

HILLSBOROUGH COUNTY CLERK OF COURT ELECTRONIC RECORDING BUSINESS RULES

As Clerk of Court for Hillsborough County, it is our intent to accept electronically transmitted documents submitted for recording through Hillsborough County's Official Records system. What follows are the business rules, which have been established to comply with the rules prescribed by the Department of State and recommended by the Florida Electronic Recording Advisory Committee.

1. Electronic Recording:

Electronic Recording (eRecording) is a concept of using electronic media for recording. The Hillsborough County Clerk of Court will accept two models for this process.

Model 1: Submitting organizations transmit scanned images of ink signed documents or an electronic document electronically signed and notarized, along with data necessary for processing, indexing, and returning the document, to the Official Records Department. Official Records staff performs an examination of the imaged document and indexing data and then completes the recording process using the imaged copy and the electronic indexing information. The electronic version of the recorded document is returned to the eRecording provider, together with the recording endorsement data.

Model 2: Submitting organizations transmit documents that have been created, signed, and notarized electronically and that contain the electronic index information or SMART™ documents, which are a single object containing the electronic version of the document in such a way that enables the electronic extraction of data from the object. SMART™ documents are required to be signed and notarized electronically. Electronic signatures must comply with the Florida Uniform Electronic Transaction Act (UETA). Official Records staff performs an examination of the electronic documents and index information and then completes the recording process using the electronic documents. Images of electronic and SMART™ documents are made and returned to the submitting organization, along with recording endorsement data.

a. Format of the Transmitted File

Property Records Industry Association (PRIA) and Mortgage Industry Standards Maintenance Organization (MISMO) file format standards will be used. The file format shall be TIFF or PDF, and must be so specified.

b. Communications Protocol and Options

Transmission Control Protocol/Internet Protocol (TCP/IP), HTTP, and HTTPS will be used.

c. Security Framework

Encryption will be a minimum 128 bit file and image encryption. Secure Socket Layer (SSL) and user login/password will be employed. User passwords are controlled by the eRecording provider and should be monitored or changed periodically to ensure security. Computers on which documents originate must have all critical operating system patches applied, must have a firewall (hardware or software) installed, and must have up-to-date virus scan software.

d. Returned File Format

Property Records Industry Association (PRIA) and Mortgage Industry Standards Maintenance Organization (MISMO) file format standards will be used. Documents will be returned in the file format (TIFF or PDF) specified by the submitter.

e. Electronic Signatures and Use of Digital Certificates

The use of electronic signatures and digital certificates will need to adhere to the guidelines set out in any applicable Florida statutes and Florida Department of State administrative rules.

f. Imaging Standards

Documents must be scanned at a minimum of 300 dpi and must be transmitted in portrait mode. Document images will be captured on single pages (or specified multipage) storage format. Scanned documents will be legible and reproducible, including signatures and notary seals. Document details, such as margins, font size, and other similar requirements, must meet all applicable State or local standards. Documents must be scanned to original size.

2. Program Eligibility:

eRecording requires a close working relationship, as well as mutual trust, between the Clerk’s Office and the submitting entity. All parties to the eRecording transaction desire to operate and maintain a secure recording system that safeguards parties to recordation from deceit, fraud, and forgery. These business rules outline the procedures and practices for the trusted relationship between the Clerk’s Office and all eRecording providers. Participation in the eRecording program is voluntary, and the decision to do so is a business judgment.

3. County Requirements:

The eRecording Program of the Hillsborough County Clerk of Court is defined by the requirements included in these business rules and by the Clerk’s recording system.

a. Non-Eligible Document Types

All document types recorded in a paper-based world are not acceptable for eRecording. The following Document types will **not** be accepted for eRecording.

