



State of Vermont
Office of the Secretary of State
128 State Street
Montpelier, VT 05633-1101
<https://sos.vermont.gov>

James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary

To: Senate Committee on Government Operations
From: Tanya Marshall, State Archivist, VSARA
S. Lauren Hibbert, Director, Office of Professional Regulation
Re: H. 512, An act relating to modernizing land records and notarial acts law
Date: April 27, 2022

Thank you for the opportunity to testify this afternoon. As you know, the Secretary of State's Office supports enacting two uniform laws promulgated by the Uniform Law Commission: (1) the Uniform Real Property Electronic Recording Act or URPERA; and (2) the latest version of the Revised Uniform Law on Notarial Acts or RULONA. Vermont enacted an earlier version of RULONA in Act 160 of 2018. This will modernize land records and notary laws.

Importantly, H.512 will

- (1) enable Vermont town clerks to accept electronic records for recording, to perform the electronic recording of land records, and provide electronic access to recorded land records for legal purposes; and,
- (2) enable Vermont notaries public to perform notarial acts on electronic records and for remotely located individuals.

Enacting both URPERA and the latest version of RULONA will bring the State of Vermont in line with the rest of the United States as all other 49 states have already enacted these uniform laws or similar legislation.

Additionally, there is pending federal legislation, S.1625 (Securing and Enabling Commerce Using Remote and Electronic Notarization Act or SECURE Act), that was introduced in May 2021 and is anticipated to be enacted by the 117th Congress. S.1625, when passed, will authorize all notaries public in the United States to perform electronic notarizations and remote notarizations that occur in or affect interstate commerce *including* notarizations relating to real estate transactions and instruments submitted for recording in the land records.

Uniform Real Property Electronic Recording Act or URPERA

Uniform Real Property Electronic Recording Act or URPERA is a Uniform Act drafted by the Uniform Law Commission (ULC) in 2004 to allow local recording offices to accept deeds and other property records in electronic form. Intentionally technology-neutral, this Act is endorsed as suggested state legislation by the Council of State Governments (CSG) and was approved by the American Bar Association in 2005. Enacting states establish their own standards based on the latest records management industry standards and best practices, deferring to an existing state body for issuance of such standards if one already exists.

- Except for Vermont, all other states have enacted **Uniform Real Property Electronic Recording Act or URPERA** or have comparable legislation.
- The Uniform Act has been universally accepted and a national set of standards and best practices, as well as technologies, exists. Therefore H.512 has only a few adaptations:
 - Addition of a definition of a “recorder” to reflect both town and county clerks;
 - Requirement for recorders to seek the services of the Vermont State Archives and Records Administration to ensure uniformity and consistency with other recording offices in Vermont and recording offices in other states; and
 - Minor language changes for compatibility with proposed legislation in H.512 for notarial acts.

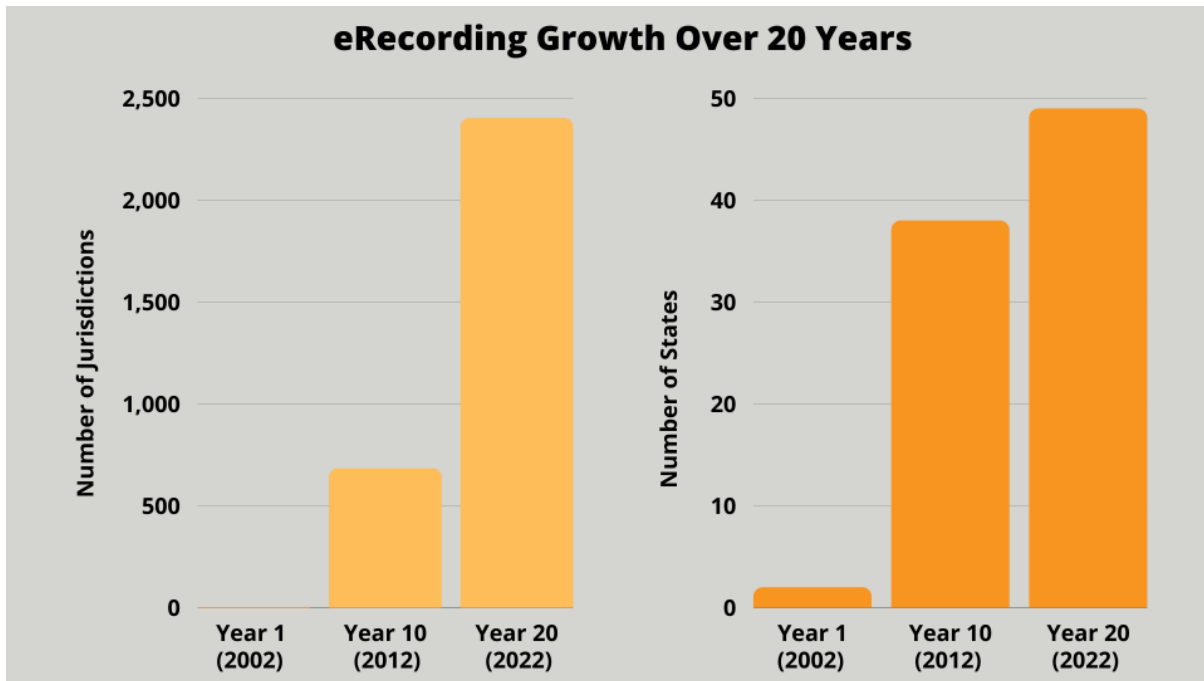
Adoption of H.512 will modernize land records by creating standards and best practices. Additionally, the position created in VSARA will be a valuable resource for town clerks as they move through this change. The report back to the legislature will be helpful to provide actionable next steps.

