



THE MICHIGAN ELECTRONIC RECORDS STANDARDS
ADOPTED BY
THE MICHIGAN ELECTRONIC RECORDING COMMISSION
ESTABLISHED UNDER
THE MICHIGAN UNIFORM REAL
PROPERTY ELECTRONIC RECORDING ACT

Effective January 1, 2014

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While a register of deeds in Michigan is not required to accept electronic documents for recording, any register of deeds in Michigan who implements any of the functions set out in MURPERA on or after the effective date of these Standards shall do so only in compliance with these Standards. In adopting these Standards, it is not the intent of the MERC that any standard conflict with or expand or restrict the rights and obligations of registers under the Michigan constitution or under applicable law.

on publicly available specifications and is now an international open standard for electronic document exchange maintained by the International Organization for Standardization (ISO).

XHTML: Extensible Hypertext Markup Language is a newer version of HTML and is the main markup language for creating web pages and other information that can be displayed in a web browser.

XML: Extensible Markup Language is the currently recommended file format for long term preservation of any metadata.

Metadata: Metadata is commonly described as "data about data." Metadata is used to locate and manage information resources by classifying those resources and by capturing information not inherent in the resource. In the eRecording context, metadata may be generated automatically or created manually and it may be internal or external to the digital object itself. Regardless of how it is created or stored, maintaining accurate and reliable metadata is essential to the long-term preservation of eRecordings.

Recommendations

Electronic records are subject to the same threats of destruction from natural or human-made disasters as other media. In addition, there are the added challenges of hardware and software obsolescence, media longevity and migration, infrastructure failures and accidental damage from improper handling.

Therefore, since the majority of records in the custody of a register of deeds must be preserved permanently, and since the durability of electronic records has not been proven to be as enduring as microfilm, MERC recommends security microfilm to secure and preserve information created and stored electronically.

3. ELECTRONIC SIGNATURES AND AUTHENTICATION

While MUETA and MURPERA (*See Appendix C – Relevant Statutes*) allow many types of electronic signatures, registers of deeds are only required to accept electronic signatures that they have the technology to support. eRecordings shall comply with all federal and state authentication laws. Registers of deeds have no responsibility to authenticate electronic signatures embedded within the body of the document.

4. RECORDING REQUIREMENTS

All eRecordings shall comply with the Michigan Recording Act.

7. PAYMENT OF RECORDING FEES

Electronic payment of recording fees shall be collected by public agencies as prescribed by state and local statutes and in accordance with accepted property records industry standards without incurring unreasonable electronic processing fees.

Comments

Payments are a prerequisite to all methods of recording. Therefore, whether a payment is attached or an authorization of payment is included in an eRecording submission, the submission must incorporate some methodology for payment of fees associated with a particular document or set of documents.

Fees are to be collected according to statute in a manner consistent with the promotion of eRecording, and in accordance with accepted property records industry standards.

8. RECORDS RETENTION AND PRESERVATION

A register of deeds must retain all records in his/her custody in accordance with requirements detailed in the General Retention Schedule #3, Registers of Deeds Offices, approved by the Michigan Department of Technology, Management, and Budget.

Comments

The Michigan General Retention Schedule #3, Registers of Deeds Offices, is available at: https://www.michigan.gov/documents/dtmb/RMS_GS3_640196_7.pdf.

9. AGREEMENT ESTABLISHING A VERIFIED TRANSACTIONAL AGREEMENT

A register of deeds shall only accept electronic documents for e-recording from a person with which the register of deeds has entered into an agreement establishing a verified transactional relationship.

Comments

To the end that the integrity of the public record is maintained, MERC recommends that such a transactional relationship be in writing and signed by the person entering into the agreement with the register of deeds (“submitter”) and that there be appropriate provisions in the agreement

SECTION III: APPENDICES

APPENDIX A: PRIA STANDARDS AND GUIDELINES

The most current version of the following PRIA standards and guidelines may be found at: <http://www.pria.us>. Prior to accessing the documents listed below, the user will be required to agree to the terms and conditions of the PRIA eRecording XML Standards License Agreement found at: http://www.pria.us/files/public/Standards_Publications/License_Agreement2.pdf .

- eRecording Business Requirements
- Document Version 2.4.1
- Notary Version 2.4.1
- PRIA Request Version 2.4.2
- PRIA Response Version 2.4.2
- eRecording XML iGuide

Microfilm: Microfilm is an analog technology that allows documents to be read with magnification and a light source. If necessary, microfilm can be converted into a digital format. Producing microfilm that is created within the guidelines of the American National Standards Institute (ANSI) and properly stored and handled should provide secure records for hundreds of years.

PDF - Portable Document Format: A file format created by Adobe Systems, Inc. that uses the PostScript printer description language to create documents. PDF files capture the appearance of the original document, can store both text and images, are difficult to modify, and can be rendered with free, cross-platform viewer software.

