

1B-31.001 General.

(1) This rule prescribes standards for electronic recording of real property documents in those Florida counties in which the county recorder elects to accept electronic real property documents for recordation.

(2) These standards are based on recommendations of the Florida Electronic Advisory Committee and promulgated by the Department of State pursuant to Section 695.27, F.S., Florida Uniform Real Property Electronic Recording Act.

(3) For the purpose of this chapter:

(a) “County Recorder” means the Clerk of the Circuit Court, County Comptroller, or other official county recording officer.

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

(c) “eRecording” means electronic recording of real property documents.

(d) “Metadata” means data describing other data to facilitate the understanding, use, and management of that data.

(e) “Open architecture” means computer architecture or software architecture that employs specifications that are open to the public to allow for adding, upgrading and exchange of components produced by a broad range of manufacturers.

(f) “Permanent or long-term” means any public records as defined by Section 119.011(11), F.S., which have an established retention period of more than 10 years.

(g) “PDF” (Portable Document Format) means the file format originally created by Adobe Systems for document exchange allowing documents to be viewed as they were intended to appear. PDFs are a common format for image exchange or Web presentation.

(h) “TIFF” (Tagged Image File Format) means the variable-resolution bitmapped image format originally developed by the Aldus Corporation (now part of Adobe Systems) and published as ISO 12639:2004, Graphic technology-Prepress digital data exchange-Tag image file format for image technology (TIFF/IT). TIFF is a common format for high-quality black and white, gray-scaled, or color graphics of any resolution and is made up of individual dots or pixels.

(i) “URPERA” (Uniform Real Property Electronic Recording Act) means the body of recommended legislation released in 2004 by the National Conference of Commissioners on Uniform State Laws (NCCUSL) for adoption by state legislatures. URPERA authorizes County Recorders to accept electronic documents for recording in accordance with established standards. Florida adopted a modified version of URPERA in 2007 (see Section 695.27, F.S.).

(j) “Web portal” (gateway) means a site that functions as a point of access to information or services on the World Wide Web.

(k) “XML” (Extensible Markup Language) means an extensible document language for specifying document content. XML is not a predefined markup language but a metalanguage – a language for describing other languages – allowing the user to specify a document type definition (DTD) and design customized markup languages for different classes of documents.

Specific Authority 695.27(5)(a) FS. Law Implemented 695.27(5)(a) FS. History–New 5-22-08.

1B-31.002 Florida Real Property Electronic Recording Standards.

(1) TECHNICAL STANDARDS AND IMPLEMENTATION GUIDELINES.

(a) Electronic recording of real property documents shall meet technical standards for document formatting and document data fields and follow implementation guidelines as prescribed by the Property Records Industry Association (PRIA) which are hereby incorporated by reference, made a part of this rule, and listed below:

1. PRIA Request Version 2.4.2, August 2007;
2. PRIA Response Version 2.4.2, August 2007;
3. Document Version 2.4.1, October 2007;
4. Notary Version 2.4.1, October 2007;
5. eRecording XML Implementation Guide for Version 2.4.1, Revision 2, March 2007;
6. URPERA Enactment and eRecording Standards Implementation Guide, January 2006

These standards are available from the Property Records Industry Association, 2501 Aerial Center Parkway, Ste. 103, Morrisville, NC 27560, and at the Internet Uniform Resource Locator: <http://www.pria.us/cart/publications.htm>.

(b) eRecording shall be offered and conducted in accordance with the models of submission described in the URPERA Enactment and eRecording Standards Implementation Guide, Section 2.3, eRecording Models.

(c) Each County Recorder who accepts documents for eRecording shall provide open architecture for reception of electronic documents. All reception software, including Web portals, must support PRIA standard Version 2.4.1.

(2) WEB PORTALS.

