

State of Indiana

Real Property Electronic Recording Standards

Section 1 **Statement of Intent**

The electronic recording commission was created with the purpose of adopting real property electronic recording standards that keep the practices of recording offices and the technology used by Indiana county recorders consistent with other jurisdictions that have also adopted the Uniform Real Property Electronic Recording Act (“URPERA.”) These standards are not intended to alter what is already stated in Indiana law. The intent is to establish standards that keep Indiana recording office practices and technology consistent in relation to other states that have implemented electronic recording. To the extent that these standards conflict with the Indiana Code, the Indiana Code controls. These standards were adopted on June 10, 2019, by the Indiana Electronic Recording Commission.*

Section 2 **Real Property Electronic Recording**

Sections 3 to 10 of the Real Electronic Recording Standards, apply to real property electronic recording in the office of the participating county recorder pursuant to Title 32 and 36 of the Indiana Code. A participating county recorder may elect to accept electronic documents for recording in accordance with sections 4 to 10, with all applicable sections of the Indiana Code, including, but not limited to, Title 32 and 36 of the Indiana Code.

Section 3 **Definitions**

- (a) “Delivery agent” means a party who has entered into an agreement with a participating county recorder to deliver an electronic document from a submitter to a participating county recorder and to return the recorded documents to the submitter;
- (b) “Document” has the same meaning as provided in Indiana Code 32-21-2.5-1;
- (c) “Electronic” has the same meaning as provided in Indiana Code 32-21-2.5-2;
- (d) “Electronic document” has the same meaning as provided in Indiana Code 32-21-2.5-3;
- (e) “Electronic document delivery system” means an automated system for the secure transmission of an electronic document between a submitter and a participating county recorder;
- (f) “Electronic recording” means the delivery and return of an electronic document, using an electronic document delivery system, for the purpose of recording that document on the land records, using a land records management system;
- (g) “Electronic signature” has the same meaning as provided in Indiana Code 32-21-2.5-4;
- (h) “Land records management system” means a system for recording and indexing documents on the land records, accessing and maintaining the land records, and producing microfilm security copies;
- (i) “Land records management system vendor” means a party who provides a land records management system;
- (j) “Participating county recorder” means a county recorder who has elected to accept electronic documents for recording;

- (k) “Recording information” means the information added to a document at the time the document is recorded, such as the date on which the recorder received the instrument for recording, the names of the parties to the instrument, a description of the premises affected by the instrument, and the fees for recording the instrument under Indiana Code 36-2-11-9.
- (l) “Submitter” means a party who requests that an electronic document be recorded.

Section 4 Data Formats

Electronic recording must meet the technical standards for electronic document formatting and data fields as prescribed by the Property Records Industry Association (“PRIA”) eRecording XML Standard Version 2.4 or newer, as amended from time to time, which includes PRIA Request Version 2.4.2 (August 2007), as amended from time to time; PRIA Response Version 2.4.2 (August 2007), as amended from time to time; Document Version 2.4.1 (October 2007), as amended from time to time; and Notary Version 2.4.1 (October 2007), as amended from time to time.

Section 5 Electronic Document Formats

Electronic documents must be transmitted and stored as either TIFF or PDF files, in accordance with TIFF 6.0 specification, published by *the International Organization for Standardization as ISO 12639:2004, Graphic technology-Prepress digital data exchange-Tag image file format for image technology (TIFF/IT)*, as amended from time to time, or *the PDF 2.0 specification*, published by *the International Organization for Standardization as ISO 3200-2:2017, Document Management-Portable Document format-Part 2: PDF 2.0*, as amended from time to time.

Section 6 Electronic Signatures and Electronic Notarizations

- (a) Documents containing electronic signatures or electronic notarizations, including remote online notarizations, must conform to all applicable standards or rules established by the Secretary of State and to all applicable sections of the Indiana Code, including, but not limited to, Title 26 and Title 33 of the Indiana Code. Documents electronically signed, or electronically notarized, including remote online notarizations, outside of the State of Indiana, will not be rejected for failure to comply with these provisions.
- (b) A participating county recorder is only required to accept electronic documents containing electronic signatures or electronic notarizations that the recorder has the technology to support.
- (c) A participating county recorder is not responsible for verifying electronic signatures or electronic notarizations.

