



House of Representatives

General Assembly

File No. 500

February Session, 2004

House Bill No. 5664

House of Representatives, April 6, 2004

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT ESTABLISHING THE CONNECTICUT REAL PROPERTY ELECTRONIC RECORDING SYSTEM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2004*) Sections 1 to 15, inclusive, of
2 this act may be cited as the "Connecticut Real Property Electronic
3 Recording System Act".

4 Sec. 2. (NEW) (*Effective July 1, 2004*) As used in sections 1 to 15,
5 inclusive, of this act, unless the context otherwise requires:

6 (1) "Connecticut real property electronic recording system" means
7 the state-wide electronic recording system established pursuant to
8 sections 1 to 15, inclusive, of this act, consisting of information,
9 databases, hardware, software and all components of each town
10 electronic recording system.

11 (2) "Document" means any instrument, in either electronic or paper
12 form, that creates, transfers, asserts or explains an interest in real

13 estate, including a deed, patent, mortgage, will, lien instrument, grant
14 of easement, affidavit, court order or decree, notice, order of fence
15 viewers and any other instrument that affects an interest in real estate.

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

19 (4) "Electronic document" means a document created by electronic
20 means and containing the information described in subdivision (1) of
21 subsection (a) of section 7 of this act.

22 (5) "Electronic land records index" means an index created pursuant
23 to subsection (a) of section 6 of this act.

24 (6) "Electronic signature" means an electronic sound, symbol or
25 process, attached to or logically associated with an electronic
26 document and executed or adopted by a person with the intent to sign
27 the electronic document, that meets the standards adopted by the
28 Electronic Recording Commission pursuant to subdivision (2) of
29 subsection (b) of section 4 of this act.

30 (7) "Index information" means information required pursuant to
31 subsection (a) of section 6 of this act.

32 (8) "Paper document" means a document printed in paper form.

33 (9) "Parties to a document" means parties to an interest in real estate
34 created, transferred, asserted or explained in a document.

35 (10) "Town electronic recording system" means an electronic
36 recording system maintained by a town in this state, consisting of
37 information, databases, hardware, software and all components of
38 such system.

39 Sec. 3. (NEW) (*Effective July 1, 2004*) The Connecticut real property
40 electronic recording system is intended to function in a uniform
41 manner for the recording of all electronic documents relating to real

42 estate located in this state. Sections 1 to 15, inclusive, of this act shall be
43 interpreted and enforced in such a manner as to accomplish uniform
44 state-wide procedures and standards for town electronic recording
45 systems, but shall not be interpreted to limit or restrict in any way the
46 ability of a town to develop and utilize additional data recording and
47 storage systems that interface with the Connecticut real property
48 electronic recording system or contain similar or complementary data.

49 Sec. 4. (NEW) (*Effective from passage*) (a) There is established an
50 Electronic Recording Commission which shall be within the State
51 Library for administrative purposes only. The commission shall consist
52 of the following members: (1) The Secretary of the State, or the
53 Secretary of the State's designee; (2) the Chief Information Officer of
54 the Department of Information Technology, or the Chief Information
55 Officer's designee; (3) the Public Records Administrator, or the Public
56 Records Administrator's designee; (4) a member of the real property
57 section of the Connecticut Bar Association, appointed by the speaker of
58 the House of Representatives; (5) a town clerk representing the
59 Connecticut Town Clerk's Association, appointed by the president pro
60 tempore of the Senate; (6) a representative of a title insurance
61 company, appointed by the minority leader of the House of
62 Representatives; and (7) a representative of the mortgage banking
63 industry, appointed by the minority leader of the Senate. The members
64 initially appointed under subdivisions (4) and (7) of this subsection
65 shall serve for a term of two years from July 1, 2004, and the members
66 subsequently appointed under said subdivisions shall serve for terms
67 of three years from July first in the year of their appointment. The
68 members appointed under subdivisions (5) and (6) of this subsection
69 shall serve terms of three years from July first in the year of their
70 appointment. Initial appointments under subdivisions (4) to (7),
71 inclusive, of this subsection shall be made not later than sixty days
72 after the effective date of this section. Vacancies on the commission
73 shall be filled by the appointing authority. The commission shall elect
74 a chairperson and a vice-chairperson from among its members.
75 Members of the commission shall serve without compensation but
76 shall, within the limits of available funds, be reimbursed for expenses

77 necessarily incurred in the performance of their duties.

