

**SENATE, No. 1027**

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**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

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INTRODUCED JANUARY 28, 2008

**Sponsored by:**

**Senator RONALD L. RICE**

**District 28 (Essex)**

**Co-Sponsored by:**

**Senator Beck**

**SYNOPSIS**

Revises law relating to title recordation.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/4/2008)**

1    **AN ACT** concerning title recordation and revising various parts of  
2       the statutory law.

3  
4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5       *of New Jersey:*

6  
7       1. Three additional chapters, chapters 26A, 26B, 26C are added  
8       to Title 46 of the Revised Statutes as follows:

9  
10                                   TITLE 46  
11                                   CHAPTER 26A  
12                                   RECORDING

13  
14       46:26A-1. Definitions: document and recorded.

15       For the purpose of this chapter:

16       a. "Document" includes both:

17       (1) paper documents, and

18       (2) electronic documents, documents created, communicated or  
19       stored by electronic means;

20       b. A document is "recorded" if:

21       (1) the document or its image has been placed in the permanent  
22       records of the recording office, and

23       (2) the document has been indexed as provided by this chapter.

24       Source: New  
25

26       46:26A-2. Documents that may be recorded.

27       Documents affecting real property entitled to recording are:

28       a. deeds or other conveyances, releases, or declarations of trust  
29       of any interest;

30       b. powers of attorney for conveyance or release of any interest;

31       c. leases, or memoranda of leases, for life or a term not less than  
32       two years;

33       d. mortgages or other conveyances in the nature of a mortgage;

34       e. liens or encumbrances and releases of liens or encumbrances  
35       on any interest;

36       f. assignments, discharges, cancellations, or releases;

37       g. options and rights of first refusal;

38       h. certified copies of judgments, decrees and orders of courts of  
39       record;

40       i. reports of condemnation commissioners filed with the  
41       Superior Court; declarations of taking duly executed by executive  
42       officials of condemnors in accordance with section 17 of P.L.1971,  
43       c.361 (C.20:3-17);

44       j. notices of federal tax liens, liens arising from the federal  
45       "Comprehensive Environmental Response, Compensation and  
46       Liability Act of 1980," Pub.L.96-510 (42 U.S.C.9601 et seq.), and  
47       other federal liens, which any Act of Congress or regulation  
48       adopted pursuant to it provides for filing of notice in the recording

- 1 office designated by a state, and certificates discharging such liens;
- 2 k. restrictions affecting the real property or its use;
- 3 l. notices of settlement as provided by this chapter;
- 4 m. maps as provided by this chapter;
- 5 n. condominium master deeds and unit deeds as defined by law;
- 6 o. cooperative master declarations and proprietary leases as
- 7 defined by law;
- 8 p. any other document that affects title to any interest in real
- 9 property in any way or contains any agreement in relation to real
- 10 property, or grants any right or interest in real property or grants
- 11 any lien on real property; and
- 12 q. any other document relating to real property that is directed to
- 13 be recorded by any statute or court order.

14 Source: 46:16-1.

15

16 46:26A-3. Prerequisites for recording.

17 a. A document satisfies the prerequisites for recording if it

18 appears from the document or the image of it delivered to the

19 recording office that:

20 (1) the document is in English or accompanied by a translation

21 into English;

22 (2) the document bears a signature;

23 (3) the document (including a corrected document submitted for

24 re-recording) is acknowledged or proved as provided by Title 46 of

25 the Revised Statutes;

26 (4) the names are printed beneath all signatures that appear on

27 the document;

28 (5) if the document is a deed conveying title to real property, it

29 (a) fulfills the requirements of P.L.1968, c.49, s.2 (C.46:15-6),

30 (b) includes a reference to the lot and block number of the real

31 property conveyed as designated on the tax map of the municipality

32 at the time of the conveyance or the account number of the real

33 property,

34 (c) includes the name of the person who prepared the deed, and

35 (d) includes the mailing address of the grantee. If the real

36 property has been subdivided, the reference shall be preceded by the

37 words "part of." If no lot and block or account number has been

38 assigned to the real property, the deed shall state that fact, and

39 (6) if the document is an assignment, release or satisfaction of a

40 mortgage or an agreement respecting a mortgage, it states the book

41 and page number or the document identifying number of the

42 mortgage to which it relates if the mortgage has been given such a

43 number.

44 b. A document, whether made by an individual, corporation or

45 other entity, is not required to be executed under seal, or to contain

46 words referring to execution under seal.

47 Source: 46:15-1.1; 46:18-1.

1       46:26A-4. Exceptions to prerequisites to recording.

2       Notwithstanding the prerequisites to recording in section 26A-3,  
3 the following may be recorded:

4       a. documents that establish or evidence a trust under which a  
5 fiduciary has acquired real property if accompanied by an affidavit  
6 of the fiduciary that the document is an original trust document;

7       b. ancient documents that cannot be acknowledged or proved  
8 because of the death or other disability of the grantors and  
9 subscribing witnesses, accompanied by an affidavit made by a  
10 person claiming to derive title from the document stating that the  
11 affiant truly believes that quiet, continuous, adverse and  
12 undisturbed possession of the real property has been enjoyed by  
13 virtue of the document for the period applicable for adverse  
14 possession;

15       c. documents other than those listed in section 26A-2 that by  
16 their nature cannot be acknowledged or proved, accompanied by an  
17 affidavit made by a person claiming to derive title to the real  
18 property stating that the document is genuine and how the document  
19 relates to title to the real property;

20       d. notices of federal tax liens, liens arising from the federal  
21 "Comprehensive Environmental Response, Compensation and  
22 Liability Act of 1980," Pub.L.96-510 (42 U.S.C. 9601 et seq.), and  
23 other federal liens, which any Act of Congress or regulation  
24 adopted pursuant to it provides for filing of notice in the recording  
25 office designated by a state, and certificates discharging such liens;

