Modernize Your Land Records
Uniform Real Property Electronic Recording Act (URPERA)

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Vermont State Archives and Records Administration
Office of Secretary of State

Agenda: Part 1



WHAT ARE UNIFORM LAWS



STATE INITIATIVES LEADING UP TO "URPERA"



NATIONAL ADOPTION AND VERMONT



URPERA | ACT 171 OF 2022 (WALK-THROUGH)

VERMONT

Agenda: Part 2



STANDARDS AND BEST PRACTICES



LAND RECORDS MANAGEMENT SYSTEMS



VERMONT PRIA LOCAL CHAPTER



TARGETED ASSISTANCE FOR CLERKS

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What are Uniform Laws

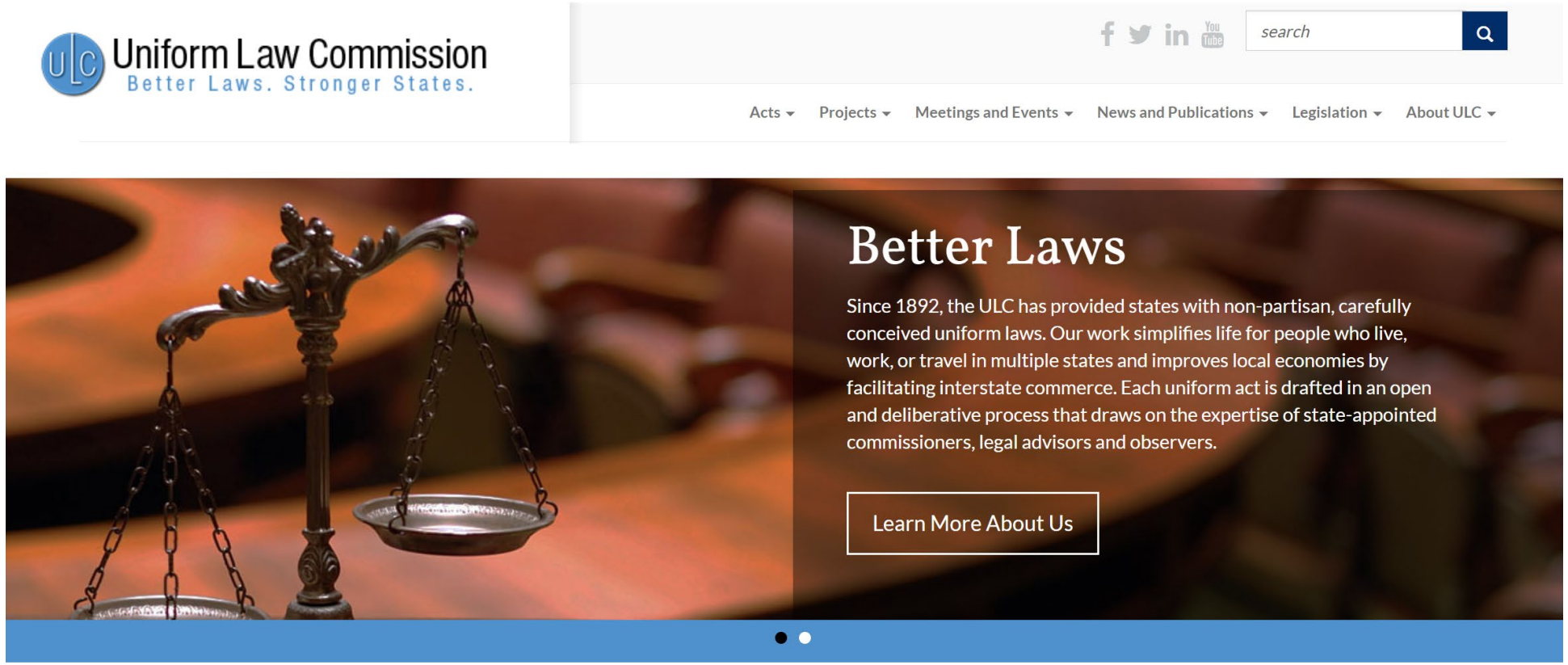
Since 1892, the Uniform Law Commission (ULC; also called the National Conference of Commissioners on Uniform State Laws) has provided states model legislation (uniform laws) for areas of state law when:

- **Uniformity** among the states is desirable and practical;
- **Consistency** among the states is needed to reduce burden/hardship; and/or
- **Up-to-date and timely state legislation strengthens Federal legislation**.

