



Senate

General Assembly

File No. 568

January Session, 2005

Substitute Senate Bill No. 1295

Senate, April 28, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT ESTABLISHING AN ELECTRONIC RECORDING COMMISSION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in this section and
2 section 2 of this act:

3 (1) "State real property electronic recording system" means a state-
4 wide real property electronic recording system, consisting of
5 information, data bases, hardware, software and all components of
6 each town electronic recording system.

7 (2) "Document" means any instrument, in either electronic or paper
8 form, that creates, transfers, asserts or explains an interest in real
9 estate, including a deed, patent, mortgage, will, lien instrument, grant
10 of easement, affidavit, court order or decree, notice, order of fence
11 viewers and any other instrument that affects an interest in real estate.

12 (3) "Electronic" means relating to technology having electrical,

13 digital, magnetic, wireless, optical or electromagnetic capabilities or
14 similar capabilities.

15 (4) "Electronic document" means a document received for recording
16 in an electronic form.

17 (5) "Electronic signature" means an electronic sound, symbol or
18 process, attached to or logically associated with an electronic
19 document and executed or adopted by a person with the intent to sign
20 the electronic document.

21 (6) "Paper document" means a document printed in paper form.

22 (7) "Town electronic recording system" means any real property
23 electronic recording system that may be maintained by a town in this
24 state, consisting of information, data bases, hardware, software and all
25 components of such system.

26 Sec. 2. (NEW) (*Effective from passage*) (a) There is established an
27 Electronic Recording Commission which shall be within the State
28 Library for administrative purposes only. The commission shall consist
29 of:

30 (1) The Secretary of the State, or a designee;

31 (2) The Chief Information Officer of the Department of Information
32 Technology, or a designee;

33 (3) The Public Records Administrator, or a designee;

34 (4) One member who is a member of the real property section of the
35 Connecticut Bar Association and one member who represents the
36 banking industry in this state, each appointed by the speaker of the
37 House of Representatives;

38 (5) One member who is a town clerk for a municipality that records
39 fewer than ten thousand documents annually and one member who is
40 both a title agent and a commissioner of the Superior Court, each
41 appointed by the president pro tempore of the Senate;

42 (6) One member who represents a title insurance company,
43 appointed by the minority leader of the House of Representatives;

44 (7) One member who is an attorney who represents the mortgage
45 banking industry, appointed by the minority leader of the Senate;

46 (8) One member who is a town clerk for a municipality that records
47 more than ten thousand documents annually, appointed by the
48 majority leader of the House of Representatives; and

49 (9) One member who is a member of the executive committee of the
50 real property section of the Connecticut Bar Association, appointed by
51 the majority leader of the Senate.

52 (b) The members initially appointed under subdivisions (4) and (7)
53 of subsection (a) of this section shall serve for a term of two years from
54 July 1, 2005, and the members subsequently appointed under
55 subdivisions (4) and (7) of subsection (a) of this section shall serve for
56 terms of three years from July first in the year of their appointment.
57 The members appointed under subdivisions (5) and (6) of subsection
58 (a) of this section shall serve for terms of three years from July first in
59 the year of their appointment. Initial appointments under subdivisions
60 (4) to (7), inclusive, of subsection (a) of this section shall be made not
61 later than sixty days after the effective date of this section. Vacancies
62 on the commission shall be filled by the appointing authority. The
63 commission shall elect a chairperson and a vice-chairperson from
64 among its members. Members of the commission shall serve without
65 compensation but shall, within the limits of available funds, be
66 reimbursed for expenses necessarily incurred in the performance of
67 their duties.

68 (c) The Electronic Recording Commission shall submit
69 recommendations to the General Assembly for standards to be used in
70 the development, implementation and operation of a state real
71 property electronic recording system. Such recommended standards
72 shall set forth:

73 (1) The manner and format in which an electronic document shall be
74 submitted, received, returned, stored and retrieved, and specifications
75 for the systems established for such purposes;

76 (2) The type of electronic signature required, the manner, format
77 and technological processes in which an electronic signature shall be
78 affixed to an electronic document, the manner, format and
79 technological processes for certifying authorities for such electronic
80 signatures, and the identity of, or criteria that shall be met by, any
81 third party used by town clerks to facilitate the process of affixing
82 electronic signatures and filing electronic documents. Such formats
83 and technological processes shall be capable of assuring that (A) the
84 party indicated to have signed an electronic document is the party who
85 actually signed the electronic document, and (B) the electronic
86 document and its electronic signature have been electronically sealed
87 to protect the document and signature from being changed after
88 execution;

89 (3) Processes and procedures to ensure (A) adequate preservation,
90 disposition, integrity, security and confidentiality of electronic
91 documents, and (B) the ability to adequately audit electronic
92 documents;

93 (4) Any other attributes for electronic documents that are required
94 by law for corresponding paper documents or reasonably necessary
95 for the purpose of filing such electronic documents;

