Chapter 434-661 WAC
REAL PROPERTY ELECTRONIC RECORDING

WAC

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ELECTRONIC RECORDING STANDARDS

WAC 434-661-010 General purpose. (1) This rule prescribes standards for electronic recording of real property documents in those Washington counties in which the county recording officer elects to accept electronic real property documents for recordation.

(2) These standards are based on recommendations of the Washington state electronic recording standards commission and promulgated by the secretary of state pursuant to chapter 65.24 RCW, Uniform Real Property Electronic Recording Act.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-010, filed 1/14/13, effective 2/14/13.]

WAC 434-661-020 Definitions. For the purpose of this chapter:

(1) "Delivery package" means a document, group of documents, related or unrelated, bundled into a single entity for electronic transfer.

(2) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium, is retrievable in perceivable form, and is eligible to be recorded in the land records maintained by the county recording officer.

(3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) "Electronic document" means a document that is received or sent by the recording officer in an electronic form.

(5) "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.

(6) "Electronic notarization" means a notarial act performed in accordance with chapter 42.44 RCW and chapter 308-30 WAC by a notary public, appointed by the Washington state department of licensing, who provides notarial acts using electronic interface.

(7) "Electronic recording standards commission" or "eRecording standards commission" or "ERSC" means the body of stakeholders appointed by the secretary of state to review electronic recording standards and make recommendations to the secretary in accordance with RCW 65.24.040.

(8) "eRecording" means electronic recording of real property documents.

(9) "Metadata" means data describing other data to facilitate the understanding, use, and management of that data.

(10) "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.

(11) "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 world wide web presentation.

(12) "Recording" means making a matter of record in the office of the recording officer in accordance with RCW 65.04.030.

(13) "Recording officer" means the county auditor or other official county recording officer.

(14) "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.

(15) "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 recording officers to accept electronic documents for recording in accordance with established standards. Washington state adopted a modified version of URPERA in 2008 (chapter 65.24 RCW).

(16) "Washington state archives" means the office of the secretary of state, division of archives and records management.

(17) "Web portal (gateway)" means a site that functions as a point of access to information or services on the world wide web.

(18) "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.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-020, filed 1/14/13, effective 2/14/13.]

WAC 434-661-030 Washington 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:

(i) PRIA Request Version 2.4.2, August 2007;

(ii) PRIA Response Version 2.4.2, August 2007;

(iii) Document Version 2.4.1, October 2007;

(iv) Notary Version 2.4.1, October 2007;

(v) eRecording XML Implementation Guide for Version 2.4.1, Revision 2, March 2007;

(vi) URPERA Enactment and eRecording Standards Implementation Guide, December 2005.

These standards are available from the Property Records Industry Association, 2501 Aerial Center Parkway, Ste. 103, Morrisville, NC 27560, and at http://www.pria.us/.

(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 recording officer who accepts documents for eRecording shall provide open architecture for reception of electronic documents. All reception software, including web portals, must support PRIA eRecording SML Implementation Guide for Version 2.4.1 standards.

(2) **Web portals.**

(a) The world wide web will be the most common delivery medium for electronic documents.

(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 recording officer, while also itemizing the contents of the package.

(c) Payment processing, if supplied at the portal, shall comply with the 2012 NACHA 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 http://www.nacha.org/. The recording officer and portal provider shall determine the portal's payment processing capabilities, and each recording officer 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.** Recording officers shall establish and publish business rules that govern how eRecording will be conducted. The business rules may be in electronic or hard copy format and may appear on a portal or the recording officer web site. The transmitting parties' electronic acknowledgment of acceptance of the terms of the business rules is acceptable. The business rules must cover the following items:

(a) Memorandum of understanding or contract;

(b) Defined technical specifications;

(c) Document formatting and indexing specifications;

(d) Hours of operations and processing schedules;

(e) Payment options;

(f) Termination terms;

(g) Document rejection rights;

(h) Statement that any amendments and/or alterations to the business rules will be published with adequate notice before taking effect;

(i) Statement clarifying the liability of the recording offices.

(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 recording officer 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.** Recording officers are only required to accept electronic signatures that they have the technology to support. Recording officers have no responsibility to authenticate electronic signatures embedded within the body of the document.

(6) **Notarizations.** Pursuant to chapter 65.24 RCW, notarizations must:

(a) Be performed by a notary public who has been appointed by the Washington state department of licensing in accordance with chapter 43.44 RCW; and

(b) Comply with all requirements for performing a notarial act as found in chapter 42.44 RCW and chapter 308-30 WAC, as amended from time to time, except that in the case of an electronic notarization, an impression of the official seal or stamp is not required.