Uniform laws promulgated by the ULC are **purposeful flexible** to allow for the diverse needs and circumstances of each state.

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www.uniformlaws.org



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State Initiatives leading up to URPERA

Since the 1960s, efforts to “modernize” land records have focused on **reducing the time needed to search and access records** and **keeping costs for maintaining records at a minimum** through a combination of:

► **TECHNOLOGY**: Comprehensive, multi-functional systems that can bring together records and information relevant to each individual parcel/tract of land, including title, taxes, zoning, etc.

► **STANDARDS**: Efficient practices to ensure land records and information for each individual parcel/tract are accurate, up-to-date and readily available.

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State Initiatives leading up to URPERA: 1960s

► Interest in modernizing recording statutes emerges as **electronic data processing becomes available for indexing land records and parcels/tracts**

► **Ownership and parcel/tract information** are identified as **critical sources** that could be brought together for **title searching as well as land use planning**

► Development on **Geographic Information Systems (GIS) software is initiated while the American Bar Foundation** begins funding research for streamlining real estate transactions

► **U.S. Department of Housing and Urban Development (HUD) leads an effort to develop a prototype for "integrated municipal information systems" (IMIS)** based on land records and issues contracts to six municipal consortia for a pilot

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State Initiatives leading up to URPERA: 1970s

► **Wisconsin** becomes the first state to begin studying the **costs for maintaining land records**, and also barriers to modernization efforts

► The **Register of Deeds in Forsyth County, North Carolina** becomes the first recorder in the United States to **initiate a land records modernization program** with the goal of a single system for data on every property to meet the needs of both the private and public sector

► **Congress** passes the **Real Estate Settlement and Procedures Act (RESPA)** to increase the transparency of settlement costs after identifying inefficiencies and complex practices in the recording of land records as the single most critical barrier to reducing costs

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State Initiatives leading up to URPERA: 1980s

► **Maryland**, **Kansas**, **North Carolina**, and **Wisconsin** lead the nation in projects focused on the **development and implementation of integrated systems** as part of their land records modernization programs

► **Orange County (NC) Central Land Records System** emerges as the one of **first integrated computerized systems** with a parcel indexing system within a deeds registry

► The **Wisconsin Land Information Program (WLIP)** is established by the Wisconsin legislature with funding through portions of county register of deeds document recording fees collected from real estate transactions

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State Initiatives leading up to URPERA: 1990s

► **Uniform Electronic Transactions Act (UETA)** is promulgated by the Uniform Law Commission (ULC) to create **consistencies** among the states for **electronic transactions and signatures**

► The **Property Records Industry Joint Task Force (PRIJTF)** is established by the National Association of County Recorders, Election Officials & Clerks (NACRC) and the International Association of Clerks, Recorders, Election Officials & Treasurers (IACREOT) with **support from Fannie Mae and the American Land Title Association (ALTA)**

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State Initiatives leading up to URPERA: 2000s

► Congress passes the **Electronic Signatures in Global and National Commerce Act (ESIGN)** to facilitate the use of **electronic records** and **electronic signatures** in interstate and foreign commerce

► The Property Records Industry Joint Task Force (PRIJTF) is superseded by the **Property Records Industry Association (PRIA)**

► The **State of Iowa** becomes the first state to create a **statewide system for the electronic recording of land records**

► The **Uniform Real Property Electronic Recording Act (URPERA)** is promulgated by ULC and enacted in 24 states

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State Initiatives leading up to URPERA: 2010s

