electronic formats. The electronically transmitted documents will be considered the “original” record of the transaction in substitution for, and with the same intended effect as, paper documents and, in the case that such documents bear a digital or electronic signature, paper documents bearing handwritten signatures.

eRecording submitters are expected to be diligent in ensuring that documents submitted for eRecording have been checked before submission for errors, omissions, scanning defects, illegible areas, and other deficiencies that would affect the County Recorder’s ability to record the document and the public notice to be created thereby.

eRecording submitters and/or its employees attest to the accuracy and completeness of the electronic records and acknowledge responsibility for the content of the documents. Should a dispute or legal action arise concerning an electronic transaction, the County Recorder will be held harmless and not liable for any damages.

eRecording submitters are responsible for the costs of the system or services provided by a third party that enables them to meet the requirements of this program.

eRecording submitters will immediately notify the County Recorder of any security incident, including but not limited to attempts to or actual unauthorized access to its pathway, which could compromise or otherwise adversely affect the County Recorder’s data systems.

eRecording submitters will work to insure that all security measures and credentials implemented are protected. Documents are to be authenticated and transmitted without modification. eRecording submitters are expected to maintain an audit trail of all activity, available to the County Recorder, at its request, to resolve issues or investigate potential fraudulent activity. The audit trail must contain, at a minimum, submitter ID, submitted content at point of receipt from Company, submitted content as at point of delivery to County Recorder, dates and times submitted, size, and checksum.

eRecording submitters are responsible for coordinating all technical problems and issues through the County Recorder.

### **5. County Recorder Responsibilities:**

County Recorder will attempt to protect the integrity of the recording process through ongoing monitoring of documents received and recorded through eRecording means.

County Recorder will test and maintain eRecording software and hardware required to operate the eRecording capability. County Recorder, however, shall be held harmless and not liable for any damages resulting from software or equipment failure and assumes no contractual liability for any damages whatsoever via any part of this document.

County Recorder will apply the same level of diligence in handling documents submitted electronically as those submitted through the normal manual process.

### **6. General Understandings:**

The County Recorder will not incur any liability for the information electronically transmitted by eRecording submitters, including but not limited to any breach of security, fraud or deceit.

The County Recorder and eRecording submitters will attempt in good faith to resolve any controversy or claim arising out of or relating to eRecording through negotiation prior to initiating litigation.

The County Recorder may terminate any eRecording submitter's authorization to eRecord for any reason.

Documents may be rejected in accordance with Florida law, including, but not limited to the following reasons: document errors, failure to pay the filing or other fees due, the document is not a type the County Recorder is authorized to accept for recording, or the document fails to meet any other applicable legal requirement.

Any amendments or modifications to these Business Rules will generally be noticed providing at least 15 days notice prior to the change.

### **7. Personally Identifying Information:**

The eRecording submitter agrees that all personally identifying information which is considered privileged and confidential under Florida law contained within the documents will not be released by the eRecording submitter to any individual or other legal entity who would not otherwise have access to such information.

**8. Termination:**

The County Recorder may cease eRecording at any time for any reason as long as 15 days notice is provided.

The person executing this acknowledgement is presumed by the County Recorder to be authorized to do so, on behalf of the submitter.

**Agreed and Accepted**

By \_\_\_\_\_ (eRecording Submitter)

Name \_\_\_\_\_

Date \_\_\_\_\_

## **Attachment A**

### **Technical Specifications**

#### **Accepted Models for Electronic Recording**

Models 1, 2 and 3 will be accepted.

The three models of automation are as follows:

Model 1: Submitting organizations transmit scanned images of original ink signed documents to the County Recorder. The County Recorder completes the recording process in the same way as paper using the imaged copy as the source document. Once the County Recorder accepts the documents for recording, the scanned image is “burned” with the recording information, including recording date and time as well as the unique recording reference number, such as instrument number. Indexing is performed by the indexing staff of the County Recorder’s office, as with paper documents. A copy of the recorded images is returned to the submitter, together with the recording endorsement data.