26       e. maps as provided by P.L. , c. (C. ) (pending before the  
27 Legislature as this bill);

28       f. notices of settlement executed by an attorney at law or  
29 authorized representative of a party in accordance with  
30 P.L. , c. (C. ) (pending before the Legislature as this bill);

31       g. certified copies of:

32       (1) judgments, decrees, or orders of any court of record and  
33 petitions filed in a United States Bankruptcy Court;

34       (2) government issued documents affecting title to real property,  
35 including declarations of takings duly executed by executive  
36 officials of condemnors in accordance with section 17 of P.L.1971,  
37 c.361, (C.20:3-17);

38       (3) documents recorded or filed in any public recording office in  
39 the United States;

40       h. a recorded mortgage bearing an endorsement:

41       (1) authorizing cancellation of the mortgage signed by the  
42 mortgage holder; and

43       (2) made on the original mortgage that bears on it the receipt  
44 given by the county recording officer at the time it was recorded;  
45 and

46       i. any other document that is permitted by another statute to be  
47 recorded or filed without acknowledgment.

48       Source: 46:16-1.1; 46:16-4.1; 46:16-4.2; 46:16-4.3; 46:16-5.1;

1 46:16-7; 46:16-9; 46:16-10; 46:16-13; 46:16-14; 46:16-15; 46:16-  
2 17.

3

4 46:26A-5. Form of documents and maps; cover sheet or  
5 electronic synopsis.

6 a. To be accepted for recording, a document or its image shall be  
7 either:

8 (1) legibly printed on paper no larger than 8½ inches by 14  
9 inches; or

10 (2) in compliance with regulations on the form of documents  
11 promulgated by the Division of Archives and Records Management  
12 in the Department of State.

13 b. A document or its image accepted for recording may be  
14 accompanied by a cover sheet or an electronic synopsis separate  
15 from the document or integrated with the document. The Division  
16 of Archives and Records Management in the Department of State  
17 shall establish forms for cover sheets and formats for electronic  
18 synopses. The form for a separate cover sheet shall be available at  
19 every recording office and on a web site maintained by the Division  
20 of Archives and Records Management. The cover sheet or  
21 electronic synopsis shall include:

22 (1) the nature of the document;

23 (2) the date of the document;

24 (3) the names of the parties to the document and any other  
25 names by which the document is to be indexed;

26 (4) if the document is a deed conveying title to real property:

27 (i) the lot and block number or other real property tax  
28 designation of the real property conveyed or a statement that the  
29 information is not available;

30 (ii) the consideration for the conveyance;

31 (iii) the mailing address of the grantee; and

32 (5) if the document is an assignment, release or satisfaction of a  
33 mortgage or an agreement respecting a mortgage, it states the book  
34 and page number or the document identifying number of the  
35 mortgage to which it relates if the mortgage has been given such a  
36 number.

37 c. If the person submitting the document for recording does not  
38 include a cover sheet or electronic synopsis, the recording office  
39 shall charge an additional fee of \$20 for the additional cost of  
40 indexing.

41 d. To be accepted for recording, a map shall be clearly and  
42 legibly drawn in black ink on translucent tracing cloth, translucent  
43 mylars at least 4 mils thick or its equivalent, of good quality, with  
44 signatures in ink, or as an equivalent reproduction on photographic  
45 fixed line mylar 4 mils thick with signatures in black ink or its  
46 equivalent and accompanied by a cloth print or photographic fixed  
47 line mylar 4 mils thick duplicate; and one of six standard sizes: 8  
48 1/2" x 13", 30" x 42", 24" x 36", 11" x 17", 18" x 24" or 15" x 21"

1 as measured from cutting edges. If one sheet is not of sufficient  
2 size to contain the entire territory, the map may be divided into  
3 sections to be shown on separate sheets of equal sizes, with  
4 references on each sheet to the adjoining sheets.

5 e. The regulations of the Division of Archives and Records  
6 Management specifying the form of documents shall comply with  
7 rules, standards and procedures authorized by the State Records  
8 Committee pursuant to its authority under section 6 of P.L.1994,  
9 c.140 (C.47:1-12) and the "Destruction of Public Records Law  
10 (1953)," P.L.1953, c.410 (C.47:3-15 et seq.).

11 f. A county recording office shall not be required to accept for  
12 recording a cover sheet or electronic synopsis pursuant to  
13 subsections (b) and (c) of this section until five years after the  
14 effective date of P.L. , c. (C. ) (pending before the Legislature  
15 as this bill). This provision shall not operate to prevent or preclude  
16 any county recording officer from adopting the use of the document  
17 summary form or electronic synopsis prior to that date.

18 Source: New; 46:19-3; 46:23-9.11.

19  
20 46:26A-6. Duty to record; recording officer's books, methods.

21 a. The county recording officer shall record any document or  
22 map affecting the title to real property located in the county,  
23 delivered for recording, provided the document:

24 (1) is in the form required by P.L. , c. (C. ) (pending  
25 before the Legislature as this bill),

26 (2) appears to comply with requirements for recording specified  
27 in P.L. , c. (C. ) (pending before the Legislature as this bill),  
28 and

29 (3) is accompanied by payment of any required fee and any state  
30 tax, if applicable, except that a State agency shall be afforded an  
31 opportunity to pay on a periodic basis on an account established  
32 with the county recording officer.

33 b. Every document or map shall be recorded and indexed not  
34 later than two business days after its receipt.

35 c. A document or map that is rejected shall be returned to the  
36 person who delivered it for recording with a statement of all  
37 grounds for its rejection within three business days after its receipt.

38 d. When a document is recorded, a book and page number or  
39 other permanent, unique document identifying number shall be  
40 assigned to the document.

