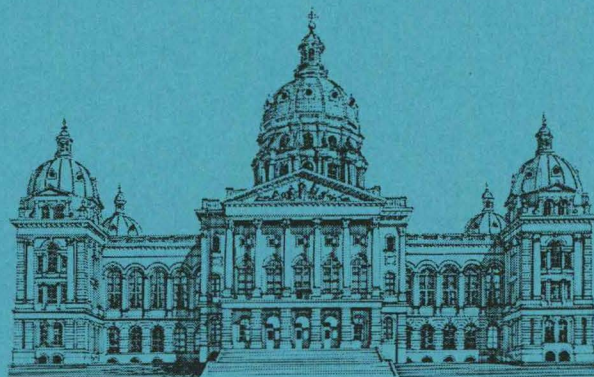


**KFI
4327
.A2
2001**

**Progress report / presented to the
Legislative Council and the General
Assembly January, 2001; prepared by
the Legislative Service Bureau**

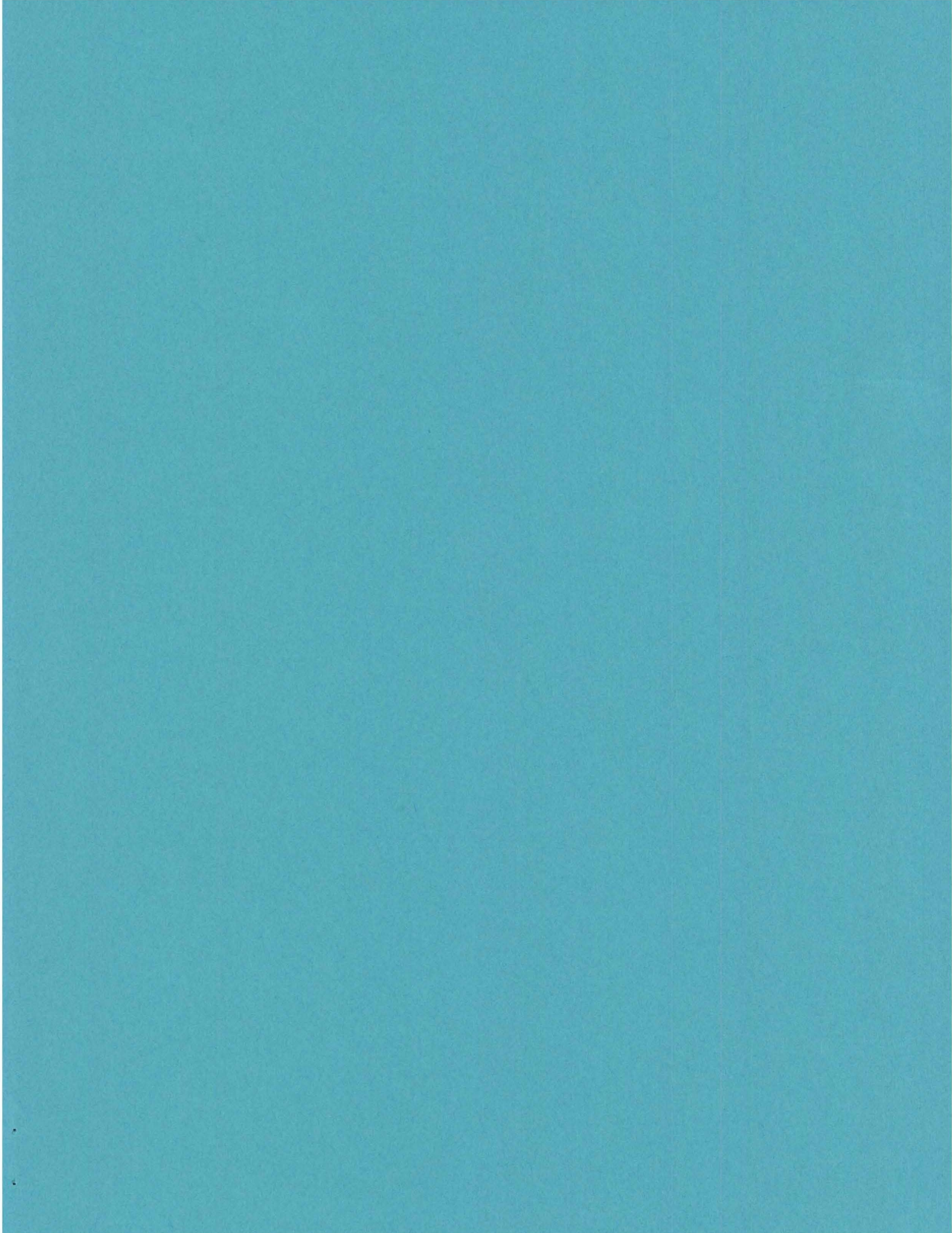
PROGRESS REPORT

**ADVISORY COMMITTEE
ON ELECTRONIC FILING
OF REAL PROPERTY INSTRUMENTS**



Presented to the
LEGISLATIVE COUNCIL
and the
IOWA GENERAL ASSEMBLY
January 2001

Prepared by the
LEGISLATIVE SERVICE BUREAU





Legislative
Service Bureau

PROGRESS REPORT

Legislative Advisory Committee on Electronic Filing of Real Property Instruments

January 2001 Corrected copy 1/30/01

MEMBERS

Chairperson Susan Vande Kamp, Story County Recorder

Vice Chairperson Mike Raye, ERA Universal

Darrell Bauman, Dallas County Treasurer

Bill Blue, Iowa Land Title Association

David Dettmann, Iowa State Bar Association

Dennis Dietz, Iowa Finance Guaranty

Pam Griebel, Office of Attorney General

Joanne Konz, Nationwide Home Mortgage
Corporation

Julie Starnes, Iowa Credit Union League

Chuck Topinka, Iowa Bankers Association

Contents

- I. Overview
- II. Recommendations

Staff Contacts:

Thane Johnson, Senior Research
Analyst
(515) 281-3048
tjohnso@legis.state.ia.us

Jan Johnson, Legal Counsel
(515) 281-3798
jjohnso@legis.state.ia.us

AUTHORIZATION AND APPOINTMENT

The Advisory Committee was established by Legislative Council pursuant to 2000 Iowa Acts, chapter 1189, Section 27 also known as the Uniform Electronic Transactions Act (UETA). The Advisory Committee was charged to:

1. Study issues associated with electronic filing, recording and indexing of instruments affecting real property pursuant to chapter 558.
 2. Study issues associated with the electronic use of real property disclosures required pursuant to chapter 558A.
-



I. Overview.

In its considerations, the Committee is to consider matters relating to the facilitation of electronic filing, recording, and indexing of instruments affecting real property, and may consider matters including, but not limited to:

- Access to electronic transactions.
- Reliability.
- Security.
- Storage of records.
- Training of public officials.
- Conversion from a paper recording system to an electronic system.