78 (b) The Electronic Recording Commission shall oversee the
79 development, implementation and operation of the Connecticut real
80 property electronic recording system and shall ensure that the
81 Connecticut real property electronic recording system is fully
82 implemented not later than January 1, 2007. The commission shall
83 adopt standards to be used in such development, implementation and
84 operation, provided such standards shall not be deemed to be
85 regulations, as defined in section 4-166 of the general statutes. Such
86 standards shall set forth:

87 (1) The manner and format in which an electronic document shall be
88 submitted, received, returned, stored and retrieved, and specifications
89 for the systems established for such purposes;

90 (2) The type of electronic signature required, the manner, format
91 and technological processes in which an electronic signature shall be
92 affixed to an electronic document, the manner, format and
93 technological processes for certifying authorities for such electronic
94 signatures, and the identity of, or criteria that shall be met by, any
95 third party used by town clerks to facilitate the process of affixing
96 electronic signatures and filing electronic documents. Such formats
97 and technological processes shall be capable of assuring that (A) the
98 party indicated to have signed an electronic document is the party who
99 actually signed the electronic document, and (B) the electronic
100 document and its electronic signature have been electronically sealed
101 to protect the document and signature from being changed after
102 execution;

103 (3) Processes and procedures to ensure (A) adequate preservation,
104 disposition, integrity, security and confidentiality of electronic
105 documents, and (B) the ability to adequately audit electronic
106 documents;

107 (4) Any other attributes for electronic documents that are required
108 by law for corresponding paper documents or reasonably necessary

109 for the purpose of filing such electronic documents;

110 (5) The manner and format in which an electronic version of a paper
111 document shall be created;

112 (6) Qualifications for town clerks and other authorized persons
113 entering information into the Connecticut electronic real property
114 recording system, and procedures for the commission's determination
115 as to whether such qualifications are met;

116 (7) The procedure for payment of recording fees required under
117 section 7-34a of the general statutes and section 10 of this act by
118 electronic funds transfer;

119 (8) The purposes for which grants may be made to towns for the
120 development, implementation and operation of town electronic
121 recording systems pursuant to subsection (b) of section 12 of this act,
122 including, but not limited to, hardware, software, conversion of paper
123 documents, security, education and training, communication systems
124 and any other purposes deemed necessary or appropriate by the
125 commission, the application procedure for such grants, the criteria for
126 approval of such grants by the commission, the maximum amount of
127 any such grant and the form for reports submitted pursuant to
128 subsection (a) of section 13 of this act;

129 (9) The procedure for searching for real estate information in the
130 Connecticut real property electronic recording system pursuant to
131 section 14 of this act;

132 (10) Such fee schedule for remote access searches for real estate
133 information in the Connecticut real property electronic recording
134 system as the commission may establish, and procedures for the
135 collection and allocation of any such fees by and among town clerks,
136 pursuant to section 14 of this act; and

137 (11) Any other requirements or procedures necessary for the
138 development, implementation or operation of the Connecticut real
139 property electronic recording system.

140 (c) The Electronic Recording Commission may, within available
141 appropriations, employ a real estate records director and other
142 necessary staff. If so employed and authorized by the commission, the
143 real estate records director may: (1) Issue advisory opinions on the
144 application of any standard adopted by the commission under
145 subsection (b) of this section; (2) administer the grant program
146 authorized pursuant to subsection (b) of section 12 of this act; (3)
147 propose standards to carry out the purposes of sections 1 to 15,
148 inclusive, of this act; (4) enforce the provisions of said sections and the
149 standards adopted pursuant to subsection (b) of section 12 of this act;
150 and (5) exercise such other authority and duties as the commission
151 may delegate.

152 Sec. 5. (NEW) (*Effective July 1, 2004*) (a) Except as otherwise
153 provided in sections 1 to 15, inclusive, of this act, the entry of each
154 document into the Connecticut real property electronic recording
155 system shall be performed by the town clerk of the town in which the
156 real estate is located or by an authorized person designated by such
157 town clerk.

158 (b) Not later than January 1, 2007, each town shall establish a town
159 electronic recording system, including an electronic land records index
160 and an electronic document record, in accordance with standards
161 adopted by the Electronic Recording Commission pursuant to
162 subsection (b) of section 4 of this act. The electronic documents and the
163 information in the electronic land records index pertaining to real
164 estate located in a town shall be stored in the town electronic recording
165 system established by such town.

166 (c) The electronic land records index and the electronic document
167 record in each town electronic recording system shall be backed up in
168 accordance with standards that shall be developed by the Public
169 Records Administrator. As used in this subsection, "backed up" means
170 the duplicating and saving of information in the Connecticut real
171 property electronic recording system through one or more electronic
172 processes in order to provide a source from which the information

173 may be replicated and reentered into the Connecticut real property
174 electronic recording system in the event of a loss of such information
175 in the system.