41 e. Recording shall be done by a method that:

42 (1) produces a clear, accurate and permanent image of a  
43 document,

44 (2) allows the document to be found by use of the indexes  
45 maintained, and

46 (3) is authorized by R.S.47:1-5 and is in conformance with  
47 rules, standards and procedures promulgated by the Division of  
48 Archives and Records Management in the Department of State and

1 approved by the State Records Committee pursuant to its authority  
2 under section 6 of P.L.1994, c.140 (C.47:1-12) and the "Destruction  
3 of Public Records Law (1953)," P.L.1953, c.410 (C.47:3-15 et seq.).

4 f. For documents recorded before the effective date of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill),  
6 the recording office shall:

7 (1) retain the documents or clear, accurate and permanent  
8 images of the documents, and

9 (2) maintain indexes that allow the documents to be found.

10 g. The Division of Archives and Records Management and the  
11 State Records Committee shall consult with the Office of  
12 Telecommunications and Information Systems in the Department of  
13 the Treasury in the development of general technical standards for  
14 record keeping. Notwithstanding any general technical standards  
15 developed pursuant to this section, the State Records Committee  
16 may adopt rules and regulations to authorize pilot programs for  
17 various individual counties in order to evaluate alternative  
18 technologies for the preservation of records.

19 h. When a discharge, assignment, extension or postponement of  
20 a mortgage is recorded, the recording officer may make a marginal  
21 notation on the mortgage affected indicating the book and page  
22 number or document identifying number of the discharge,  
23 assignment, extension or postponement.

24 Source: 46:19-1; 46:19-3; 46:8D-4.

25

26 46:26A-7. Receipts for documents presented for record.

27 Upon request, the county recording officer shall:

28 a. furnish a receipt for the document and fees paid; and

29 b. return a copy of the document with the date and time it was  
30 received for recording, the fee paid, and the book and page number  
31 or other permanent, unique document identifying number assigned  
32 to the document. If the copy returned is a paper document, the  
33 information shall be endorsed on the document. If the copy  
34 returned is an electronic document, then the receipt shall be sent  
35 electronically.

36 Source: 46:19-4; 46:19-5.

37

38 46:26A-8. Indexes; entries.

39 a. The county recording officer shall maintain one index of all  
40 recorded documents and may make other separate, classified,  
41 analytical or combination indexes.

42 b. A deed or other conveyance shall be indexed by the names of  
43 its grantors and grantees, and also shall be indexed by the name of:

44 (1) the testator or intestate if a deed or other conveyance is made  
45 by executors or administrators;

46 (2) the person granting the power of attorney if a deed is made  
47 under power of attorney;

48 (3) the defendants in the execution for which the sale was made

1 if a deed is made by a sheriff; and

2 (4) the person whose property has been conveyed if a deed is  
3 made by a person appointed to convey property by a court.

4 c. A mortgage shall be indexed by the names of the mortgagors  
5 and mortgagees.

6 d. An assignment, extension, postponement, modification or  
7 discharge of a mortgage shall be indexed by the names of the  
8 mortgagors, assignors and assignees.

9 e. A trust instrument shall be indexed by the names of the  
10 parties to the instrument and in the names of beneficiaries if they  
11 appear.

12 f. Any other document shall be indexed by the names of the  
13 parties to it.

14 g. A document shall also be indexed by additional names  
15 requested by the person submitting the document for recording if an  
16 affidavit is presented at the time the document is presented for  
17 recording attesting to the need for indexing the document by the  
18 additional names supplied.

19 h. A document shall be indexed from the information supplied  
20 on its cover sheet or electronic synopsis if one is submitted. A  
21 recording officer shall not be liable for differences between the  
22 cover sheet or electronic synopsis and the document.

23 i. If a law requires a notation be placed on or in the margin of  
24 any recorded or filed document, the statutory requirement for  
25 marginal notations shall be satisfied by recording and indexing the  
26 document.

27 Source: 46:20-1; 46:20-3; 46:20-5; 46:19-2.

28

29 46:26A-9. Sequence of recording.

30 The county recording officer shall record and index documents  
31 in the order received. If two documents affecting the same property  
32 are submitted for recording by the same person and are received at  
33 the same time, the county recording officer shall record and index  
34 the documents in the order requested by the person who submitted  
35 them.

36 Source: New; 46:19-3; 46:20-2.

37

38 46:26A-10. Documents filed as provided by other statutes.

39 When a statute outside of this chapter provides that a document  
40 relating to real property be filed rather than recorded:

41 a. requirements for the form and content of the document shall  
42 be those established by the statute outside of this chapter;

43 b. the document shall be recorded with all other documents  
44 affecting real property using the method established by section  
45 26A-6(e) of this chapter; and

46 c. the document shall be indexed with all other documents  
47 affecting real property as provided by section 26A-8 of this chapter.

48 Source: New.



1       46:26A-11. Notices of settlement.

2       a. A party to a settlement which will convey an interest in real

3 property, a mortgage on real property, or both, or the authorized

4 representative of a party or a licensed title insurance producer, may

5 execute a document titled "notice of settlement" and record it in the

6 county recording office of the county in which the real property is

7 located. The county recording officer may charge a fee not to

8 exceed the fee charged for the recording of notices of federal tax

9 liens.

10      b. The notice of settlement shall be signed by a party to the

11 settlement or a party's authorized representative and shall state the

12 names of the parties to the settlement and a description of the real

13 property. If the notice is executed by anyone other than an attorney

14 at law of this State, the execution shall be acknowledged or proved

15 in the manner of acknowledgment or proof of deeds.

16      c. A notice of settlement shall be in substantially the following

17 form:

18

19       Name .....)

20       Address .....)

21       (Seller or Mortgagor)                       NOTICE OF SETTLEMENT

22

23       Name .....)

24       Address .....)

25       (Purchaser or Mortgagee)

26

27       NOTICE is hereby given of a .....(contract,

28 agreement or mortgage commitment) between the parties.

