



## LEE COUNTY CLERK OF COURT RECORDING OFFICE ELECTRONIC RECORDING (eRecording) BUSINESS RULES

Lee County Clerk of Court, the County Recorder, Business Rules for accepting electronically transmitted documents for recording into Lee County's Official Records are as follows. These rules comply with the rules prescribed by the Florida Department of State and recommended by the Florida Electronic Recording Advisory Committee.

These Business Rules will stay in effect until notice is given of a pending change. We will use our best efforts to provide 15 days advance notice of any changes.

### 1. Electronic Recording:

eRecording is defined based on the level of automation and structure of the transaction. Lee County Clerk of Court accepts Model 1 and Model 2 transmissions, as defined in Attachment A.

### 2. Program Eligibility:

eRecording requires a business relationship as well as mutual trust between the County Recorder, the submitting entity, and a third party vendor transmitting electronic records. 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 Lee County Clerk of Court and all submitters. 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 Lee County Clerk of Court is defined by the requirements included in these Business Rules.

**Attachment A** provides the technical specifications including format, models of eRecording supported, transmission protocols, and security requirements of the electronic records. All eRecording participants must agree to provide transmissions following the specifications outlined.

**Attachment B** contains the document and indexing specifications for the eRecording program. For each document type, the expected document code is provided, along with the expected indexing information.

**Attachment C** contains the processing schedules and hours of operation for the eRecording Program.

**Attachment D** provides the eRecording ACH payment requirements.

### 4. eRecording Submitter Responsibilities:

eRecording submitters 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 and, in the case that such documents bear a digital or electronic signature, paper documents bearing handwritten signatures.

eRecording submitters 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

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that would affect the Lee County Clerk of Court's ability to record the document and the public notice to be created thereby.

eRecording submitters and/or its 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 Lee County Clerk of Court will be held harmless and not liable for any damages.

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

eRecording submitters will immediately notify the Lee 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 Lee County Clerk of Court's data systems.

eRecording submitters will work to insure that all security measures and credentials implemented are protected. Documents are to be authenticated and transmitted without modification. eRecording submitters are expected to maintain an audit trail of all activity, available to the Lee County Clerk of Court, at its request, to resolve issues or investigate potential fraudulent activity. The audit trail must contain, at a minimum, submitter ID, submitted content at point of receipt from Company, submitted content as at point of delivery to the Lee County Clerk of Court, dates and times submitted, size, and total fee due.

eRecording submitters are responsible for coordinating all technical problems and issues through Lee County Clerk of Court.

### **5. Lee County Clerk of Court Responsibilities:**

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

eRecording is one method of transmitting documents to be recorded in the County's official records. Lee County Clerk of Court will test and maintain eRecording software and hardware required to operate the eRecording capability. Lee County Clerk of 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 that may result from such failure.

Lee County Clerk of Court will apply the same level of diligence in handling documents submitted electronically as those submitted through the normal manual process.

### **6. General Understandings:**

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

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

Lee County Clerk of Court may terminate any eRecording submitter's authorization to eRecord for any reason.

Documents may be rejected in accordance with Florida law, including, but not limited to the following reasons: document errors, failure to pay the filing or other fees due, the document is not a type the Lee County Clerk of Court is authorized to accept for recording, or the document fails to meet any other applicable legal requirement.

Lee County Clerk of Court will use our best efforts to provide 15 days advance notice of any changes to these

Business Rules.

**7. Personally Identifying Information:**

The eRecording submitter agrees that all personally identifying information which is considered privileged and confidential under Florida law contained within the documents will not be released by the eRecording submitter to any individual or other legal entity who would not otherwise have access to such information.

**8. Termination:**

Lee County Clerk of Court may cease eRecording at any time for any reason as long as 15 day's notice is provided.

The person executing this acknowledgement is presumed by the Lee County Clerk of Court to be authorized to do so, on behalf of the submitter.