Section 7 Electronic Recording Processing Requirements

- (a) A participating county recorder must provide notice of confirmation or rejection of recording through the electronic document delivery system, at which the submitter is registered, as defined.
 - (1) A notice of confirmation must include recording information for the electronic document accepted for recording and must identify the electronic document accepted for recording.

- (2) A notice of rejection must include a brief explanation of the reason or reasons for rejection and must identify the electronic document rejected for recording.
- (3) If a participating county recorder complies with the notices of confirmation or rejection, the failure of a submitter to receive actual notice of confirmation or rejection of a recording does not affect the validity of the confirmation or rejection.
- (b) A participating county recorder must receive electronic documents through the electronic document delivery system and enter the time of receipt in accordance with Indiana Code 36-2-11-8 and Indiana Code 36-2-11-9.

Section 8 **Security Requirements**

- (a) The participating county recorder, the delivery agent, and the land records management system vendor must implement and maintain procedures to ensure the security of the electronic document delivery system and the land records management system, including the authenticity and integrity of the electronic documents, and of the public record maintained by the participating county recorder.
- (b) A participating county recorder must provide a secure method for accepting electronic documents through the electronic document delivery system and for recording and maintaining documents in the land records management system. Security standards implemented by a participating county recorder must accommodate electronic signatures and electronic notarizations of electronic documents in a manner that complies with Indiana Code 33-42-9-12. Documents electronically signed or electronically notarized, including remote online notarizations, outside of the State of Indiana, will not be rejected for failure to comply with these provisions.
- (c) A delivery agent must implement and maintain security procedures for all electronic transmissions to a participating county recorder through the electronic document delivery system within the office of such delivery agent.
- (d) Electronic document delivery systems and land records management systems must protect against system and security failures and, in addition, must provide backup, disaster recovery, and audit trail mechanisms. The delivery agent or land records management system vendor must provide audit trail information to the participating county recorder on request.
- (e) Electronic document delivery systems and land record management systems must not permit any unauthorized party to modify, manipulate, insert or delete information, without detection, in electronic documents or in the public record maintained by the participating county recorder.
- (f) If a breach in security is detected by the participating county recorder, delivery agent, or land records management system vendor, such recorder, agent or vendor must notify the other two parties immediately. The recorder, agent and vendor must work cooperatively to take remedial action and to resolve any issues related to a breach.

Section 9 **Records Retention, Preservation, and Disclosure**

- (a) Electronic records are treated the same as paper records for record retention, preservation, and disclosure in accordance with Indiana Code 5-15 and Indiana Code 36-2-11-9.

Section 10 **Agreement and Procedures**

- (a) The delivery agent and participating county recorder must enter into an agreement specifying the terms and conditions of participation in the county recorder's electronic recording system. The provisions of the agreement must be consistent with this section and all applicable sections of the Indiana Code, including, but not limited to, Indiana Code 32-21-2.5.

At a minimum the agreement must contain the following items:

- (1) Accepted electronic recording formats;
- (2) Accepted document types;
- (3) Indexing fields required for each document type;
- (4) Payment options for recording fees and applicable taxes, if any;
- (5) Electronic submissions will be accepted and processed as established by the participating county recorder;
- (6) Electronic document acceptance and rejection requirements and procedures;
- (7) Responsibility of the delivery agent to review the qualifications of each potential submitter and to approve the potential submitter prior to granting access to the electronic document delivery system; and
- (8) Responsibility of the delivery agent to enter into an agreement with each approved submitter, in which the submitter agrees to submit electronic documents for recording, in accordance with all applicable state statutes and regulations, and to maintain the security of the electronic document delivery system within the office of such submitter.

- (b) A participating county recorder must (1) make available a copy of the agreement available on request. The agreement must cover, at a minimum, the items listed in subdivisions (a) (1) through (8) of this section.

*The Electronic Recording Commission consists of: Jamie Chapman, Daviess County Recorder; Nichole Keller, Clay County Recorder; Anita Mather, Allen County Recorder; Jessica McAlpin, Underwriting Counsel at Fidelity National Title Group; and Kevin Quinn, Senior Vice President of Retail Lending at First Internet Bank.