► Twelve (12) additional **states enact URPERA**

► **PRIA advances its standards development process and issues standards** ranging from indexing names and parties to real estate document formatting to eRecording best practices for recorders

► **Revised Uniform Laws on Notarial Acts (RULONA)** are updated twice by ULC to **support** notary responsibilities, **electronic recording**, interstate recognition, and remedies

► **U.S. Department of Treasury** releases report **recommending** that **all states enact URPERA** and **allow for electronic and remote online notarizations**

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National Adoption of URPERA or Equivalent

► State legislatures have enacted legislation for electronic access as well as **electronic recording in all 50 states** as of 2022

► Land records can be readily retrieved by anyone from both on-site and off-locations through **government owned and operated systems**, defined by **statewide standards**, that **do not require paper or "wet" signatures** and through which real estate documents may be electronically created, executed and authenticated, and also **delivered to and recorded with**, as well as **indexed, preserved, and retrieved** by, recorders and registrars

► 85+% of the nation's population currently served by eRecording

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COVID and Vermont Land Records

The pandemic and the closure of town offices brought the modernization, or lack thereof, of Vermont land records to light and established a critical need

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Vermont: Before Act 171 of 2022

Since the 1990s there have been efforts to modernize land records and move forward with both technology and standards, but…

► Recording statutes for land records remained largely the same from their original enabling legislation

► No single government entity or uniform body to provide support for a modernization effort or a statewide land records modernization program

► Vermont was the only state that had not enacted legislation specific to electronic access to land records or electronic recording processes

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Vermont: Being Last Has Its Advantages!

It has been over 20 years since the first fully electronic land records system became operational within a recorder's office in the United States.

►**Lessons learned** from "early adopters" and those with active modernization programs, along with advances in technology and the widespread adoption of uniform standards, provide the State of Vermont with more opportunities than we have had in the past.

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URPERA

As an “overlay law,” the Uniform Real Property Electronic Recording Act (URPERA), does not require recorders to digitize their paper filings or implement electronic recording but does require the use of standards *if doing so* to ensure legal certainty of digital land records made accessible online

► States that have enacted URPERA and PRIA standards have significantly refined and revised their standards to create a core set of “tried and true” standards for technologies as well as processes

► Standards offer a significant chance for success and at the lowest cost to both the private and public sector.

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URPERA | Act 171 of 2022

The Vermont General Assembly enacted URPERA in 2022.

- Stays true to the uniform law, modifying the text of the uniform law (sec. 2) in a few areas (highlighted)
- Includes the General Assembly's *Findings and Intent* (sec. 1)
- Requires an interim and final report (sec. 3)
- Creates a position to support modernization (sec. 4).

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Act 171, Sec. 1: Findings and Intent

No. 171. An act relating to modernizing land records and notarial acts law.

(H.512)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds:

(1) Uniform laws, standards, and best practices provide desirable and practicable uniformity that:

(A) benefits core aspects of government operations and commerce;

(B) facilitates intrastate and interstate business transactions, commerce, and economic development; and

(C) provides consistency for individuals and businesses.

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Act 171, Sec. 1: Findings and Intent

(b) Therefore, it is the intent of the General Assembly 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.

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27 V.S.A. § 622: Definitions

“Document” means information that is: inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and eligible to be recorded in the land records maintained by the recorder.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Electronic document” means a document that is received by the recorder in an electronic form.

“Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

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27 V.S.A. § 622: Definitions (cont.)

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Recorder" means a town clerk, pursuant to 24 V.S.A. § 1154, or a county clerk, pursuant to 27 V.S.A. Chapter 5, Subchapter 3, responsible for recording deeds and other instruments or evidences respecting real estate.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

VERMONT

27 V.S.A. § 623: Validity of Electronic Documents

(a) If a law requires, as a **condition for recording**, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement **is satisfied by an electronic document** satisfying this subchapter.

(b) If a law requires, as a **condition for recording**, that a document be signed, the requirement is satisfied by an **electronic signature**.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is **satisfied if the electronic signature** of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

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27 V.S.A. § 624: Recording of Documents

(a) In this section, "**paper document**" means a document that is received by the recorder in a **form that is not electronic**.

