

A bill for an act

relating to uniform acts; providing for the Uniform Real Property Electronic Recording Act; amending Minnesota Statutes 2006, section 325L.03; proposing coding for new law as Minnesota Statutes, chapter 508B.

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

Section 1. Minnesota Statutes 2006, section 325L.03, is amended to read:

325L.03 SCOPE.

(a) Except as otherwise provided in paragraphs (b) and (e), this chapter applies to electronic records and electronic signatures relating to a transaction.

(b) This chapter does not apply to a transaction to the extent it is governed by:

(1) the Uniform Commercial Code other than section 336.1-306, article 2, and article 2A; and

(2) section 145C.03, subdivision 1, relating to requirements for creation of a health care directive; ~~section 507.24, relating to requirements for recording any conveyance,~~ power of attorney, or other instrument affecting real estate; section 523.23, subdivision 3, relating to requirements for creation of a statutory short form power of attorney; and section 253B.03, subdivision 6b, relating to requirements for creation of a declaration of preferences or instructions regarding intrusive mental health treatment.

(c) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under paragraph (b) to the extent it is governed by a law other than those specified in paragraph (b).

(d) A transaction subject to this chapter is also subject to other applicable substantive law.

(e) This chapter does not apply to the creation and execution of wills, codicils, or trusts other than trusts relating to the conduct of business, commercial, or governmental purposes.

Sec. 2. [508B.01] SHORT TITLE.

Sections 508B.01 to 508B.07 may be cited as the Uniform Real Property Electronic Recording Act.

Sec. 3. [508B.02] 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 land records maintained by the recorder.

(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 the recorder 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.

(5) "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.

(6) "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. 4. [508B.03] VALIDITY OF ELECTRONIC DOCUMENTS.

(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 chapter.

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

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

Sec. 5. [508B.04] RECORDING OF DOCUMENTS.

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

(b) A recorder:

(1) who implements any of the functions listed in this section shall do so in compliance with standards established by the commissioner of commerce.

(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 recorder began to record electronic documents.

(7) may accept electronically any fee or tax that the recorder is authorized to collect.

(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. 6. [508B.05] ADMINISTRATION AND STANDARDS.

(a) The commissioner of commerce shall adopt standards to implement this chapter.

(b) To keep the standards and practices of recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this chapter and to keep the technology used by recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this chapter, the commissioner of commerce, so far as is consistent with the purposes, policies,

and provisions of this chapter, 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. 7. [508B.06] UNIFORMITY OF APPLICATION AND CONSTRUCTION.

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. 8. [508B.07] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, United States Code, title 15, section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, United States Code, title 15, section 7003(b).

Sec. 9. EFFECTIVE DATE.

This act is effective the day following final enactment.