

Report related to the

**FISCAL, GOVERNANCE, AND OPERATIONAL
SUSTAINABILITY OF UNIFORM APPROACHES TO
THE MODERNIZATION OF THE ACCEPTANCE,
RECORDING, AND AVAILABILITY OF
DEEDS AND OTHER PROPERTY RECORDS**

(Required by Sec. 3, Act No. 171 of 2022)

Submitted by the

Vermont State Archives and Records Administration

a division of the

Vermont Secretary of State

In consultation with the

**Joint Fiscal Office; Vermont League of Cities and Towns;
Vermont Municipal Clerks' and Treasurers' Association;
representatives from the banking, bar, title insurance, and real estate
industry; and other interested parties**

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1. SUSTAINABILITY OF UNIFORM APPROACHES IN MODERNIZATION

The General Assembly, in enacting Act 171 of 2022, initiated a practical step forward to modernizing notarial acts and the recording of deeds and other property records in the State of Vermont. Sec. 3 of the Act charged the Vermont State Records and Administration (VSARA) with reporting on the fiscal, governance, and operational sustainability of uniform approaches to the modernization of the acceptance, recording, and availability of deeds and other property records, regardless of format, based on analyses of the following:

- 1) services requested by recorders pursuant to 27 V.S.A. § 625 to achieve consistency and uniformity in standards and best practices;
- 2) systems currently deployed by recorders and associated costs; and
- 3) anticipated recorder costs to transition to electronic recording pursuant to 27 V.S.A. chapter 5, subchapter 8.

The finding for the next practical step, in short, is that all Vermont municipal recording jurisdictions should (a) have access to an electronic land records system with electronic recording functionality; and (b) such systems should be made available enterprise-wide at the same cost *and* at lowest cost possible to all recorders in the State of Vermont. The consistent, uniform and standards-based recording processes that come with modernization are achievable statewide with technology and an equal footing.

Government functions that have the same legal requirements and same expected processes across multiple independent elected or appointed officials— such as the acceptance, recording, and availability of deeds and other property records – offer tremendous opportunities for economies of scale, especially with today’s technology. Vermont state government, specifically the executive branch and its six independently elected state officers, has embraced scalable enterprise-wide systems and the opportunities they provide in greater efficiencies, stronger adherence to standards, better security, higher satisfaction in the delivery of services, improved auditability, and lower costs.

Efforts to modernize from paper-based processes and records to electronic, particularly after Tropical Storm Irene, have also considerably shielded Vermont state government from significant loss of records, which was evident following this summer’s flooding in Montpelier and several other parts of the State of Vermont where state district offices are located. The flooding this year, as it did during Irene, exposed ongoing vulnerabilities of maintaining manual processes and critical paper records in many local government offices.

The analyses of the services requested by recorders as well as land records stakeholders, the systems currently deployed by recorders and associated costs, and the anticipated recorder costs to transition to electronic recording all point to the benefits of an enterprise-wide systems approach to modernization and, most importantly, consistency and uniformity. Through this approach, fiscal, governance and operational sustainability is possible – but all recorders *need to be able* to modernize at the same time.

2. SERVICES REQUESTED BY RECORDERS PURSUANT TO 27 V.S.A. § 625

The State of Vermont *Land Records Standard for All Town Clerks* was issued by VSARA in August 2020 to provide guidance to municipal clerks following the passing of Act 137 of 2020, which appropriated \$2 million to assist municipalities in digitizing land records for online public access. This standard complements the State of Vermont *Best Practice Standards for Indexing Land Record Instruments*, jointly published by the Office of Secretary of State and Vermont Municipal Clerks’ and Treasurers’ Association in 2002, and other relevant State of Vermont standards issued by VSARA such as those relating to the imaging (digitization) of paper records and file formats and metadata (indexing) for digital records.

Effective July 1, 2022, the Vermont General Assembly codified the use of standards and best practices for all recordings in [27 V.S.A. § 625](#) (Standards and Best Practices) of the Uniform Real Property Electronic Recording Act or URPERA, which states:

To ensure consistency in the standards and best practices of, and the technologies used by, recorders in this State, all recordings of deeds and other instruments or evidences respecting real estate, regardless of format, shall comply with standards and best practices issued by the Vermont State Archives and Records Administration pursuant to 3 V.S.A. § 117. Recorders shall seek services from the Vermont State Archives and Records Administration to comply with the standards and best practices issued in accordance with this subchapter. No provisions of this subchapter shall be implemented unless a recorder has complied with the standards and best practices issued by the Vermont State Archives and Records Administration in accordance with this subchapter.

Services requested by some, and offered to all, recorders pursuant to 27 V.S.A. § 625 largely focus on six (6) core areas and overlap with similar needs for other records filed or recorded in municipal clerks’ offices ([1 V.S.A. § 317a](#)):

Table 1. Six Core Service Requests from Recorders Related to 27 V.S.A. § 625	
1.	One-on-one meetings and/or onsite visits for direct records management assistance
2.	Assessments of physical paper records storage, space conditions and future needs
3.	Review and analysis of state statutes related to land records and recommended changes
4.	Up-to-date standards and best practices for both land record submitters and recorders
5.	Educational and training opportunities on recording and preserving land records
6.	Contracting and technical specifications for land records systems and technologies

Since the Fall of 2022, almost 70 recorders have expressed interest in having one-on-one meetings and/or onsite visits and more than 35 onsite visits have been conducted by VSARA during the past year. To supplement the range of requests, VSARA presented at the VMCTA annual meeting on land records management and started hosting quarterly “Lunch and Learn” webinars for municipal clerks in 2023 on various recordkeeping topics, including recording. The webinars have had an average attendance of 32 clerks per webinar.

VSARA also liaises requests from representatives of the banking, bar, real estate, and title insurers and other interested stakeholders, including selectboards and executive branch entities within Vermont state government that have interrelated functions and/or dependencies on records related to land and real property, such as land use, parcel data and mapping, permitting, and surveying.

Service requests received from stakeholders since the passing of Act 171 of 2022 largely focus on six (6) core areas (see also Appendix C: Stakeholder Supplemental Statements):

Table 2. Service Requests from Land Record Stakeholders Related to 27 V.S.A. § 625	
1.	Mitigating inabilities or delays in the timely recording of documents
2.	Uniform and consistent online access to land records regardless of system or provider
3.	Standardized fees related to land records that are established by state statute only
4.	Requisite education and training for all recorders on recording and legal requirements
5.	Accountability and escalation in state statute when there is neglect of duty by a recorder
6.	Systems that are scalable to a wider user base, e.g. zoning, permitting, parcel data, etc.