Contact one of our eRecording vendors to set up your account:

CSC eRecording Solutions -1 (800) 927-9801

E-Doc Solutions - 1 (888) 973-3627

eRecording Partners Network – 1 (888) 325-3365

Indecomm –1 (651) 766-2369

Simplifile – 1 (800) 460-5657

## **Attachment A**

### **Technical Specifications**

#### **Models for Electronic Recording**

The three models of automation are as follows:

Model 1: Submitting organizations transmit scanned images of original ink signed documents to the Lee County Clerk of Court. The Lee County Clerk of Court completes the recording process in the same way as paper using the imaged copy as the source document. Once the Lee County Clerk of Court accepts the documents for recording, the scanned image is “burned” with the recording information, including recording date and time as well as the unique recording reference number, such as instrument number. Indexing is performed by the indexing staff of the Lee County Clerk of Court, as with paper documents. An electronic copy of the recorded images is returned to the submitter, together with the recording endorsement data.

Model 2: 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 Lee County Clerk of Court. The Lee County Clerk of Court performs an electronic examination of the imaged document and indexing data, and then completes the recording process using the imaged copy and electronic indexing information. The electronic version of the recorded document is returned to the submitter, together with the recording endorsement data.

Model 3: Submitting organizations transmit documents which have been created, signed and notarized electronically containing the electronic indexing 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). Lee County Clerk of Court performs an electronic examination of the electronic documents and indexing information, 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.

Models 1 and 2 will be accepted by Lee County Clerk of Court.

#### **Format of the Transmitted File**

Property Records Industry Association (PRIA)/Mortgage Industry Standards Maintenance Organization (MISMO) file format standards will be used. The file format shall be single page Group IV, TIFF format and must be so specified.

#### **Communications Protocol and Options**

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

#### **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 Submitter 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.

#### **Returned File Format**

Property Records Industry Association (PRIA)/Mortgage Industry Standards Maintenance Organization (MISMO) file format standard will be used. Documents will be returned in the single page Group IV, TIFF file format.

#### **Electronic Signatures and Use of Digital Certificates**

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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.

### **Imaging Standards**

Documents will be scanned at 300 dpi. Documents will be scanned in portrait mode. Document images will be captured in single page 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.

## Attachment B

### Documents and Indexing Specifications

#### **Eligible Document Types**

Generally, all document types recorded in a paper-based world are acceptable for eRecording. However, at present, we are not accepting: court papers, orders, judgments, lis pendens, condominiums, plats, transfers of liens to security, or documents that require a certification stamp. See **Attachment B-1 and B-2** for a specific listing of document type codes, and, indexing fields.

**Death Certificates: On the advice of the Clerk's Office's attorney, an uncertified copy of a death certificate cannot be recorded in the Official Records, regardless of whether it is presented by itself or attached to another document. Until a court or the Attorney General deems otherwise, we will not accept uncertified copies of death certificates for recording, even if attached to another document. All death certificates recorded in Lee County must be an original or a certified copy of the original.**

*(Section updated to add notice regarding death certificate document type 1/14/2009)*

It is the Lee County Clerk of Court's intention to not reject documents based on incorrect document codes. The Lee County Clerk of Court will attempt to correct the document type code as part of the acceptance process. If the document type code and the image do not match, the Lee County Clerk of Court will reject the eRecording, as fees could be impacted.

#### **Indexing Fields for each Document Code**

See **Attachment B-1** for the expected indexing fields. The Lee County Clerk of Court will attempt to correct grantor, grantee, legal description and connecting document indexing data as part of the acceptance process. However, submitters will not receive the Lee County Clerk of Court corrected index data back, if corrections are made after the document has been recorded.

#### **Notary Requirements per Document**

It is the responsibility of the eRecording submitter to confirm that notary signatures and data 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.

#### **Eligible Document Batches**

Document batches will adhere to PRIA standards. The maximum size of electronic document batches is determined by the Lee County Clerk of Court to not exceed 30MB. The 30 MB is translated to 360 pages, at an average of 86 KB per page.

## Attachment B-1

## Document types that may be accepted electronically:

Lee County Document Type Code	Document Type Description	State Document Type Code
AD	Agreement for Deed	AGR
ADC	Affidavit with Death Certificate	AFF
AFF	Affidavit	AFF
AGR	Agreement	AGR
ASG	Assignment	ASG
BND	Bond	BND
CER	Certificate	CTF
COC	Certificate of Compliance	CTF
D	Deed	D
DC	Death Certificate	DC
DOC	Declaration of Condominium	CND
DRR	Re-Recorded Deed	D
EAS	Easement	EAS
GOV	Government	GOV
LI	Lien	LN
MOD	Modification	MOD
MRR	Re-recorded Mortgage	MTG
MTG	Mortgage	MTG
MTG1	Mortgage No Intangible Tax	MTG
MTG2	Mortgage No Documentary/Intangible Tax	MTG
NOC	Notice of Commencement	NOC
NOT	Notice	NOT
ORD	Order	ORD
POA	Power of Attorney	POA
PR	Partial Release	PR
REL	Release	REL
RES	Restrictions	RES
SAT	Satisfaction	SAT
TER	Termination	REL
UCC	Uniform Commercial Code	FIN