Portal: In eRecording terms, an electronic location where submitters can send their documents for further processing and delivery. A fully featured portal will incorporate specific index rules and information from other tables that assure conformity with the receiving County's backend recording system. A portal should be capable of receiving various document types from various submitting parties and be able to deliver them to virtually any county regardless of their back end recording system or physical location.

Proprietary: Indicates that software or other employed technology is owned or controlled exclusively by the vendor. These solutions are not transferable to other systems and must be used only on the vendor's systems.

Schema: A method for specifying the structure and content of specific types of electronic documents which use XML.

Secure Socket Layer (SSL): A security technology that uses both asymmetric and symmetric cryptography to protect data transmitted over the Internet.

Signature Authentication: The process by which a digital signature is used to confirm a signer's identity and a document's validity.

TIFF - Tagged information file format: An image file format commonly used for photos, scanned documents, or other graphics. TIFF images are graphics that are made up of individual dots or pixels. Files in the TIFF format are distinguished by a .tif filename extension.

Uniform Electronic Transactions Act (UETA): A body of recommended legislation drafted in 1999 by the National Conference of Commissioners on Uniform State Laws (NCCUSL) for adoption by state legislatures. UETA allows electronic documents and digital signatures to stand as equals with their paper counterparts.

Uniform Real Property Electronic Recording Act (URPERA): A body of recommended legislation drafted in 2004 by the National Conference of Commissioners on Uniform State Laws (NCCUSL) for adoption by state legislatures. URPERA authorizes Registers of Deeds to accept electronic documents for recording in accordance with established standards.

APPENDIX C: RELEVANT STATUTES

MICHIGAN UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

MICHIGAN UNIFORM ELECTRONIC TRANSACTIONS ACT

MICHIGAN NOTARY PUBLIC ACT

MICHIGAN RECORDING ACT

US ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Section 4. Recording Secretary. The Chairperson shall designate a person to serve as Recording Secretary for the ERC. The Recording Secretary shall be responsible to keep and maintain a record of all ERC meeting Minutes and Resolutions, and perform such related tasks as requested from time to time by the Chairperson.

Section 5. Absence or Conflict of Chairperson and Deputy Chairperson. Whenever both the Chairperson and Deputy Chairperson are unable to attend an ERC meeting or have both recused themselves due to a potential or actual conflict of interest, the members present and constituting a quorum shall designate a Temporary Deputy Chairperson from among the ERC members present to preside at the meeting.

ARTICLE IV

ERC Meetings

Section 1. Regular Meetings. The ERC shall meet at least annually, or more frequently, at the call of the Chairperson or if requested by five (5) or more ERC members.

Section 2. Public Meetings. All meetings of the ERC shall be called and conducted in accord with the Open Meetings Act, MCL 15.261 to 15. 275.

Section 3. Quorum and Voting. Five (5) of the eight (8) ERC members must be physically present to constitute a quorum for the transaction of business at an ERC meeting. A majority of ERC members present and serving are required for official action of the ERC. A member who is recused from deliberating and voting on a proposed ERC action due to a potential or actual conflict of interest shall not be considered part of the quorum for purposes of deliberating or voting on the proposed ERC action.

Section 4. Minutes. Minutes of the ERC meetings, including all votes, shall be kept, corrected and approved at a succeeding meeting. ERC Minutes and Resolutions shall be available to the public, pursuant to the Open Meetings Act, MCL 15.261 to 15. 275, and the Freedom of Information Act, MCL 15.231 *et seq.*

officer had a reasonable believe that his or her conduct was within that scope of authority, the

ERC or ERC Chairperson shall request that the legal representation be provided by the Attorney General, subject to any applicable state rules or regulations. The ERC is not required to request Attorney General representation in connection with any criminal prosecutions against an ERC member or officer.

MCL 691.1407 generally permits governmental immunity as a defense to a member's alleged negligence in violating his or her duties and responsibilities so long as the member:

565 is acting, or reasonably believes he or she is acting, within the scope of his or her authority; and

566 His or her conduct does not amount to gross negligence, which caused the injury or damage ("gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results).

If the ERC finds that the members conduct was within those parameters and does not constitute willful misconduct, but a judgment for damages is nevertheless rendered against the member, the ERC may choose to allow payment from legally available sources for those damages in accord with ERC indemnification authority, if any, and MCL 691.1408.

ARTICLE VI

Fiscal Year

Section 1. Fiscal Year. The fiscal year of the ERC shall extend from October 1 of each calendar year to the ensuing September 30 of the following calendar year.

ARTICLE VII

Amendment and Suspension of Bylaws

Section 1. Amendment. These Bylaws may be amended by resolution adopted by a majority of the ERC Board appointed and serving at any ERC meeting, if