To foster stronger communication, understanding and collaboration among recorders and land records stakeholders on the above land records matters and Act 171 modernization initiatives, VSARA established a local chapter of the Property Records Industry Association (PRIA). A partnership and collaboration with PRIA was initiated prior to the passing of Act 171 of 2022 and VSARA remains in regular communication with PRIA on several topics, including industry standards and best practices for recording and land records management.

PRIA standards and best practices have been adopted by recording jurisdictions throughout the United States and also incorporated into most commercial electronic land records systems. The following two PRIA best practices are among those being adapted for issuance by VSARA pursuant to 27 V.S.A. § 625 after rules regarding the performance of notarial acts with respect to electronic records and remote online notarization, a dependency to electronic recording, have been adopted.

- PRIA Indexing Best Practices (last revised *October 2022*)
- PRIA eRecording Best Practices for Submitters (last revised *July 2022*)

While still in its formative stage and with VSARA serving as coordinator until co-chairs are elected, a total of six webinars (an introduction to PRIA, four electronic recording system demonstrations and a presentation by a county recorder from another state on time and cost savings with electronic recording) were successfully hosted in 2023 under the umbrella of the Vermont PRIA Local Chapter and attended by both clerks and stakeholders (40-50 attendees on average). The Vermont PRIA Local Chapter webinars, held on March 21, April 20, April 21, May 1, May 2, and October 26, were also used to collect service requests from recorders and land records stakeholders and to solicit feedback on different electronic land records systems.

3. SYSTEMS CURRENTLY DEPLOYED BY RECORDERS AND COSTS

As one of three states that record land records at the municipal level (Connecticut and Rhode Island are the two other states) and with 256 towns, cities, gores, and grants, the State of Vermont has the most recording jurisdictions in the country. To report on the systems currently deployed by recorders and associated costs, VSARA analyzed the following:

- Data collected by the Vermont Municipal Clerks’ and Treasurers’ Association (VMCTA) and the Vermont League of Cities and Towns (VLCT) to prepare the Consolidated Town Fee Report required under [32 V.S.A. § 611](#)¹.
- Data collected by the Vermont Department of Taxes to prepare the quarterly Property Transfer Tax Reports and the Annual Property Valuation and Review Report based on municipal grand list data.
- The VMCTA’s online listing of municipalities that have electronic indices and scanned images of land records available online through a system.

It is important to note that the data provided by municipal recording jurisdictions for the Consolidated Town Fee Report vary greatly and therefore are neither uniformly nor consistently reported. Municipalities also use different methods for tracking and reporting revenue and expense data and, aside from specific questions asked by the VMCTA that are land records based, most of the data collected for the Consolidated Town Fee Report are broader than land records. Additionally, only an average of 58% of municipal recording jurisdictions provide data for the Consolidated Town Fee Report on an annual basis.

To address these differences, VSARA combined the 2022 data collected by the VLCT in preparation for the next Consolidated Town Fee Report (due January 2024) with property transfer and grand list data from the Department of Taxes for the same time frame to create a baseline analysis of current systems deployed by recorders and associated costs (for the purpose of this report, a system is defined as an electronic land records system with electronic recording functionality).

Among the 146 municipal recording jurisdictions that provided 2022 data for the Consolidated Town Fee Report:

- 81 jurisdictions reported having a system for land records:
 - 60 of the systems deployed have electronic recording functionality.
 - 21 of the systems deployed *do not* have electronic recording functionality.
- 65 jurisdictions reported having no system for land records.

¹ The *Annual Revenue/Expenses Reporting Form* provided by the VMCTA to municipal clerks asks “Digital System Cost” and related questions concerning land records and associated costs.

Focusing on the 60 municipal recording jurisdictions currently deploying an electronic land records system with electronic recording functionality *that also* provided 2022 data, there are a total of three systems used in the State of Vermont. VSARA aggregated and analyzed the following data for the towns using each system (labeled as Systems 1-3 in Table 3):

- Number of towns using each system.
- Number of property transfers within the towns using each system.
- Number of taxable properties within the towns using each system.
- Total reported system costs to the towns using each system.
- Total reported net recording fees collected by the towns using each system.
- Total reported revenues collected by the towns using each system.

These data are helpful because property transfers and taxable properties comprise a significant portion of recording and post-recording fees, e.g. copies, that contribute to the total revenues reported by towns.

	System 1	System 2	System 3	All Systems
Towns (#)	12	17	31	60
Property Transfers (#)	2,390	4,951	4,063	11,404
Taxable Properties (#)	29,030	52,580	45,051	126,661
Overall System Costs (\$)	124,414	197,832	150,588	472,834
Net Recording Fees (\$)	688,055	1,401,457	935,496	3,025,008
Total Revenues (\$)	1,082,958	4,381,344	4,324,324	9,788,626

*For ease of reading, town expense and revenue data have been rounded to the nearest dollar but averages are based on complete figures.

With advice from the Joint Fiscal Office, VSARA further aggregated and analyzed the data to understand the following for all three systems currently deployed:

- System cost per property transfer.
- System cost per taxable property.
- Percentage of total net recording fees being used towards system costs.
- Percentage of total revenue being used towards system costs.

	System 1	System 2	System 3	All Systems
Towns (#)	12	17	31	60
Overall System Costs (\$)	124,414	197,832	150,588	472,834
System Cost Per Transfer (\$)	52.06	39.96	37.06	41.46
System Cost Per Property (\$)	4.29	3.76	3.34	3.73
Percentage of Recording Fees	18%	14%	16%	16%
Percentage of Total Revenues	11%	5%	3%	5%

*For ease of reading, town expense and revenue data have been rounded to the nearest dollar but averages are based on complete figures.

Focusing on the 60 municipal recording jurisdictions currently deploying an electronic land records system with electronic recording functionality *that also* provided 2022 data, the collective costs for their systems, on average, are currently:

- \$41.46 per property transfer.
- \$3.73 per taxable property.
- 16% of total recording fees.
- 5% of total revenues.

Statewide Estimated Costs for Land Records Systems in all Municipalities

According to the Vermont Department of Taxes' *January 2023 Property Valuation and Review (PVR) Annual Report* (based on 2022 grand list data), during the same reporting period as the Fee Report, there were 31,257 total property transfers in the State of Vermont across all recording jurisdictions and 327,483 taxable properties in the State of Vermont across all recording jurisdictions.

- \$41.46 (System Cost Per Transfer) x 31,257 (Total Transfers) = \$1,295,915
- \$3.73 (System Cost Per Taxable Property) x 327,483 (Total Properties) = \$1,221,512

Based on the figures above, the estimated statewide annual costs (all municipal recording jurisdictions) are \$1.2 M to \$1.3M annually. If \$1.2M and \$1.3M annually as a collective cost for systems in each municipal recording jurisdiction seems unrealistically high, that's because it is. Some of the reported system costs in the 2022 data include:

- Vendor set-up charges or added services, such as digitizing and indexing older records.
- One-time use of Restoration and Preservation Reserve Funds² for a land records project.
- Overall cost of an integrated municipal system that includes other municipal records.
- Cost of an older system and cost of a new system paid in the same year.

