



## Legislation Text

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Res. No. 447

Resolution urging the New York State Legislature to pass Governor Paterson's Program Bill #252, authorizing the electronic recording of instruments affecting real property.

By Council Members Garodnick, Brewer, Chin, Comrie, Fidler, James, Rose and Williams

Whereas, Over the past several years an increasing number of states and municipalities have been doing business over the Internet; and

Whereas, The ability to submit and view government documents online can save resources and time, increase productivity, reduce the volume of paper an agency receives, and speed up the recording process; and

Whereas, In 2000, Congress enacted the Electronic Signatures in Global and National Commerce Act (ESIGN), which provided for the use of electronic records and signatures in interstate and foreign commerce and ensured the validity of contracts in electronic form; and

Whereas, The New York State Electronic Signatures and Records Act (ESRA) allows signatures that are made through electronic means to have the same validity and effect as those made by hand while also clarifying the authority of government to create and retain electronic records; and

Whereas, ESRA does not apply under Article 9 of the State's Real Property Law (RPL), which limits recordable documents to those on paper and requires signatures to be in writing; and

Whereas, Due to the fact that many other states ran into this same problem when it came to real estate transactions, in 2004, the National Conference of Commissioners on Uniform State Laws crafted the Uniform Real Property Electronic Recording Act (URPERA) that authorizes local land records officials to accept and record documents in electronic form and allows electronic signatures to be used in place of a hand-written signature; and

Whereas, Since 2005, 24 states and the United States Virgin Islands have enacted legislation based on URPERA; and

Whereas, Program Bill #252 which was introduced by Governor Paterson in May 2010, is based on URPERA and would authorize the electronic submission of documents to county clerks through an online transaction and allow for the creation of electronically signed data records; and

Whereas, The bill would amend section 307 of the State Technology Law to remove a provision that excludes documents subject to ESRA as recordable under the RPL Article 9 and would amend RPL Article 9 to add a new section that would authorize the validity of electronic records, electronic signatures, and electronic notarization; and

Whereas, The bill would also amend RPL section 317 to provide that electronic records would be considered delivered on the date and time the document is transmitted to a recording office; and

Whereas, If enacted, this bill would modernize the real estate transaction process by improving the accuracy of recording, streamlining the storage system, and improving work flow; now, therefore, be it

Resolved, That the Council of the City of New York urges the New York State Legislature to pass Governor Paterson's Program Bill #252, authorizing the electronic recording of instruments affecting real property.

CFP  
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