(a) If the World Wide Web is used as the medium for electronic document delivery, the County Recorder shall designate for use a Web portal that supports the three models of submission described in the URPERA Enactment and eRecording Standards Implementation Guide, section 2.3, eRecording Models, and complies with the security requirements specified in subsection 1B-31.002(4), F.A.C. of this rule.

(b) 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.

(c) Payment processing, if supplied at the portal, shall comply with the 2008 ACH Operating Rules & Guidelines, which is hereby incorporated by reference and made a part of this rule. This publication is available from NACHA-The Electronic Payments Association, 13450 Sunrise Valley Drive, Suite 100 Herndon, VA 20171, and at the Internet Uniform Resource Locator: <http://pubs.nacha.org/rules.html>. The County Recorder and portal provider shall determine the portal's payment processing capabilities, and each County Recorder shall designate approved methods of payment, which may include credit cards, ACH (automated clearing house), escrow accounts, electronic checks, or other methods.

(3) BUSINESS RULES.

(a) County Recorders shall establish and publish Business Rules that govern how eRecording will be conducted. A set of Model County Recorder Business Rules appears in Appendix H of the Florida Electronic Recording Advisory Committee Final Report (November 30, 2007), which is hereby incorporated by reference, and made a part of this rule. County Recorders may modify this model set of Business Rules to fit the needs of individual counties.

(b) 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.

(c) 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.

(a) 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 followed through the entire electronic document process of execution through recording, the security measures identified in Chapter 6 of the eRecording XML Implementation Guide for Version 2.4.1, Revision 2, March 2007 satisfy this requirement.

(b) Each County Recorder who elects to accept electronic real property documents for recordation shall implement reasonable measures such that each electronic document accepted for recordation is protected from alteration and unauthorized access.

(5) 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) County Recorders have no responsibility for verifying or authenticating notary signatures and acknowledgments. Transactions filed pursuant to Section 695.27, F.S. must comply with Section 117.021, F.S., Electronic notarization, in those instances when an electronic notarization is used.

(7) FILE FORMATS FOR eRECORDING. Electronically recorded documents shall be converted to (if necessary) and stored in accordance with the TIFF 6.0 specification published as ISO 12639:2004, Graphic technology-Prepress digital data exchange-Tag image file format for image technology (TIFF/IT), or the PDF Version 1.7 specification (November 2006), which specifications are hereby incorporated by reference and made a part of this rule. The PDF 1.7 specification is available from Adobe Systems Incorporated, 345 Park Avenue, San Jose, CA 95110-2704, and at the Internet Uniform Resource Locator: http://www.adobe.com/devnet/pdf/pdf_reference.html. The TIFF 6.0 specification published as ISO 12639:2004 is available from the American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036-7417, and at the Internet Uniform Resource Locator: <http://webstore.ansi.org/RecordDetail.aspx?sku=ANSI+CGATS%2fISO+12639-2004>.

(8) PROCESSING. County Recorders will process each eRecording in accordance with Section 695.11, F.S., Instruments deemed to be recorded from time of filing, and Section 28.222, F.S., Clerk to be county recorder.

(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. Maintenance and preservation of permanent or long-term imaged documents shall be in accordance with Rule 1B-26.0021, F.A.C., Microfilm Standards, or Rule 1B-26.003, F.A.C., Electronic Recordkeeping.

(10) PAYMENT OF RECORDING FEES. County Recorders shall collect electronic recording fee payments, without incurring unreasonable electronic processing fees, as prescribed by Florida Statutes, Section 28.24, F.S., Service charges by clerk of the circuit court; Section 199.133, F.S., Levy of nonrecurring tax; Section 201.01, F.S., Documents taxable, generally; Section 201.02, F.S., Tax on deeds and other instruments relating to real property or interests in real property; and Section 201.08, F.S., Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception. Each County Recorder may collect eRecording fees in a manner compatible with its internal software and financial practices.

Specific Authority 695.27(5)(a) FS. Law Implemented 695.27(5)(a) FS. History—New 5-22-08.