Example: One recorder in a municipality with 654 taxable properties and 55 property transfers originally reported a system cost of \$64,000 in the 2022 data. Upon clarification, \$40,000 was spent on a system but this cost also included the digitization and indexing of 40 years of older records, for which Restoration and Preservation Reserve Funds were used. The annual land records system cost is currently \$2,040 and the remaining difference is for another system.

For these reasons, a more realistic approach to estimating statewide costs for a land records system in each municipal recording jurisdiction is to use the percentage of net recording fees (16%) and the percentage of total revenues (5%) currently used for systems and an aggregate of

² Restoration and Preservation Reserve Funds are collected and used pursuant to 32 V.S.A. § 1671(c) for the "restoration, preservation, digitization, storage, and conservation of municipal records,"

the total net recording fees collected and the total revenues collected for all 146 municipal recording jurisdictions that provided 2022 data for the Consolidated Town Fee Report:

- \$4,614,369 was collected in total net recording fees.
- \$12,299,792 was collected in total revenues.

Based on the figures above, the estimated statewide annual costs (all recording jurisdictions) are \$615,000 to \$738,000 statewide.

- 16% of \$4,614,369 (Total Net Recording Fees) = \$738,000
- 5% of \$12,299,792 (Total Revenue) = \$615,000

The above reported costs of systems currently deployed by recorders do not reflect the totality of costs currently associated with recording, storing, preserving, and accessing land records. Nonetheless, the reported costs and estimated statewide costs, while imperfect, provide baselines for comparison and opportunities for measuring cost-savings in modernizing land records.

Additional Current Costs to Recorders

Presently within the State of Vermont and largely following the passing of Act 137 of 2020, which appropriated \$2 million to assist municipalities in digitizing 40-years of land records for online public access, it should be noted some aspects of electronic recording were implemented, albeit only making digital copies of recorded documents. This means recorders still use manual recording processes for new documents presented for recording while adding new processes and costs – such as additional time for converting paper recorded documents to digital; new and ongoing maintenance of systems for providing online access to digital copies of land records; and the usual, ongoing physical records storage for paper land record volumes.

Additional Current Costs to Submitters and Users of Land Records

For submitters and users of land records, their costs remain largely the same after the passing of Act 137 of 2020. Those submitting documents for recording still use manual processes for mailing or hand delivering paper documents to the recorder. Those researching land records have experienced new charges for online access in some recording jurisdictions or have the need to still travel to municipalities to manually research records (even if digital copies of recorded documents are online, they may not have the legal certainty to meet the conditions necessary for title or similar research and other records, such as zoning and permitting records, are often still in paper form). Further, those responsible for understanding statewide real property ownership, land use, parcel data and mapping, etc. and making relevant information broadly available still have their regular costs of researching and compiling information and data from land records recorded in each individual municipal recording jurisdiction.

4. RECORDER COSTS TO TRANSITION TO ELECTRONIC RECORDING

Nationally, the transition to electronic recording has lowered the cost of recording, accessing, and preserving land records. The same can be realized by the State of Vermont.

Since the 1960s, recording jurisdictions in other states have progressively adopted and shifted to electronic land record systems and, beginning in the 1990s, electronic recording. This is because manual recording processes with paper-based documents are inherently cumbersome and labor intensive and, as a result, more costly to manage effectively or efficiently. The movement of paper documents by mail or physical hand delivery to the recorder, the physical copying and recording by the recorder, the printing and binding of land records volumes, and the permanent storage and preservation of paper volumes also contribute the overall costs of manual recording processes.

With electronic recording, documents are electronic and submitted electronically to the recorder through an electronic land records system where the recorder can review, accept (or reject) and eventually record them – also electronically and in the same system. Submitters can also monitor the recording status of their submissions electronically and receive notices electronically. Mailed or hand delivered paper documents are still accepted but converted to electronic documents by the recorder and reviewed, accepted (or rejected) and recorded the same as electronically submitted documents.

Electronic recording, when carefully and thoughtfully implemented, offers several cost-savings measures for Vermont municipal recording jurisdictions over manual recording processes, including but not limited to:

- Streamlined and simplified document submission processes.
- More efficient recording processes with faster turn-around and return of documents.
- Significantly reduced overhead costs in comparison to paper documents.
- Enhanced security of documents and protection from fraud for property owners.
- Increased trust, confidence, and satisfaction in the recording process.

Systematically and uniformly transitioning, as a state, to electronic land records systems and enabling electronic recording in all of Vermont's municipal recording jurisdictions will also help achieve the desired uniformity and consistency in addition to projected savings in both costs and time for recorders, submitters, and users of land records. Savings in other areas, such as recorders being able to discontinue printing, binding, and permanently preserving paper-based land records volumes after a certain date, shift costs to more sustainable and economic options and would relieve municipalities from future capital construction investments for physical records storage of land records, which continuously grow each and every year.

Recent modernization laws, such as Act 46 of 2017 which transitioned the Department of Health, municipal clerks and VSARA, to a Statewide Registration System in July 2019 for all births and deaths certificates dating from 1909 to present, offer opportunities for comparison.

5. NEXT STEPS

The intent of the General Assembly, as articulated in Sec. 1 (b) of Act 171 of 2022, was to “provide a practical step forward to modernizing notarial acts and the recording of deeds and other property records in the State of Vermont through legislation that promotes uniformity within Vermont and with other states, specifically: (1) uniform laws that have been accepted and enacted into law by a substantial number of states; (2) uniform standards and best practices that have been accepted and adopted by a substantial number of states; and (3) uniform approaches to modernization that are carefully planned; coordinated; comprehensive; multi-jurisdictional; and have fiscal, governance, and operational sustainability.”

Over the course of the past 18 months, VSARA has identified opportunities for municipal recording jurisdictions to streamline and simplify recording processes and take a uniform approach to modernization – provided next steps are carefully planned, coordinated, comprehensive, and multi-jurisdictional. Successfully achieving uniformity also means minimizing or removing substantive barriers, challenges, and obstacles:

- A significant barrier to modernization is that many of Vermont’s municipalities have too few taxable properties and/or too few property transfers to economically transition to individual electronic land records systems.
- A considerable challenge to modernization is recording being just one of many duties of municipal clerks, all of which can be time-consuming and complicated when the right tools and resources are not provided.
- A critical obstacle to modernization is that recording requires consistent and sound management and technologies as well as strong knowledge of, and adherence to, internal controls and standards and best practices, which are difficult to achieve when there are vacancies or turnovers of the recorder position in Vermont’s municipalities.

