

# URPERA

## The Uniform Real Property Electronic Recording Act

### Establishing the URPERA Electronic Recording Commission

Carmelo D. Bramante

Managing Director  
CDB Consultancy LLC

Co-Author of the *“PRIA URPERA Enactment and  
eRecording Standards Implementation Guide”*

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# Carmelo D. Bramante

[www.cdbconsultancy.com](http://www.cdbconsultancy.com)

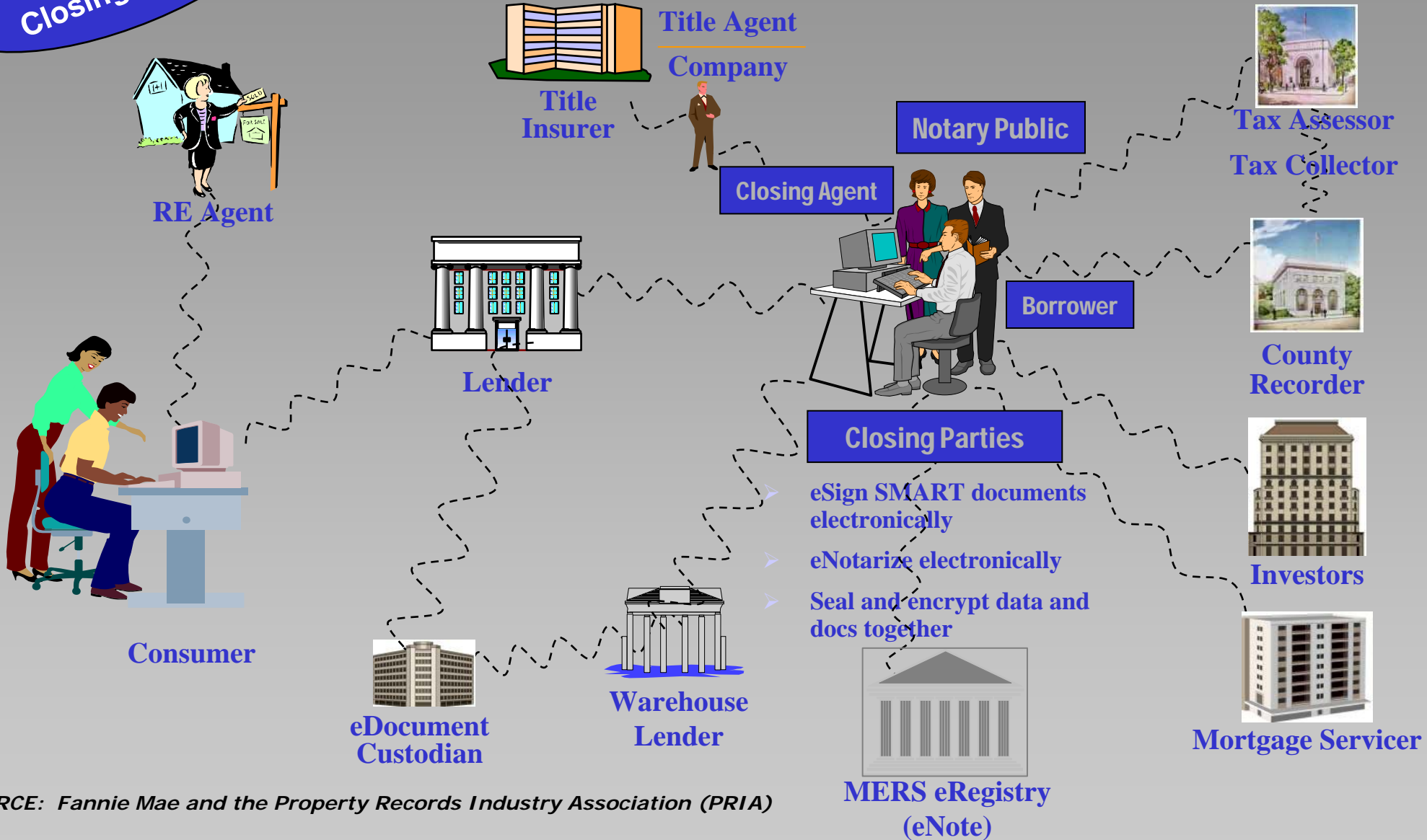
- 16 Years with Fannie Mae
  - Operations
  - Asset Acquisition and Servicing
  - Liquidation / Payoff / Foreclosure
  - Credit Policy & Counter-Party Risk
  - Default Management / Loss Mitigation
  - eBusiness: eClosing / eMortgage / eRecording / eNotarization
- 4 Years with CDB Consultancy LLC
- Active in the following Industry Organizations
  - The Mortgage Bankers Association's Mortgage Industry Standards Maintenance Organization (MISMO), and its eMortgage Workgroup ([www.mismo.org](http://www.mismo.org)) – 2003 to Present
  - The Property Records Industry Association (PRIA) ([www.pria.us](http://www.pria.us)) – 1998 to Present
  - OASIS / LegalXML ([www.legalXML.org](http://www.legalXML.org)) – 2005 to Present
  - The American Bar Association (ABA) eTrust Subcommittee's Electronic Notarization Work Group ([www.abanet.org/dch/committee.cfm?com=ST231005](http://www.abanet.org/dch/committee.cfm?com=ST231005)) – 2004 to Present

