



Notary Law Update: Senate 2373A

Synopsis: New York paves the way for electronic recording of real property documents through the enactment of Senate 2373A. The bill permits a recorder to accept digitized paper documents or electronic records signed and notarized with electronic signatures that conform to standards for electronic recording promulgated by the states electronic facilitator.

State: New York

Effective: September 23, 2012

Signed: September 23, 2011

Chapter: 549

Affects: Amends Section 307 of the State Technology Law and Sections 290, 291-i and 317 of the Real Property Law

Changes:

1. Repeals the prior provision disallowing use of electronic signatures with any conveyance or instrument that is recordable in the land records.
2. Defines the terms electronic, electronic record, electronic signature, paper document, digitized paper document and wet signature.
3. Declares that where a law, rule or regulation requires, as a condition for recording, an instrument affecting real property to be an original, be on paper, or another tangible medium, or be in writing, the requirement is satisfied by a digitized paper document or an electronic record. A digitized paper document or signature or stamp is one whose visual image has been electronically scanned and converted into electronic form so that it can be electronically sent to other computers and accurately depicted in a format that cannot be altered without detection.
4. Permits, but does not require, a recorder to accept digitized documents or electronic records for recording.
5. Declares that the signature requirement for any document requiring acknowledgment or notarization as a condition for recording is satisfied if: (1) the document contains a digitized wet signature of the individual authorized to perform the notarial act and a digitized stamp impression of the individual required to be included by law; or (2) the document contains an electronic signature and all other information required to be included. However, with respect to (2) above, no physical or electronic image of a stamp, impression or seal is required to accompany an electronic signature.
6. Prescribes that a recorder who decides to accept digitized documents or electronic records for

recording must do so in accordance with the rules and regulations established by the electronic facilitator.

7. Requires the state electronic facilitator to promulgate rules for electronic recording, specifically addressing the need for adequate information security protection to ensure that electronic records of instruments affecting real property documents are accurate, authentic, adequately preserved for long-term electronic storage and resistant to tampering.

8. Clarifies that an instrument entitled to be recorded is considered recorded at the time of delivery and that a digitized paper document or electronic record is considered delivered at the date and time of receipt indicated on an electronic or other notification which is provided by the recorder immediately upon receipt of the digitized paper document or electronic record.

Analysis:

Senate 2373A paves the way for real property records to be submitted in electronic form and recorded in the public land records of New York state. The bill contains provisions derived from the Uniform Law Commissions Uniform Real Property Electronic Recording Act, but is not a strict enactment of the URPERA. Similar to the URPERA, Senate 2373A states that any signature requirement on an electronic real property record is satisfied by an electronic signature of a Notary Public or other person authorized to notarize or take acknowledgments. Also similar to the URPERA, for such records that are electronically signed by a Notary, no physical image of a seal or stamp is required to accompany the electronic signature. The state electronic facilitator is tasked with publishing security standards for electronic recording, and the bill takes effect one year from its enactment date (September 23, 2012).