

Bill No. SB 2106

Barcode 893172

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Aronberg) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 695.27, Florida Statutes, is created to read:

695.27 Uniform Real Property Electronic Recording Act.--

(1) SHORT TITLE.--This section may be cited as the "Uniform Real Property Electronic Recording Act."

(2) DEFINITIONS.--As used in this section:

(a) "Document" means information that is:

1. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

2. Eligible to be recorded in the land records maintained by a county recorder pursuant to s. 28.222.

(b) "Electronic" means relating to technology having

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1 electrical, digital, magnetic, wireless, optical,
2 electromagnetic, or similar capabilities.

3 (c) "Electronic document" means a document that is
4 received by a county recorder in an electronic form.

5 (d) "Electronic signature" means an electronic sound,
6 symbol, or process attached to or logically associated with a
7 document and executed or adopted by a person with the intent
8 to sign the document.

9 (e) "Logically associated" means information recorded
10 simultaneously with the document to which it pertains and
11 assigned the same document number or a consecutive page number
12 immediately following such document.

13 (f) "Person" means an individual, corporation,
14 business trust, estate, trust, partnership, limited liability
15 company, association, joint venture, public corporation, or
16 government; governmental subdivision, agency, or
17 instrumentality; or any other legal or commercial entity.

18 (g) "State" means a state of the United States, the
19 District of Columbia, Puerto Rico, the United States Virgin
20 Islands, or any territory or insular possession subject to the
21 jurisdiction of the United States.

22 (3) VALIDITY OF ELECTRONIC DOCUMENTS.--

23 (a) If a law requires, as a condition for recording,
24 that a document be an original, be on paper or another
25 tangible medium, or be in writing, the requirement is
26 satisfied by an electronic document satisfying the
27 requirements of this section.

28 (b) If a law requires, as a condition for recording,
29 that a document be signed, the requirement is satisfied by an
30 electronic signature.

31 (c) A requirement that a document or a signature

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1 associated with a document be notarized, acknowledged,
 2 verified, witnessed, or made under oath is satisfied if the
 3 electronic signature of the person authorized to perform that
 4 act, and all other information required to be included, is
 5 attached to or logically associated with the document or
 6 signature. A physical or electronic image of a stamp,
 7 impression, or seal need not accompany an electronic
 8 signature.

9 (4) RECORDING OF DOCUMENTS.--

10 (a) In this subsection, the term "paper document"
 11 means a document that is received by the county recorder in a
 12 form that is not electronic.

13 (b) A county recorder:

14 1. Who implements any of the functions listed in this
 15 section shall do so in compliance with standards established
 16 by rule by the Department of State.

17 2. May receive, index, store, archive, and transmit
 18 electronic documents.

19 3. May provide for access to, and for search and
 20 retrieval of, documents and information by electronic means.

21 4. Who accepts electronic documents for recording
 22 shall continue to accept paper documents as authorized by
 23 state law and shall place entries for both types of documents
 24 in the same index.

25 5. May convert paper documents accepted for recording
 26 into electronic form.

27 6. May convert into electronic form information
 28 recorded before the county recorder began to record electronic
 29 documents.

30 7. May agree with other officials of a state or a
 31 political subdivision thereof, or of the United States, on

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1 procedures or processes to facilitate the electronic
2 satisfaction of prior approvals and conditions precedent to
3 recording.

4 (5) ADMINISTRATION AND STANDARDS.--

5 (a) The Department of State, by rule pursuant to ss.
6 120.536(1) and 120.54, shall prescribe standards to implement
7 this section in consultation with the Electronic Recording
8 Council, which is hereby created. The Secretary of State shall
9 provide administrative support to the council, appoint the
10 members of the council, and appoint the chair of the council.
11 The Department of State shall make specific written findings
12 if any of the council's recommendations are rejected. The
13 council shall consist of nine members, as follows:

14 1. Five clerks of circuit court or county recorders.

15 2. Two persons working in the title insurance industry
16 who are members of the Florida Land Title Association.

17 3. One banker who is a member of the Florida Bankers
18 Association.

19 4. One attorney who is a member of the Real Property,
20 Probate and Trust Law Section of The Florida Bar.

21 (b) The first meeting of the council shall be held on
22 or before July 30, 2006. Thereafter, the council shall meet at
23 the call of the chair.

24 (c) The members of the council shall serve without
25 compensation and shall not claim per diem and travel expenses
26 from the Secretary of State.

27 (d) To keep the standards and practices of county
28 recorders in this state in harmony with the standards and
29 practices of recording offices in other jurisdictions that
30 enact substantially this section and to keep the technology
31 used by county recorders in this state compatible with

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1 technology used by recording offices in other jurisdictions
 2 that enact substantially this section, the Department of
 3 State, in consultation with the council, so far as is
 4 consistent with the purposes, policies, and provisions of this
 5 section, in adopting, amending, and repealing standards, shall
 6 consider:

7 1. Standards and practices of other jurisdictions.

8 2. The most recent standards adopted by national
 9 standard-setting bodies, such as the Property Records Industry
 10 Association.

11 3. The views of interested persons and governmental
 12 officials and entities.

13 4. The needs of counties of varying size, population,
 14 and resources.

15 5. Standards requiring adequate information security
 16 protection to ensure that electronic documents are accurate,
 17 authentic, adequately preserved, and resistant to tampering.

18 (6) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In
 19 applying and construing this section, consideration must be
 20 given to the need to promote uniformity of the law with
 21 respect to its subject matter among states that enact it.

22 (7) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
 23 NATIONAL COMMERCE ACT.--This section modifies, limits, and
 24 supersedes the federal Electronic Signatures in Global and
 25 National Commerce Act, 15 U.S.C. ss. 7001 et seq., but this
 26 section does not modify, limit, or supersede s. 101(c) of that
 27 act, 15 U.S.C. s. 7001(c), or authorize electronic delivery of
 28 any of the notices described in s. 103(b) of that act, 15
 29 U.S.C. s. 7003(b).

30 Section 2. This act shall take effect upon becoming a
 31 law.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

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5 and insert:

6 A bill to be entitled

7 An act relating to real property electronic
8 recording; creating s. 695.27, F.S.; providing
9 a short title; providing definitions; providing
10 for the validity of electronic documents
11 relating to real property; providing for the
12 recording of electronic documents by the county
13 recorder; granting the Department of State
14 rulemaking authority; creating the Electronic
15 Recording Council; requiring the department to
16 make specific written findings if any of the
17 council's recommendations are rejected;
18 providing for membership and meetings of the
19 council; providing that council members shall
20 serve without compensation and may not claim
21 per diem and travel expenses from the Secretary
22 of State; providing guidelines for the
23 department, in consultation with the council,
24 to consider in adopting, amending, and
25 repealing standards; providing for uniformity
26 of application and construction; specifying the
27 relation to a federal act; providing an
28 effective date.

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