# Agenda

- eClosing Vision: Status of eClosing Systems; eMortgage and eRecording
- URPERA Background
- IL URPERA
- BREAK
- State-by-State Comparison of Current URPERA Section 5 ER Commissions
- IL Electronic Recording Commission
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  - Organization, Staffing and Expertise
  - Standards Development and Maintenance
  - “Best Practice” and “Policy Position” Statements
- BREAK
- Work Session
  - KS Electronic Recording Commission Report, July 1, 2007
  - FL Electronic Recording Advisory Committee Report, November 30, 2007

# eClosing Vision: eMortgage and eRecording

Future  
Real Estate  
Closing Process



SOURCE: Fannie Mae and the Property Records Industry Association (PRIA)

# URPERA Background

# The eCommerce Laws

- Uniform Electronic Transactions Act (UETA), approved by NCCUSL in 1999; currently enacted in all states except GA, IL, NY and WA.
- Electronic Signatures in Global and National Commerce Act, enacted by Congress in 2000 (ESIGN)
- Uniform Real Property Electronic Recording Act, approved by NCCUSL in 2004 (URPERA); currently enacted in 14 states and the District of Columbia.

# NCCUSL's URPERA Drafting Process

- NCCUSL: The National Conference of Commissioners for Uniform State Laws, aka The Uniform Law Commission.
- Following widespread enactment of the Uniform Electronic Transactions Act of 1999 (UETA) and the federal Electronic Signatures in Global and National Commerce Act (E-Sign) of 2000, the NCCUSL approved a drafting committee in 2002 and finalized the Uniform Real Property Recording Act (URPERA) in 2004.
- URPERA was drafted to remove any doubt about the authority of recorders to receive and record documents and information in electronic form.
- Observers to the drafting committee included Property Records Industry Association, American Land Title Association, American Bar Association, American College of Real Estate Lawyers, Freddie Mac, American Bankers Association and many others.

# Why URPERA?

- UETA: Government Filings and Recordings
- UETA: Government agency may elect whether to accept electronic filings, and can specify formats and standards for the same.
  - ALL STATES; Section 5: Use of Electronic Signatures and Records; Variation by Agreement (known to County Recorders as "UETA Agreements or MOUs)
  - 28 STATES & DC; Sections 17, 18, and 19 (optional UETA sections): Creation & Retention of E-Records (17), Acceptance & Distribution of E-Records by Government Agencies (18), and Interoperability (19).

# Why URPERA?

- ESIGN: Government Filings and Recording
- ESIGN: Similar to UETA regarding state (and federal) agencies' ability to continue requirements (regulations) that "records be filed...in accordance with specified standards or formats" as long as they are consistent with Title I and Title II of ESIGN.
- But, what about local government agencies?

# Why URPERA?

- Uncertainty continued after UETA & ESIGN:
  - Did states, when passing UETA, include Sections 17, 18 and 19?
  - ESIGN is silent regarding local government agencies.
  - Legacy state recording laws that specify “originality” or limit the form of the recordable document.