176 Sec. 6. (NEW) (*Effective July 1, 2004*) (a) The electronic land records
177 index for a town shall contain the index information for each
178 document recorded in the town electronic recording system
179 established by such town. The electronic land records index shall be
180 accessible by using either the name of the grantor or the name of the
181 grantee of an interest in real estate. Each entry in the electronic land
182 records index shall be linked to the document referenced in the
183 electronic document record. The index information shall include the
184 following:

185 (1) The address of the real estate, as contained in the real estate tax
186 records of the town, to the extent available;

187 (2) The names of the parties to the document;

188 (3) The date the document was executed; and

189 (4) Such other information as may be required in the standards
190 adopted by the Electronic Recording Commission pursuant to
191 subsection (b) of section 4 of this act.

192 (b) The electronic document record for a town shall contain an
193 electronic version of each document that is recorded in the town on or
194 after the establishment of the town electronic recording system. Upon
195 the implementation of the Connecticut real property electronic
196 recording system, each electronic version of a document shall be linked
197 to the index information in the electronic land records index that
198 references the document.

199 (c) A title search that accesses any electronic land records index or
200 the Connecticut real property electronic recording system for purposes
201 of establishing marketable record title, as defined in section 47-33b of
202 the general statutes, shall be conducted by using the name of the
203 grantor or the grantee of an interest in real estate.

204 Sec. 7. (NEW) (*Effective July 1, 2004*) (a) (1) Information in an
205 electronic document shall consist of (A) the index information for the
206 electronic document in electronic format, (B) the text of the electronic
207 document, (C) an electronic signature, and (D) if appropriate,
208 electronic graphical information.

209 (2) Except as otherwise provided in sections 1 to 15, inclusive, of this
210 act, an electronic document shall be submitted to the town clerk of the
211 town in which the real estate is located. The town clerk shall review
212 the electronic document to determine whether the electronic document
213 contains the appropriate index information and conforms to the
214 standards adopted by the Electronic Recording Commission pursuant
215 to subsection (b) of section 4 of this act. As soon as the town clerk
216 determines that the electronic document complies with the
217 requirements of this subsection, the town clerk or other authorized
218 person designated by the town clerk shall electronically seal the
219 electronic document and enter it into the town electronic recording
220 system, and the electronic document shall be deemed to have been
221 filed at the time of such entry.

222 (b) An electronic document shall not be entered into the Connecticut
223 real property electronic recording system unless (1) the electronic
224 document has been submitted for such purpose to the town clerk of
225 the town in which the property is located, and (2) the electronic sealing
226 of such document and such entry are made by a town clerk or other
227 authorized person determined by the Electronic Recording
228 Commission to meet the qualifications adopted by the commission
229 pursuant to subdivision (6) of subsection (b) of section 4 of this act.
230 Information contained in an electronic document may only be
231 recorded on or after January 1, 2007, by entering the information into
232 the Connecticut real property electronic recording system. The
233 electronic document shall also include or be accompanied by any other
234 documents required by law.

235 Sec. 8. (NEW) (*Effective July 1, 2004*) Except as otherwise provided in
236 sections 1 to 15, inclusive, of this act, a paper document shall be

237 submitted to the town clerk of the town in which the real estate is
238 located. The town clerk shall review the paper document in order to
239 determine whether the paper document contains the appropriate index
240 information. The town clerk or other authorized person designated by
241 the town clerk shall create an electronic version of any paper
242 document received for recording on or after the establishment of the
243 town electronic recording system. Such electronic version shall
244 conform with the standards adopted by the Electronic Recording
245 Commission pursuant to subdivision (5) of subsection (b) of section 4
246 of this act. The technology and format for such electronic version shall
247 assure that the electronic version has not been changed after being
248 created by the town clerk or other authorized person. The town clerk
249 shall keep the original paper document until the electronic recording
250 process is completed. As soon as the town clerk or other authorized
251 person has created the electronic version of the paper document, the
252 town clerk or other authorized person shall enter the index
253 information and such electronic version into the town electronic
254 recording system.

