

1 **ARTICLE 22:03**

2 **ELECTRONIC RECORDING**

3 **CHAPTER 22:03:01**

4 **ELECTRONIC RECORDING IN COUNTY REGISTER OF DEEDS OFFICE**

5 Section

6 22:03:01:01 Definitions.

7 22:03:01:02 Electronic recording models.

8 22:03:01:03 Electronic document and data formats.

9 22:03:01:04 Acceptance of electronic documents.

10 22:03:01:05 Electronic signatures and notarizations.

11 22:03:01:06 Electronic recording processing requirements.

12 22:03:01:07 Posting procedures by Participating Register of Deeds.

13 22:03:01:08 Security requirements.

14 22:03:01:09 Agreement between Delivery Agent and Participating Register of Deeds.

15 22:03:01:10 Qualifications and Responsibility of Delivery Agent.

16 **22:03:01:01 Definitions.** Words and phrases defined in SDCL chapter 7-9A have the  
17 same meaning when used in this chapter. Terms used in this article and not otherwise defined in  
18 SDCL chapter 7-9A mean:

19 (1) "Delivery agent," a party who has entered into an agreement with a participating register  
20 of deeds to deliver an electronic document from a submitter to a participating register of deeds  
21 and to return the recorded electronic document to the submitter;

- 1 (2) "Electronic document delivery system," an automated system for the secure transmission  
2 of an electronic document between a submitter and a participating register of deeds through the  
3 use of a delivery agent;
- 4 (3) "Electronic recording," the delivery and return of an electronic document using an  
5 electronic document delivery system for the purpose of recording that document with the register  
6 of deeds;
- 7 (4) "Land records management system," the system or software solution used by a register of  
8 deeds to securely receive, manage, access, search, retrieve, and store documents, electronic or  
9 otherwise;
- 10 (5) "Participating register of deeds," a register of deeds that has elected to accept electronic  
11 documents for recording in accordance with SDCL chapter 7-9A;
- 12 (6) "PDF" a portable document format which is a common format for image exchange or  
13 world wide web presentation;
- 14 (7) "PRIA," the Property Records Industry Association located at 2501 Aerial Center  
15 Parkway, Ste. 103, Morrisville, NC 27560 (<http://www.pria.us/>) whose mission is to develop and  
16 promote national standards and best practices for the property records industry;
- 17 (8) "Submitter," a party who requests that an electronic document be recorded;
- 18 (9) "TIFF," a tagged image file format which is a common format for high-quality black and  
19 white, gray-scaled, or color graphics of any resolution and consists of individual dots or pixels;
- 20 (10) "XML," extensible markup language which is an extensible document language for  
21 specifying document content. XML is not a predefined markup language but a meta-language (a  
22 language for describing other languages) allowing the user to specify a document type definition  
23 (DTD) and design customized markup languages for different classes of documents.

1                   **General Authority: SDCL 7-9A-8**

2                   **Law Implemented: SDCL 7-9A-2, 7-9A-3, 7-9A-4, 7-9A-5, 7-9A-8, 7-9A-9**

3           **22:03:01:02 Electronic recording models.** Each electronic document shall conform to  
4 one or more of the following models as approved by a participating register of deeds:

- 5 (1) Model 1: a scanned ink-signed document, transmitted without XML indexing data;  
6 (2) Model 2: a scanned ink-signed document or a document that has been created and signed  
7 electronically, transmitted with XML indexing data; or  
8 (3) Model 3: a document that has been created and signed electronically, transmitted with  
9 embedded XML indexing data.

10                   **General Authority: SDCL 7-9A-8**

11                   **Law Implemented SDCL 7-9A-2, 7-9A-3, 7-9A-9**

12           **22:03:01:03 Electronic document and data formats.** Each electronic document and  
13 data format shall be in accordance with the following:

- 14 (1) Electronic recording shall be in accordance with the PRIA eRecording XML Standard  
15 Version 2.4:  
16 (a) PRIA Request Version 2.4.2;  
17 (b) PRIA Response Version 2.4.2;  
18 (c) Document Version 2.4.1;  
19 (d) Notary Version 2.4.1; and  
20 (e) The PRIA eRecording XML Implementation Guide for Version 2.4.1,  
21 Revision 2;  
22 (2) Electronic documents shall be transmitted and stored as either TIFF or PDF files; and  
23 (3) Resolution of imaged documents shall be submitted at 300 DPI (dots per inch).