(b) A recorder:

(1) who implements any of the functions listed in this section shall do so **in compliance with the most recent standards and best practices**.

(2) **may** receive, index, store, transmit, and preserve **electronic documents**.

(3) **may** provide for access to, and for search and retrieval of, documents and information by **electronic means**.

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27 V.S.A. § 624: Recording of Documents (cont.)

(4) who **accepts electronic documents for recording** shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index.

(5) **may convert paper documents** accepted for recording into **electronic form**.

(6) **may convert into electronic form** information recorded **before** the recorder **began to record electronic documents**.

(7) may **accept electronically any fee** the recorder is authorized to collect.

(8) **may agree with other officials of this state or a political subdivision** thereof, or of the United States, **on procedures or processes to facilitate the electronic satisfaction** of prior approvals and conditions precedent to recording and the electronic payment of fees.

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27 V.S.A. § 625: Standards and Best Practices

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.

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Senate proposal of amendment

H. 512

An act relating to modernizing land records and notarial acts law

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 2, 27 V.S.A. chapter 5, subchapter 8, by striking out section 625 in its entirety and inserting in lieu thereof a new section 625 to read as follows:

§ 625. STANDARDS AND BEST PRACTICES

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.

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(c) Services of the Statewide Records and Information Management Program shall include:

(1) providing assistance to public agencies in establishing, maintaining, and implementing active and continuing internal records and information management programs for the effective management of records produced or acquired in the course of public agency business;

(2) ensuring that low-cost, secure repositories and systems for public records, regardless of format, are available at an enterprise or statewide level and managed and operated in a manner that supports compliance with generally accepted record-keeping principles, industry standards, best practices, the Public Records Act, this section, and, where applicable, section 218 of this title;

(3) developing, issuing, and maintaining statewide records and information management standards and information governance frameworks;

(4) performing formal appraisals of public records and issuing record schedules accordingly;

(5) operating a Records Center to hold inactive analog State public records in accordance with record schedules;

(6) accepting land records submitted on microfilm by municipal and county clerks for storage in the Records Center;

(7) taking legal custody of State archival records, regardless of format, in accordance with record schedules; and

(8) arranging, describing, and preserving archival records in accordance with archival principles and best practices, and promoting their use by government officials and the public.

Vermont State Archives and Records Administration
Office of the Secretary of State
1078 US RTE 2, Middlesex • Montpelier, VT 05633-7701 • Tel: (802) 828-3700 • Fax: (802) 828-3710

LAND RECORDS STANDARD FOR ALL TOWN CLERKS
Date Effective: August 1, 2020

PURPOSE

The purpose of this information management standard is to establish a set of statewide recommendations for: 1) the conversion of paper documents accepted for recording into electronic form; and 2) the provision of access to, and for searching and retrieval of, recorded land records by electronic means. This standard is not intended to be a statement of the current abilities or practices of Vermont town clerks but is instead a statement of goals and expectations. The realization of such goals and expectations will result in strengthened legal certainty of converted paper land records accessed through an electronic land records system for legal purposes.

SCOPE

This standard applies to the paper documents accepted for recording that are converted into electronic form and made accessible through an electronic system.

STATEMENT OF AUTHORITY

Pursuant to 1 V.S.A. § 317a, 3 V.S.A. § 117, and 3 V.S.A. § 218, the Vermont State Archives and Records Administration (Office of the Secretary of State) is authorized to establish and promulgate standards, procedures and techniques for the effective management of public records.

STATEMENT OF BENEFITS

Sound records management practices and procedures result in a number of benefits: fulfilling legal mandates, improving access and accountability, reducing costs for the retrieval of records, ensuring the creation and management of accurate and reliable records, and reducing the costs of storing records.