255 Sec. 9. (NEW) (*Effective July 1, 2004*) If an error occurs in the filing of
256 a document in a town electronic recording system and requires a
257 correction to the index information contained in the electronic land
258 records index, such correction may only be made by means of a
259 correction entry executed by the town clerk of the town in which the
260 original document was filed. The correction entry shall be a document
261 that contains any corrections to the index information that may be
262 necessary to conform the index information to the original document.
263 The correction entry shall be entered in the electronic land records
264 index in such a way as to link the correction entry to both the original
265 information concerning the parcel of real estate or parties to a
266 document and the corrected information concerning the parcel of real
267 estate or parties to a document. The town clerk may execute the
268 correction entry without the prior consent of the parties affected by the
269 correction entry, but the town clerk shall immediately give the parties
270 notice of the correction entry. The parties may make an objection to the
271 correction entry in an appropriate document and the document shall

272 be recorded and indexed in the Connecticut real property electronic
273 recording system.

274 Sec. 10. (NEW) (*Effective July 1, 2004*) (a) In addition to the fees for
275 recording a document required under subsections (a) and (d) of section
276 7-34a of the general statutes, each town clerk shall receive a fee of five
277 dollars for each document recorded in the land records of the town.
278 Not later than the fifteenth day of each month, each town clerk shall
279 remit two-thirds of the amount paid as fees pursuant to this subsection
280 during the previous calendar month to the Electronic Recording
281 Commission for deposit in a bank account of the State Treasurer and
282 crediting to the electronic recording account established pursuant to
283 section 11 of this act. One-third of such amount shall be retained by the
284 town clerk and used for the development, implementation and
285 operation of the town electronic recording system. The provisions of
286 this subsection shall not apply to any document recorded on the land
287 records by an employee of the state or of a town in conjunction with
288 such employee's official duties.

289 (b) Any person recording an electronic document shall pay the fees
290 required by subsections (a) and (d) of section 7-34a of the general
291 statutes and this section by either (1) establishing an account with the
292 town in which the electronic document is recorded, or (2) electronically
293 transferring funds to the town in accordance with standards adopted
294 by the Electronic Recording Commission pursuant to subdivision (7) of
295 subsection (b) of section 4 of this act.

296 Sec. 11. (NEW) (*Effective July 1, 2004*) There is established, within the
297 General Fund, a separate and nonlapsing account to be known as the
298 "electronic recording account". The account shall contain the amounts
299 credited to the account pursuant to subsection (a) of section 10 of this
300 act and any other moneys required by law to be deposited in the
301 account. Investment earnings credited to the assets of the account shall
302 become part of the assets of the account. Any balance remaining in the
303 account at the end of any fiscal year shall be carried forward for the
304 fiscal year next succeeding. The moneys in the account shall be used

305 for the purposes of section 12 of this act.

306 Sec. 12. (NEW) (*Effective July 1, 2004*) (a) The Electronic Recording
307 Commission shall allocate the moneys in the electronic recording
308 account established pursuant to section 11 of this act for (1) the
309 expenses of the commission in carrying out the purposes of sections 1
310 to 15, inclusive, of this act, and (2) grants to towns under subsection (b)
311 of this section.

312 (b) The Electronic Recording Commission may make grants to
313 towns for the development, implementation and operation of town
314 electronic recording systems in accordance with the standards adopted
315 by the commission pursuant to subdivision (8) of subsection (b) of
316 section 4 of this act.

317 Sec. 13. (NEW) (*Effective July 1, 2004*) (a) Each town that receives a
318 grant pursuant to subsection (b) of section 12 of this act shall submit a
319 report to the Electronic Recording Commission, in such form as
320 prescribed in the standards adopted by the commission pursuant to
321 subdivision (8) of subsection (b) of section 4 of this act, not later than
322 September first of the fiscal year following the year such grant was
323 received. Such report shall contain a description of the activities paid
324 for with financial assistance under the grant.

325 (b) On or before January 1, 2006, and annually thereafter, the
326 Electronic Recording Commission shall submit a report concerning
327 expenditures made pursuant to section 12 of this act for the preceding
328 fiscal year to the joint standing committee of the General Assembly
329 having cognizance of matters relating to the judiciary. Such report
330 shall include: (1) A description of each grant made pursuant to
331 subsection (b) of section 12 of this act for the preceding fiscal year,
332 including the amount of such grant, the purposes for which such grant
333 was made and the town to which such grant was made; (2) a summary
334 of the activities for which the Electronic Recording Commission used
335 the moneys allocated for the expenses of the commission pursuant to
336 subdivision (1) of subsection (a) of section 12 of this act for the
337 preceding fiscal year; and (3) any findings or recommendations

338 concerning the operation and effectiveness of the grant program
 339 established pursuant to subsection (b) of section 12 of this act.