1           **General Authority: SDCL 7-9A-8, 7-9A-9**

2           **Law Implemented: SDCL 7-9A-3**

3           **References:** "PRIA Request Version 2.4.2," Property Records Industry Association. A  
4 copy may be obtained from the Property Records Industry Association at [www.pria.us](http://www.pria.us) free of  
5 charge. "PRIA Response Version 2.4.2," Property Records Industry Association. A copy may  
6 be obtained from the Property Records Industry Association at [www.pria.us](http://www.pria.us) free of charge.  
7 "Document Version 2.4.1," October 2007 Edition, Property Records Industry Association. A  
8 copy may be obtained from the Property Records Industry Association at [www.pria.us](http://www.pria.us) free of  
9 charge. "Notary Version 2.4.1," October 2007 Edition, Property Records Industry Association.  
10 A copy may be obtained from the Property Records Industry Association at [www.pria.us](http://www.pria.us) free of  
11 charge. "The PRIA eRecording XML Implementation Guide for Version 2.4.1, Revision 2,"  
12 March 2007 Edition, Property Records Industry Association. A copy may be obtained from the  
13 Property Records Industry Association at [www.pria.us](http://www.pria.us) free of charge.

14           **22:03:01:04 Acceptance of electronic documents.** A participating register of deeds is  
15 not required to accept for recording any electronic document for which the participating register  
16 of deeds does not have the technology to record.

17           **General Authority: SDCL 7-9A-2, 7-9A-8, 7-9A-9**

18           **Law Implemented: SDCL 7-9A-2, 7-9A-3**

19           **22:03:01:05 Electronic signatures and notarizations.** Each electronic document  
20 required to be notarized shall comply with SDCL chapters 7-9A and 53-12. A participating  
21 register of deeds has no responsibility to authenticate electronic signatures or notarizations. A  
22 participating register of deeds is not required to accept for recording any electronic document

1 containing any electronic signature or notarization for which the participating register of deeds  
2 does not have the technology to support.

3 **General Authority: SDCL 7-9A-8**

4 **Law Implemented: SDCL 7-9A-3, 7-9A-9, 7-9A-2**

5 **22:03:01:06 Electronic recording processing requirements.** Electronic document  
6 recording processing requirements shall include at least the following:

- 7 (1) A participating register of deeds shall receive, endorse, and index electronic documents  
8 pursuant to SDCL 7-9-3, 7-9-8, 7-9-8.1, and 7-9-9;
- 9 (2) An electronic transmission may include multiple electronic documents for  
10 recording;
- 11 (3) The submitter shall include its telephone or e-mail contact information with each  
12 submission;
- 13 (4) A document presented to a participating register of deeds for electronic recording shall  
14 conform to SDCL 43-28-23 including the reference number of the document assigned or  
15 released. No document to be recorded may contain more than one mortgage, or more than one  
16 mortgage or other instrument being assigned, partially released or satisfied;
- 17 (5) A participating register of deeds shall provide notice to the submitter of confirmation or  
18 rejection of recording through the electronic document delivery system as follows:
- 19 (a) A notice of confirmation shall identify the document accepted for recording and include  
20 the recording information;
- 21 (b) A notice of rejection shall identify the document rejected for recording and include an  
22 explanation for the rejection. If multiple electronic documents are submitted for electronic

1 recording, and one or more are rejected for recording, all of the documents shall be returned to  
2 the submitter without recording; and

3 (c) If a participating register of deeds complies with the notice requirements, the failure of a  
4 submitter to receive actual notice of confirmation or rejection of a recording does not affect the  
5 validity of the confirmation or rejection;

6 (6) A plat shall be excluded from electronic transmission. A participating register of deeds  
7 may not electronically accept for recording any plat as referred to in SDCL 11-3-4, 11-3-10, and  
8 43-21-5;

9 (7) A participating register of deeds may require payment of fees by electronic means for  
10 documents received electronically; and

11 (8) The PRIA eRecording Best Practices for Recorders may be used as a guideline by a  
12 participating register of deeds.