29       THE lands to be affected are described as follows:

30       Premises in the ..... of ....., (municipality) County of .....

31 and   State   of   New   Jersey,   commonly   known   as

32 ..... (street address) and more particularly

33 described as follows:

34       (legal description)

35

36       Name of party or authorized representative .....

37       Address .....

38       (acknowledgment)

39      d. A notice of settlement shall be effective for 60 days from the

40 date of recording, unless it is terminated by the recording of a

41 "discharge of notice of settlement." The effective period of a notice

42 of settlement may be extended for one period of 60 days by

43 recording an additional notice of settlement before the expiration or

44 discharge of the notice of settlement.

45      e. A discharge of notice of settlement shall be substantially in

46 the form prescribed for a notice of settlement and shall be recorded

47 by the party or authorized representative who recorded the notice of

48 settlement. The recording officer shall record and index each

1 discharge in the same fashion as a notice of settlement.

2 f. Any person who claims an interest in or lien on the real  
3 property described in the notice of settlement arising during the  
4 time that a notice of settlement is effective shall be deemed to have  
5 acquired the interest or lien with knowledge of the anticipated  
6 settlement and shall be subject to the estate or interest created by  
7 the deed or mortgage described in the notice of settlement provided  
8 the deed or mortgage is recorded within the time that the notice is  
9 effective.

10 Source: 46:16A-1 through 46:16A-5.

11

12 46:26A-12. Effect of recording.

13 a. Any recorded document affecting the title to real property is,  
14 from the time of recording, notice to all subsequent purchasers,  
15 mortgagees and judgment creditors of the execution of the  
16 document recorded and its contents.

17 b. A claim under a recorded document affecting the title to real  
18 property shall not be subject to the effect of a document that was  
19 later recorded or was not recorded unless the claimant was on notice  
20 of the later recorded or unrecorded document.

21 c. A deed or other conveyance of an interest in real property  
22 shall be of no effect against subsequent judgment creditors without  
23 notice, and against subsequent bona fide purchasers and mortgagees  
24 for valuable consideration without notice and whose conveyance or  
25 mortgage is recorded, unless that conveyance is evidenced by a  
26 document that is first recorded.

27 Source: 46:21-1; 46:22-1.

28

## 29 CHAPTER 26B

### 30 MAPS

31

32 46:26B-1. Definitions.

33 As used in P.L. , c. (C. ) (pending before the Legislature as  
34 this bill):

35 "Condominium plan" means a survey of the condominium  
36 property in sufficient detail to identify the location and dimensions  
37 of units and common elements, which shall be filed in accordance  
38 with the requirements of section 3 of P.L.1960, c.141 (C.46:23-  
39 9.11). A condominium plan shall bear a certification by a land  
40 surveyor, professional engineer or architect authorized to practice in  
41 this State that the plan is a correct representation of the  
42 improvements described.

43 "Entire tract" means all of the property that is being subdivided  
44 including lands remaining after subdivision.

45 "General property parcel map" means a right of way parcel map  
46 showing a group of parcel and easement acquisitions for part of a  
47 highway or street project.

48 "Land Surveyor" means a person who is legally authorized to

1 practice land surveying in this State as provided by P.L.1938, c.342  
2 (C.45:8-27 et seq.).

3 "Map" includes a map, plat, condominium plan, right of way  
4 parcel maps of the State, county or municipality, chart, or survey of  
5 lands presented for approval to a proper authority or presented for  
6 filing as provided by P.L. , c. (C. ) (pending before the  
7 Legislature as this bill), but does not include a map, plat or sketch  
8 required to be filed or recorded under the provisions of P.L.1957,  
9 c.130 (C.48:3-17.2) or a subdivision plat for a subdivision that was  
10 granted final approval by a municipal approving authority on or  
11 prior to July 1, 1999.

12 "Municipal Engineer" means the official licensed professional  
13 engineer appointed by the proper authority of the municipality in  
14 which the territory shown on a map is located.

15 "Professional Engineer" means a person who is legally  
16 authorized to practice professional engineering in this State as  
17 provided by P.L.1938, c.342 (C.45:8-27 et seq.).

18 "Proper authority" means the chief legislative body of a  
19 municipality or other agencies to which the authority for approval  
20 of maps has been designated by ordinance.

21 "Right of way parcel map" means any general property parcel  
22 map which shows highways or street acquisitions and any  
23 associated easements for highway or street rights of way.

24 Source: 46:23-9.10.

25

26 46:26B-2. Requirements for approval or filing of a map.

27 a. A map shall not be approved by a proper authority unless it  
28 meets the requirements of this section specified for the kind of map  
29 involved. The following kinds of maps shall meet the following  
30 requirements:

31 (1) Major subdivision plats shall meet all of the requirements of  
32 this section.

33 (2) Right of way parcel maps shall meet the requirements of  
34 subsections b. (1), (2), (4), (5), (6), (7), (11) of this section.

35 (3) Minor subdivision maps shall meet all of the requirements of  
36 this section except for the outside tract line monuments requirement  
37 of subsection b. (8).

38 (4) Condominium plans shall meet the requirements of  
39 subsections b. (1), (4), (5), (6), (7) and (11).

40 b. No map requiring approval by law or that is to be approved for  
41 filing with a county, shall be approved by the proper authority  
42 unless it conforms to the following requirements:

43 (1) A map shall show the scale, which shall be inches to feet and  
44 be large enough to contain legibly written data on the dimensions,  
45 bearings and all other details of the boundaries, and it shall also  
46 show the graphic scale.

47 (2) A map shall show the dimensions, square footage of each lot  
48 to the nearest square foot or nearest one hundredth of an acre.