Successfully achieving uniformity and fiscal, governance and operation sustainability for the acceptance, recording, and availability of deeds and other property records in the State of Vermont requires addressing barriers, challenges, and obstacles – and doing so is essential for the overall improvement of: recorder performance and adherence to standards and best practices; efficiencies in the recording process for both submitters and recorders; and use and access to land records by a broad range of stakeholders.

Actionable steps on the part of VSARA in 2024 in the ongoing and continued support for the modernization of land records in the State of Vermont include a proof of concept (POC) pilot project for enterprise-wide availability of systems that will further help identify what additional tools and resources, including professional development opportunities, need to be provisioned for recorders to meet the requirements of the current State of Vermont standards and best practices and for transitioning to electronic recording.

Proof of Concept (POC) Pilot Project

Presently, there are three different systems with electronic recording functionality deployed in Vermont and each municipal recording jurisdiction using one of these three systems has its own single instance. This means each jurisdiction is responsible for all the overhead costs associated with its own single instance, including updates, maintenance, and enhancements, even though using the exact same system as other jurisdictions.

As a next step, VSARA has initiated a proof of concept (POC) pilot project for multi-tenant cloud-based electronic land records systems. While the primary objectives of the POC pilot project is to identify economies of scale achievable through multi-tenant land records systems and statewide contracts, there are additional benefits to the project. Additional benefits include:

- Developing accurate recorder costs to transitioning to electronic recording.
- Concurrently evolving the capacity for accepting electronically notarized documents.
- Providing recorders options and incentives for uniform and consistent processes.
- Providing submitters options and incentives for uniform and consistent processes.
- Defining ongoing fiscal, governance, and operational sustainability needs.

The pilot is anticipated to formally begin in February or March of 2024 and legislators interested in the modernization of land records and notarial acts are encouraged to participate. Three current electronic system providers – two already being used by recorders and one already under state contract for other systems used by Vermont – have met with VSARA and are enthusiastic to participate.

State Contracts

While municipalities can use some statewide contracts managed by the Office of Purchasing and Contracting within the Vermont Department of Buildings and General Services, information technology contracting – including project management, oversight and procurement – are scoped specifically to the executive branch of Vermont state government and the needs of state agencies, departments, and offices.

Legislative action may be necessary to facilitate the use of the state contracting process for enterprise-wide electronic land records systems to be made available to municipalities under state contracts the same way as other goods and services. The General Assembly may also want to consider greater economies of scale should the same enterprise-wide electronic land records systems be made available to a wider user base, e.g. zoning, permitting, parcel data, etc., consisting of both Vermont state government and municipalities (see Appendix A for relevant state statutes concerning the acceptance, recording and availability of deeds and other property records in the State of Vermont).

6. CONCLUSION

VSARA is committed to updating the reported costs and estimated statewide costs for systems after the next Consolidated Town Fee Report is complete and available. Like with state contracting, legislative action may be necessary if the General Assembly finds opportunities to improve on the Consolidated Town Fee Report, the data collected, the types of data collected, consistency of the data reported, and overall compliance with the reporting requirement.

Related, in comparing the revenue and expense data collected for the Consolidated Town Fee Report with revenue and expense data reported by each municipality in its annual Town or Village Report, which is required to be published annually pursuant to [24 V.S.A. § 1173](#), there are notable differences. A more in-depth analysis of revenue and expense reporting in these two reports may help the General Assembly identify opportunities for municipalities to streamline and uniformly report their revenue and expense data for both reports. When there are specific areas of interest, such as land records, more accurate data collection and reporting is essential.

Related Legislation

While the report requirement in Act 171 of 2022 did not request a recommendation for legislation, the General Assembly could consider recent legislation or current bills as possible opportunities during the remainder of the 2023-2024 legislative session to further define ways to address the service requests in Section 2 of this report; the Consolidated Town Fee Report and reporting in Section 3; the transition to electronic recording in Section 4; and the substantial barriers, challenges, and obstacles to the acceptance, recording, and availability of deeds and other property records and modernization in Section 5.

Examples include those related to land records, municipal assistance, municipal clerks, and public infrastructure, such as:

- Act 3 of 2023, Sec. 95: Municipal Technical Assistance to Access State and Federal Funding
- Act 72 of 2023, Sec. 32: Study of Financing Public Infrastructure Improvements
- Act 78 of 2023, Sec. B.1100 (q)(1): Land Use Permit Records
- H.519: An act relating to the duties and salaries of municipal clerks

In conclusion, there are many opportunities for continued practical steps forward in this modernization initiative on the part of recorders, land records stakeholders, VSARA, General Assembly, and other interested parties, if, as the State of Vermont, we commit to collaboration and strategies that address barriers, challenges, and obstacles and progressively improve the acceptance, recording, and availability of deeds and other property records for all.

7. APPENDIX A: RELEVANT STATE STATUTES

The following, while not an exhaustive list, are state statutes that relate to the recording of documents by municipal recording jurisdictions in the State of Vermont and intersections with Vermont state government, if applicable.

Statute	Title	State Intersect (if applicable)
1 V.S.A. § 674	Record [related to Vermont Coordinate System]	Not applicable (n/a)
5 V.S.A. § 3519	Location of road to be recorded	Not applicable (n/a)
5 V.S.A. § 3527	Notice and statement of appraisal; record [related to Location, Condemnation, and Construction]	Transportation Board
5 V.S.A. § 3545	Alterations to be recorded [related to Location, Condemnation, and Construction]	Transportation Board
5 V.S.A. § 3789	Record of changes [related to grade crossings]	Transportation Board
6 V.S.A. § 2905	Foreclosure and sale [related to producer's liens]	Not applicable (n/a)
8 V.S.A. § 16101	Conversions [related to financial and related institutions]	Financial Regulation, Dept. of
8 V.S.A. § 17101	General provisions on mergers, share exchanges, consolidations, and acquisitions	Financial Regulation, Dept. of
8 V.S.A. § 34101	Mergers [related to credit unions]	Financial Regulation, Dept. of
8 V.S.A. § 35101	Conversions [related to credit unions]	Financial Regulation, Dept. of
9 V.S.A. § 1925	Foreclosure [contractors' liens for labor or material]	Vermont Judiciary
9 V.S.A. § 1971	Unpaid wages; statutory lien; priority over subsequent mortgage or lien	Labor, Dept. of
9 V.S.A. § 2604	Real estate deeds for mobile homes	Not applicable (n/a)
9 V.S.A. § 2606	Relocating mobile homes to another municipality or state	Not applicable (n/a)
9A V.S.A. § 9-502	Contents of financing statement; record of mortgage as financing statement; time of filing financing statement	Not applicable (n/a)
10 V.S.A. § 865	Copy of award and judgment filed [related to drainage of low lands]	Vermont Judiciary