(Section updated to include document types: ADC, DC 1/14/2009)

**Attachment B-2**

**All documents submitted will conform to Receiver's index requirements. Such requirements may include the following:**

The estimated fees

- The number of pages in the document (to calculate recording fees) must be indexed
- If the document is a deed, the consideration amount (to calculate deed doc stamp taxes) must be indexed
- If the document is a mortgage, the obligation amount (to calculate mortgage doc stamp and intangible taxes) must be indexed
- The number of names in the document (to calculate the indexing fee-\$1/name for over 4 parties named in a document) must be indexed
- One readily identifiable/discernable name for grantor must be indexed
- One readily identifiable/discernable name for grantee must be indexed
- The document type

Requirements for Deeds

- "Prepared by" statement (name and address of the "natural" person preparing the Deed)
- Grantor(s) (Sellers-Party Giving Title) names legibly printed in the body of the Deed
- Grantor(s) mailing address
- Grantee(s) (Buyer-Party Receiving Title) names legibly printed in the body of the Deed
- Grantee(s) mailing address
- Signatures of Grantors
- Names printed under Grantors' signatures
- 2 Witnesses, for each signature (For all Florida Deeds) the names of witnesses printed under witnesses' signatures
- Complete Notary acknowledgment
- Names being acknowledged
- Date acknowledgment taken
- Signature of Notary
- Name printed under signature
- Commission expiration date
- Ink Seal
- Each document transferring an interest in real property may be subject to Florida's Documentary Stamp Tax, please contact the Department of Revenue for guidance at (800) 352-3671. Florida's Documentary Stamp Tax is as follows: Documentary stamps on deeds (rounded up to nearest hundred)- \$0.70 per \$100.00
- RECORDING REQUIREMENTS for Deeds. There may be other statutory requirements for making a conveyance valid, which are not within the scope of the recording office to dictate



**Attachment C**

**Service Offering**

**Hours of Operation**

Documents may be **submitted** at any time during the week. Documents will only be **processed** between 8:00 a.m. and 4:30 p.m. on those days that the Lee County Clerk of Court's Official Records Office is open to the public for business. Documents will not be processed on county holidays, declared emergencies, etc., or in the event of network or equipment failure. The Lee County Clerk of Court will attempt to notify eRecording submitters of any disruption in service.

**Processing Schedules**

Documents and/or document batches submitted will enter the recording queue and are processed in the order received, similar to walk-in customers.

**Alternative Delivery Options**

There are no other electronic delivery options at this time.

**Return Options**

Submitted documents that are accepted for recording will be made available to the eRecording submitter in electronic format after recording. Submitted documents that are rejected will be made available to the eRecording submitter in electronic format after rejection, along with a description of the reason(s) for rejection.

**Service Help Contact Information**

The following Lee County Clerk of Court staff members are identified as the primary points of contact for the eRecording submitter:

Technical Contact

Name	Department of Innovation and Technology (DoIT)
Email	DoITServiceDesk@leeclerk.org
Phone number	239.533.2200

Recording Office Contact

Name	Recording Office Supervisor
Email	RecSupport@leeclerk.org
Phone number	239.533.5007

**Attachment C-1**

**eRecording Rejections in Lee County Florida**

**Rejections**

1. If the data showing the consideration amount for a deed or a mortgage does NOT agree with what we see on the document image, we will reject the submission. We will do this as the fees for the document will not calculate correctly.
2. If the data showing type of instrument does NOT agree with what we see on the document image, we will reject the submission. For example, if the index document type shows an Agreement and the image is clearly an Assignment, or if the index document type shows a Mortgage and the image is clearly a satisfaction/release of mortgage, we will reject the submission. We will do this as there could be fee calculation problems and as there appears to be an important conflict/contradiction between the data and the image.
3. If the data showing party names and the image don't match up (that is the data says it's Betty Smith and the image shows Sam Jones), we will reject the submission. We will do this as there appears to be an important conflict/contradiction between the data and the image.