1   Bearings and curve data shall include the radius, delta angle, length  
2   of arc, chord distance and chord bearing sufficient to enable the  
3   definite location of all lines and boundaries shown, including public  
4   easements and areas dedicated for public use. Non-tangent curves  
5   and non-radial lines shall be labeled. Right of way parcel maps shall  
6   show bearings, distances and curve data for the right of way or the  
7   center line or base line and ties to right of way lines if from a base  
8   line.

9       (3) Where lots are shown thereon, those in each block shall be  
10   numbered consecutively. Block and lot designations shall conform  
11   with the municipal tax map if municipal regulations so require. In  
12   counties which adopt the local or block system of indices pursuant  
13   to sections 46:24-1 to 46:24-22 of the Revised Statutes, the map  
14   shall show the block boundaries and designations established by the  
15   board of commissioners of land records for the territory shown on  
16   the map.

17       (4) The reference meridian used for bearings on the map shall be  
18   shown graphically. The coordinate base, either assumed or based on  
19   the New Jersey Plane Coordinate System, shall be shown on the  
20   plat.

21       (5) All municipal boundary lines crossing or adjacent to the  
22   territory shall be shown and designated.

23       (6) All natural and artificial watercourses, streams, shorelines  
24   and water boundaries and encroachment lines shall be shown. On  
25   right of way parcel maps all easements that affect the right of way,  
26   including slope easements and drainage, shall be shown and  
27   dimensioned.

28       (7) All permanent easements, including sight right easements and  
29   utility easements, shall be shown and dimensioned.

30       (8) The map shall clearly show all monumentation required by  
31   this chapter, including monuments found, monuments set, and  
32   monuments to be set. An indication shall be made where  
33   monumentation found has been reset. For purposes of this  
34   subsection "found corners" shall be considered monuments. A  
35   minimum of three corners distributed around the tract shall indicate  
36   the coordinate values. The outbound corner markers shall be set  
37   pursuant to regulations promulgated by the State Board of  
38   Professional Engineers and Land Surveyors.

39       (9) The map shall show as a chart on the plat any other technical  
40   design controls required by local ordinances, including minimum  
41   street widths, minimum lot areas and minimum yard dimensions.

42       (10) The map shall show the name of the subdivision, the name  
43   of the last property owners, the municipality and county.

44       (11) The map shall show the date of the survey and shall be in  
45   accordance with the minimum survey detail requirements of the  
46   State Board of Professional Engineers and Land Surveyors.

47       (12) A certificate of a land surveyor or surveyors, shall be  
48   endorsed on the map as follows:

1 I certify that to the best of my knowledge and belief this map and  
2 land survey dated ..... meet the minimum  
3 survey detail requirements of the State Board of Professional  
4 Engineers and Land Surveyors and the map has been made under  
5 my supervision, and complies with the "map filing law" and that the  
6 outbound corner markers as shown have been found, or set.  
7 (Include the following, if applicable)  
8 I further certify that the monuments as designated and shown have  
9 been set.

10  
11 .....  
12 Licensed Professional Land Surveyor and No.  
13 (Affix Seal)

14 (13) If the land surveyor who prepares the map is different from  
15 the land surveyor who prepared the outbound survey, the following  
16 two certificates shall be added in lieu of the certificate above.

17 (a) I certify to the best of my knowledge information and belief  
18 that this land survey dated ..... has been made under my  
19 supervision and meets the minimum survey detail requirements of  
20 the State Board of Professional Engineers and Land Surveyors and  
21 that the outbound corner markers as shown have been found, or set

22  
23 .....  
24 Licensed Professional Land Surveyor and No.  
25 (Affix seal)

26 (b) I certify that this map has been made under my supervision  
27 and complies with the "map filing law."  
28 (Including the following if applicable)

29 I further certify that the monuments as designated and shown have  
30 been set.

31  
32 .....  
33 Licensed Professional Land Surveyor and No.  
34 (Affix seal)

35 (c) If monuments are to be set at a later date, the following  
36 requirements and endorsement shall be shown on the map.  
37 The monuments shown on this map shall be set within the time limit  
38 provided in the "Municipal Land Use Law," P.L.1975, c.291  
39 (C.40:55D-1 et seq.) or local ordinance.

40 I certify that a bond has been given to the municipality,  
41 guaranteeing the future setting of the monuments as designated and  
42 shown on this map.

43  
44 .....  
45 Municipal Clerk

46 (d) If the map is a right of way parcel map the project surveyor  
47 need only to certify that the monuments have been set or will be set.

48 (14) A certificate of the municipal engineer shall be endorsed on

1 the map as follows:

2 I have carefully examined this map and to the best of my knowledge  
3 and belief find it conforms with the provisions of "the map filing  
4 law," resolution of approval and applicable municipal ordinances  
5 and requirements.

6

7 .....

8 Municipal Engineer (Affix Seal)

9 (15) An affidavit setting forth the names and addresses of all the  
10 record title owners of the lands subdivided by the map and written  
11 consent to the approval of the map of all those owners shall be  
12 submitted to the proper authority with the map.

13 (16) If the map shows highways, streets, lanes or alleys, a  
14 certificate shall be endorsed on it by the municipal clerk that the  
15 municipal body has approved the highways, streets, lanes or alleys,  
16 except where such map is prepared and presented for filing by the  
17 State of New Jersey or any of its agencies. The map shall show all  
18 of the street names as approved by the municipality.

19 Source: 46:23-9.11.

20

21 46:26B-3. Monumentation.

22 a. A map shall not be approved by a proper authority unless it  
23 meets the monumentation requirements of this section specified for  
24 the kind of map involved. The following kinds of maps shall meet  
25 the following requirements:

26 (1) Subdivision plats shall meet all of the requirements of this  
27 section.