- Other issues as are necessary and appropriate with respect to establishing a statewide uniform electronic filing system for real property transactions.

The initial report of the Committee to the Iowa General Assembly, to be delivered by January 20, 2001, is required to include a recommendation for initiation of a pilot program for electronic land transfers, including a date certain by which such program may be initiated and the cost of such pilot program.

The Committee met three times -- December 28, 2000, and January 10 and January 19, 2001. The final meeting's objective was to approve this report.

II. Recommendations.

The Committee makes the following recommendations:

A. That a uniform parcel identification numbering ("PIN") system should be established. A PIN will be assigned to each parcel of real estate in the state. A PIN index of documents shall be created.

The Committee further recommends that the PINs for each county have the established two-digit county number as the first two digits. PINs would be required to be included on all legal documents recorded, which transfer, encumber, or refer to real estate. Legal descriptions will continue to be required and necessary on the recorded documents. The eventual goal of the Committee will be to recommend that PINs be used as legal descriptions.

B. That the General Assembly direct the Information Technology Department (ITD) to conduct a survey of county offices and appropriate state electronic systems to determine current electronic capabilities, planned acquisitions, linkage potential, the most cost-effective way to transform the individual features of each current system into a statewide electronic system, and relative merits of the county storage system versus a centralized data storage system. These basic decisions should be made before the pilot counties are selected, even if the initial stage will only establish electronic recording, filing, and indexing at the test counties.



C. That the provisions of the Uniform Electronic Transfers Act (UETA) as adopted by the Iowa General Assembly during the 2000 Session, as supplemented by administrative rules, govern the use of electronic signatures and notaries on real estate documents.