- Notice of Homestead
- Notice of Contest of Lien
- Notice of Marketable Title
- Any document that requires the Clerk to attest to the mailing of a copy.
- Plats, maps, or Condo drawings cannot be accepted using electronic media.

b. Eligible Document Types

- Affidavit: AFF
- Agreement: AGR
- Agreement and/or Contract for deed: AGD
- Assignment: ASG
- Assignment/Taxes: ASGT
- Assignment of Interest: ASINT
- Bond: BND
- Certificate: CTF
- Declaration of Condominium: CND

- Death Certificate: DC (If a Death Certificate is attached to any document must be coded DC)
- Deed: D
- Easement: EAS
- Financing Statement/UCC: FIN
- Lien: LN
- Modification: MOD (Modification of any document)
- Mortgage: MTG
- Notice: NOT
- Notice of Commencement: NOC
- Partial Release: PR
- Power of Attorney: POA
- Release: REL
- Satisfaction: SAT
- Termination: TER

c. Index Fields for each Document Code will be Grantor and Grantee

Official Records staff will not reject documents that are indexed incorrectly; however, they may notify the eRecording provider of errors in expectation that future documents are submitted with correct information.

Sample Index and Punctuation Standards:

- Names are indexed last name first name with no punctuation.
 - (i.e., Smith Barry)
- Legal descriptions are indexed as Lot, Block, and the complete name of the subdivision.
 - (i.e., L14 B56 Newhaven)
- Book and Page Numbers
 - (i.e., OR BK 576 PG 8777)

d. Document Imaging Quality Control Standards

The XHTML document must display in W3C (World Wide Web Consortium) Standards. XHTML (Extensible Hypertext Markup Language) is a W3C standard for defining the content of Web documents.

e. Notary Requirements per Document

It is the responsibility of the eRecording provider clients to confirm that notary signatures and seals are present on all documents that require them. Notarial seals are not required, although the data contained on a notarial stamp is required. All electronic notary signatures must adhere to F.S. 117.021 for electronic notaries.

Remote Notarial Acts: The Clerk of Hillsborough County interprets current Florida law to require all notarial acts associated with real property documents be made in person as an entitlement for recording in the official records of Hillsborough County, including electronic documents recorded electronically.

However, when recording an electronic document, the Clerk has no duty under Florida law to look beyond the document content to determine the legal sufficiency of a notarial act associated with the electronic document.

Any person who submits an electronic document for recording in Hillsborough County knowing that document does not meet the in-person notarial requirements of Florida law and does not disclose that information to the Clerk prior to recording, assumes the risk that such document may not be accorded all of the entitlements of a recorded real property document, as may thereafter be determined as a matter of law.

(Reference sections: 695.03; 695.27; 695.028; 117.021 and 117.107(9), Florida Statutes, 2016.)

f. Eligible Document Batches

Document batches will be submitted by a standard naming convention as specified by the Hillsborough County Clerk of Court. The maximum size of electronic document batches will be 25mb.

g. Hours of Operation

Documents may be submitted anytime during the week. Documents will only be processed between 8:00 a.m. and 5:00 p.m. Monday through Friday on days that the Official Records Department is open to the public for business. Documents will not be processed on county holidays, weekends, declared emergencies, etc. or in the event of network or equipment failure. The Hillsborough County Clerk of Court will attempt to notify eRecording providers of any disruption in service.

Hillsborough County Clerk of Court Holidays

- New Year's Day
- Martin Luther King
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Rosh Hashanah
- Yom Kippur
- Veterans Day
- Thanksgiving (Thursday and Friday)
- Christmas (2 days)

h. Processing Time Requirement

Hillsborough County Clerk of Court will apply the same level of diligence in handling documents submitted electronically as those submitted through the normal hardcopy process. Unforeseen situations, such as computer problems, document rejection issues, redaction requirements, volume, or other related issues can delay the recording process. Do not wait until the last minute to record time-sensitive documents.

i. Alternative Delivery Options

There are no other electronic delivery options at this time.

j. Return Options

Submitted documents that are accepted for recording will be made available to the eRecording provider in electronic format after recording. Submitted documents that are rejected will be made available to the eRecording provider in electronic format after rejection, along with a description of the reasons for rejection.

k. Service Help Contact Information

The following Hillsborough County Clerk of Court staff members are identified as the primary points of contact for the eRecording provider.