Statute	Title	State Intersect (if applicable)
10 V.S.A. § 1443	Individual permit requirements for impervious surface or cleared area in a protected shoreland area	Natural Resources, Agency of
10 V.S.A. § 1925	Notice in land records	Natural Resources, Agency of
10 V.S.A. § 1973	Permits [related to potable water supply and wastewater system permit]	Natural Resources, Agency of
10 V.S.A. § 6007	Act 250 Disclosure Statement; jurisdictional determination	Natural Resources Board
10 V.S.A. § 6090	Recording; duration and revocation of permits [related to state land use and development plans]	Natural Resources Board
10 V.S.A. § 6237a	Mobile home park closures	Commerce and Community Development, Agency of
10 V.S.A. § 6266	Sale of mobile home park; health and safety compliance	Commerce and Community Development, Agency of
10 V.S.A. § 6311	Conservation rights and interests; tax liens	Natural Resources, Agency of
10 V.S.A. § 6648	Corrective action plan [related to brownfields]	Natural Resources, Agency of
10 V.S.A. § 6652	Certificate of completion [related brownfields reuse and environmental liability limitations]	Natural Resources, Agency of
11 V.S.A. § 3223	Statement of partnership authority	Not applicable (n/a)
12 V.S.A. § 524	Actions based on residential building energy standards	Vermont Judiciary
12 V.S.A. § 2809	Proceedings to extend lien [related to real estate; levy, sale, and redemption]	Vermont Judiciary
12 V.S.A. § 2903	Duration and effectiveness [related to judgment lien]	Vermont Judiciary
12 V.S.A. § 2904	Recording [related to judgment lien]	Vermont Judiciary
12 V.S.A. § 4932	Venue; joinder of parties; recording	Vermont Judiciary
12 V.S.A. § 4941	Decree foreclosing equity of redemption; writ of possession	Vermont Judiciary
12 V.S.A. § 4947	Foreclosure of equity of redemption; recording	Vermont Judiciary
12 V.S.A. § 4948	Reinstatement of mortgage prior to sale	Vermont Judiciary
12 V.S.A. § 4949	Mortgagor's redemption prior to judicial sale	Vermont Judiciary
12 V.S.A. § 4951	Judgment vacated	Vermont Judiciary

Statute	Title	State Intersect (if applicable)
12 V.S.A. § 4952	Sale procedures [related to foreclosure by judicial sale]	Vermont Judiciary
12 V.S.A. § 4954	Procedure following sale [related to foreclosure by judicial sale]	Vermont Judiciary
12 V.S.A. § 4962	Notice of intention to foreclose	Vermont Judiciary
12 V.S.A. § 4964	Recording [related to foreclosure by nonjudicial sale]	Vermont Judiciary
12 V.S.A. § 4965	Service; form [related to foreclosure by nonjudicial sale]	Vermont Judiciary
12 V.S.A. § 4966	Conduct and location of sale	Vermont Judiciary
12 V.S.A. § 4967	Recording following sale [related to foreclosure by nonjudicial sale]	Vermont Judiciary
12 V.S.A. § 4970	Form and effect of foreclosure deed	Vermont Judiciary
12 V.S.A. § 5173	Recording of report and judgment; effect [related to partition of real estate]	Vermont Judiciary
14 V.S.A. § 1742	Record of decrees relating to real estate; where recorded	Vermont Judiciary
14 V.S.A. § 1952	Time of disclaimer—Delivery [related to administration and settlement of decedents' estates]	Vermont Judiciary
14 V.S.A. § 2201	Mortgage of property by fiduciary; motion; order; license	Vermont Judiciary
14 V.S.A. § 2802	Partition of estate of which ward has an undivided interest [related to inventory and disposition of estate]	Vermont Judiciary
14 V.S.A. § 3503	Executions [related to powers of attorney]	Vermont Judiciary
14A V.S.A. § 1013	Certification of trust	Vermont Judiciary
15 V.S.A. § 754	Judgment effective to convey real estate	Not applicable (n/a)
15 V.S.A. § 791	Arrearage judgment lien	Vermont Judiciary
19 V.S.A. § 44	Statewide Property Parcel Mapping Program	Transportation, Agency of
19 V.S.A. § 504	Complaint; service; answer [related to condemnation for state highway projects]	Transportation, Agency of
19 V.S.A. § 506	Recording of judgment or notice of condemnation; payment; vesting of title [related to condemnation for state highway projects]	Transportation, Agency of

Statute	Title	State Intersect (if applicable)
19 V.S.A. § 705	Papers to be recorded [related to laying out, discontinuing, and reclassifying highways]	Vermont Judiciary
19 V.S.A. § 1111	Permitted use of the right-of-way relocation or adjustment orders	Transportation, Agency of
20 V.S.A. § 2733	Orders to repair, rehabilitate, or remove structure [related to Division of Fire Safety]	Public Safety, Dept. of
21 V.S.A. § 1336	Lien, fee, foreclosure [related to unemployment compensation]	Labor, Dept. of
21 V.S.A. § 208	Imminent danger [related to safety]	Labor, Dept. of
24 V.S.A. § 1154	Records; copies [related to town clerks]	Not applicable (n/a)
24 V.S.A. § 1156	Chattel mortgages; conditional sales; discharge of lien	Not applicable (n/a)
24 V.S.A. § 1157	Duties of town clerk as to chattel mortgages	Not applicable (n/a)
24 V.S.A. § 1158	Assignment or discharge of mortgage or judgment lien [related to town clerks]	Not applicable (n/a)
24 V.S.A. § 1461	Location or alteration of municipal lines; monuments	Secretary of State, Office of
24 V.S.A. § 1536	Abatement; record; discharge	Not applicable (n/a)
24 V.S.A. § 1981	Enforcement of order from Judicial Bureau	Vermont Judiciary
24 V.S.A. § 2299h	Copy of order; record [related to condemnation; solid waste management districts]	Vermont Judiciary
24 V.S.A. § 2808	Condemnation; record of orders and proceedings [related to construction; condemnation]	Not applicable (n/a)
24 V.S.A. § 3213	Disposal of property in urban renewal area	Not applicable (n/a)
24 V.S.A. § 3255	Collection of assessments; liens	Not applicable (n/a)
24 V.S.A. § 3262	Written agreements; consent of property owners; energy savings analysis	Not applicable (n/a)
24 V.S.A. § 3268	Release of lien	Not applicable (n/a)
24 V.S.A. § 3610	Record [related to sewage disposal system]	Not applicable (n/a)
24 V.S.A. § 3802	Maintenance [related to fences and fence reviewers]	Not applicable (n/a)

