SENATE DOCKET, NO. 791 FILED ON: 1/20/2011

SENATE . . . . . No. 670

The Commonwealth of Massachusetts

PRESENTED BY:

Gale D. Candaras

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the uniform real property electronic recording act..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Gale D. Candaras	☐ *[District]* ☐
Benjamin Swan	*11th Hampden*

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SENATE . . . . . No. 670

By Ms. Candaras, a petition (accompanied by bill, Senate, No. 670) of Gale D. Candaras and Benjamin Swan for legislation relative to the uniform real property electronic recording act. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1603* OF 2009-2010.]

The Commonwealth of Massachusetts

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:

SECTION 1. Chapter __ of the General Laws is hereby amended by inserting after section __ the following section:—

SECTION 2. DEFINITIONS. In this act:

(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 registrar.

(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 registrar 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 .

SECTION 3. 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 act.

(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.

SECTION 4. RECORDING OF DOCUMENTS.

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

(b) A registrar:

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

(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 registrar began to record electronic documents.

(7) may accept electronically any fee or tax that the registrar 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.

SECTION 5. ADMINISTRATION AND STANDARDS.

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

(b) To keep the standards and practices of registrars 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 registrars in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this act, the Secretary of State, 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; and

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

SECTION 6. 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.

SECTION 7. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. 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)).