

FIRST REGULAR SESSION

SENATE BILL NO. 212

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODMAN.

Pre-filed December 28, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

1039S.01I

AN ACT

To amend chapter 59, RSMo, by adding thereto seven new sections relating to the uniform real property electronic recording act, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 59, RSMo, is amended by adding thereto seven new sections, to be known as sections 59.900, 59.903, 59.906, 59.909, 59.912, 59.915, and 59.918, to read as follows:

59.900. Sections 59.900 to 59.918 may be cited as the "Uniform Real Property Electronic Recording Act".

59.903. As used in sections 59.900 to 59.918, the following terms mean:

(1) "Document", 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 land records maintained by the recorder;

(2) "Electronic", relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar properties;

(3) "Electronic document", a document that is received by the recorder in an electronic format;

(4) "Electronic signature", 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;

(5) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency,

18 or instrumentality, or any other legal or commercial entity;

19 (6) "Recorder", the separate recorder of deeds in those counties
20 where separate from the circuit clerk and the circuit clerk and ex
21 officio recorder of deeds in those counties where the offices are
22 combined;

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

59.906. 1. If a law requires, as a condition for recording, that a
2 document be an original, be on paper or another tangible medium, or
3 be in writing, the requirement is satisfied by an electronic document
4 satisfying sections 59.900 to 59.918.

5 2. If a law requires, as a condition for recording, that a document
6 be signed, the requirement is satisfied by an electronic signature.

7 3. A requirement that a document or a signature associated with
8 a document be notarized, acknowledged, verified, witnessed, or made
9 under oath is satisfied if the electronic signature of the person
10 authorized to perform that act, and all other information required to
11 be included, is attached to or logically associated with the document or
12 signature. A physical or electronic image of a stamp, impression, or
13 seal need not accompany an electronic signature.

59.909. 1. As used in this section, the term "paper document"
2 means a document that is received by the recorder in a form that is not
3 electronic.

4 2. A recorder:

5 (1) Who implements any of the functions listed in this section
6 shall do so in compliance with standards established by the electronic
7 recording commission created under section 59.912;

8 (2) May receive, index, store, archive, and transmit electronic
9 documents;

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

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

15 (5) May convert paper documents accepted for recording into

16 electronic form;

17 (6) May convert into electronic form information recorded before
18 the recorder began to record electronic documents;

19 (7) May accept electronically any fee or tax that the recorder is
20 authorized to collect; and

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

59.912. 1. An "Electronic Recording Commission", consisting of
2 nine members appointed by the governor with the advice and consent
3 of the senate, is hereby created to adopt standards to implement the
4 provisions of sections 59.900 to 59.918. However, the commission shall
5 not impose standards that would compel counties currently using
6 secure electronic recording practices from abandoning any substantive
7 investment in technology used in such electronic recording. A majority
8 of the members of the commission shall be recorders. The commission
9 shall consist of the following:

10 (1) A recorder elected to serve a county of the first classification
11 selected from a list of two nominees submitted by the Recorders'
12 Association of Missouri, or its successor organization;

13 (2) A recorder elected to serve a county of the second
14 classification selected from a list of two nominees submitted by the
15 Recorders' Association of Missouri, or its successor organization;

16 (3) A recorder elected to serve a county of the third classification
17 selected from a list of two nominees submitted by the Recorders'
18 Association of Missouri, or its successor organization;

19 (4) Two recorders elected to serve counties regardless of
20 classification selected from a list of four nominees submitted by the
21 Recorders' Association of Missouri, or its successor organization;

22 (5) A member of the Missouri Bar selected from a list of two
23 nominees submitted by the Missouri Bar, or its successor organization;

24 (6) A representative of a company authorized to issue title
25 insurance in the state of Missouri selected from a list of two nominees
26 submitted by the Missouri Land Title Association, or its successor

27 organization;

28 (7) A person representing the interests of the banking industry
29 selected from a list of two nominees submitted by the Missouri Bankers
30 Association, or its successor organization; and

31 (8) A realtor selected from a list of two nominees submitted by
32 the Missouri Association of Realtors, or its successor organization.
33 The nominees submitted by the Recorders' Association of Missouri shall
34 be chosen based upon their experience as a recorder of deeds and
35 knowledge of technology and procedures related to sections 59.900 to
36 59.918.

37 2. To keep the standards and practices of recorders in this state
38 in harmony with the standards and practices of recording offices in
39 other jurisdictions that enact substantially the provisions of sections
40 59.900 to 59.918, the commission, so far as it is consistent with the
41 purposes, policies, and provisions of sections 59.900 to 59.918, in
42 adopting, amending, and repealing standards shall consider the
43 following:

44 (1) Standards and practices of other jurisdictions;

45 (2) The most recent standards promulgated by national standard-
46 setting bodies, including the Property Records Industry Association;

47 (3) The views of interested persons and governmental officials
48 and entities;

49 (4) Standards requiring adequate information security protection
50 to ensure that electronic documents are accurate, authentic, adequately
51 preserved, and resistant to tampering; and

52 (5) Current electronic recording practices of Missouri recorders
53 of deeds that adhere to standards promulgated by national standard-
54 setting bodies.

59.915. In applying and construing the provisions of sections
2 59.900 to 59.918, consideration shall be given to the need to promote
3 uniformity of the law with respect to its subject matter among states
4 that enact such provisions.

59.918. The provisions of sections 59.900 to 59.918 modify, limit,
2 and supersede the federal Electronic Signatures in Global and National
3 Commerce Act, 15 U.S.C. Section 7001, et seq., but do not modify, limit,
4 or supersede Section 101(c) of that act, 15 U.S.C. 7001(c), or authorize

5 **electronic delivery of any of the notices described in section 103(b) of**
6 **that act, 15 U.S.C. Section 7003(b).**

Section B. The provisions of sections 59.900 to 59.918 shall become
2 effective January 1, 2008.

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Unofficial

Bill

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