- Standards and best practices issued by Property Record Industry Association (PRIA), along with international and national standards and best practices for electronic records management and digital preservation, have been widely adopted by eRecording enabling states with very few variations.
 - Commonality of state standards illustrate the maturity gained in the last two decades and the uniformity and consistency among recorders regardless of state or jurisdiction.
 - Commonality of the XML Data Standards, and as a requirement for technology partners “vendors,” also illustrate the maturity gained in the last two decades in the technology marketplace.

Within the context of H.512, the following sections of the pending 2021 revision of PRIA’s *eRecording Best Practice* are helpful for demonstrating:

- Interrelatedness of three uniform laws;
- Efficiencies achieved for recorders AND end-users;
- Indexing accuracies through simplified indexing and uniformity; and
- Immediate availability of recorded land records post-recording.

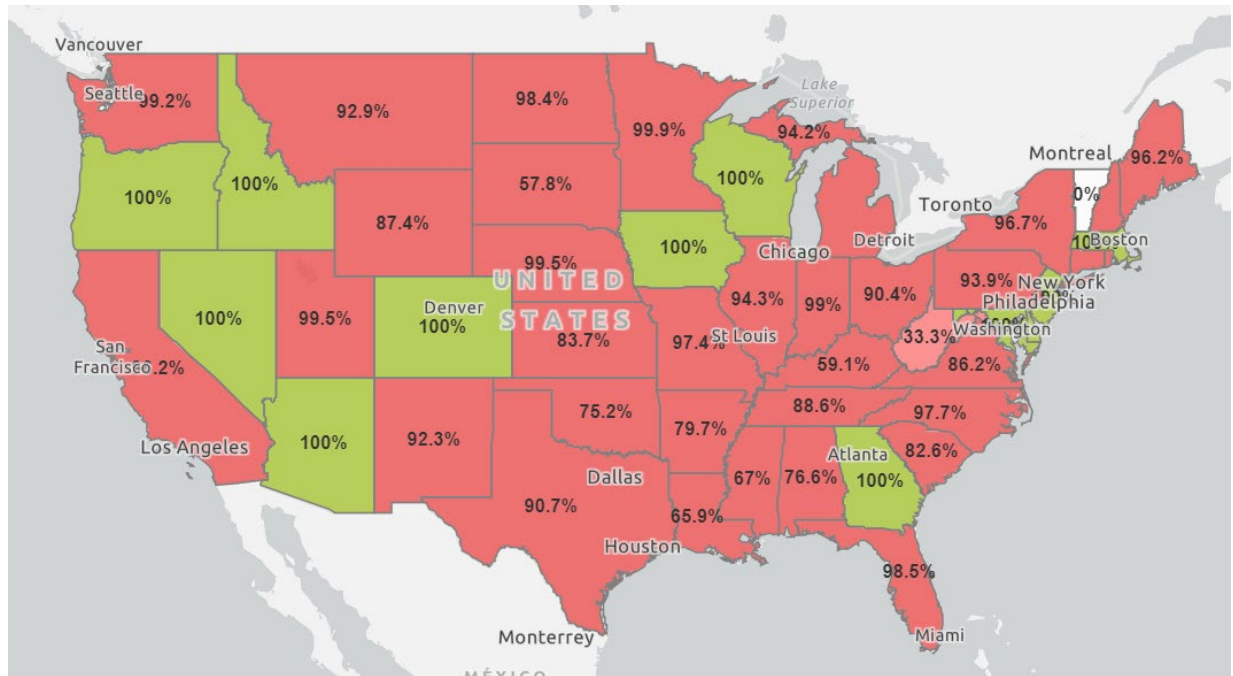
Recording districts and states with digital land records/eRecording¹



Populations served by digital land records/eRecording as of April 2022²

¹ PRIA 20th Anniversary eRecording Growth Chart: <https://pria.us/20th-anniversary/>

² PRIA eRecording Population Coverage Map: <https://hub-priaus.hub.arcgis.com/>



Law on Notarial Acts, Revised or RULONA

The **Law on Notarial Acts, Revised (RULONA or the Uniform Act)** is a Uniform Act originally drafted by the ULC in 1982 and revised in 2010, 2016, 2018, and 2021 (August) to govern notarial acts performed by a notary public, including taking an acknowledgment, administering an oath or affirmation, witnessing, or attesting a signature, and certifying a copy of a document. The most recent version of RULONA authorizes notarial acts on electronic records and for remotely located individuals. The Uniform Act includes provisions authorizing the commissioning officer or agency to adopt rules governing the performance of notarial acts.

- Vermont enacted a heavily adapted version of an earlier revision of the **Law on Notarial Acts, Revised or RULONA** (Act 160 of 2018).
- The Uniform Acts have established a national set of standards and best practices for the performance of notarial acts and have facilitated the development of standards for technologies to perform electronic notarial acts and notarial acts for remotely located individuals. The COVID pandemic forced further development and modernization in this field, leading to the drafting of a 2021 version of RULONA, which is embodied in H. 512.
- Previous revisions of the Uniform Act, including sections related to notarial acts on electronic records and for remotely located individuals, have been universally accepted.

- OPR does not recommend making any significant changes to RULONA (2021) except for the following, which are in H.512:
 - Minor language changes for compatibility with proposed legislation in H.512 for recorders;
 - A special endorsement for notaries performing notarial acts on electronic records or for remotely located individuals and minimum standards for communication technology and identity proofing providers to support notaries public and the Office of Professional Regulation in carrying out the requirements of this chapter; and,
 - Enactment of RULONA is important because it will replace the current Emergency Rules adopted by OPR during Covid and will allow OPR to begin the Administrative Rules for Notaries Public.