Model 2: Submitting organizations transmit scanned images of ink signed documents or an electronic document electronically signed and notarized, along with data necessary for processing, indexing, and returning the document, to the County Recorder. The County Recorder performs an electronic examination of the imaged document and indexing data, and then completes the recording process using the imaged copy and electronic indexing information. The electronic version of the recorded document is returned to the submitter, together with the recording endorsement data.

Model 3: Submitting organizations transmit documents which have been created, signed and notarized electronically containing the electronic indexing information, or SMART™ documents which are a single object containing the electronic version of the document in such a way that enables the electronic extraction of data from the object. SMART™ documents are required to be signed and notarized electronically. Electronic signatures must comply with the Florida Uniform Electronic Transaction Act (UETA). The County Recorder performs an electronic examination of the electronic documents and indexing information, then completes the recording process using the electronic documents. Images of electronic and SMART™ documents are made, and returned to the submitting organization, along with recording endorsement data.

#### **Format of the Transmitted File**

Property Records Industry Association (PRIA)/Mortgage Industry Standards Maintenance Organization (MISMO) file format standards will be used. The file format shall be TIFF or PDF, and must be so specified.

**Communications Protocol and Options**

Transmission Control Protocol/Internet Protocol (TCP/IP), HTTP and HTTPS will be used.

**Security Framework**

Encryption will be a minimum 128 bit file and image encryption. Secure Socket Layer (SSL) and user login/password will be employed. User passwords are controlled by the Submitter and should be monitored/or changed periodically to ensure security. Computers on which documents originate must have all critical operating system patches applied, must have a firewall (hardware or software) installed, and must have up to date virus scan software.

**Returned File Format**

Property Records Industry Association (PRIA)/Mortgage Industry Standards Maintenance Organization (MISMO) file format standard will be used. Documents will be returned in the file format (TIFF or PDF) specified by the submitter.

**Electronic Signatures and Use of Digital Certificates**

The use of Electronic Signatures and Digital Certificates will need to adhere to the guidelines set out in any applicable Florida Statutes and Florida Department of State administrative rules.

**Imaging Standards**

Documents will be scanned at a minimum of 300 dpi. Documents will be scanned in portrait mode. Document images will be captured in single page (or specify multi page) storage format. Scanned documents will be legible and reproducible – including signatures and notary seals. Document details, such as margins, font size, and other similar requirements, must meet all applicable state or local standards. Documents must be scanned to original size.

## **Attachment B**

### **Documents and Indexing Specifications**

#### **Eligible Document Types**

All document types recorded in a paper-based world are acceptable for eRecording. (Be sure to name any exceptions, such as mortgages exempt from taxes. Further, it may be helpful to attach a table to show document types and anticipated indexing data.)

#### **County Specific Document Type Coding**

Please refer to PRIA Web site ([www.pria.us](http://www.pria.us)) for the Logical Data Dictionary, which lists all the “Document Types.” It is the County Recorder’s intention to not reject documents based on “incorrect or non-County specific” document types. The County will correct the document type as part of the acceptance process.

#### **Indexing Fields for each Document Code**

See the attached table. (Be sure to indicate your intentions regarding incomplete or inaccurate indexing data. Will your staff correct/change the indexing data or reject the document?)

#### **Document Imaging Quality Control Standards**

The xhtml document must display in W3C (World Wide Web Consortium) Standards.

#### **Notary Requirements per Document**

It is the responsibility of the eRecording submitter to confirm that notary signatures and seals are present on all documents that require them. Notarial seals are not required although the data contained on a notarial stamp is required. All electronic notary signatures must adhere to F.S. 117.021 for electronic notaries.

#### **Eligible Document Batches**

Document batches will be submitted by a standard naming convention as specified by the County Recorder. The maximum size of electronic document batches will be determined by the County Recorder.

## **Attachment C**

### **Service Offering**

#### **Hours of Operation**

Documents may be submitted at any time during the week. Documents will only be processed between 8:00 a.m. and 5:00 p.m. on those days that the County Recording Office is open to the public for business. Documents will not be processed on county holidays, weekends, declared emergencies, etc. or in the event of network or equipment failure. County Recorder will attempt to notify eRecording submitters of any disruption in service.