STATEMENT OF RESPONSIBILITY

Maintaining and providing access to records over time is a shared responsibility. Establishing and operating effective recordkeeping systems and practices requires a multidisciplinary approach. Public agencies should make effective use of the necessary range of expertise available throughout the State of Vermont. This includes expertise in archives, records and information management, information technology, business process management, risk management, and law.

CONTACT

Questions about this information management standard may be directed to the Vermont State Archivist and Chief Records Officer.

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27 V.S.A. § 626: Relation to Electronic Signatures in Global and National Commerce Act

This subchapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

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Act 171, Sec. 3: Report

(a)(1) 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.

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Act 171, Sec. 3: Report

(b) 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.

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URPERA Refresher

Since the 1960s, efforts to “modernize” land records have focused on **reducing the time needed to search and access records** and **keeping costs for maintaining records at a minimum** through a combination of:

► **TECHNOLOGY**: Comprehensive, multi-functional systems that can bring together records and information relevant to each individual parcel/tract of land, including title, taxes, zoning, etc.

► **STANDARDS**: Efficient practices to ensure land records and information for each individual parcel/tract are accurate, up-to-date and readily available.

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Agenda: Part 2



STANDARDS AND BEST PRACTICES



LAND RECORDS MANAGEMENT SYSTEMS



VERMONT PRIA LOCAL CHAPTER



TARGETED ASSISTANCE FOR CLERKS

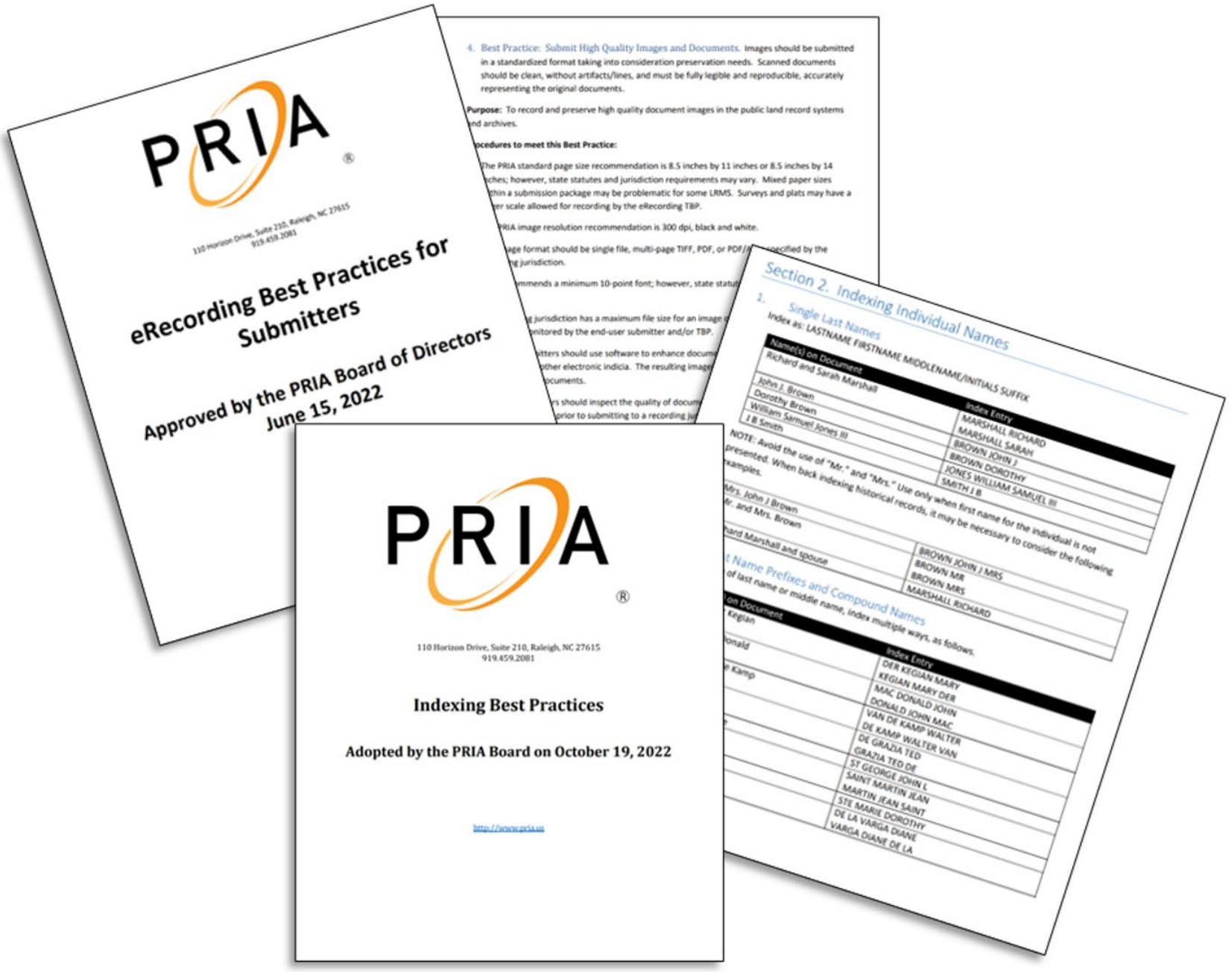
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Standards and Best Practices

