

By: Hartnett

H.B. No. 1187

A BILL TO BE ENTITLED

AN ACT

relating to the Uniform Real Property Electronic Recording Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3, Property Code, is amended by adding Chapter 15 to read as follows:

CHAPTER 15. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

Sec. 15.001. SHORT TITLE. This chapter may be cited as the Uniform Real Property Electronic Recording Act.

Sec. 15.002. DEFINITIONS. In this chapter:

(1) "Document" means information that is:

(A) inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) eligible to be recorded in the real property records maintained by a county clerk.

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

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

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

1 (5) "Paper document" means a document that is received
2 by a county clerk in a form that is not electronic.

3 Sec. 15.003. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
4 In applying and construing this chapter, consideration must be
5 given to the need to promote uniformity of the law with respect to
6 the subject matter of this chapter among states that enact a law
7 substantially similar to this chapter.

8 Sec. 15.004. VALIDITY OF ELECTRONIC DOCUMENTS. (a) If a
9 law requires, as a condition for recording, that a document be an
10 original, be on paper or another tangible medium, or be in writing,
11 the requirement is satisfied by an electronic document that
12 complies with the requirements of this chapter.

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

16 (c) A requirement that a document or a signature associated
17 with a document be notarized, acknowledged, verified, witnessed, or
18 made under oath is satisfied if the electronic signature of the
19 person authorized to perform that act, and all other information
20 required to be included, is attached to or logically associated
21 with the document or signature. A physical or electronic image of a
22 stamp, impression, or seal need not accompany an electronic
23 signature.

24 Sec. 15.005. RECORDING OF DOCUMENTS. (a) A county clerk
25 who implements any of the functions described by this section shall
26 act in compliance with standards established by the Department of
27 Information Resources under Section 15.006.

1 (b) A county clerk may:

2 (1) receive, index, store, archive, and transmit
3 electronic documents;

4 (2) provide for access to, and for search and
5 retrieval of, documents and information by electronic means;

6 (3) convert paper documents accepted for recording
7 into electronic form;

8 (4) convert into electronic form information recorded
9 before the county clerk began to record electronic documents;

10 (5) accept electronically any fee or tax that the
11 county clerk is authorized to collect; and

12 (6) agree with other officials of a state, a political
13 subdivision of a state, or the United States on procedures or
14 processes to facilitate the electronic satisfaction of prior
15 approvals and conditions precedent to recording and the electronic
16 payment of fees and taxes.

17 (c) A county clerk who accepts electronic documents for
18 recording shall:

19 (1) continue to accept paper documents; and

20 (2) place entries for paper documents and electronic
21 documents in the same index.

22 Sec. 15.006. UNIFORM STANDARDS. (a) The Department of
23 Information Resources shall adopt standards to implement this
24 chapter.

25 (b) To keep the standards and practices of county clerks in
26 this state in harmony with the standards and practices of recording
27 offices in other jurisdictions that enact a law that is

1 substantially similar to this chapter and to keep the technology
2 used by county clerks in this state compatible with technology used
3 by recording offices in other jurisdictions that enact a law that is
4 substantially similar to this chapter, the Department of
5 Information Resources, so far as is consistent with the purposes,
6 policies, and provisions of this chapter, in adopting, amending,
7 and repealing standards shall consider:

8 (1) standards and practices of other jurisdictions;

9 (2) the most recent standards promulgated by national
10 standard-setting bodies, such as the Property Records Industry
11 Association;

12 (3) the views of interested persons and governmental
13 officials and entities; and

14 (4) the needs of counties of varying size, population,
15 and resources.

16 Sec. 15.007. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
17 AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
18 supersedes the federal Electronic Signatures in Global and National
19 Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify,
20 limit, or supersede Section 101(c) of that act (15 U.S.C. Section
21 7001(c)) or authorize electronic delivery of any of the notices
22 described in Section 103(b) of that act (15 U.S.C. Section
23 7003(b)).

24 SECTION 2. The change in law made by this Act applies only
25 to a document that is filed for recording on or after the effective
26 date of this Act. A document that is filed for recording before the
27 effective date of this Act is covered by the law in effect at the

1 time the document was filed, and that law is continued in effect for
2 that purpose.

3 SECTION 3. This Act takes effect September 1, 2005.