

By Ms. Candaras of Wilbraham, petition of Gale D. Candaras and Benjamin Swan relative to the uniform real property electronic recording act and further regulating the use of electronic signatures. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. SHORT TITLE. This act may be cited as the
2 Uniform Real Property Electronic Recording Act.

1 SECTION 2. DEFINITIONS. In this act:

2 (1) "Document" means information that is:

3 (A) inscribed on a tangible medium or that is stored in an elec-
4 tronic or other medium and is retrievable in perceivable form; and

5 (B) eligible to be recorded in the land records maintained by
6 the registrar.

7 (2) "Electronic" means relating to technology having elec-
8 trical, digital, magnetic, wireless, optical, electromagnetic, or sim-
9 ilar capabilities.

10 (3) "Electronic document" means a document that is received
11 by the registrar in an electronic form.

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

16 (5) "Person" means an individual, corporation, business trust,
17 estate, trust, partnership, limited liability company, association,
18 joint venture, public corporation, government, or governmental
19 subdivision, agency, or instrumentality, or any other legal or com-
20 mercial entity.

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

1 SECTION 3. VALIDITY OF ELECTRONIC DOCUMENTS.

2 (a) If a law requires, as a condition for recording, that a docu-
3 ment be an original, be on paper or another tangible medium, or
4 be in writing, the requirement is satisfied by an electronic docu-
5 ment satisfying this act.

6 (b) If a law requires, as a condition for recording, that a docu-
7 ment be signed, the requirement is satisfied by an electronic sig-
8 nature.

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

1 SECTION 4. RECORDING OF DOCUMENTS.

2 (a) In this section, "paper document" means a document that is
3 received by the registrar in a form that is not electronic.

4 (b) A registrar:

5 (1) who implements any of the functions listed in this
6 section shall do so in compliance with standards established by
7 the Secretary of State.

8 (2) may receive, index, store, archive, and transmit elec-
9 tronic documents.

10 (3) may provide for access to, and for search and retrieval
11 of, 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
16 into electronic form.

17 (6) may convert into electronic form information recorded
18 before the registrar began to record electronic documents.

19 (7) may accept electronically any fee or tax that the regis-
20 trar is authorized to collect.

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

1 SECTION 5. ADMINISTRATION AND STANDARDS.

2 (a) The Secretary of State shall adopt standards to implement
3 this act.

4 (b) To keep the standards and practices of registrars in this
5 state in harmony with the standards and practices of recording
6 offices in other jurisdictions that enact substantially this act and to
7 keep the technology used by registrars in this state compatible
8 with technology used by recording offices in other jurisdictions
9 that enact substantially this act, the Secretary of State, so far as is
10 consistent with the purposes, policies, and provisions of this act,
11 in adopting, amending, and repealing standards shall consider:

12 (1) standards and practices of other jurisdictions;

13 (2) the most recent standards promulgated by national stan-
14 dard-setting bodies, such as the Property Records Industry Associ-
15 ation;

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

18 (4) the needs of counties of varying size, population, and
19 resources.

1 SECTION 6. UNIFORMITY OF APPLICATION AND CON-
2 STRUCTION. In applying and construing this Uniform Act, con-
3 sideration must be given to the need to promote uniformity of the
4 law with respect to its subject matter among states that enact it.

1 SECTION 7. RELATION TO ELECTRONIC SIGNATURES
2 IN GLOBAL AND NATIONAL COMMERCE ACT. This act
3 modifies, limits, and supersedes the federal Electronic Signatures
4 in Global and National Commerce Act (15 U.S.C. Section 7001, et
5 seq.) but does not modify, limit, or supersede Section 101(c) of
6 that act (15 U.S.C. Section 7001(c)) or authorize electronic

7 delivery of any of the notices described in Section 103(b) of that
8 act (15 U.S.C. Section 7003(b)).

1 SECTION 8. EFFECTIVE DATE. This act takes effect Jan-
2 uary 1, 2006.