

By Senator Bennett

21-1477-06

1 A bill to be entitled

2 An act relating to the electronic filing and

3 recording of documents; providing definitions;

4 providing that if a law requires, as a

5 condition for recording, that a document

6 relating to land records be an original, be on

7 paper or another tangible medium, or be in

8 writing, the requirement is satisfied by an

9 electronic document; providing that a

10 requirement that a document or a signature

11 associated with a document be notarized,

12 acknowledged, verified, witnessed, or made

13 under oath is satisfied by the electronic

14 signature of the person authorized to perform

15 that act; providing for the functions of the

16 recorder of the documents; creating the

17 Electronic Recording Commission within the

18 Executive Office of the Governor; providing for

19 membership and appointment; specifying the

20 responsibilities of the commission; providing

21 for uniformity of application and construction

22 among the states that adopt an electronic

23 recording act; providing an effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Electronic filing and recording of

28 documents.--

29 (1) DEFINITIONS.--As used in this section, the term:

30 (a) "Document" means information that is:

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

4 2. Eligible to be recorded in the land records
5 maintained by the recorder.

6 (b) "Electronic" means relating to technology having
7 electrical, digital, magnetic, wireless, optical,
8 electromagnetic, or similar capabilities.

9 (c) "Electronic document" means a document that is
10 received by the recorder in an electronic form.

11 (d) "Electronic signature" means an electronic sound,
12 symbol, or process attached to or logically associated with a
13 document and executed or adopted by a person with the intent
14 to sign the document.

15 (e) "Paper document" means a document that is received
16 by the recorder in a form that is not electronic.

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

21 (2) VALIDITY OF ELECTRONIC DOCUMENTS.--

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

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

30 (c) A requirement that a document or a signature
31 associated with a document be notarized, acknowledged,

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

8 (3) RECORDING OF DOCUMENTS.--

9 (a) A recorder:

10 1. Who implements any of the functions listed in this
11 section shall do so in compliance with standards established
12 by the electronic recording commission.

13 2. May receive, index, store, archive, and transmit
14 electronic documents.

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

17 4. Who accepts electronic documents for recording must
18 continue to accept paper documents as authorized by state law
19 and shall place entries for both types of documents in the
20 same index.

21 5. May convert paper documents accepted for recording
22 into electronic form.

23 6. May convert into electronic form information that
24 was recorded before the recorder began to record electronic
25 documents.

26 7. May accept electronically any fee or tax that the
27 recorder is authorized to collect.

28 8. May agree with other officials of a state or a
29 political subdivision thereof, or of the United States, on
30 procedures or processes to facilitate the electronic
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1 satisfaction of prior approvals and conditions precedent to
2 recording and the electronic payment of fees and taxes.

3 (4) ADMINISTRATION AND STANDARDS.--

4 (a)1. An Electronic Recording Commission is created.
5 The commission shall consist of nine members appointed by the
6 Governor. The purpose of the commission is to adopt standards
7 to implement this section. A majority of the members of the
8 commission must be recorders. The commission shall be located
9 in the Executive Office of the Governor for administrative
10 purposes.

11 2. The first meeting of the commission shall be held
12 by December 1, 2006, and the commission shall meet at the call
13 of the chair but not less frequently than three times per year
14 in different regions of the state to solicit input from the
15 public or any other individuals offering testimony relevant to
16 the issues to be considered.

17 3. Members of the commission shall serve without
18 compensation but are entitled to receive per diem and travel
19 expenses in accordance with s. 112.061, Florida Statutes,
20 while performing their duties.

21 (b) To keep the standards and practices of recorders
22 in this state in harmony with the standards and practices of
23 recording offices in other jurisdictions that enact
24 substantially similar provisions, and to keep the technology
25 used by recorders in this state compatible with technology
26 used by recording offices in other jurisdictions that enact
27 provisions substantially similar to this section, the
28 commission, so far as is consistent with the purposes,
29 policies, and provisions of this section, in adopting,
30 amending, and repealing standards shall consider:

31 1. Standards and practices of other jurisdictions;

1 2. The most recent standards promulgated by national
2 standard-setting bodies;

3 3. The views of interested persons and governmental
4 officials and entities; and

5 4. The needs of counties of varying size, population,
6 and resources.

7 (5) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In
8 applying and construing this section, consideration must be
9 given to the need to promote uniformity of the law with
10 respect to its subject matter among states that enact it.

11 (6) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
12 NATIONAL COMMERCE ACT.--This section modifies, limits, and
13 supersedes the federal Electronic Signatures in Global and
14 National Commerce Act (15 U.S.C. s. 7001, et seq.) but does
15 not modify, limit, or supersede Section 101(c) of that act (15
16 U.S.C. s. 7001(c)) or authorize electronic delivery of any of
17 the notices described in Section 103(b) of that act (15 U.S.C.
18 s. 7003(b)).

19 Section 2. This act shall take effect July 1, 2006.

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22 SENATE SUMMARY

23 Provides that if a law requires, as a condition for
24 recording, that a document be an original, be on paper or
25 another tangible medium, or be in writing, the
26 requirement is satisfied by an electronic document.
27 Provides that a requirement that a document or a
28 signature associated with a document be notarized,
29 acknowledged, verified, witnessed, or made under oath is
30 satisfied by the electronic signature of the person
31 authorized to perform that act. Provides for the
functions of the recorder of the documents. Creates the
Electronic Recording Commission. Provides for membership
and appointment. Specifies the responsibilities of the
commission. Provides for uniformity of application and
construction among the states that adopt an electronic
recording act. (See bill for details.)