Property Records Industry Association (PRIA) Standards and Best Practices are used by most recording jurisdictions and represent the most current guidance for land records management, including:

- **PRIA Indexing Best Practices** (October 2022)
- **PRIA eRecording Best Practices for Submitters** (July 2022)
- **PRIA eRecording Best Practices for Recorders** (August 2021)

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Vermont standards and best practices based the national **PRIA standards and best practices** will facilitate **uniformity and consistency** in managing Vermont land records.

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Land Records Management Systems

Demonstrations of eRecording functions in existing land records management systems used by town clerks and one system (Tyler) under contract with State of Vermont.

VSARA also **collected initial feedback from town clerks** and banking, bar, real estate, and title insurance representatives on fiscal, governance, and operational sustainability.

- Tyler Technologies – April 20, 2023
- COTT Systems – April 21, 2023
- GovOS – May 1, 2023
- Avenu Insights – May 2, 2023

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Land Records Management Systems

Possibility of **state contracts with eRecording system vendors** for use by municipalities (like some other state contracts).

- Requirements gathering by professional business analysts
- Formal vetting of vendors and systems
- Competitive bidding process
- Vendor compliance of contractual requirements
- Fixed rates/costs for town clerks

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PRIA and Vermont PRIA Local

PRIA marked its 20th anniversary in 2022

Founded on an "idea that within the property records industry, government and business can work together, with mutual respect and without acrimony, to address issues of common concern in the world of property transactions."

► PRIA is excited to support the State of Vermont and Vermont town clerks in modernizing land records and applying national standards and best practices for recording and providing access to Vermont land records.

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PRIA and Vermont PRIA Local

Inaugural Vermont PRIA Local meeting held on March 21, 2023, with PRIA leadership in attendance

► Individual membership in PRIA is not required to participate in Vermont PRIA Local meetings

► Informational sessions on land record topics

► VSARA Records and Information Management Specialist serving as liaison/coordinator until members are ready to select co-chairs (one government and one business)

► Ongoing assistance from PRIA Local Coordinator Carolyn Ableman

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► Thursday, October 26, 12:00 PM (online)

Val Handfield, San Diego County Chief Deputy Recorder/County Clerk and PRIA Member, will speak to her experiences transitioning to eRecording and also multi-jurisdiction agreement models for sharing costs.



Contact sos.landrecords@vermont.gov to participate and join the Vermont PRIA Local contact list.

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Targeted Assistance for Clerks

VSARA's Vermont Local Records Program (VLRP) offers targeted assistance to clerks on land records management.

► Full-time Records and Information Management Specialist to provide guidance and assistance with land records as well as other clerks' records.

► One-on-one online meetings and/or on-site office visits

► Online "Lunch and Learns" (some with Vermont PRIA Local)

► Ongoing feedback collection for January 2024 legislative report

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Questions and Discussion

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