NEW JERSEY LAW REVISION COMMISSION

Draft Final Report

Relating to

Uniform Real Property Electronic Recording Act

November 12, 2013

The work of the New Jersey Law Revision Commission is only a recommendation until enacted. Please consult the New Jersey statutes in order to determine the law of the State.
The New Jersey Law Revision Commission evaluated the Uniform Real Property Electronic Recording Act in accordance with N.J.S. 1:12A-8, which calls for the Commission to consider suggestions and recommendations from the Uniform Law Commission. The NJLRC, for the reasons set forth below, does not recommend adoption of the Act.

The Uniform Real Property Electronic Recording Act (URPERA) was approved by the Uniform Law Commission (ULC) in 2005 and has been enacted in 25 states. The purpose of the URPERA, as stated in its Introduction, is:

to remove any doubt about the authority of the recorder to receive and record documents and information in electronic form. Its fundamental principle is that any requirements of state law describing or requiring that a document be an original, on paper, or in writing are satisfied by a document in electronic form. Furthermore, any requirement that the document contain a signature or acknowledgment is satisfied by an electronic signature or acknowledgement. The act specifically authorizes a recorder, at the recorder’s option, to accept electronic documents for recording and to index and store those documents.

The URPERA does not require that electronic documents be accepted for recording. However, it overcomes any state law that requires a paper original. It allows electronic documents to be recorded provided the recording officer agrees and the state sets up a regulatory body to govern the form of electronic documents. Thus, the URPERA is limited; its enactment allows a state to take a tentative step toward recording electronic documents without committing itself to a particular time when that recording will actually occur. Electronic documents may not yet be recorded in most of the places where the URPERA has been enacted.

In New Jersey, beginning in 2001, the NJLRC filed a series of reports concerning title recording. One of the important issues addressed in those reports was allowing electronic documents to be recorded. The Final Report on Title Recordation, released in 2003, provided that electronic documents (and electronic copies of paper documents) may be recorded so long as they are in the form required by regulations of the Division of Archives and Records Management. At several stages of the work in this area, copies of NJLRC draft reports were provided to the ULC in the hope that it would produce a report that required acceptance of electronic documents and copies for recording.

The NJLRC Report (with a few technical changes) was enacted as L.2011, c.217. As a result, New Jersey has gone beyond what is proposed by the URPERA. We no longer require a paper original, the title recording statutes specifically allow electronic documents. We have a regulatory body to establish form requirements for electronic document. We have everything allowed but not required in the URPERA but in a more complete and modern fashion. The New Jersey law does not merely allow the possibility of a future time when electronic documents may be recorded, it provides for that recording now. Therefore, it is unnecessary for New Jersey to enact the Uniform Real Property Electronic Recording Act.