Statute	Title	State Intersect (if applicable)
24 V.S.A. § 3804	Pasturing land without division fence	Not applicable (n/a)
24 V.S.A. § 3811	Notice; certificate; effect of record [related to fences and fence reviewers]	Not applicable (n/a)
24 V.S.A. § 3813	When fence is on a town line; division	Not applicable (n/a)
24 V.S.A. § 4418	Subdivision bylaws	Not applicable (n/a)
24 V.S.A. § 4423	Transfer of development rights [related to municipal and regional planning and development]	Not applicable (n/a)
24 V.S.A. § 4454	Enforcement; limitations [related to municipal and regional planning and development]	Not applicable (n/a)
24 V.S.A. § 4463	Subdivision review [related to municipal and regional planning and development]	Not applicable (n/a)
26 V.S.A. § 5373	Notarial acts	Not applicable (n/a)
27 V.S.A. § 350	Change in name or status of owner of real estate	Not applicable (n/a)
27 V.S.A. § 403	Records when lands lie in unorganized place	Not applicable (n/a)
27 V.S.A. § 463	By separate instrument [discharge of mortgages]	Not applicable (n/a)
27 V.S.A. § 605	Contents of notice of claim; recording	Not applicable (n/a)
27 V.S.A. § 614	Transfer of stormwater discharge permits to a municipality	Not applicable (n/a)
27 V.S.A. § 461	By entry on record [related to discharge of mortgage]	Not applicable (n/a)
27 V.S.A. § 866	Recording decrees affecting realty	Vermont Judiciary
27A V.S.A. Arts. 1-4	Vermont Common Interest Ownership Act (1994)	Not applicable (n/a)
29 V.S.A. § 541	Drilling permits	Vermont Natural Gas and Oil Resources Board
29 V.S.A. § 561	Release of oil and gas leases	Not applicable (n/a)
29 V.S.A. § 563	Abandonment of oil and gas interests; preservation	Not applicable (n/a)
30 V.S.A. § 248	New gas and electric purchases, investments, and facilities; certificate of public good	Public Service, Dept. of; and Public Utility Commission
30 V.S.A. § 51	Residential building energy standards; stretch code	Public Service, Dept. of; and Public Utility Commission

Statute	Title	State Intersect (if applicable)
30 V.S.A. § 53	Commercial building energy standards	Public Service, Dept. of; and Public Utility Commission
32 V.S.A. § 3756	Qualification for use value appraisal	Taxes, Dept. of
32 V.S.A. § 3757	Land use change tax	Taxes, Dept. of
32 V.S.A. § 5071	Filing and notice of lien [related to tax liens]	Not applicable (n/a)

8. APPENDIX B: EXCERPTS OF SECS. 2-3 OF ACT 171 (VSARA)

The sections of [Act 171](#) that relate to VSARA are as follows:

Sec. 2:

27 V.S.A. § 625 (STANDARDS AND BEST PRACTICES)

“...all recordings of deeds and other instruments or evidences respecting real estate, regardless of format, shall comply with standards and best practices issued by the Vermont State Archives and Records Administration pursuant to [3 V.S.A. § 117](#). Recorders shall seek services from the Vermont State Archives and Records Administration to comply with the standards and best practices issued in accordance with this subchapter.”

Sec. 3:

VERMONT STATE ARCHIVES AND RECORDS ADMINISTRATION; REPORT

“On or before January 15, 2024, the Vermont State Archives and Records Administration shall submit a report to the House Committees on Commerce and Economic Development and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations concerning the fiscal, governance, and operational sustainability of uniform approaches to the modernization of the acceptance, recording, and availability of deeds and other property records, regardless of format.

For the report required by this subsection, the Vermont State Archives and Records Administration shall consult with: (A) the Joint Fiscal Office; (B) the Vermont League of Cities and Towns; (C) the Vermont Municipal Clerks’ and Treasurers’ Association; (D) representatives from the banking, bar, title insurance, and real estate industry; and (E) other interested parties.

The report shall be based on analyses of the following: (1) services requested by recorders pursuant to 27 V.S.A. § 625 to achieve consistency and uniformity in standards and best practices; (2) systems currently deployed by recorders and associated costs; and (3) anticipated recorder costs to transition to electronic recording pursuant to 27 V.S.A. chapter 5, subchapter 8.

On or before January 15, 2023, the Vermont State Archives and Records Administration shall prepare an interim report concerning the information and analyses required by this section and submit the interim report to the House Committees on Commerce and Economic Development and Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and Government Operations.”

Sec. 4:

VERMONT STATE ARCHIVES AND RECORDS ADMINISTRATION; POSITION

“There is created within Vermont State Archives and Records Administration one new permanent classified position to facilitate and provide the services described in 27 V.S.A. § 625. Any funding necessary to support the position created in this section shall be derived from the Secretary of State Services Fund, with no General Fund dollars.”

9. APPENDIX C: STAKEHOLDER SUPPLEMENTAL STATEMENTS

Please see the following supplemental statements provided by:

- James Knapp, Co-Chair, Vermont Bar Association Real Estate Section
- Elizabeth A. Smith, Esq., Managing Counsel, CATIC Vermont/VATC

Response to VSARA Report on Fiscal, Governance, and Operational Sustainability of Uniform Approaches to Modernization of the Acceptance, Recording, and Availability of Deeds and Other Property Records.

Prepared By: James Knapp, Co-Chair of the Vt. Bar Assoc. Real Estate Section

Date: January 9, 2024

Part I. Response to Current Report

The report includes points with which we can agree:

- A. Establishing a uniform system of recording (both paper documents and digital documents) is a key government function that is long overdue and should be a priority for implementation.
- B. There are towns in Vermont that do not have enough land records transactions in a given year to support an individual town based digital recording system.
- C. The current system of municipal land records is a mishmash of paper based systems with different indexing systems (general indexes kept in ledger books, index card based systems, and various kinds of computer based indexes).

Part II. Topics and Matters Omitted from VSARA Report.

The Report generally omits any discussion of the impact of the current system on the users of the land records.

- A. Presently there are around 246 physical offices located around the State. Due to the complexity of current real estate transactions, the number of law practices engaging in the regular utilization of land records to facilitate real estate closings for clients is shrinking. As a result, law office personnel are driving increasing long distances to complete title examinations, **contributing to the climate impact based on increased use of transportation.**
- B. As indicated in the report, there are 327,483 parcels of land in Vermont of which 213,606 are classified as residential properties, 20,433 are classified as mobile homes, with the remainder being seasonal homes, commercial, apartments, industrial, farm, and miscellaneous other properties. The residential properties alone have an equalized value (using the education equalized value) of approximately \$70 billion. That number represents the largest contributor to the net worth of most Vermont residents.
- C. The only way for a citizen of Vermont, or other property owner to prove that they actually own a parcel of real estate (and thus can realize the economic value of the

property) is through the land records. An attorney must certify the title to the property is marketable and that can only be done by examining the land records.