#### **Processing Schedules**

Document batches must be received by (specify a time) local time to be recorded or rejected on the date received.

#### **Alternative Delivery Options**

There are no other electronic delivery options at this time.

#### **Return Options**

Submitted documents that are accepted for recording will be made available to the eRecording submitter in electronic format after recording. Submitted documents that are rejected will be made available to the eRecording submitter in electronic format after rejection, along with a description of the reason(s) for rejection.

#### **Service Help Contact Information**

The following County Recorder staff members (minimum of two) are identified as the primary points of contact for the eRecording submitter:

Name  
Email  
Phone number

Name  
Email  
Phone number



## **Attachment D**

### **Payment Options**

*(Be sure to state what payment options you will accept, and provide any necessary authorization forms.)*

#### **Sample language for ACH Debit**

It is my decision to accept Automated Clearing House (ACH) Debit transactions as the payment method for an eRecording transaction. The eRecording submitter must sign an authorization form, allowing Automated Clearing House (ACH) transactions against the account being used to process fees for documents submitted. It is the eRecording submitter's responsibility to inform the County Recorder of any changes that may effect an ACH transaction at least 10 days before the change. The County Recorder may terminate the eRecording submitter's authorization for failure to report changes in ACH, or for unavailability of funds. The eRecording submitter will not be able to access the eRecording system if applications have been accepted and the fees have not been collected.

#### **Sample language for Escrow Payments**

It is my decision to accept escrow payments for eRecording transactions. Towards that end, an eRecording Submitter must keep a minimum of \$100 on account in the County Recorder's office in order to proceed with eRecording. The eRecording Submitter may check at [www.website.fl.us](http://www.website.fl.us) at any time during normal business hours to determine if additional funds need to be forwarded to the County Recorder's Office.

## Appendix I

### FREQUENTLY ASKED QUESTIONS

- 1) **What are the minimum hardware requirements to implement eRecording?**
- 2) **What other requirements would there be?**
- 3) **What document types can be electronically recorded?**
- 4) **Which model eRecordings may Recorders accept?**
- 5) **What is a SMART Doc™?**
- 6) **Why are standards important?**
- 7) **What are the three proven methods of delivery in eRecording?**
- 8) **How does the size of a county affect its ability to participate in eRecording?**
- 9) **What is the relationship between URPERA, UETA and E-SIGN?**
- 10) **What are the implications if the Department of State adopts standards that are not aligned with the standards adopted by other states?**
- 11) **What types of output are generated by an Electronic Recording Committee for recommendation to the Department of State?**
- 12) **Will the private industry solely drive the standards based on early adopters and the information they have already accumulated or will it be a collaborative effort by the early adopters from across the nation or state in both the private and public sectors?**
- 13) **What are significant national standards that guide eRecording today?**
- 14) **What is MISMO's relevance in eRecording?**
- 15) **What is PRIA's relevance in eRecording?**
- 16) **How much security is needed in eRecording?**
- 17) **What are the differences and benefits of digital signatures and digital certificates in eRecording?**
- 18) **Are digital signatures and electronic signatures the same?**
- 19) **What is the difference between a digital signature and a digitized signature?**
- 20) **Are Recorders responsible for authenticating a digital or electronic signature contained within the body of an electronic document submitted for recording?**
- 21) **What kinds of electronic signatures should be used? For which signatures?**
- 22) **How are electronic and paper documents meshed together?**
- 23) **Do current indexing standards also apply to electronic documents?**
- 24) **How can costs be reduced and controlled?**
- 25) **Are there more fraud concerns with electronic recording?**
- 26) **Can I use a sound as my signature?**
- 27) **How are recording fees paid?**
- 28) **If a Florida Department of Revenue DR-219 is required, how is that handled in an electronic recording?**
- 29) **Can a County Recorder accept a document transmitted by facsimile for eRecording?**
- 30) **Will all Florida counties accept electronic recording?**

## **Answers**

### **1. What are the minimum hardware requirements to implement eRecording?**

At a minimum, a County Recorder would need to have a server with enough disk space to enable a web services program. This program could typically be developed and provided by a vendor or portal solution at little or no cost to the county. The method in which eRecording is implemented is under the sole control of the County Recorder.

