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Last Revision:

- I. Summary: Adopting RULONA provisions may or may not improve the functioning of real estate transactions in Vermont. Most real estate practitioners did not make substantial use of the Secretary of State Emergency Rules for Notarial Acts because of the complexity of the process.

Adopting URPERA before there is a suitable infrastructure at the recording offices invites chaos and a multiplicity of systems that will make it very challenging to create a unified system for accepting and recording digital documents.

- II. Making URPERA Effective in 2022 is Premature
  - A. The current recording systems in place in the vast majority of the municipalities in Vermont are simply not ready to begin accepting digital recordings
  - B. There is no regulatory or technical infrastructure in place to facilitate the prompt, effective and safe recording of digital documents.
  - C. If each municipal clerk is allowed to choose whatever system they want to implement for digital recordings, there will be chaos.
    - a. A functional recording system depends on uniform processes and procedures for recording documents.
    - b. Today, the process for submitting documents for recording is well known, consistent and predictable.

- c. The system will break down if there are a multiplicity of portals, different requirements for submitting documents in different towns, and different methods for making payments of recording fees.
- D. Capturing documents in a digital recording system is going to place an additional burden on municipal clerks as they assume the responsibility for preserving and protecting digital only documents. Most municipalities do not have full time IT staff, and even if they do, they may have no one with sufficient expertise in Information Security to entrust with the preservation of digital land records.
- E. Imagine a municipality that converts in whole or in part to digital records and the suffers a Cyber Security Event – like a ransomware event. That will be a disaster. In particular if the citizens of that municipality cannot access the records to prove their ownership, they will not be able to sell, purchase or finance properties.

From a policy standpoint, it makes no sense to authorize a complex undertaking, like recording digital documents where there are no standards, no processes, no common procedures setup to address any of the simple or complex issues that are likely to arise while implementing the program.

*Adopting URPERA **but making the effective date for the start of accepting digital documents sometime in 2024 or 2025** would address the concerns expressed by the Secretary of State's office that Vermont is one of the last States that does not have some form of URPERA. It would also allow VSARA time to implement the new position, study how other states are implementing digital recording, and create a set of standards and procedures that municipalities would adopt before being permitted to accept digital recordings.*

- III.* When creating the Study Committee to address how to implement digital recording, we respectfully suggest it would make sense to specify that groups representing the principal users of the land records be included as identified members.
  
- IV.* Regarding RULONA After posting three different messages to the Real Estate Section of the Bar (445 members who generally are vocal if they have an opinion on a topic); only a total of three comments were received, none of which are relevant to the bill as it is presently drafted. That suggests that the consensus is one of two possible options: (a) generally, real estate attorneys have not made significant use of the remote notary provisions of the Secretary of State's Emergency Rules, because the process is too difficult and time consuming to set up, so they assume that they won't make use of the permanent RON processes created by the statute; or (b) they are satisfied that the bill as drafted is sufficient to do the job it purports to do.