D. That a pilot study be established in three counties of varying populations.

It is further recommended that the implementation take place in three counties currently using at least two separate software systems for their real estate transaction recordings. It is recommended that the state fund the pilots, which are to be operational no later than January 1, 2002. The pilot program should be designed with the ultimate goal in mind to avoid needless expense in resolving compatibility and linkage issues in the future. Ideally, when the project is complete, all county real estate records will be filed electronically, accessible online, interlinked with state systems which impact real estate, such as the Iowa Court Information System (ICIS), and able to electronically communicate with state agencies, such as the Department of Revenue and Finance (DRF), and county GIS and mapping systems. While there will likely be flexibility in the hardware and software each county or state agency can use, it is anticipated there will be communication and compatibility issues unless parameters are established statewide. Counties and state units need to factor the future into today's hardware and software purchasing decisions. They should have the benefit of specifications which, if satisfied, would be conducive to later statewide communication. Using existing electronic systems to the extent possible will ease the transition, foster county-state cooperative arrangements, and hold down costs.

Although more technological advice is needed, any system should be designed with at least the potential for searching and electronic transmission of data. Even before statewide systems are in place, county officials in different offices (e.g., assessor, auditor, recorder, treasurer, engineer, etc.) will wish to search internally. Software decisions should reflect this need.

NOTE: Iowa Code section 554D.109 reads: "An electronic record that grants a legal or equitable interest in real property, including a deed, mortgage, or deed of trust, pledge, security interest, or other lien or encumbrance, and any disclosure required under chapter 558A shall comply with all of the following:

1. Be created using a security procedure and signed by use of a digital signature.
2. Shall not be recorded or have effect against third parties until a duplicate paper original of the electronic record is executed in writing by the parties, acknowledged, and recorded. The burden of proof that the duplicate paper original of the electronic record is identical to the original electronic record rests upon the party submitting the duplicate paper original.
3. Comply with all requirements of Iowa law regarding the recording of instruments and all other applicable state requirements."



E. Cost/Funding.

Because the Committee was formed so late, cost figures are not available to share with the General Assembly. It is recommended that ITD, as part of its survey, present alternatives to reach the ultimate goal, specifying the cost of each. Because ICIS was recently completed statewide, the Judicial Branch will be a good source of information. Hopefully, the survey can be completed expeditiously with results available before the end of the 2001 legislative session. If a clear alternative emerges, three counties (preferably with varying levels of current electronic sophistication and population) could be selected to implement that alternative. If a clear alternative does not emerge, perhaps two alternatives could be tested at different counties.

The Committee does not have sufficient information to recommend the manner in which county recorders should charge fees for electronic filing or collect costs for electronic access to electronic files. The Judicial Branch does not charge the public for looking at the screen at the clerk's office. The Judicial Branch's Internet project is awaiting word on whether the cost will be fee-generated or funded through the general appropriations. The issues overlap. Because the systems will likely be integrated in the future, the same funding answer should apply to both.

F. Privacy/Blocking.

Numerous privacy, security, and consumer issues are likely to arise during this process. The Judicial Branch conducted a series of focus groups to review the new Internet format of court records to flesh out privacy issues, assure all needed fields were covered, and enhance the user-friendly nature of the program. Similar initiatives should be undertaken during the pilot project. Because it can be very costly to correct security issues after the fact, the software design phase should identify fields which may need to be shielded from public view.

G. Electronic Submission of Forms.

- 1. Declarations of Value.** Declarations of value are mandatory in most real estate transactions (Iowa Code section 428A.4). The form is presented to the recorder but it is not recorded, and the recorder transmits the form to the city or county assessor, who in turn transmits the form to DRF. The DRF would probably appreciate receiving the data in electronic form. However, based on representations from DRF, there will not be moneys available for the next two years to implement the electronic transfer of the form.
- 2. Groundwater Hazard Statement.** Most transferors of real property are required to submit a groundwater hazard statement to the buyer and the county recorder (Iowa Code section 558.69). The form is not recorded and, in fact, may be destroyed by the recorder once the buyer has received the form and no hazards are reflected.



H. That the existing paper records not be required to become converted to electronic format.

Chapter 558A, dealing with property disclosure forms, is one of the issues to be addressed according to the charge to the Committee (Section 27 of UETA). The Committee did not feel that this was an item to be included in the proposed system since the forms do not affect title to real estate.

Pursuant to the legislation, the Committee is to report in years subsequent to the commencement of the pilot program, on the following issues:

1. Results of the pilot program.
2. Any additional recommendations.
3. A schedule of implementation of a statewide uniform system, if appropriate.
4. The costs associated with implementation.
5. Identifiable ongoing costs, including costs for training.
6. Administration process to resolve system standards.

In conclusion, we request that the General Assembly authorize the Committee to meet bi-monthly.

3397ic

State Library Of Iowa
Miller Building
Des Moines, Iowa

STATE LIBRARY OF IOWA



3 1723 02102 1720