340 Sec. 14. (NEW) (*Effective July 1, 2004*) Any person may search for real
 341 estate information in the Connecticut real property electronic
 342 recording system in accordance with the standards adopted by the
 343 Electronic Recording Commission pursuant to subdivision (9) of
 344 subsection (b) of section 4 of this act. The commission may establish a
 345 schedule of fees for such searches that are conducted by remote access
 346 and provide for the collection and allocation of such fees by and
 347 among town clerks in accordance with the standards adopted by the
 348 commission pursuant to subdivision (10) of subsection (b) of section 4
 349 of this act.

350 Sec. 15. (NEW) (*Effective July 1, 2004*) In accordance with the
 351 standards adopted by the Electronic Recording Commission pursuant
 352 to subsection (b) of section 4 of this act, the Connecticut real property
 353 electronic recording system may be coordinated with cadastral or
 354 geographic electronic information systems currently existing or
 355 subsequently implemented in this state, provided the information
 356 contained in the Connecticut real property electronic recording system
 357 shall not be changed or modified as the result of any such
 358 coordination.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>July 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>
Sec. 7	<i>July 1, 2004</i>
Sec. 8	<i>July 1, 2004</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>July 1, 2004</i>
Sec. 11	<i>July 1, 2004</i>
Sec. 12	<i>July 1, 2004</i>

Sec. 13	<i>July 1, 2004</i>
Sec. 14	<i>July 1, 2004</i>
Sec. 15	<i>July 1, 2004</i>

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$	FY 07 \$
Electronic Recording Commission - State Library	Electronic Recording Account - GF - Cost	See Below	See Below	See Below
Electronic Recording Commission - State Library	Electronic Recording Account - GF - Revenue Gain	4.8 million	5.3 million	5.8 million

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$	FY 07 \$
All Municipalities	STATE MANDATE - Cost	Potential	Potential	Potential
All Municipalities	Revenue Gain	See Below	See Below	See Below

Explanation

The bill establishes an Electronic Recording Commission (the commission) to oversee the development, implementation, and operation of the electronic recording system of land records. Each municipality is required to establish a town electronic recording system not later than January 1, 2007.

This bill also establishes the electronic recording account, a separate nonlapsing account within the General Fund. Funds deposited in the electronic recording account are to be used for commission expenses and to provide grants to municipalities to develop, implement, and operate an electronic recording system.

The bill requires municipalities to charge an additional \$5 fee for

each document recorded in the land records of the municipality.¹ Municipalities must remit two-thirds of the fees collected to the electronic recording account in the State Library. Municipalities retain one-third of fees.

It is estimated that the \$5 fee charged for each document recorded in land records will generate statewide revenues of \$7.2 million in FY 05. Two-thirds of this, \$4.8 million, must be remitted to the electronic recording account. Municipalities retain one-third, an estimated \$2.4 million.

Projected Revenue from the \$5 Land Record Document Fee			
	Estimated FY 05	Estimated FY 06	Estimated FY 07
Total # of Land Documents Recorded Statewide	1,450,000	1,600,000	1,750,000
Total Revenue from Proposed \$5 Land Record Document Fee	\$ 7,250,000	\$ 8,000,000	\$ 8,750,000
Electronic Recording Account Portion of Land Record Revenues	\$ 4,833,334	\$ 5,333,334	\$ 5,833,334
Municipalities Portion of Land Record Revenues	\$ 2,416,666	\$ 2,666,666	\$ 2,916,666

The commission can use funds from the electronic recording account to pay for commission expenses. The amount of expenses the commission will incur is indeterminate, but is anticipated to be significant,² as the bill allows the commission to hire a real estate records director and other necessary staff. The commission will also incur annual operating and administrative costs.

The amount of grant funds the commission will provide to each municipality to develop, implement and operate electronic recording

¹ Under CGS 7-34a (d) town clerks currently charge a \$3 fee for each document recorded in the land records of the municipality. Towns remit two-thirds of the revenues collected from this \$3 fee to the historic documents preservation account within the State Library. Towns retain one-third of the revenue.

systems will be determined by the cost of electronic recording systems and by a municipality's land recording needs. The purchase price per municipality will vary by the number of documents recorded in the land records of a municipality. The more land documents recorded, the more expensive the cost of the electronic recording system. Some municipalities currently have more advanced land recording hardware and software than others. Therefore, not all municipalities will need the same style of electronic recording system, or receive the same amount of grant funds.

The cost to purchase or lease electronic recording systems is not known at this time, as system specifications will be based on the recommendations and standards set by the commission. However, it is estimated that the statewide cost to purchase electronic recording systems (hardware, software and installation costs) for all municipalities may range from \$12 million to \$27 million.