28 (2) Right of way parcel maps shall meet the requirements of  
29 subsection b. (9) of this section.

30 b. Monuments are required on one side of the right of way only  
31 and shall be of metal detectable durable material at least 30 inches  
32 long. The top and bottom shall be a minimum of 4 inches square; if  
33 concrete, however, it may be made of other durable metal detectable  
34 material specifically designed to be permanent, as approved by the  
35 State Board of Professional Engineers and Land Surveyors. All  
36 monuments shall include the identification of the professional land  
37 surveyor or firm. They shall be firmly set in the ground so as to be  
38 visible at the following control points; provided that in lieu of  
39 installation of the monuments, the municipality may accept bond  
40 with sufficient surety in form and amount to be determined by the  
41 governing body, conditioned upon the proper installation of the  
42 monuments on the completion of the grading of the streets and  
43 roads shown on the map.

44 (1) At each intersection of the outside boundary of the whole  
45 tract, with the right-of-way line of any side of an existing street.

46 (2) At the intersection of the outside boundary of the whole tract  
47 with the right-of-way line on one side of a street being established  
48 by the map under consideration.

1 (3) At one corner formed by the intersection of the right-of-way  
2 lines of any two streets at a T-type intersection.

3 (4) At any two corners formed by the right-of-way lines of any  
4 two streets in an "X" or "Y" type intersection.

5 (5) If the right-of-way lines of two streets are connected by a  
6 curve at an intersection, monuments shall be as stipulated in (3) and  
7 (4) of this subsection at one of the following control points:

8 (a) The point of intersection of the prolongation of said lines,

9 (b) The point of curvature of the connecting curve,

10 (c) The point of tangency of the connecting curve,

11 (d) At the beginning and ending of all tangents on one side of  
12 any street, or

13 (e) At the point of compound curvature or point of reversed  
14 curvature where either curve has a radius equal to or greater than  
15 100 feet. Complete curve data as indicated in subsection d. of this  
16 section shall be shown on the map, or

17 (f) At intermediate points in the sidelines of a street between two  
18 adjacent street intersections in cases where the street deflects from a  
19 straight line or the line of sight between the adjacent intersections is  
20 obscured by a summit or other obstructions which are impractical to  
21 remove. This requirement may necessitate the setting of additional  
22 monuments at points not mentioned above. Bearings and distances  
23 between the monuments or coordinate values shall be indicated.

24 (6) In cases where it is impossible to set a monument at any of  
25 the above designated points, a nearby reference monument shall be  
26 set and its relation to the designated point shall be clearly  
27 designated on the map; or the plate on the reference monument shall  
28 be stamped with the word "offset" and its relation to the monument  
29 shown on the filed map.

30 (7) In areas where permanency of monuments may be better  
31 insured by off-setting the monuments from the property line, the  
32 municipal engineer may authorize such procedure; provided, that  
33 proper instrument sights may be obtained and complete off-set data  
34 is recorded on the map.

35 (8) By the filing of a map in accordance with the provisions of  
36 "the map filing law," reasonable survey access to the monuments is  
37 granted, which shall not restrict in any way the use of the property  
38 by the landowner.

39 (9) On right of way parcel maps, the monuments shall be set at  
40 the points of curvature, points of tangency, points of reverse  
41 curvature and points of compound curvature or the control base line  
42 or center line, if used, and be intervisible with a second monument.

43 (10) On minor subdivisions a monument shall be set at each  
44 intersection of an outside boundary of the newly created lot or lots  
45 with the right of way line of any side of an existing street.

46 Source: 46:23-9.11(r).

47

48 46:26B-4. Approval of maps.

1       a. The proper authority shall approve or disapprove a map within  
2 45 days from its receipt.

3       b. The approval of a map under this law by the proper authority  
4 shall not be construed as acceptance of any street or highway  
5 indicated on the map; nor shall approval obligate the State of New  
6 Jersey or any county or municipality, to maintain or exercise  
7 jurisdiction over those streets or highways.

8 Source: 46:23-9.12; 46:23-9.13.

9

10       46:26B-5. Additional prerequisites to filing.

11       The county recording officer shall not accept for filing any map,  
12 with the exception of a right-of-way parcel map, unless it has  
13 endorsed on it a certificate by the municipal clerk or secretary of  
14 the planning board stating:

15       a. That the proper authority has approved the map or stating its  
16 exemption from approval;

17       b. That the map complies with the provisions of this law; and

18       c. The date by which the map is required to be filed by the  
19 applicable law.

20 Source: 46:23-9.14.

21

22       46:26B-6. Filing and indexing of maps, fee.

23       a. The county recording officer shall file a map if an original and  
24 a copy of the map are presented for filing, the map complies with  
25 all the requirements for filing and is accompanied with the fees for  
26 filing and indexing that are provided by law. No fee shall be  
27 charged when the map is presented by the State of New Jersey, or  
28 any of its agencies.

29       b. The original map and a duplicate shall be endorsed by the  
30 recording office with a receipt indicating the date of filing.

31       c. The original map shall be retained by the recording office in  
32 an appropriate manner for preservation and use for reproduction  
33 purposes.

34       d. Copies of filed maps shall be made available to the public at a  
35 reasonable cost.

36 Source: 46:23-9.15.

37

38       46:26B-7. Duplicates of maps in cities having atlases or block  
39 maps.

40       Whenever a map is filed in the office of the county recording  
41 officer of land in a municipality that has an atlas, or block map, on  
42 which is plotted the lots or subdivision of lots of lands, the person  
43 filing the map shall file a duplicate of the map, and the recording  
44 officer shall indorse on the duplicate the time of recording and  
45 filing of the original and deliver the duplicate to the officer of the  
46 city having charge of the atlas or block map.

47       This section shall have no application to maps filed by  
48 commissioners appointed to assess benefits derived from the



1 construction of sewers, drains or other municipal improvements.

