

# ELECTRONIC RECORDING COMMISSION BYLAWS

## ARTICLE I

### Electronic Recording Commission

Section 1. Creation. The Electronic Recording Commission (ERC) is created pursuant to the Uniform Real Property Electronic Recording Act, MCL 565.851 *et seq* (Act).

## ARTICLE II

### ERC Members

Section 1. Membership. The ERC shall consist of eight (8) members, seven (7) of whom shall be voting members, as set forth in the Act.

Section 2. Term of Office. The method for selecting ERC members as well as their terms of office is set forth in the Act.

Section 3. Vacancies. Vacancies of the ERC shall be filled as set forth in the Act.

Section 4. Compensation. ERC members shall serve without compensation but may be reimbursed for actual and necessary travel and expenses incurred in the performance of their official ERC member duties, as set forth in the Act.

## ARTICLE III

### Officers

Section 1. Officers. The officers of the ERC include a Chairperson, Deputy Chairperson, a Recording Secretary and any other officers that the ERC may deem necessary or appropriate. Officers shall be selected by the ERC in accord with the Act.

Section 2. Chairperson. The Chairperson shall preside at all meetings of the ERC.

Section 3. Deputy Chairperson. The Deputy Chairperson shall serve as acting Chairperson during the absence of the Chairperson or if the Chairperson is recused

due to a potential or actual conflict of interest with a matter coming before the ERC for consideration.

Section 4. Recording Secretary. The Chairperson shall designate a person to serve as Recording Secretary for the ERC. The Recording Secretary shall be responsible to keep and maintain a record of all ERC meeting Minutes and Resolutions, and perform such related tasks as requested from time to time by the Chairperson.

Section 5. Absence or Conflict of Chairperson and Deputy Chairperson. Whenever both the Chairperson and Deputy Chairperson are unable to attend an ERC meeting or have both recused themselves due to a potential or actual conflict of interest, the members present and constituting a quorum shall designate a Temporary Deputy Chairperson from among the ERC members present to preside at the meeting.

## ARTICLE IV

### ERC Meetings

Section 1. Regular Meetings. The ERC shall meet at least quarterly, or more frequently, at the call of the Chairperson or if requested by five (5) or more ERC members.

Section 2. Public Meetings. All meetings of the ERC shall be called and conducted in accord with the Open Meetings Act, MCL 15.261 to 15. 275.

Section 3. Quorum and Voting. Five (5) of the eight (8) ERC members must be physically present to constitute a quorum for the transaction of business at an ERC meeting. A majority of ERC members present and serving are required for official action of the ERC. A member who is recused from deliberating and voting on a proposed ERC action due to a potential or actual conflict of interest shall not be considered part of the quorum for purposes of deliberating or voting on the proposed ERC action.

Section 4. Minutes. Minutes of the ERC meetings, including all votes, shall be kept, corrected and approved at a succeeding meeting. ERC Minutes and Resolutions shall be available to the public, pursuant to the Open Meetings Act, MCL 15.261 to 15. 275, and the Freedom of Information Act, MCL 15.231 *et seq.*

Section 5. Procedures. The rules contained in the current edition of Robert's Rules of Order shall guide ERC parliamentary procedures in all cases, consistent with the Act, these Bylaws, any special rules which may, from time to time, be adopted by the ERC and applicable law.

Section 6. ERC Action. The ERC shall only take actions by resolution. Resolutions shall be adopted at properly convened ERC meetings in accord with Article IV of these Bylaws. Resolutions shall be in writing and shall be indexed and filed with the ERC Minutes by the Recording Secretary. Resolutions shall be effective on the day of passage, upon adjournment of the meeting, unless otherwise specified in the resolution.

Section 7. Signing Documents. The ERC may authorize by resolution the signing of documents on behalf of the ERC by any ERC member.

## ARTICLE V

### Conflicts of Interest and Liability

Section 1. Conflicts of Interest. Members of the ERC and ERC officers shall be subject to all applicable conflict of interest laws, including but not limited to 1968 PA 317, Contracts of Public Servants with Public Entities and 1968 PA 318, implementing Const 1963, art 4, §10.

Section 2. Liability. No member of the ERC or any officer or agent for the ERC, including any person signing any documents on behalf of the ERC, shall be liable personally for any action taken by the ERC or any document signed on behalf of the ERC.

Section 3. Representation, Indemnification and Immunity. Upon the filing of a complaint against any member or officer of the ERC for breach of duty or responsibility, the member or officer shall immediately provide a copy of the complaint to the ERC Chairperson with a request for legal representation. If the ERC or the ERC Chairperson on behalf of the ERC determines the alleged conduct occurred during the course of the member or officer's service with the ERC and within the member or officer's scope of authority or that the member or officer had a reasonable believe that his or her conduct was within that scope of authority, the

ERC or ERC Chairperson shall request that the legal representation be provided by the Attorney General, subject to any applicable state rules or regulations. The ERC is not required to request Attorney General representation in connection with any criminal prosecutions against an ERC member or officer.

MCL 691.1407 generally permits governmental immunity as a defense to a member's alleged negligence in violating his or her duties and responsibilities so long as the member:

- a. is acting, or reasonably believes he or she is acting, within the scope of his or her authority; and
- b. His or her conduct does not amount to gross negligence, which caused the injury or damage ("gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results).

If the ERC finds that the members conduct was within those parameters and does not constitute willful misconduct, but a judgment for damages is nevertheless rendered against the member, the ERC may choose to allow payment from legally available sources for those damages in accord with ERC indemnification authority, if any, and MCL 691.1408.

## ARTICLE VI

### Fiscal Year

Section 1. Fiscal Year. The fiscal year of the ERC shall extend from October 1 of each calendar year to the ensuing September 30 of the following calendar year.

## ARTICLE VII

### Amendment and Suspension of Bylaws

Section 1. Amendment. These Bylaws may be amended by resolution adopted by a majority of the ERC Board appointed and serving at any ERC meeting, if the notice of intention to present the resolution was given at least four (4) days in advance of the meeting at which the motion to adopt the resolution is made.

Notice of the proposed amendment may be included in the meeting agenda or mailed or delivered to the business or home address of each ERC member. Advance notice of motions to amend the proposed amendments to the Bylaws, need not be given.

Section 2. Suspension. Any of these Bylaws, except Article VII Section 1, and those required by state law, may be suspended by unanimous consent of the ERC members physically present at an ERC meeting.