13 **General Authority: SDCL 7-9A-8**

14 **Law Implemented: SDCL 7-9A-3, 7-9A-9, 44-8-13, 44-8-14**

15 **Reference:** "The PRIA eRecording Best Practices for Recorders," May 2015 Edition,  
16 Property Records Industry Association. A copy may be obtained from the Property Records  
17 Industry Association at [www.pria.us](http://www.pria.us) free of charge.

18 **22:03:01:07 Posting procedures by Participating Register of Deeds.** A participating  
19 register of deeds shall establish procedures for electronic recording and shall post the procedures  
20 in the office of the participating register of deeds and make a copy of the procedures available on  
21 request. The procedures shall also be posted on the county's internet web site and through the  
22 electronic document delivery system, if available.

23 **General Authority: SDCL 7-9A-8, 7-9A-9**

1           **Law Implemented: SDCL 7-9A-3, 7-9A-9**

2           **22:03:01:08 Security requirements.** Procedures shall be implemented and maintained

3 to ensure the security of the electronic document delivery system and the land records  
4 management system, including the authenticity and integrity of the electronic documents and of  
5 the public record maintained by the participating register of deeds as follows:

6 (1)    Secure method. A participating register of deeds shall provide a secure method for  
7 accepting electronic documents through the electronic document delivery system and for  
8 recording and maintaining documents in the land records management system. Security  
9 standards implemented by a participating register of deeds shall accommodate electronic  
10 signatures and notarization of electronic documents in a manner that complies with SDCL  
11 chapter 7-9A;

12 (2)    Security procedures. A delivery agent shall implement and maintain security procedures  
13 for electronic transmissions of documents and shall be responsible for maintaining the security of  
14 the systems within its office;

15 (3)    Disaster recovery. Electronic document delivery systems and land records management  
16 systems shall protect against system and security failures and, in addition, shall provide backup,  
17 disaster recovery, and audit trail mechanisms. Audit trail information shall be provided by the  
18 system vendors to participating register of deeds on request;

19 (4)    Unauthorized use. The electronic document delivery system or land records management  
20 system may not permit any unauthorized party to modify, manipulate, insert, or delete  
21 information in any electronic document or the public record to be maintained by the register of  
22 deeds; and

1 (5) Breach in security. If a breach in security is detected by the participating register of  
2 deeds, delivery agent, submitter, or land records management system vendor, the party detecting  
3 the breach shall notify the other parties immediately. The parties shall cooperate to resolve  
4 issues related to a breach.

5 **General Authority: SDCL 7-9A-8**

6 **Law Implemented: SDCL 7-9A-8, 7-9A-9**

7 **22:03:01:09 Agreement between Delivery Agent and Participating Register of**

8 **Deeds.** The delivery agent and participating register of deeds shall enter into an agreement  
9 specifying the requirements, terms, and conditions of participation in the participating register of  
10 deed's electronic recording program and delivery system. At a minimum, the agreement shall  
11 address the following items:

- 12 (1) Accepted electronic recording models;
- 13 (2) Accepted document types;
- 14 (3) Technical specifications for data formats, document formats, electronic transmissions,  
15 and security;
- 16 (4) If used by the participating register of deeds, indexing fields required for each document  
17 code;
- 18 (5) Electronic signature and notarization requirements;
- 19 (6) Payment of fees;
- 20 (7) Hours during which electronic submissions shall be accepted and processing schedules  
21 that affect order of acceptance;
- 22 (8) Document acceptance and rejection requirements and procedures; and
- 23 (9) Termination terms.



1           **General Authority: SDCL 7-9A-8**

2           **Law Implemented: SDCL 7-9A-3, 7-9A-8, 7-9A-9**

3           **22:03:01:10 Qualifications and Responsibility of Delivery Agent.** The delivery  
4 agent shall review the qualifications of each potential submitter and approve the potential  
5 submitter prior to granting access to the electronic document delivery system. The delivery  
6 agent shall enter into an agreement with each submitter, prior to electronic submission of a  
7 document to a participating register of deeds, which agreement shall provide among other things  
8 that the submitter agrees to submit documents for recording in accordance with this chapter and  
9 SDCL chapter 7-9A, and to maintain the security of the systems within the submitter's offices.

10           **General Authority: SDCL 7-9A-8**

11           **Law Implemented: SDCL 7-9A-3, 7-9A-8, 7-9A-9**