- D. Presently the physical town offices in Vermont are open to allow access to the land records on varying schedules. Some are only open one or two days a week, some only for a few hours a day, and in all cases, the issue is likely due primarily to municipal budget issues. However, the lack of regular access to land records has a material adverse impact on the ability of law practices to access the records to provide necessary services to citizens and property owners who want to arrange transactions to access the value of their property.
- E. Over time, there have been reported incidents of Municipal Clerks failing to perform their statutory duties to manage the land records. One incident was reported last year by users of the land records. An inquiry was directed to the Secretary of State, VSARA, the Vermont Municipal Clerks and Treasures Association. There was no official or unofficial response to the inquiry. In fact the only two responses were, “we will schedule a meeting to discuss the issue” and “there is nothing that can be done”. For the citizens and property owners in that town, the failure to maintain the land records jeopardized the value of their property, because in the absence of reliable records, no one could certify the title.

Part III. Key Points to Consider in Assessing Next Steps

The Report does not mention, or mentions only in passing, several key points that must be factored into assessing the next steps.

- A. Digital land records are only useful for their key function if every town in Vermont has digitized a minimum of 40 years of historical land records. Vermont law specifies that a marketable title must be based on an unbroken chain of title back to a deed **recorded more than 40 years in the past**. The chain of title is formed by the instruments recorded in the land records. That means that in the absence of a minimum of 40 years of historical records, the digital land records cannot be used to certify a title, and in order to complete the certification process, the law practice must send someone to the land records to collect the remaining data from the paper records.
- B. Because of the alleged independence of municipal clerks (at least those who are elected rather than appointed), clerks are allowed to select recording systems with no oversight. There are no statutory guidelines mandating how digital records should be kept. There are statutory requirements for how paper records should be maintained, as to which no one has objected.
- C. Under the present operating paradigm, there are four different digital recording systems in use. Each of those systems has different indexing and search systems. Critically, each of those digital services charges fees to access copies of the land records that are not authorized in statute and exceed the statutory cost to procure a copy of a record. As a result, Vermont residents and property owners must either (i) visit the clerks office in person to pay the statutory fee to procure a copy of the documents related to their title, or (ii) pay a fee in excess of the statutory cost to use the digital system.

- D. Current recording practices depend entirely on the US Mail system, national courier systems, or personal delivery. While those processes have been adequate historically, with the developing unreliability of the USPS delivery services, the risk that documents affecting the title to real estate will be delayed or lost entirely increases. Because the recording of the documents is required by statute, any lost or delayed documents unnecessarily threatens the validity and timeliness of the land records. Consequently, it may adversely impact the ability of citizens and property owners to access the economic benefits of their properties.
- E. The Report fails to identify a key inefficiency in the current system. In many municipalities, the elected Town Clerk also functions as the recorder. When a clerk dies, is replaced by a newly elected clerk, is removed from office, the transition often finds the new clerk with little or no training in the process of collecting, managing, preserving and providing access to land records. As a result, the reliability of the records is reduced, raising the possibility that land records will not be timely and accurately kept.
- F. The Report indicates that steps have been taken to implement standards for recording and indexing, but the report fails to mention that there are no processes in place to determine, through auditing or otherwise, the level of compliance with the standards.

Part IV. Key Premises for Next Steps

Every discussion about modernizing the land records includes several repeated premises, including the alleged independence of elected clerks,

- A. Municipalities are subject to regulation in the area of land records management. Under the present statutes, the means and methods of keeping and managing land records are dictated by the legislature. There is no reason to assert that the legislature is without power to specify how digital land records will be kept. Whether the function of maintaining the records is assigned to an elected clerk or other person, the municipality itself is responsible for following the statutory requirements for creating and managing land records.
- B. Municipalities have collected fees as part of the cost of recording that are to be used to improve record keeping. In many cases those fees have accumulated balances that would be available to implement digital land records.
- C. The person in municipal government who is responsible for recording and managing land records should not be an elected official. That position should be filled by a professional with suitable training on the collection, recording, management, preservation, and public access to land records. That may be the Clerk, if the Clerk has the appropriate level of training and experience. In the event the position is held by an elected official, then there must be a succession plan that ensures that the functions of the recorder are correctly performed after the elected official no longer holds office.

Part V. Implementation of a Modernized Land Records Management System

The Report recommends a pilot project, which is a not unreasonable way to proceed, if the pilot project is intended to convert to a full scale conversion to digital land records.

Vt Bar Association Recommendations

1. Identify one person / officer in the State that is responsible for overseeing the implementation of the system described below. If there is no present person or office that is suitable, create a position to do so.
2. Identify the required training and experience required to function as a recorder.
3. Determine the total amount of funds collected under the auspices of the increased recording fees adopted in Act 38 (2019-2020 Legislature), amending 32 VSA Sec. 611 and how much of those funds remain unspent.
4. Determine the cost to digitize a minimum of 40 years of land records in every recording jurisdiction in the State. That cost may include additional temporary employees to complete the process.
5. Identify sources of funds that might be applied to implementing the digitization of a minimum of 40 years of land records in every recording jurisdiction.
6. To the extent not already implemented, mandate standards for creating digital land records and digital indexing of digital land records.
7. Mandate the use of at least 50% of all enhanced recording fees collected, that have not otherwise been spent, on the digitization of historical records.
8. Create a fund to supplement municipal funds to complete the digitization of a minimum of 40 years of land records.
9. Create statutory fees for accessing digital land records, including the cost to print official copies of land records, to standardize the fees across all recording jurisdictions and all systems.
10. Identify those municipalities that will be unable to complete the requirements set out below due to the limited number of annual transactions and implement a system that allows multiple municipalities in identified geographic regions to join together in a compact to operate a single digital recording system serving all the member municipalities.
11. Authorize VSARA, in consultation with key interested parties, including end users of the land records systems to identify no more than two platforms for the collection, conversion, maintenance and accessing of digital land records, that will implement the following functions: (i) convert existing records to one of the two approved platforms; (ii) implement remote access to digital records; (iii) complete the conversion of a minimum of 40 years of land records to digital form; (iv) begin accepting digital documents for direct recording without the need to convert digital documents to paper.

12. Mandate a specific time frame in which every recording jurisdiction (based on size and budget) adopts one of the two systems identified in Item 9, and begins the process of full implementation of the system.
13. Direct VSARA and Secretary of State and any other entities involved in the process to complete the adoption of all necessary rules and regulations to implement the use of digital documents for land transactions within one year of the effective date of the applicable statute.