It is uncertain whether the commission will have sufficient funds to provide grants for the entire cost of purchasing electronic recording systems for municipalities by January 1, 2007 (the date by which municipalities are required to have established an electronic recording system). By that date, it is estimated that the electronic recording account will have received \$13 million in land record fee revenue.³ The state's 169 municipalities will also have generated \$6.5 million in land record fee revenue to be used for the purchase of electronic recording systems.

If municipalities lease, instead of purchase (based on the recommendations and standards developed by the commission), electronic recording systems, the costs would be spread out over a five year term, rather than be one-time costs. This would significantly lower the amount of commission grant funds and municipalities land record revenue funds needed to get town electronic recording systems

² OFA defines significant cost as annual costs exceeding \$100,000.

operational by January 1, 2007.

³ An indeterminate amount of this estimated \$13 million in the electronic land recording account will be used for commission personnel costs and operating expenses.

OLR Bill Analysis

HB 5664

AN ACT ESTABLISHING THE CONNECTICUT REAL PROPERTY ELECTRONIC RECORDING SYSTEM**SUMMARY:**

The bill establishes an Electronic Recording Commission (the commission) to oversee the development, implementation, and operation of an electronic land record recording system and ensure that it is fully implemented by January 1, 2007. The commission must adopt standards to be used for this purpose.

The bill requires each town by January 1, 2007, to establish a town electronic recording system, which includes an electronic land records index and document record, in accordance with standards the commission adopts. The electronic documents and the information in the electronic records index pertaining to real estate located in each town must be stored in its electronic recording system.

The bill requires that each town clerk receive an additional \$5 fee for each document recorded in the town land records. By the 15th day of each month, each clerk must remit two-thirds of the amount paid in such additional fees during the previous calendar month to the commission. The commission must deposit the money in a bank account of the State Treasurer and credit it to the electronic recording account the bill establishes.

The bill requires the commission to allocate the moneys in the account for (1) its expenses in carrying out the bill's purposes and (2) grants to towns to develop, implement, and operate their electronic recording systems. Towns can use these grants for hardware, software, paper document conversion, security, education and training, communication systems, and any other purposes the commission determines appropriate.

It requires each town that receives a grant to report to the commission by September first of the fiscal year following the year such grant was received, describing how it used the grant.

By January 1, 2006, and annually thereafter, the commission must report to the Judiciary Committee concerning its expenditures in the preceding fiscal year.

EFFECTIVE DATE: July 1, 2004, except the provision establishing the commission takes effect upon passage.

UNIFORM ELECTRONIC RECORDING SYSTEM (§3)

The bill specifies that the Connecticut real property electronic recording system is intended to function uniformly for recording all electronic documents relating to real estate located in Connecticut. The system consists of information, databases, hardware, software and all components of each town's electronic recording system.

The bill requires that its provisions be interpreted and enforced to accomplish uniform statewide procedures and standards for town electronic recording systems. But it prohibits it being interpreted to limit or restrict a town's ability to develop and use additional data recording and storage systems that interface with the electronic recording system or contain similar or complementary data.

ELECTRONIC RECORDING COMMISSION (§4)

Membership

The bill establishes an Electronic Recording Commission in the State Library for administrative purposes only. The commission consists of the following members:

1. the secretary of the state, or her designee;
2. the chief information officer of the Department of Information Technology, or his designee;
3. the public records administrator, or his designee;
4. a member of the real property section of the Connecticut Bar Association, appointed by the House speaker;
5. a town clerk representing the Connecticut Town Clerk's Association, appointed by the Senate president pro tempore;
6. a representative of a title insurance company, appointed by the House minority leader; and
7. a representative of the mortgage banking industry, appointed by the Senate minority leader.

The members are appointed for staggered terms. The bar association and banking members are initially appointed to a two-year terms from July 1, 2004, and then for three-year terms from July first in the year of their subsequent appointment. The town clerk and title insurance representative serve three-year terms beginning July 1, 2004. All initial appointments must be made within 60 days after the bill is enacted.

The commission must elect a chairman and a vice-chairman from among its members. Members must serve without compensation but must, within available funds, be reimbursed for expenses necessarily incurred in the performance of their duties.

Commission Duties

The bill requires the commission to oversee the development, implementation, and operation of the electronic recording system and ensure that it is fully implemented by January 1, 2007. The commission must adopt standards to be used in the system's development, implementation, and operation, which the bill specifies are not regulations.