### **2. What other requirements would there be?**

The County Recorder would also need to have access to the Internet and have a web browser such as Internet Explorer, which is usually already included in the computer's packaged software when the unit was purchased.

### **3. What document types may be electronically recorded?**

All document types lend themselves to electronic recording. Plats or maps filed electronically may require special handling, due to size. The County Recorder may specify the types of documents it will accept.

### **4. Which model eRecordings may Recorders accept?**

County Recorders may accept documents using all three PRIA models for eRecording.

### **5. What is a SMART Doc™?**

A SMART Doc™ is found only on Model 3 transactions. It gets its name from the fact that a human doesn't need to view or handle it for it to be recorded. SMART Docs™ contain all of the necessary information to create index entries and to electronically create a document that can be recorded. This is accomplished by virtue of the submitter organizing and labeling the data payload in a standard format that the County Recorder also subscribes to.

### **6. Why are standards important?**

Standards are important because they allow various parties to communicate and understand each other in a predefined manner. Without standards there would be constant interpreting and deciphering of information. In the eRecording world standards allow each party to organize and submit data to the other in a universal manner, without having to employ the use of custom integration points, and in order to facilitate interstate communication. Standards enable eRecording submitters to utilize one type of document preparation software to submit documents all over the

United States, thus making eRecording economically feasible.

**7. What are the three proven methods of delivery in eRecording?**

The three methods are point-to point-integration, third party vendor, and a portal. In the beginning when eRecording was a new concept, the third party vendor method was popular due to the lack of document preparation software available at the submitter's site.

As eRecording's popularity caught on submitters sometimes found it beneficial to eliminate the costs of a third party vendor and develop a point-to-point integration directly with the county. This was typically true with larger counties where greater recording volumes are common.

Inherent with many submitters trying to send to many counties and not wanting to develop unique integration and data schemes for each, the concept of a portal was born. The portal was designed to be a central clearinghouse for submitters and counties. As proven, a submitter can deliver various documents intended for several different counties nationwide to the portal. The portal has the ability to verify that specific county index standards have been met and then deliver each document to the specific county for which it is intended.

**8. How does the size of a county affect its ability to participate in eRecording?**

Since there are many methods in which to participate, a county's size has little bearing on its ability to implement eRecording. A small county that has Internet access could use a web services program to receive and return documents. A medium or large county that has more volume could use a vendor solution or agree to a point-to-point integration directly with the submitter. A portal could be used with any size county since the portal doesn't care or factor in the size of a county to perform its functionality, or to deliver and return recorded documents from that county.

**9. What is the relationship among URPERA, UETA and E-SIGN?**

E-SIGN and UETA are federal and uniform state laws, respectively, enacted to enable electronic commerce. While E-SIGN covers some additional issues, they are complementary acts. They are similar in their application to electronic documents and electronic signatures based on voluntary agreement between parties. Both are self-implementing. Between them they remove barriers on both interstate and intrastate levels. E-SIGN explicitly preempts certain state laws that do not conform to E-SIGN even where a state enacts UETA.

URPERA is a follow up act to UETA with the purpose of clarifying ancillary

recording issues. It also establishes a method for adopting standards on a statewide basis that has the potential for implementing uniform standards nationally.

**10. What are the implications if the Department of State adopts standards that are not aligned with the standards adopted by other states?**

Since mortgage lending and title insurance have become national businesses that are utilized by citizens, this is a significant question. Adopting multiple standards that are not aligned will result in higher costs for both document submitters and county recorders. Computer systems for mortgage lenders, attorneys, settlement agents, title insurance companies and county recorders will have to be designed to accommodate multiple sets of standards. Each different set will need to be mapped to the MISMO and PRIA standards used by the industry. Even then, with incompatible specifications, mapping may be inadequate. Without nationally-utilized standards, eRecording will never gain the necessary traction to be successful.

