

CHAPTER 145

SENATE BILL No. 336*
(Amended by Chapter 211)

AN ACT concerning uniform laws; creating the uniform real property electronic recording act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the uniform real property electronic recording act.

Sec. 2. In this act unless the context otherwise requires:

(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 the register of deeds.

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

(c) "Electronic document" means a document that is received by the register of deeds in an electronic form.

(d) "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.

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

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

Sec. 3. On and after July 1, 2007: (a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this act.

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

Sec. 4. On and after July 1, 2007:

(a) In this section, "paper document" means a document that is received by the register of deeds in a form that is not electronic.

(b) A register of deeds:

(1) Who implements any of the functions listed in this section shall do so in compliance with standards established by the electronic recording commission;

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

(3) may provide for access to, and for search and retrieval of, documents and information by electronic means;

(4) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(5) may convert paper documents accepted for recording into electronic form;

(6) may convert into electronic form information recorded before the register of deeds began to record electronic documents;

(7) may accept electronically any fee or tax that the register of deeds is authorized to collect; and

(8) may agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

Sec. 5. (a) An electronic recording commission is created to adopt standards to implement this act. The commission shall consist of 15 persons who shall be appointed as follows:

(1) Three members who are registers of deeds appointed by the Kansas register of deeds association;

(2) two members of the title industry appointed by the Kansas land title association;

(3) one member who is an attorney appointed by the Kansas bar

association;

(4) one member of the construction industry appointed by the governor;

(5) one member of the oil and gas industry appointed by the legislative coordinating council;

(6) one member of the banking industry appointed by the legislative coordinating council;

(7) one member of the mortgage industry appointed by the legislative coordinating council;

(8) one member who is a surveyor appointed by the legislative coordinating council;

(9) one member who is a realtor appointed by the legislative coordinating council;

(10) one member of the agricultural industry appointed by the governor;

(11) the state archivist or the archivist's designee; and

(12) the secretary of state or the secretary's designee.

(b) To keep the standards and practices of registers of deeds in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this act and to keep the technology used by registers of deeds in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this act, the electronic recording commission, so far as is consistent with the purposes, policies, and provisions of this act, in adopting, amending and repealing standards shall consider:

(1) Standards and practices of other jurisdictions;

(2) the most recent standards promulgated by national standard-setting bodies, such as the property records industry association;

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

(4) the needs of counties of varying size, population and resources; and

(5) standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved and resistant to tampering.

Sec. 6. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 7. This act modifies, limits and supersedes the federal electronic signatures in global and national commerce act (15 U.S.C. section 7001, et seq.) but does not modify, limit or supersede section 101(c) of that act (15 U.S.C. section 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. section 7003(b)).

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 19, 2006.
