

To: House Commerce and Economic Development Committee

From: Vermont Bar Association (Real Estate Section)

Vermont Bankers Association

Vermont Association of Credit Unions

Date: February 17, 2022

Regarding: H.512 – Strike- All Draft

Together the Vt Bar Association (Real Estate Section); Vermont Bankers Association; and the Vermont Association of Credit Unions endorse the adoption of the provisions of RULONA and URPERA as most recently proposed in the “Strike-All” draft bill submitted to the Committee. It would be our strong preference to build out the infrastructure that would allow for the recording of digital documents before authorizing their use in commerce. If the process does not include building the infrastructure before generally authorizing the recording of digital documents, then we believe that it is important to act promptly following the authorization to build the standards around how digital documents will be recorded and indexed. To that end, we propose that an advisory committee of stakeholders be created to assist VSARA in the formation of those standards. For all the experience and knowledge held by the people in VSARA, none of them use the land records for the primary and intended purpose of title searching. Without input from the stakeholders whose work depends on the land records, the process may be well developed from an abstract “records management” perspective but may not operate in a way that facilitates and streamlines land transactions or enhances the utility of the land records for that one key purpose.

To that end, we suggest adopting the concepts in Part I, the funding in Part II and the implementation of a process to develop of a centralized records system in Part III.

Part I. Please see attached proposed language for inclusion in H.512.

Part II – Funding for continued digitization of land records

The authorization of use of digital land records should coincide with a continued effort to expand the availability of digital land records. To that end, the one common theme among all the witnesses testifying about H.512 is the lack of resources. Using data collected in 2020 leading up to the allocation of funds for a digitization program, a projection was developed on the cost to digitize remaining land records in all the

municipalities in Vermont. The projection contemplated that every municipality would have digitized their records back to at least 1980, roughly the timeframe needed to complete an entire title examination.

Based upon the information published by the Vermont Municipal Clerks and Treasurers Association on their website as mentioned in the testimony by Carol Dawes, the following appears.

Towns with Index only = 5 (Useless for title examination purposes)

Towns (of those that reported) with images back to 1980 (minimum timeframe for completing a title search) = 14

Towns with some images but insufficient timeframe to do a title search = 38

Towns that did not report the timeframe covered by digitized records = 49

To digitize the remaining records across the State, consisting of an estimated 10,000,000 pages, the necessary resources would be between \$10,000,000 and \$15,000,000 depending on how many towns need to upgrade hardware to meet the minimum hardware standards for the current systems offered by vendors. Given the potential for unintended discrepancies in the projection, and the time that has passed since the projection was completed, it may be best to add a contingency of \$2,000,000 to \$3,000,000 in the event the actual numbers are greater than projected.

So, it is recommended that a sum of \$15,000,000 be earmarked to complete the digitization process.

Part III. – Central Records Repository

Once the opportunity to begin using digital records is offered, it is likely that many entities will want to take advantage of the system. It would be prudent to assess whether the formation of a centralized process for accepting and processing digital land records would be the best solution. We recommend the formation of a committee of stakeholders to assess the viability and potential operation of such a Central Records Repository. The Committee should include VSARA, VCGI, Tax Department, municipal government officials and the stake holder identified in Part I. To keep the committee on track, we recommend that the committee have approximately one year to complete its work, with the outcome being a report to this Committee on the feasibility and recommendations on how to implement the system.

Proposed text for Additions to H.512 Strike All draft now pending before the Committee

Part I. Suggested Additions to H. 512.

27 V.S.A. § 621. Administration and Standards

- (A) To ensure consistency in the standards and best practices of, and the technologies used by recorders in this state, recorders shall, so far as is consistent with the purposes, policies, and provisions of this subchapter:
- i) implement a standardized process for indexing and recording documents submitted for recording using standards contained in regulations adopted by Vermont State Archives and Records Administration;
 - ii) implement a process for accepting and recording digital documents in compliance with the regulations adopted by the Vermont State Archives and Records Administration;
 - iii) seek services from the Statewide Records and Information Management Program, as defined in 3 V.S.A. § 117(b) and administered by the Vermont State Archives and Records Administration for the purpose of complying with the requirements related to practices and procedures for recording and indexing documents and for recording digital documents.
- (B) The Secretary of State, pursuant to 3 V.S.A. § 117(e), shall adopt rules regulating the process for indexing and recording land records and to implement the process and procedures for recording digital records after taking into consideration:

- (1) current available technology
- (2) standards, practices and customs of other jurisdictions that have laws substantially similar to this chapter; and
- (3) the views of governmental officials and entities and other interested persons.

The Vermont State Archives and Records Administration shall commence the process of drafting regulations to implement the requirements of this provision no later than January 30, 2023. Thereafter the Vermont State Archives and Records Administration shall promptly complete the process of adopting the regulations to be effective no later than December 31, 2023.

(C) The Vermont State Archives and Records Administration shall create a grant program to provide adequate resources to municipal clerks to implement the provisions of this Section.

(D) The Vermont State Archives and Records Administration shall create a process for auditing compliance with the provisions of this <<Chapter>> and shall create a process for assisting clerks unable to comply with the regulations adopted pursuant to this <<Chapter>> to facilitate bring all recorders offices into compliance with the requirements of this Chapter.

Sec. TBA

Land Records Advisory Committee: An advisory committee is created to assist the Office in administering the land records management program.

The Vermont State Archives and Records Administration shall appoint up to 7 members to the committee members, one each from

(1) The Vermont Municipal Clerks and Treasurers Association;

(2) The Real Property Section of the Vermont Bar Association;

(3) The Vermont Paralegal Organization: and

(4) The Vermont Bankers Association

AND three from persons nominated by

(1) The Vermont Assessors and Listers Association;

(2) The Vermont Society of Professional Engineers;

(3) The Vermont Society of Land Surveyors;

(4) The Vermont Association of Planning and Development Agencies

(5) The Vermont Center for Geographic Information

(6) The Vermont Realtors Association

Three members of the Committee shall be appointed for a term of two years and four members shall be appointed for a term of three years.

The Vermont State Archives and Records Administration shall:

- (1) Call the first meeting of the Committee no later than November 1, 2022.

(2) Provide for regular meetings of the Committee during the period of the adoption of the regulations required by this provision. After the regulations are adopted, the Committee will meet quarterly until determined by a majority of the Committee that quarterly meetings are no longer required.