System Standards

The standards must include:

1. the manner and format in which an electronic document must be submitted, received, returned, stored, and retrieved and specifications for the systems established for these purposes;
2. (a) the type of electronic signature required, the manner, format, and technological processes in which it must be affixed to an electronic document and for certifying authorities for such signatures, and (b) the identity of, or criteria that must be met by any third party town clerks use to facilitate the process of affixing electronic signatures and filing electronic documents;
3. formats and technological processes that are capable of assuring that (a) the party indicated to have signed an electronic document is one who actually signed it and (b) the electronic document and its electronic signature have been electronically sealed to protect them from being changed after execution;
4. processes and procedures to ensure (a) adequate preservation, disposition, integrity, security, and confidentiality of electronic

- documents and (b) the ability to adequately audit electronic documents;
5. any other attributes for electronic documents legally required for corresponding paper documents or reasonably necessary for filing such electronic documents;
 6. the manner and format in which an electronic version of a paper document must be created;
 7. qualifications for town clerks and other authorized persons entering information into the recording system and procedures for the commission to determine whether the qualifications are met;
 8. the procedure for paying recording fees;
 9. the purposes for which grants may be made to towns to develop, implement, and operate electronic recording systems the grant application procedure, the criteria for grant approval, the maximum grant amount, and the form for reports on grant activities submitted the bill requires;
 10. the procedure for searching for real estate information in the electronic recording system;
 11. a fee schedule for remote access searches of the system and procedures to collect and allocate those fees by and among town clerks; and
 12. any other requirements or procedures necessary to develop, implement, or operate the electronic recording system.

The bill defines “electronic” to mean relating to technology having electrical, digital, magnetic, wireless, optical, or electromagnetic capabilities or similar capabilities. It defines “electronic document” as a document created by electronic means and containing the information described in the bill. And it defines an “electronic signature” as an electronic sound, symbol, or process, attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document that meets the standards the commission adopts.

Commission Staff

The bill authorizes the commission, within available appropriations, to employ a real estate records director and other necessary staff. The director may (1) issue advisory opinions on the application of any standard the commission adopts, (2) administer the grant program, (3) propose standards to carry out the bill’s purposes, (4) enforce the bill’s provisions and the commission’s standards, and (5) exercise any other

authority and duties as the commission may delegate.

TOWN ELECTRONIC RECORDING SYSTEMS (§5)

The bill requires each town, by January 1, 2007, to establish a town electronic recording system, which includes an electronic land records index and an electronic document record, in accordance with standards the commission adopts. The documents and the information in the electronic land records index must be stored in the town's electronic recording system. The bill requires the town clerk where the real estate is located or a person he designates to enter each document into the electronic recording system.

The electronic land records index and document record in each town's electronic recording system must be backed up in accordance with standards the public records administrator develops. The bill defines "backed up" to mean the duplicating and saving of information through one or more electronic processes in order to provide a source from which the information may be replicated and reentered into the system in the event the system loses it.

ELECTRONIC INDEX (§6)

The bill requires a town's electronic land records index to contain the index information for each document recorded in its electronic recording system. The index must be accessible by using either the grantor's or grantee's name. (A grantor conveys an interest in real estate and a grantee receives the interest.) Each index entry must be linked to the document referenced in the electronic document record.

The index information must include:

1. the address of the real estate, as contained in the town's real estate tax records, to the extent available;
2. the names of the parties to the document;
3. the date the document was executed; and
4. other information as may be required by the commission's standards.

The bill requires a town's electronic document record to contain an electronic version of each document that is recorded in the town on or after it establishes its system. After the Connecticut real property

electronic recording system is implemented, each electronic version of a document must be linked to the index information in the electronic land records index that references the document.

The bill requires that a title search that accesses any electronic land records index or the Connecticut real property electronic recording system to establish marketable record title must be conducted by using the name of the grantor or the grantee of an interest in real estate.

ELECTRONIC DOCUMENTS (§7)

The bill requires information in an electronic document to consist of (1) the index information for the electronic document in electronic format, (2) the text of the electronic document, (3) an electronic signature, and (4) if appropriate, electronic graphical information.

Except as the bill otherwise provides, an electronic document must be submitted to the town clerk where the real estate is located. The clerk must review it to determine whether it contains the appropriate index information and conforms to the commission's standards. As soon as the town clerk determines that it complies, he or his designee must electronically seal it and enter it in the town electronic recording system. The electronic document is be deemed to have been filed when this entry is made.

An electronic document may not be entered into the Connecticut real property electronic recording system unless (1) it has been submitted for such purpose to the town clerk where the property is located and (2) a clerk or other authorized person electronically seals the document and entry.

