

## Legislation to Authorize Amendment to 28E Agreement

### Electronic Services System (ESS) & Iowa County Recorders Association

*Legislation is needed to permit a 28E agreement to be amended to provide for the legal separation of the Electronic Services System and the Iowa County Recorders Association.*

## STATEWIDE SYSTEM - LOCAL GOVERNANCE

ESS and Iowa Land Records is one of the few statewide land records systems in the United States. As the only system coordinated by county recorders, it provides public access to more than 20.7 million records and enables electronic filing in all Iowa Counties. The system has standardized data and service delivery across all 99 counties, simplifying operations for Iowa's real estate industry. This structure doesn't exist in any other state.

## BACKGROUND

In 2005, nearly two years after the creation of the county land records information system by the legislature and the Iowa County Recorders Association, a session law was adopted (House File 882) requiring that the system be managed through a 28E organization. It was believed, correctly, that the system should be managed through a more formal governance structure. The legislation required that all contracts be administered through the Iowa County Recorders Association. This set up the unusual circumstance of having a 28E organization managed through a non-profit association.



### Electronic Services System

The 28E organization, known as the Electronic Services System ("ESS"), was created in August, 2005. Since that time, the day-to-day operations of the system have been overseen by an ESS Coordinating Committee comprised of county recorders and representatives from stakeholder groups including the Iowa Bar, and the title industry.



### 28E Compliance

ESS, as a public agency operating under Chapter 28E, complies with conventions for public organizations in Iowa. Specifically, ESS conforms to the following requirements.

- Open Records
- Open Meetings
- Formal Policies & Procedures
- Annual Audit



### Audit + 990 Tax Return

Discussions with the State Auditor's office about the unusual 28E and non-profit combination, which requires a filing of a 990 tax return for the IRS, spurred the proposal to establish an independent governance structure for ESS.

# Amendment Review + Proposed Legislation

## AMENDMENT REVIEW + PROPOSED LEGISLATION

An amendment to the 28E has been drafted to remove direct references to the Iowa County Recorders Association, and it establishes the existing ESS Coordinating Committee as the primary governing board. Iowa county recorders would still be very actively involved with the management of ESS, as they would continue to serve as key members of the ESS Coordinating Committee.

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## LEGISLATION REQUIRED

The proposed amendment to the 28E agreement was developed with the assistance of legal counsel. This review led to a finding that the amendment to the 28E agreement required modifying the original session law. That session law required the administration of contracts through the Iowa County Recorders Association, and it cannot be ignored.

If the proposed legislation is enacted, the amendment to the 28E agreement itself would be initiated after July 1, 2021. If the amendment is approved by the requisite counties, the change would likely be effective January 1, 2022.

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## PROPOSED LEGISLATION

Proposed Session Law to clarify Session Law enacted in Chapter 179 – Laws of the Eighty-First G.A., 2005 Session - Section 101, paragraph 1, Pages 818-819 (House File 882)

Section \_\_. COUNTY LAND RECORD INFORMATION SYSTEM – GOVERNANCE.

1. The 28E agreement for the implementation of the county land record information system known as the Electronic Services System, in accordance with the requirements of Chapter 179 – Laws of the Eighty-First G.A., 2005 Session - Section 101, paragraph 1, may be amended by the board of supervisors of each county, on behalf of each county recorder, as necessary to provide for the ongoing implementation of the county land record information system. Each county shall participate in the county land record information system and Electronic Services System, and shall comply with the policies and procedures established by the governing board established by the 28E agreement.