Current national standards are driven by the private sector needs of interoperability among trading partners. PRIA standards reuse industry (MISMO) architecture, structure and data points. Likewise, MISMO reuses PRIA standards for those pieces unique to recording.

**11. What types of output are generated by an Electronic Recording Advisory Committee for recommendation to the Department of State?**

Document deliverables can be in two forms. One is to generate the standards, even if adopting from sources such as PRIA, in the format of XML Document Type Definitions (DTDs) or schema, data dictionaries, implementation guides, etc. The other is to issue compiled references to adopted specifications, citing the source and location of the specifications adopted.

**12. Will the private industry solely drive the standards based on early adopters and the information they have already accumulated or will it be a collaborative effort by the early adopters from across the nation or state in both the private and public sectors?**

The latter. Standards development has already been a collaborative effort, both by trading partners in the private sector and county recorders. However, the collaboration includes more than early adopters. A number of large entities have participated in the standards process even though they have not yet implemented electronic transaction solutions.

**13. What are significant national standards that guide eRecording today?**

PRIA eRecording; PRIA Notary; MISMO Closing, Servicing, Origination, Request and Response envelopes, eMortgage SMART Doc™, eMortgage eRegistry, eMortgage ePackage; PDF, TIFF; XML.

**14. What is MISMO's relevance in eRecording?**

MISMO is the primary standards setting body for the financial services organizations where the lending process begins and whose work efforts result in recordable documents. Their standards will be used by those organizations to create documents and share data. Since this group includes those who create the vast majority of documents to be recorded, their standards will be a major factor in documents processed by county recorders. MISMO and PRIA work closely together, with critical input from Recorders.

**15. What is PRIA's relevance in eRecording?**

PRIA is a public/private cooperative entity with both recorders and submitters among its members. Its mission is to create and maintain standards. Four technical standards have been developed specific to electronic recording by PRIA. Two are envelopes for submitting and returning recordings. A third is the specification for the document information. The final specification is for notarial information included in notarial certificates and incorporates notary signatures and commission information.

The PRIA technical specifications were developed in close coordination with the private sector (MISMO) to ensure the interoperability of the technical standards. In fact, PRIA reuses a number of the data elements developed by MISMO and as well as the MISMO architecture. In turn, MISMO has adopted the PRIA data elements specific to recording for incorporation into its data dictionary and technical specifications.

Ultimately, widespread adoption of a standard will facilitate electronic commerce in the real estate finance industry. Neither the private nor the public sector can afford applications that accommodate different interfaces with each different trading partner or customer. PRIA offers a universal interface for recorders that submitters can rely on.

**16. How much security is needed in eRecording?**

Security is a matter of quality, rather than quantity. The quality must be sufficient to protect the assets to the degree that it covers the risk inherent in the process. Once completed the documents will be public record, so protection against prying

eyes is not a high priority. On the other hand, documents must be secure from interception that results in their being delayed or not delivered, from substitution by different documents, or from alteration. And because recordings include payment of fees and taxes, the payment system must be secured.

Recorders need to prevent viruses, worms, Trojan horses and other malicious software from infecting their networks and systems. They also need to ensure unauthorized parties do not gain access to the parts of their networks that are not authorized to be accessed by the public.

It is not the County Recorder's responsibility to ensure the accuracy or legality of the documents themselves, except insofar as they qualify to be recorded. Security for that lies outside the scope of recording.

**17. What are the differences and benefits of digital signatures and digital certificates in eRecording?**

Digital signatures enable both the recorders and the submitters to determine whether a document or set of documents was altered so they can decide whether or not to continue the process or rely on the resulting recording. While digital signatures require signers to use a key they control to complete the signature, the resulting signatures do not identify the signers in the same manner that a signature on a paper document is identifiable.