The bill permits information contained in an electronic document to be recorded on or after January 1, 2007 only by entering it into the Connecticut real property electronic recording system. The electronic document must also include or be accompanied by any other documents required by law.

CREATION OF ELECTRONIC VERSION OF PAPER DOCUMENTS (§8)

The bill requires that a paper document be submitted for recording to the town clerk where the real estate is located. The clerk must review it to determine whether it contains the appropriate index information.

The clerk or his designee must create an electronic version of any paper document he receives for recording once the town electronic recording system is established.

The electronic version must conform to the commission's standards. Its technology and format must assure that the electronic version has not been changed after being created. The town clerk must keep the original paper document until the electronic recording process is completed. As soon as the electronic version has been created, the town clerk must enter it and the index information into the town's electronic recording system.

ERROR IN FILING DOCUMENTS (§9)

Under the bill, if an error occurs in the filing of a document that requires a correction to the index information, the correction may only be made by means of a correction entry executed by the clerk of the town in which the original document was filed. The correction entry must be a document containing any corrections to the index information necessary to conform that information to the original document. The correction entry must be entered in the electronic land records index in such a way as to link it to both the original information concerning the parcel or the parties to a document and the corrected information.

The bill authorizes a town clerk to execute the correction entry without the prior consent of the parties affected by it. But the clerk must immediately notify them of the correction entry. The parties may object in an appropriate document, and the document must be recorded and indexed in the Connecticut real property electronic recording system.

FILING FEES (§10)

The bill requires that each town clerk receive an additional \$5 fee for each document recorded in the town land records. By the 15th day of each month, each town clerk must remit two-thirds of the amount paid in such additional fees during the previous calendar month to the commission. The commission must deposit it in a state treasury bank account and credit it to the electronic recording account the bill establishes.

The town must retain the other one-third and use it to develop,

implement, and operate its electronic recording system. The additional fee does not apply to any document recorded on the land records by a state or town employee in conjunction with his official duties.

The bill requires anyone recording an electronic document to pay the recording fee required by the bill or any existing law by either (1) establishing an account with the town in which the electronic document is recorded or (2) electronically transferring funds to the town in accordance with standards adopted by the commission.

ELECTRONIC RECORDING ACCOUNT (§11)

The bill establishes a separate and nonlapsing account in the General Fund called the "electronic recording account." The account must contain the amounts the bill requires credited to it and any other moneys required by law to be deposited in it. Investment earnings are reinvested in it.

ALLOCATION OF FUNDS IN THE ACCOUNT (§12)

The bill requires the commission to allocate account funds for (1) the commission's expenses in carrying out the bill's purposes and (2) grants to towns to develop, implement, and operate their electronic recording systems.

REQUIRED REPORTS (§13)

The bill requires each town that receives a grant to report to the commission by September first of the fiscal year following the year such grant was received, following the form prescribed in the commission's standards. The report must describe the activities paid for with grant funds.

By January 1, 2006, and annually thereafter, the commission must submit a report to the Judiciary Committee concerning expenditures it made for the preceding fiscal year. It must include: (1) a description of each grant made for the preceding fiscal year, including the given amount, its purposes, and the recipient town; (2) a summary of the activities for which the commission used the moneys allocated to it for the preceding fiscal year; and (3) any findings or recommendations concerning the operation and effectiveness of the grant program.

STANDARDS FOR SEARCHING RECORDS (§14)

The bill authorizes anyone to search for real estate information in the Connecticut real property electronic recording system in accordance with standards the commission adopts. It authorizes the commission to establish a fee schedule for such searches that are conducted by remote access and provide for the collection and allocation of such fees by and among town clerks in accordance with its standards.

COORDINATION WITH CADASTRAL OR GEOGRAPHIC ELECTRONIC INFORMATION SYSTEMS (§15)

The bill allows the Connecticut real property electronic recording system to be coordinated with cadastral or geographic electronic information systems currently existing or subsequently implemented in this state according to standards the commission adopts. But the bill specifies that the information contained in the Connecticut real property electronic recording system may not be changed or modified as the result of any such coordination.

BACKGROUND

Cadastral

Apparently, the term “cadastral” refers to a survey on a scale sufficiently large to accurately show the extent and measurement of every field or other block of land. There is an active cadastral survey in the U.S. Bureau of Land Management, which is responsible for maintaining records of all public lands. Such surveys often require detailed investigation of the history of land use, legal accounts, and other documents.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 42 Nay 0