**Corrections/No Rejections**

1. If the data for the party names does not exactly meet Lee County Clerk of Court standards/rules, our staff will correct the data.
2. If the data for the legal description does not exactly meet Lee County Clerk of Court standards/rules, our staff will correct the data.
3. If the linking document data does not exactly meet Lee County Clerk of Court standards/rules, or is missing from the data set but appears on the document image, our staff will correct/enter the data, when possible before recording. However, if the correction to the data is after the document has been recorded, these "corrections" will NOT be returned to you.

**Attachment D**

**Automatic ACH Debit Payment Requirement**

An Automated Clearing House (ACH) Debit transaction is the only payment method accepted for eRecording. All eRecording vendors must submit a signed ACH agreement, authorizing the Lee County Clerk of Court Recording Office to electronically debit their bank account for the amount of the Official Record fees and services collected on behalf of the Lee County Clerk of Court Recording Office (see Attachment D-1). It is the responsibility of the eRecording vendor to notify the Lee County Clerk of Courts Recording Office of any changes to their banking instructions at least ten days prior to the effective date of such change.

The Lee County Clerk of Courts Recording Office may terminate an ACH payment agreement for failure to report bank changes timely or for payments being returned for insufficient funds. In the event applications have been accepted and the associated fees are unable to be collected through the payment method established the vendor will be notified and access to the eRecording system will be denied until payment has been received in full.

**Attachment D-1**

**Automatic ACH Debit Payment Instructions**

1. Automatic ACH debit payments may be used with electronic documents.
2. If a corporation or organization wishes to electronically record (eRecord) documents, the only payment tender that will be accepted is automatic ACH debit payment. (Note: There are additional instructions and agreements to be signed for any corporation or organization that wishes to eRecord, beyond the Automatic ACH Debit Authorization Agreement.)
5. The corporation or organization must declare a daily dollar maximum limit for recording service-related fees of the Lee County Clerk of Courts Recording Office. Once that daily maximum limit is set, the Lee County Clerk of Courts Recording Office will not exceed that limit. Documents processed after the daily dollar maximum limit is reached will be “suspended” and processed on the next available business day. This limit is being used only to provide the corporation or organization with a means of limiting the dollar value of documents being processed in a single day. If the corporation or organization is not concerned about this control, the daily dollar maximum limit may be set at a high figure such as \$1 million.
6. Automatic ACH debit payments will be withdrawn every day that the authorization is used to record documents or provide copies of documents. If the documents are recorded on a Saturday, Sunday, or federal or state legal holiday, the funds will be withdrawn on the following business day.
7. All documents received for recording using automatic ACH debit payment will be processed in the same manner as those documents not utilizing the automatic ACH debit payment option. The total due for each single document, as well as multiple related documents (i.e., satisfaction, deed, mortgage, assignment) per transaction, will be calculated at the end of the business day. The total due from a customer resulting from recording, copy, and other recording service-related fees for a given day will be added up by the Lee County Clerk of Courts recording computer system. That grand total, which will always be less than or equal to the daily dollar maximum limit, is the amount that will be debited from the designated account of the corporation or organization.
9. If an audit of prior day transactions indicates that any necessary payment adjustments for underpayments are needed, those adjustments will be debited to the next available day’s automatic ACH debit transaction. If an overpayment adjustment is needed, a check made payable to the ACH customer will be sent directly to the customer.
10. If the Lee County Clerk of Courts Recording Office receives notification that an ACH transaction did not process due to non-sufficient funds (NSF), failure by the corporation or organization to notify the Lee County Clerk of Courts Recording Office of an account closure, change in account number or routing transit number, the corporation or organization will immediately, upon notification, wire transfer to the Lee County Clerk of Courts Recording Office the total amount due for the rejected transaction(s). In the event of ACH failures identified above, the corporation or organization will be required to submit payment via wire transfer until a mutually acceptable solution has been reached for the reinstatement of ACH debit transactions.
11. If you have any questions regarding the automatic ACH debit procedures, please contact the Lee County Clerk of Courts Recording Office:

Name	Recording Office Supervisor
Email	recordingsupervisors@leeclerk.org
Phone number	239.533.5007