For technical issues or to become an eRecord vendor, contact the following:

Hillsborough County Clerk of Court, IT Service Desk
servicedesk@hillsclerk.com
(813) 307-7100

For information or help with a pending eRecord transaction, contact the following:

Official Records Management Team
recording@hillsclerk.com
(813) 276-8100, x 4169

4. eRecording Payment Requirements:

It is the Hillsborough County Clerk of Court's decision to accept Automated Clearing House (ACH) Debit transactions as the payment method for an eRecording transaction. The eRecording provider must sign an authorization form, allowing ACH the ability to remove funds from the account to pay for the recording of the document transactions fees. It is the eRecording provider's responsibility to inform the Hillsborough County Clerk of Court of any changes to their ACH account at least 10 days prior to the change. The Hillsborough County Clerk of Court may terminate the eRecording provider's authorization for failure to report changes in ACH, or for non-availability of funds. The eRecording provider will not be able to access the eRecording system, if applications have been accepted and the funds are not sufficient for recording fees.

5. eRecording Provider Client's Responsibilities:

eRecording provider clients are expected to abide by Florida law. eRecording allows submitters to prepare, sign, and/or transmit documents and business records in electronic formats. The electronically transmitted documents will be considered the "original record" of the transaction in substitution for, and with the same intended effect as, paper documents.

eRecording provider clients are expected to be diligent in ensuring that documents submitted for eRecording have been checked before submission for errors, omissions, scanning defects, illegible areas, and other deficiencies that would affect the Hillsborough County Clerk of Court's ability to record the document and create the public record.

eRecording provider clients and/or their employees attest to the accuracy and completeness of the electronic records and acknowledge responsibility for the content of the documents. Should a dispute or legal action arise concerning an electronic transaction, the Hillsborough County Clerk of Court will be held harmless and not liable for any damages.

eRecording provider clients are responsible for the costs of the system or services provided by a third party that enables them to meet the requirements of eRecording.

eRecording provider clients will immediately notify the Hillsborough County Clerk of Court of any security incident, including but not limited to attempts to or actual unauthorized access to its pathway,

which could compromise or otherwise adversely affect the Hillsborough County Clerk of Court's data systems.

eRecording provider clients will work to ensure that all security measures and credentials implemented are protected. Documents are to be authenticated and transmitted without modification. eRecording providers are expected to maintain an audit trail of all activity, available to the Hillsborough County Clerk of Court, upon request, to resolve issues or investigate potential fraudulent activity. The audit trail must contain, at a minimum, the following information:

- eRecording provider clients ID
- eRecording provider clients content at point of receipt from company
- eRecording provider clients content as at point of delivery to Hillsborough County Clerk of Court
- Dates and times submitted
- Size of file
- Number of pages
- Check sum

eRecording providers are responsible for coordinating all technical problems and issues through the Hillsborough County Clerk of Court Information Technology Department.

6. Hillsborough County Clerk of Court Responsibilities:

Hillsborough County Clerk of Court will attempt to protect the integrity of the recording process through ongoing monitoring of documents received and recorded through eRecording methods.

Hillsborough County Clerk of Court will test and maintain eRecording software and hardware required to operate the eRecording capability. Hillsborough County Clerk of the Circuit Court, however, shall be held harmless and not liable for any damages resulting from software or equipment failure and assumes no contractual liability for any damages whatsoever, via any part of this document.

7. General Understandings:

The Hillsborough County Clerk of Court will not incur any liability for the information electronically transmitted by eRecording providers, including but not limited to, any breach of security, fraud, or deceit.

The Hillsborough County Clerk of Court and eRecording providers will attempt in good faith to resolve any controversy or claim arising out of or relating to eRecording through negotiation prior to initiating litigation.

The Hillsborough County Clerk of Court may terminate any eRecording provider authorization to eRecord for any reason.

Documents may be rejected in accordance with Florida law, including, but not limited to the following reasons:

- Document not authorized to be recorded as per F.S. 28.222
- Failure to pay fees as prescribed by law
- Document fails to meet any other applicable legal requirement

8. Personally Identifying Information:

The eRecording provider agrees that all personally identifying information that is considered privileged and confidential under Florida law contained within the documents will not be released by the eRecording provider to any individual or other legal entity who would not otherwise have access to such information. Any release of information by the eRecording provider to any unauthorized individual or other legal entity may result in the Hillsborough County Clerk of Court terminating the eRecording provider's authorization to eRecord.

9. Terminations:

The Hillsborough County Clerk of Court may cease eRecording at any time for any reason.

10. Amendment to eRecord Business Rules:

Notification will be given for amendments or modifications to these business rules.