2 Source: 46:23-10.

3  
4 46:26B-8. Approval and filing of duplicates of filed maps.

5 Whenever a map has been filed in the office of the county  
6 recording officer, and copies of it have been made that differ from  
7 the original only in title or style, and there have been made  
8 conveyances or liens, under which the lands intended to be  
9 conveyed or liened have been described by reference to the unfiled  
10 copy, the governing body of the municipality in which the land is  
11 located, by resolution, may approve the copy for filing in the  
12 manner prescribed by law. This approval and filing shall not  
13 constitute a dedication of the streets or lot locations as therein  
14 delineated and shall be merely for the identification of the lands  
15 conveyed or liened.

16 Source: 46:23-11.

17  
18  
19 CHAPTER 26C  
20 GENERAL AND TRANSITIONAL  
21

22 46:26C-1. Regulations.

23 a. The Division of Archives and Records Management in the  
24 Department of State in consultation with the County Clerks and  
25 Registers of Deeds and Mortgages shall adopt regulations to  
26 establish format and technical requirements for recorded documents  
27 to foster state-wide uniformity in title recordation and otherwise to  
28 implement P.L. , c. (C. ) (pending before the Legislature as  
29 this bill).

30 b. Regulations shall be adopted within 12 months after the  
31 effective date of P.L. , c. (C. ) (pending before the Legislature  
32 as this bill).

33 Source: New.

34  
35 46:26C-2. "Uniform Electronic Transactions Act" superseded.

36 The provisions of P.L. , c. (C. ) (pending before the  
37 Legislature as this bill) shall take precedence over any conflicting  
38 provisions contained in sections 17 and 18 of the "Uniform  
39 Electronic Transactions Act," P.L.2001, c.116 (C.12A:12-17 and  
40 12A:12-18).

41 The provisions of P.L. , c. (C. ) (pending before the  
42 Legislature as this bill) shall modify, limit and supersede the federal  
43 Electronic Signatures in Global and National Commerce Act (15  
44 U.S.C. Section 7001, et seq.) but shall not modify, limit or  
45 supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or  
46 authorize electronic delivery of any of the notices described in  
47 Section 103(b) of that act (15 U.S.C. Section 7003(b)).

48 Source: New.

1       46:26C-3 Review of Document Filing and Recording Fees.

2       a. Within two years of the effective date of P.L. , c. (C. )  
3 (pending before the Legislature as this bill), the Division of  
4 Archives and Records Management in the Department of State and  
5 the Department of the Treasury shall adopt rules and regulations  
6 requiring county clerks and registers of deeds and mortgages to  
7 report the number of documents recorded or filed and all document  
8 filing and recording fees that are collected by their offices,  
9 categorized by document type, to the division and to the  
10 department. The rules and regulations shall develop and implement  
11 a standard form and procedure for county clerks and registers of  
12 deeds and mortgages to utilize and follow in order to report the  
13 number of each type of document and the document filing and  
14 recording fees collected by their offices in order to enable the  
15 division and the department to prepare the reports required pursuant  
16 to this section. The standard form and procedure shall also identify  
17 the filing and recording fees delivered to the State Treasurer for  
18 deposit in the “New Jersey Public Records Preservation Account,”  
19 established pursuant to section 39 of P.L. 2003, c.117 (C.22A:4-  
20 4.2).

21       b. Within three years of the effective date of P.L. , c. (C. )  
22 (pending before the Legislature as this bill), the Division of  
23 Archives and Records Management in the Department of State and  
24 the Department of the Treasury shall issue an interim report,  
25 displaying in a clear and concise manner, the information reported  
26 pursuant to subsection a. of this section, up to that point in time.  
27 The report shall specify, for each county, the time frame covered by  
28 the report, the number of documents recorded or filed categorized  
29 by document type and shall display the corresponding gross  
30 recording fee received by the clerk or register (before distribution  
31 or allocation to any dedicated fund) for each document type.

32       c. Within four years of the effective date of P.L. , c. (C. )  
33 (pending before the Legislature as this bill), the Division of  
34 Archives and Records Management in the Department of State and  
35 the Department of the Treasury shall issue a final report displaying  
36 in a clear and concise manner, the information reported pursuant to  
37 subsection a. of this section, up to that point in time. The report  
38 shall specify, for each county, the time frame covered by the report,  
39 the number of documents recorded or filed categorized by document  
40 type and shall display the corresponding gross recording fee  
41 received by the clerk or register (before distribution or allocation to  
42 any dedicated fund) for each document type. The report shall also  
43 specify an average state-wide fee for the filing or recording of each  
44 type of document based upon the information reported by the clerks  
45 and registers pursuant to this section. The report may contain  
46 recommendations of the division and the department to the  
47 Legislature for the establishment of standard per document filing  
48 and recording fees.

1 d. A copy of the interim report required pursuant to subsection  
2 b. of this section and the final report, required pursuant to  
3 subsection c. of this section, shall be delivered to each member of  
4 the legislature, to each county clerk and register of deeds and  
5 mortgages and shall be made available to members of the general  
6 public by posting an electronic copy on the official web site for the  
7 State of New Jersey.

8 e. Five years after the date of adoption of P.L. , c. (C. )  
9 (pending before the Legislature as this bill), the Legislature shall  
10 consider the establishment of standard per document filing or  
11 recording fees for each type of document which is filed or recorded  
12 with a county recording officer. Standard per document filing and  
13 recording fees shall be set so that the per document fee is no less  
14 than the average fee for the filing or recording of the document as  
15 set forth in the final report required to be issued pursuant to  
16 subsection c. of this section. Any amendments to section 38 and 39  
17 P.L.2003, c.117 (C.22A:4-4.1 and 22A:4-4.2) for the purpose of  
18 establishing standard per document filing or recording fees shall not  
19 reduce the amount of revenue required to be deposited in the “New  
20 Jersey Public Records Preservation Account” or for the local  
21 government records management grant program related thereto  
22 pursuant to the provisions of section 39 of P.L.2003, c.117  
23 (C.22A:4-4.2).

