

Bill No. SB 2038

Barcode 681490

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Saunders) 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 Official Records, as defined in s. 28.222, and maintained by a county recorder.

(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 that is executed or adopted by a person
7 with the intent to sign the document and is attached to or
8 logically associated with a document such that, when recorded,
9 it is assigned the same document number or a consecutive page
10 number immediately following such document.

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

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

20 (3) VALIDITY OF ELECTRONIC DOCUMENTS.--

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

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

29 (c) A requirement that a document or a signature
30 associated with a document be notarized, acknowledged,
31 verified, witnessed, or made under oath is satisfied if the

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

7 (4) RECORDING OF DOCUMENTS.--

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

11 (b) A county recorder:

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

15 2. May receive, index, store, archive, and transmit
 16 electronic documents.

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

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

23 5. May convert paper documents accepted for recording
 24 into electronic form.

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

28 7. 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
 31 satisfaction of prior approvals and conditions precedent to

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1 recording.

2 (5) ADMINISTRATION AND STANDARDS.--

3 (a) The Department of State, by rule pursuant to ss.
4 120.536(1) and 120.54, shall prescribe standards to implement
5 this section in consultation with the Electronic Recording
6 Advisory Committee, which is hereby created. The Florida
7 Association of County Clerks and Comptrollers shall provide
8 administrative support to the committee and technical support
9 to the Department of State and the committee. The committee
10 shall consist of nine members, as follows:

11 1. Five members appointed by the Florida Association
12 of Court Clerks and Comptrollers.

13 2. One attorney appointed by the Real Property,
14 Probate and Trust Law Section of The Florida Bar Association.

15 3. Two members appointed by the Florida Land Title
16 Association.

17 4. One member appointed by the Florida Bankers
18 Association.

19 (b) Appointed members shall serve a 1-year term. All
20 initial terms shall commence on the effective date of this
21 act. Members shall serve until their successors are appointed.
22 An appointing authority may reappoint a member for successive
23 terms. A vacancy on the committee shall be filled in the same
24 manner in which the original appointment was made, and the
25 term shall be for the balance of the unexpired term.

26 (c) The first meeting of the committee shall be within
27 60 days of the effective date of this act. Thereafter, the
28 committee shall meet at the call of the chair, but at least
29 annually.

30 (d) The members of the committee shall serve without
31 compensation and shall not claim per diem and travel expenses

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1 from the Secretary of State.

2 (e) To keep the standards and practices of county
3 recorders in this state in harmony with the standards and
4 practices of recording offices in other jurisdictions that
5 enact substantially this section and to keep the technology
6 used by county recorders in this state compatible with
7 technology used by recording offices in other jurisdictions
8 that enact substantially this section, the Department of
9 State, in consultation with the committee, so far as is
10 consistent with the purposes, policies, and provisions of this
11 section, in adopting, amending, and repealing standards, shall
12 consider:

13 1. Standards and practices of other jurisdictions.

14 2. The most recent standards adopted by national
15 standard-setting bodies, such as the Property Records Industry
16 Association.

17 3. The views of interested persons and governmental
18 officials and entities.

19 4. The needs of counties of varying size, population,
20 and resources.

21 5. Standards requiring adequate information security
22 protection to ensure that electronic documents are accurate,
23 authentic, adequately preserved, and resistant to tampering.

24 (f) The committee shall terminate on July 1, 2010.

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

29 (7) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
30 NATIONAL COMMERCE ACT.--This section modifies, limits, and
31 supersedes the federal Electronic Signatures in Global and

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1 National Commerce Act, 15 U.S.C. ss. 7001 et seq., but this
 2 section does not modify, limit, or supersede s. 101(c) of that
 3 act, 15 U.S.C. s. 7001(c), or authorize electronic delivery of
 4 any of the notices described in s. 103(b) of that act, 15
 5 U.S.C. s. 7003(b).

6 Section 2. This act shall take effect upon becoming a
 7 law.

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

11 And the title is amended as follows:

12 On page 1, lines 10-19, delete those lines

13

14 and insert:

15 Recording Advisory Committee; providing the
 16 committee with certain powers and duties;
 17 providing for membership and meetings of the
 18 committee; providing that committee members
 19 shall serve without compensation and may not
 20 claim per diem and travel expenses from the
 21 Secretary of State; providing guidelines for
 22 the department, in consultation with the
 23 committee, to consider in adopting, amending,
 24 and repealing standards; providing for the
 25 termination of the committee; providing for
 26 uniformity of

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