Recording officers have no responsibility for verifying or authenticating notary signatures and acknowledgments.

(7) **File formats for eRecording.** The electronic recording standards commission recommends that electronic recordings be converted to (if necessary) and preserved as image files along with their associated metadata. If submissions are accepted in XHTML (extensible hypertext markup language) format, they shall be converted to a digital image until the viability of preserving these eRecordings in their native format has been demonstrated. Document images should be submitted as defined in WAC 434-663-305 and meet all state requirements for recorded instruments as defined in RCW 65.04.045.

(8) **Records retention and preservation.** Recording officers must not destroy public records, including electronic records, without the approval of the local records committee, in accordance with RCW 40.14.070.

Recording officers must retain electronic public records in electronic format such that the records remain usable, searchable, retrievable, and authentic for the length of the

designated retention period in accordance with WAC 434-662-040.

The local records committee has approved the local government common records retention schedule (CORE) and the county auditor records retention schedule authorizing the minimum retention periods for recording officer records, and designating those records with enduring value as "archival."

Recording officers may transfer public records designated as "archival," including electronic records, to Washington state archives for preservation and for facilitating public access to the records.

(9) **Payment of recording fees.** Electronic payment of recording fees and excise tax, where applicable, shall be collected by the county agency responsible for such as prescribed in accordance with Washington state law and accepted industry standards without incurring unreasonable electronic processing fees.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-030, filed 1/14/13, effective 2/14/13.]

ELECTRONIC RECORDING STANDARDS COMMISSION

WAC 434-661-100 Electronic recording standards commission. The electronic recording standards commission is established in accordance with RCW 65.24.040.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-100, filed 1/14/13, effective 2/14/13.]

WAC 434-661-110 Purpose. The purpose of the electronic recording standards commission is to advise the secretary of state in the following areas:

(1) Rules necessary to implement the Uniform Real Property Electronic Recording Act (URPERA);

(2) Standards and practices affecting electronic recording in this state and other jurisdictions that enact URPERA to keep the technology used by recording officers in this state compatible with technology used by recording offices in other jurisdictions that enact URPERA, including:

(a) Standards adopted by national standard-setting bodies, such as the property records industry association;

(b) The views of interested persons and governmental officials and entities;

(c) The needs of counties of varying size, population and resources; and

(d) Standards requiring adequate information-security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering;

(3) Emerging issues and trends affecting electronic recording which may necessitate amendments to or repeal of published standards;

(4) Other related issues at the request of the secretary of state.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-110, filed 1/14/13, effective 2/14/13.]

WAC 434-661-120 Membership. (1) The commission will consist of at least seven and no more than thirteen members chosen by the secretary of state to represent a range of recording offices by size, geographic regions of the state, and general expertise in electronic recording. A majority of the commission must be county auditors, and other members may include assessors, treasurers, the state archivist, land title company representatives, escrow agents, mortgage brokers, or any other party the secretary of state deems appropriate. The commission will elect a chairperson from its members.

(2) Members serve at the pleasure of the secretary of state. Terms are two or three years, and there are no limits to how long a member can serve. Vacancies will be filled by the secretary of state upon notice of a vacancy from the member.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-120, filed 1/14/13, effective 2/14/13.]

WAC 434-661-130 Meetings. Commission meetings will take place at least once a year and may occur at the annual Washington state association of county auditors recording conference. Additional meetings may be called by the secretary of state or the commission. All meeting dates and times will be posted on the secretary of state's web page.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-130, filed 1/14/13, effective 2/14/13.]

WAC 434-661-140 Quorum. A simple majority of the regularly appointed commission members constitute a quorum. If seven positions are filled, the quorum is four.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-140, filed 1/14/13, effective 2/14/13.]

WAC 434-661-150 Compensation. Commission members are not compensated for their service, but may be reimbursed for expenses incurred in the conduct of their official duties. Reimbursement is at current state rates for travel and all reimbursement requests must be received within thirty days of incurring the expense.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-150, filed 1/14/13, effective 2/14/13.]

WAC 434-661-160 Retention of records. The state archivist will act as secretary for the commission and will ensure the retention and lawful disposition of records of the commission in accordance with chapter 40.14 RCW.

[Statutory Authority: Chapter 65.24 RCW. WSR 13-03-070, § 434-661-160, filed 1/14/13, effective 2/14/13.]