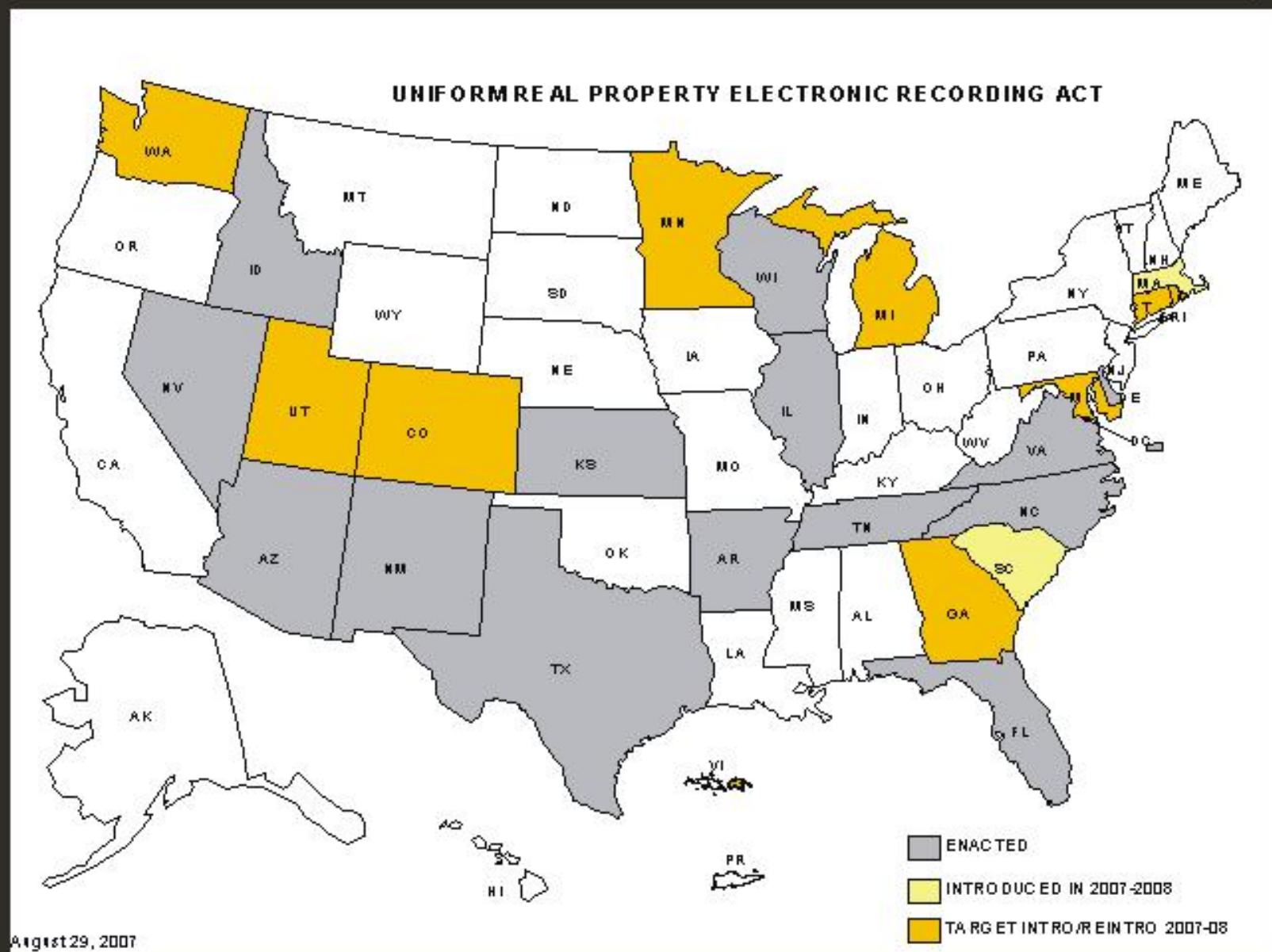
# URPERA – A Brief Overview

- UETA and ESIGN are the foundation for URPERA.
- Covers both eRecording and eNotarization
  - Provides “overlay law” to state recording and notarization statutes (same as UETA).
  - Addresses the validity of electronic signatures and documents (same as UETA and ESIGN).
  - Authorizes the electronic recording of paper and electronic documents (same as UETA).
- Provides a framework for setting eRecording standards (Section 5).

# URPERA – A Brief Overview

- Provides legislative language that clarifies stamp / seals are not required, just the information, on electronic real estate transactions (UETA and ESIGN).
- NEW: Establishes state commission or utilizes existing state agency to develop and maintain e-recording standards based on national standards (PRIA).

# Enactment Status Map



SOURCE: NCCUSL at [www.electronicrecording.org](http://www.electronicrecording.org)

# URPERA Legislative Status

## 15 Enactments

- 8 Enactments in 2006:

Arizona  
North Carolina

Delaware  
Texas

District of Columbia  
Virginia

Kansas  
Wisconsin

- 2007-08 Legislative Activity:

7 Enactments in 2007 + 10 Targets in 2008

Arkansas  
Florida  
Idaho  
Illinois  
New Mexico  
Nevada  
Tennessee

Connecticut  
Georgia  
Michigan  
Massachusetts  
Minnesota  
Missouri  
Rhode Island  
South Carolina  
Utah  
Washington

*SOURCE: NCCUSL at [www.electronicrecording.org](http://www.electronicrecording.org)*

# IL URPERA

[IL URPERA.pdf](#)

# Comparison of Current URPERA Section 5 ER Commissions

[URPERA Section 5 ER  
Commissions.pdf](#)

*SOURCE: NCCUSL at [www.electronicrecording.org](http://www.electronicrecording.org)*