Digital certificates can provide a model of certainty that the signers are who they claim to be, thus providing a degree of trust. From a security aspect this can be an important tool insofar as the recorders can use it to decide who to accept documents from. Conversely, submitters or other parties can determine that particular recordings are authentic when documents are returned from the recorder's office with endorsement of recording information.

**18. Are digital signatures and electronic signatures the same?**

Yes and no. A digital signature is a kind of electronic signature. Not all electronic signatures are digital signatures in the same way not all pens are fountain pens.

**19. What is the difference between a digital signature and a digitized signature?**

Digital signature: A complex string of electronic data that contains encoded information about a document and the person who signed it. Because they use powerful asymmetric encryption technology, digital signatures are the most secure type of electronic signature.

Digitized signature: A scanned image of a person's handwritten signature,

which is captured using special digitizing hardware and stored as a computer file.

**20. Are Recorders responsible for authenticating a digital or electronic signature contained within the body of an electronic document submitted for recording?**

No, it is not the responsibility of the County Recorder to determine that electronic signatures, even of Notaries, embedded in the body of an electronic document are valid or authentic. County Recorders do not have the responsibility to authenticate the signatures on original paper documents, either.

**21. What kinds of electronic signatures should be used? For which signatures?**

This is a matter of agreement between parties, except as to government entities that may have the authority to establish performance standards for signatures under certain circumstances. Even so, government entities need to exercise caution that one technology is not given a higher legal standing than others. E-SIGN claims preemption in such cases.

**22. How are electronic and paper documents meshed together?**

The concept of “meshing” electronic and paper documents together does not really exist. Once the electronic document is received into the County Recorder’s system, the process of calculating fees, assigning time, book & page, instrument numbers is the same as for paper documents.

Depending on the model of the electronic document, the image may be transported automatically into the County Recorder system for public retrieval along side the paper document that was scanned by County Recorder staff.

**23. Do current indexing standards also apply to electronic documents?**

County Recorders have the same responsibility for indexing documents received electronically as paper documents received in person, by US mail, and by express methods.

**24. How can costs be reduced and controlled?**

One option being studied is the establishment of a “portal” that would accept documents submitted electronically from ANY system and transmit those documents to the appropriate County Recorder’s office, no matter what vendor they use for their back end system. This concept would eliminate the need for specific software between a submitter and each recorder with whom they file. Different versions of the “portal” concept are being used in various states, some more



successfully than others. Shared portals work well for smaller counties unable or not desirous of funding independent reception software.

**25. Are there more fraud concerns with electronic recording?**

There is less chance of a document being altered at the recording counter or on its way to County Recorder's offices than might exist during the prior activities which occurred in the attorney's or title offices. Traditionally, County Recorders have accepted documents from anonymous submitters. If fraud exists, there has been little way to identify the person(s) recording fraudulent documents. eRecording happens between Trusted Business Partners, enabling the County Recorder to quickly and accurately identify the source of documents. Moreover, intentional fraud is a moral issue and will not be controlled by recording statutes or methods.

**26. Can I use a sound as my signature?**

URPERA authorizes the use of many types of electronic signatures. A County Recorder's Business Rules will detail what technology is supported by that county. A Recorder cannot be required to adopt specific software to interpret sounds used as signatures.

**27. How are recording fees paid?**

Fees are to be collected according to statute and in a manner consistent with the promotion of electronic recording, and in accordance with accepted industry standards. Each county recorder may collect electronic recording fees in a manner compatible with its internal software and county financial practices. The County Recorder's published Business Rules will detail payment of fees.

**28. If a Florida Department of Revenue form DR-219 is required, how is that handled in an electronic recording?**

There is an electronic version of the form. See Appendix G for details.

**29. Can a County Recorder accept a document transmitted by facsimile for eRecording?**

No, although a facsimile is an electronic document, it does not include the requisite transactional and organizational security standards to be accepted for eRecording.

**30. Will all Florida counties accept electronic recording?**

No, s. 695.27, F.S., provides that implementation of electronic recording is optional county by county.