Part VI. Additional Systems that Would Substantially Improve the Land Records

The recommendations in Part V of this Response are the bare minimums to modernize Vermont's Land Records. There are additional steps that would substantially improve the access to and management of digital land records.

1. Consider creating a position in municipal government for a "recorder" and remove the requirement that an elected clerk be the sole authority on land records.
2. Create a centralized portal that would accept digital documents for recording and automatically transfer those documents to the correct municipal recording system so that end users who submit documents for recording would need only learn one process for recording rather than two different processes.
3. Create a system to identify recording jurisdictions that are not operating according to mandated standards and identify or create a process for assisting the municipality to bring their non-complying system into compliance.



76 Pearl Street, Suite 203, Essex Junction, VT 05452

January 12, 2024

TO:
Vermont State Archives and Records Administration (VSARA)
Office of the Secretary of State
1078 U.S. Route 2, Middlesex | Montpelier, VT

VIA EMAIL

Thank you for the opportunity to contribute to the report submitted by VSARA under Sec. 3, Act No. 171 of 2022.

I will begin by saying CATIC fully supports and agrees with the comments, noted omissions, overall insight, and the Vermont Bar Association's recommendations s provided by Jim Knapp, Esq., Co-Chair of the Real Estate Division of the Vermont Bar Association. CATIC works collaboratively with the Vermont Bar Association to educate real estate practitioners and help effectuate changes as needed related to real property law and real estate transaction law in Vermont.

RE: Sustainability of Uniform Approaches in Modernization

Modernization of the recording of deeds and notarial acts has unfortunately not yet been effectively accomplished by Act 171. Much of the Act related to the modernization of the land records, including the creation of a Land Records Management Office to establish oversight of standards, techniques and training for recording clerks, was stripped from the Act. That which did remain provided an ideal and goals for the land records but the mechanisms to effectuate those changes are not in place at this time.

That portion of the Act that included the modernization of conveyancing instruments with the use electronic signatures and remote notarial acts also was not effectively accomplished to date. Under 26 V.S.A. Sect. 5341 as passed by Act 171, a Notary Public cannot perform an electronic remote notarial act until the Office of the Secretary of State adopts rules and provides the process for a Notary Public to obtain a special endorsement to perform a remote notarial act. It has been 18 mos. (July, 2022) and the Office of the Secretary of the State has not promulgated rules or provided a process for obtaining a special endorsement to perform remote notarial acts.

CATIC will continue to collaborate with VSARA and other stakeholders to effectuate change and are encouraged this report is intended to serve as a first step in many that will be needed to implement state-wide modernization of the land records and recording documents. CATIC requests that the Office of the Secretary of State and VSARA please promulgate the rules and standards to accomplish those goals.

CATIC agrees that modernization is achievable with technology and uniform recording standards; however the issue remains that recording offices are unregulated. There is no governing or regulatory body to report to or that can enforce any statutory requirements, best practices, or any future attempt at standardization against a recording office. CATIC is hopeful that VSARA can effectively take on this role pursuant to its authority under 3 V.S.A. Sect. 117 and 27 V.S.A. Sect. 625, passed under Act 171.

The momentum of VSARA will be essential after the submission of this report continue efforts for change and to fill the State position to facilitate and provide services to the clerks. Oversight and authority will be imperative for VSARA to implement the uniformity and modernization goals set forth in the report.

RE: Services requested by Recorded pursuant to 27 V.S.A. Sect. 625

This section highlights the degrees of care, time, ability, effort, affordability etc... that vary amongst the 246 recording clerks throughout Vermont. While it is encouraging to see some clerks interest and effort in modernizing their respective land records by attending optional learning forums, the issue remains that modernization, technological improvements, innovation, or standardization is not mandatory but optional.

The goal of state-wide improvement will likely be impossible unless mandatory; or the economic burdens and training are overcome by VSARA's direct implementation of technology within each of the 246 recording offices. The percentage of clerks, using the numbers provided by the report, who voluntarily sought learning opportunities – 70 clerks expressed interest; 35 onsite visits by VSARA; 32 clerks per webinar – are in truth slim margins.

A missing component within this section of the report is the functionality of PRIA in other states. Vermont is one of the few states throughout the United States with town/city recording jurisdictions versus county-wide recording. While PRIA clearly offers several learning opportunities, PRIA as a practical tool to effectuate the state-wide changes is likely unachievable when it is an optional learning tool for a recording clerk who is also managing several other responsibilities, including elections.

RE: Systems Currently Deployed by Recorders and Costs; Recorder Costs to Transition to Electronic Recording

It is not surprising to read of the overwhelming costs and negative economic impact of using online recording vendors on a piecemeal basis by municipalities. In addition, the cost and effort for those towns/cities that do use electronic online platforms for the troubleshooting and process of selecting their vendor was likely significant. A state contract and even better, a state contract and statewide database wherein each municipality uploads their recordings would be ideal. CATIC recommends such an approach be strongly pursued by VSARA and agrees that obtaining a state contract with a vendor would be an effective way to minimize cost and create uniformity for users of the system.

The impact for those professionals who perform title searches is not highlighted in this section or other portions of the report, but the varying models and costs to use these multiple platforms is dizzying. To some title searchers, the cost for use and to obtain credentials to search online is so expensive it is more cost effective for them to drive to the physical land records office.

Recording fees and land records examination costs are statutory under 32 V.S.A. Sect. 1671, specifically:

32 V.S.A. § 1671. Town clerk

...



76 Pearl Street, Suite 203, Essex Junction, VT 05452

(3) For examination of records by town clerk, a fee of \$5.00 per hour may be charged but not more than \$25.00 for each examination on any one calendar day.

(4) For examination of records by others, a fee of \$4.00 per hour may be charged.

The costs set by some clerks or as required by the vendors to use the platforms to examine the land records and obtain copies of land records disregard the statutory set rates.

RE: Next Steps and Conclusion

CATIC fully supports and endorses Part V. Implementation of a Modernized Land Records Management System and Part VI. Additional Systems that Would Substantially Improve the Land Records submitted by Jim Knapp, Esq., Co-Chair of the Real Estate Division of the Vermont Bar Association.

To reiterate CATIC's focus, we recommend the following:

- Statutory requirement for clerk training at time of clerk turnover/succession to VSARA;
- Statutory requirement for specific reporting by each recording office to VSARA;
- Singular State database or singular database and state vendor contract;
- Uniform costs for land record research and examination and copies set by statute;
- VSARA established as the regulatory body instigating oversight upon the recording offices;
- Dates certain established for required state-wide changes to be set by statute with VSARA as the agency enforcing non-compliance.

Thank you. We appreciate VSARA's efforts and optimism in overcoming the challenges and obstacles identified in the report and by the various stakeholders.

Sincerely,

Elizabeth A. Smith, Esq.
Managing Counsel – CATIC Vermont/VATC