# IL URPERA: Section 5 Provisions

- Chose Alternative A: Electronic Recording Commission
- Secretary of State designated to provide administrative support and promulgation of standards

# IL URPERA

## IL Electronic Recording Commission Provisions (Section 5)

[IL URPERA.pdf](#)

# IL URPERA

## Electronic Recording Advisory Committee Organization, Staffing and Expertise

# IL ER Commission: Standards Organization

- Need for Standards
  - Trading Partners across State and Regional Borders
  - Interoperability between/among Trading Partners' Systems
  - Process Efficiencies
- Industry Stakeholders
- Continuing Existence
- Business and Technical Expertise
- Funding
  - Volunteerism
  - Self-funded or Recurring Source
  - Early Period
  - Later in the Commission's Life

# IL ER Commission: Organizational Approach

## Critical Success Factors

- Leadership
- Organization
- Preparation
- Communication

## Activities

- Inaugural Meeting
- Planning Meetings
- Working Sessions
- Ongoing (“at least once every year”)

# IL ER Commission: Staffing and Expertise

- Administrative Support
  - Organization and Process Oriented
  - State and local government expertise
- Technological Knowledge
  - Web or Internet technologies
  - XML
  - Security
- Ongoing Support
  - Office of the Secretary of State
  - Part-time or full-time status
  - Commissioners' expertise
  - Volunteers
    - Business
      - Recorders
      - Title Companies
      - Bankers
    - Technological
      - Technology Vendors
      - Government Agencies

# IL URPERA

## Electronic Recording Commission: Standards Development and Maintenance

# IL ER Commission: Standards Resources

- Industry Standards Setting Bodies
  - Property Records Industry Association (PRIA)
  - Mortgage Industry Standards Maintenance Organization (MISMO)
  - Other Organizations (AARTT, LegalXML, REIPA, ABA, NASS, etc.)
  
- National Standards Setting Bodies
  - Internet Engineering Task Force (IETF)
  - Electronic Document Formats, e.g., XHTML, TIF, PDF, DOC, etc.
  - National Institute of Standards and Technology (NIST)
  - American National Standards Institute (ANSI)
  - National Archives and Records Administration (NARA)
  - World Wide Web Consortium (W3C), e.g., XML, e-signatures, etc.
  - International Organization for Standardization (ISO)
  
- State and Local Standards Setting Bodies

# IL ER Commission: Standards Development & Maintenance

- Data
  - XML
  - Logical Data Dictionary
- Extending National Data Standards to Address State and Local Data Needs
- Packaging and Routing XML Data
- Data Transmission Alternatives
- Electronic Signatures
- Electronic Document Formats, e.g., SMART Document™, Intelligent PDF, TIFF, WORD
- Electronic Payment Options, e.g., ACH
- Security
  - Transactional
  - Organizational

# IL ER Commission:

## Develop “Best Practice” or “Policy Position” Statements

- Address Issues or Concerns Standards Cannot
  - Electronic Payment Alternatives
  - Organizational Security, e.g., Counties’ Security Policy
  - Security and Mortgage / Land Fraud Detection
  - Priority: electronic queue vs. paper queue
  - Electronic Recording Implementation e.g., Web Portal
  - Queuing – paper vs electronic documents
  - Records Management and Archival Responsibility

# IL ER Commission: What To Determine?

- Are standards and “best practice” statements rulemaking under State law? Or does the law already provide for this?
  - Do you need Operating Rules?
  - Should you develop a Charter?
  - Should you draft a “Scope” document or a “priority list” to stay focused?
  - Where to get resources?
  - Whom to invite to speak or present on topics relevant to the work of the commission or council?
  - Do you need workgroups or committees?
    - What areas or tasks?
    - Who can participate?

# KS URPERA

KS Electronic Recording Commission Report  
[KS\\_eRecording\\_Report\\_07-01-2007.pdf](#)  
[www.kspace.org/handle/1984/222](http://www.kspace.org/handle/1984/222)

# FL URPERA

## FL Electronic Recording Commission Report

[FL\\_eRecording\\_Report\\_11-30-2007.pdf](#)

[www.flclerks.com/eRecording.html](http://www.flclerks.com/eRecording.html)

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- FL Electronic Recording Advisory Committee Report, November 30, 2007 @ [www.flclerks.com/eRecording.html](http://www.flclerks.com/eRecording.html)
- Patricia Brumfield Fry, Professor of Law Emerita
  - University of Missouri at Columbia Law School
  - Chair of the NCCUSL UETA Drafting Committee

# Thank You

Carmelo D. Bramante

CDB Consultancy LLC

202.441.1396

[carmen@cdbconsultancy.com](mailto:carmen@cdbconsultancy.com)

[www.cdbconsultancy.com](http://www.cdbconsultancy.com)