96 (5) The manner and format in which an electronic version of a paper
97 document shall be created;

98 (6) Qualifications for town clerks and other authorized persons who
99 enter information into a state real property electronic recording
100 system, and procedures for the commission's determination as to
101 whether such qualifications are met;

102 (7) Standards concerning the qualifications of persons authorized to
103 submit documents into a state real property electronic recording

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Library, CT State	GF - Cost	\$208,000	\$192,500

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill results in an estimated state cost of \$208,000 in FY 06 and \$192,500 in FY 07. Current staffing at the State Library is insufficient to meet the needs of a new commission. The costs relate to the support staff, equipment, and board member expenses of an Electronic Recording Commission. A total of three staff positions would be required including a Secretary 2, Associate Research Analyst and a Library Specialist. Funds for such a commission have not been included in the budget as passed by the Appropriations Committee or that proposed by the governor.

OLR Bill Analysis

sSB 1295

AN ACT ESTABLISHING AN ELECTRONIC RECORDING COMMISSION**SUMMARY:**

This bill establishes an 11-member Electronic Recording Commission to recommend standards to be used in the development, implementation, and operation of a state real property electronic recording system. Under the bill, this is a statewide system that consists of information, databases, hardware, software, and all of the components of each town's electronic recording systems.

By February 1, 2006, the bill requires the commission to submit proposed legislation to implement the standards to the Judiciary and Insurance and Real Estate committees.

EFFECTIVE DATE: Upon passage

ELECTRONIC RECORDING COMMISSION***Membership***

The bill establishes an Electronic Recording Commission in the State Library for administrative purposes only. The commission consists of the following members:

1. the secretary of the state, or her designee;
2. the chief information officer of the Department of Information Technology, or his designee;
3. the public records administrator, or her designee;
4. a member of the real property section of the Connecticut Bar Association and representative of the banking industry in the state, each appointed by the House speaker;
5. a town clerk who records less than 10,000 documents annually

and a commissioner of the court who is a title agent, each appointed by the Senate president pro tempore;

6. a representative of a title insurance company, appointed by the House minority leader;
7. an attorney who represents the mortgage banking industry, appointed by the Senate minority leader;
8. a town clerk who records more than 10,000 documents annually, appointed by the House majority leader; and
9. a member of the executive committee of the real property section of the Connecticut Bar Association, appointed by the Senate majority leader.

Most appointed members serve staggered terms. The banking members and member of the bar association's real property section are initially appointed to two-year terms from July 1, 2005, and then for three-year terms from July 1 in the year of their subsequent appointment. The low-volume town clerk, commissioner of the court, and title insurance representative serve three-year terms beginning July 1, 2005. The bill does not specify the term of office for the majority leaders' appointees. Initial appointments, other than those by the majority leaders, must be made within 60 days after the bill is enacted.

The commission must elect a chairman and a vice-chairman from among its members. Members must serve without compensation but must, within available funds, be reimbursed for expenses necessarily incurred in the performance of their duties.

Commission Duties

The bill requires the commission to submit recommendations to the legislature for standards to be used in the development, implementation, and operation of the state real property electronic recording system.

The standards must specify:

1. the manner and format in which an electronic document must be submitted, received, returned, stored, and retrieved and specifications for the systems established for these purposes;

2. the type of electronic signature required and the manner, format, and technological processes for (a) affixing it to an electronic document and (b) certifying authorities for such signature;
3. the identity of, or criteria that must be met, by any third party town clerks use to facilitate the process of affixing electronic signatures and filing electronic documents;
4. formats and technological processes capable of assuring that (a) the party indicated to have signed an electronic document is one who actually signed it and (b) the electronic document and its electronic signature have been electronically sealed to protect them from being changed after execution;
5. processes and procedures to ensure (a) adequate preservation, disposition, integrity, security, and confidentiality of electronic documents and (b) the ability to adequately audit electronic documents;
6. any other attributes for electronic documents legally required for corresponding paper documents or reasonably necessary for filing such electronic documents;
7. the manner and format in which an electronic version of a paper document must be created;
8. qualifications for town clerks and other authorized persons entering information into the recording system and procedures for the commission to determine whether the qualifications are met;
9. the procedure for paying recording fees, and fees and conveyance taxes on an electronically recorded document;
10. the procedure for searching for real estate information in the state real property electronic recording system;
11. a fee schedule for remote access searches of the system and procedures to collect and allocate those fees by and among town clerks; and

- 12. any other requirements or procedures necessary to develop, implement, or operate the state real property electronic recording system.

The bill defines “electronic” to mean relating to technology having electrical, digital, magnetic, wireless, optical, or electromagnetic capabilities or similar capabilities. It defines “electronic document” as a document received for recording an electronic form. And it defines an “electronic signature” as an electronic sound, symbol, or process, attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document that meets the standards the commission adopts.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Change of Reference

Yea 20 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 0