

By: Duncan S.B. No. 1812
(In the Senate - Filed March 9, 2007; March 22, 2007, read first time and referred to Committee on Jurisprudence; April 19, 2007, reported favorably by the following vote: Yeas 6, Nays 0; April 19, 2007, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

relating to electronic publication of legal notice.

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

SECTION 1. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2311 to read as follows:

CHAPTER 2311. ELECTRONIC PUBLICATION OF LEGAL NOTICE

Sec. 2311.001. DEFINITIONS. In this chapter:

(1) "Legal notice" or "notice" means any matter that, pursuant to law or rule, is required to be officially advertised.

(2) "Public notice website" means an Internet website that is maintained by a third party under contract with the state, which electronically publishes legal notices.

Sec. 2311.002. OFFICE OF COURT ADMINISTRATION AUTHORITY TO CREATE AN ELECTRONIC PUBLIC NOTICE WEBSITE. (a) The Office of Court Administration of the Texas Judicial System shall enter into an agreement with a website service provider to maintain a public notice website.

(b) Any legal notice that is required to be published may be published on the public notice website.

Sec. 2311.003. PERMISSIVE ELECTRONIC PUBLICATION OF LEGAL NOTICE. (a) Notwithstanding any other provision of law and in addition to other public or legal notice requirements, when public or legal notice is required by law to be posted in a newspaper publication or at a courthouse, notice also may be made in the same form on the Internet through a public notice website meeting the requirements of this chapter.

(b) The submission of the public or legal notice may be made at the courthouse, if possible, or may be made from a private or public access computer terminal. A reasonable fee, not to exceed \$10, may be charged for the provision of this service and the maintenance of the public notice website to compensate the provider of the public notice website. The state is not responsible for funding the operation or maintenance of a public notice website.

(c) A public notice website provider shall submit a status report twice yearly to the director of the Office of Court Administration of the Texas Judicial System indicating compliance with statutory requirements governing the posting of public or legal notices as applicable to an Internet-based website. In addition, a public notice website shall submit to a quality review by the director of the Office of Court Administration if, in his or her discretion, he or she finds a quality review necessary. If a quality review is requested, full access to the technical and informational operations of the public notice website provider must be provided.

Sec. 2311.004. DUTIES OF AN ELECTRONIC PUBLIC NOTICE WEBSITE PROVIDER. In addition to other requirements contained in this chapter, a public notice website provider also shall do all of the following:

(1) Establish and operate the public notice website at no cost to the Office of Court Administration of the Texas Judicial System or other governmental entity.

(2) Maintain the public notice website without interruption 24 hours per day, seven days a week, each day of the year; and the public notice website, including all its features, must be fully publicly accessible at all times.

(3) Maintain adequate systematic protection, back-up, and contingency planning in the event of power outages, systemic failures, or other unforeseen difficulties.

(4) Have the right to hold and use a domain name which is easily recognizable and understandable by the citizens of the state. The domain name should indicate both functionality and geography. The right to use the domain name and Internet location must be maintained at the expense of the public notice website provider.

(5) Not infringe on a legally protected right such as a federal provisional patent application, registered patent, or prior invention to operate a website of this nature, and its right to operate without infringement must be clear and without the possibility of causing subsequent interruption to the site by virtue of legal process.

(6) Possess appropriate hardware infrastructure and intellectual property for feasible processes to deploy a state and national website with proper methodology for communication with the court systems of the state.

(7) Have sufficient minimal capital requirements to ensure its smooth and uninterrupted ongoing operation and shall certify this to the director of the Office of Court Administration of the Texas Judicial System upon request.

(8) Provide a reasonable plan for the implementation of the public notice website where public or legal notices may be posted with reasonable ease onto the public notice website directly from the courts of this state and must be ready to reasonably demonstrate and implement the technology necessary at no cost to the state. The public notice website provider shall provide the necessary personnel to ensure ongoing communication with the various courts of the state concerning the smooth flow of data transmission and posting at no cost to the state.

(9) Not raise the cost for providing the website without prior reasonable consultation with the director of the Office of Court Administration of the Texas Judicial System and not seek, in any event, to raise the cost of posting a notice for the first two years of operation.

(10) Ensure that individual notices shall include at least the same information and are displayed on the public notice website using similar display and print standards as are established for newspaper postings made pursuant to other applicable public notice statutory requirements.

(11) Ensure that individual notices are displayed for not less than the length of time requested by the posting entity. At the end of the posting time, the public notice website provider, with prior approval of the person or entity that arranged for the posting and for a reasonable fee, may send a reminder to the entity that the notice is due to expire.

(12) Include an archives feature, accessible, free of charge, as a public service at all times and also shall include a function which allows the public to determine which notices have been posted in a given county.

(13) Provide that legal notices, both current and archived, are publicly searchable by keyword, by either party to a lawsuit, by courthouse file number, and by publication area.

(14) Not charge a fee to a person accessing, searching, or using a public notice website function, except for the posting of a notice as allowed by this chapter.

(15) Post a bond of reasonable amount sufficient to insure the public interest as may be required by the Office of Court Administration of the Texas Judicial System.

SECTION 2. This Act takes effect September 1, 2007.

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