24 Source: New

25  
26 2. The following are repealed:

27 R.S.46:15-1.1;

28 R.S.46:16-1;

29 Section 1 of chapter 170 of the laws of 1939 (C.46:16-1.1);

30 R.S.46:16-2;

31 R.S.46:16-3;

32 R.S.46:16-4;

33 Sections 1 through 3 of P.L.1941, c.389 (C.46:16-4.1 through  
34 46:16-4.3)

35 R.S.46:16-5;

36 P.L.1943, c.147, s.1 (C.46:16-5.1);

37 R.S.46:16-6 through R.S.46:16-14;

38 Sections 1 through 5 of P.L.1979, c.406 (C.46:16A-1 through  
39 46:16A-5);

40 R.S.46:17-1 through R.S.46:17-4;

41 R.S.46:18-1 through R.S.46:18-4;

42 R.S.46:18-5.1;

43 R.S.46:18-12;

44 R.S.46:19-1 through R.S.46:19-6;

45 R.S.46:20-1 through R.S.46:20-5;

46 R.S.46:21-1 through R.S.46:21-4;

47 R.S.46:22-1 through R.S.46:22-4;

48 Sections 7 and 8 of P.L.1953, c.358 (C.46:23-9.7 and 46:23-9.8);

1 Sections 1 through 8 of P.L.1960, c.141 (C.46:23-9.9 through  
2 46:23-9.16);

3 Section 3 of P.L.1998, c.23 (C. 46:9-18);

4 R.S.46:23-10 and R.S.46:23-11.

5

6 3. This act shall take effect on the first day of the fourth month  
7 next following the date of enactment.

8

9

#### 10 STATEMENT

11

12 This bill, based upon the New Jersey Law Revision Commission  
13 November 2003 Final Report relating to Title Recordation, would  
14 revise the statutes pertaining to the recording of title documents.  
15 The federal Electronic Signatures in Global and National  
16 Commerce Act (E-sign), 15 U.S.C.7001 et seq., and the Uniform  
17 Electronic Transactions Act (UETA), adopted by New Jersey at  
18 P.L.2001, c.116 require the acceptance of electronic alternatives to  
19 paper documents. While the use of electronic deeds and mortgages  
20 is not expected to occur in the near term, both E-sign and UETA  
21 encourage the development of systems that will accept electronic  
22 documents without disrupting the ongoing process of title  
23 recordation.

24 The New Jersey statutes related to the recording and indexing of  
25 title documents are contained in Title 46, chapters 15 to 26. Most  
26 of these statutes date from a period when recording meant the  
27 inclusion of documents in large well-bound books of good paper.  
28 The statutes initially were amended to allow recording offices to  
29 microfilm documents. Later amendments in 1997 permitted the use  
30 of any other method of recording that was "in conformance with  
31 rules, standards and procedures promulgated by the Division of  
32 Archives and Records Management in the Department of State and  
33 approved by the State Records Committee pursuant to its authority  
34 under section 6 of P.L.1994, c.140 (C.47:1-12) and the 'Destruction  
35 of Public Records Law (1953),' P.L.1953, c.410 (C.47:3-15 et  
36 seq.)." N.J.S.46:19-1. This system for approving new methods of  
37 recording documents has the advantage of not requiring any  
38 particular manner of recording so it will not become obsolete with  
39 changes of recording technology.

40 The increased use of new methods of recording that affect the  
41 way documents are recorded and processed, however, necessitates  
42 an increase in regulatory authority to assure uniformity.

43 This bill addresses the methods of recording and indexing and  
44 reflects the same approach as the existing law. References to  
45 separate sets of books or separate databases for different kinds of  
46 documents have been deleted, since with modern technology, an  
47 index serves the same function. Requirements for marginal notation  
48 of documents also have been deleted, however, the bill does

1 authorize recording officers to continue to utilize this practice. In  
2 addition, the revision attempts to simplify the statutes, combining  
3 overlapping provisions and deleting unnecessary ones. The current  
4 Chapter 16, for example, begins with a section that characterizes  
5 and lists the documents that may be recorded. Other statutory  
6 sections that address the recording of particular kinds of documents  
7 follow Chapter 16. In the revision, these sections have been  
8 combined into one section that lists documents entitled to recording,  
9 although in an exercise of caution, the revision retains specifically  
10 listed documents that arguably might fall within more general  
11 categories.

12 The bill also includes language allowing format requirements for  
13 documents. The current statutes contain some limitations on the  
14 size of paper documents and on the quality of paper used. The  
15 problem of formatting becomes more acute if electronic equivalents  
16 to paper documents are to be accepted. Format requirements must  
17 be standardized throughout the State so that recording offices can  
18 be ready to accept electronic documents from a variety of sources,  
19 and so that persons can know and comply with them regardless of  
20 the office in which they are being recorded. It must be  
21 acknowledged, however, that conventional paper documents will  
22 continue to be recorded for the foreseeable future. This revision is  
23 a first step toward balancing the need to use technological advances  
24 where appropriate, with the recognition that it is not appropriate to  
25 mandate an immediate switch to the latest technological  
26 development. The Law Revision Commission Report sets forth  
27 detailed comments explaining the substance of and source for each  
28 new section of law contained in the bill. The Law Revision  
29 Commission report is available "on-line" at  
30 <http://www.lawrev.state.nj.us/titlerecordation/trFR111303.pdf> or at  
31 <http://www.lawrev.state.nj.us/titlerecordation/trFR111303.doc>.