



# House of Representatives

General Assembly

**File No. 232**

February Session, 2008

House Bill No. 5535

*House of Representatives, March 27, 2008*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT ADOPTING THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.***

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

1 Section 1. (NEW) (*Effective October 1, 2009*) Sections 1 to 7, inclusive,  
2 of this act may be cited as the "Uniform Real Property Electronic  
3 Recording Act".

4 Sec. 2. (NEW) (*Effective October 1, 2009*) As used in sections 1 to 7,  
5 inclusive, of this act:

6 (1) "Document" means information that is: (A) Inscribed on a  
7 tangible medium or that is stored in an electronic or other medium and  
8 is retrievable in perceivable form; and (B) eligible to be recorded in the  
9 land records maintained by the town clerk.

10 (2) "Electronic" means relating to technology having electrical,  
11 digital, magnetic, wireless, optical or electromagnetic capabilities or  
12 similar capabilities.

13 (3) "Electronic document" means a document that is received by the  
14 town clerk in an electronic form.

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

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

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

26 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) If a law requires, as a  
27 condition for recording, that a document be an original, be on paper or  
28 another tangible medium, or be in writing, the requirement is satisfied  
29 by an electronic document satisfying sections 1 to 7, inclusive, of this  
30 act.

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

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

40 Sec. 4. (NEW) (*Effective October 1, 2009*) (a) As used in this section,  
41 "paper document" means a document that is received by the town  
42 clerk in a form that is not electronic.

43 (b) A town clerk:

44 (1) Who implements any of the functions listed in this section shall  
45 do so in compliance with regulations adopted by the State Librarian  
46 pursuant to section 5 of this act.

47 (2) May receive, index, store, archive and transmit electronic  
48 documents.

49 (3) May provide for access to, and for search and retrieval of,  
50 documents and information by electronic means.

51 (4) Who accepts electronic documents for recording shall continue  
52 to accept paper documents as authorized by state law and shall place  
53 entries for both types of documents in the same index.

54 (5) May convert paper documents accepted for recording into  
55 electronic form.

56 (6) May convert into electronic form information recorded before  
57 the town clerk began to record electronic documents.

58 (7) May accept electronically any fee or tax that the town clerk is  
59 authorized to collect.

60 (8) May agree with other officials of this state or a political  
61 subdivision thereof, or of the United States, on procedures or processes  
62 to facilitate the electronic satisfaction of prior approvals and conditions  
63 precedent to recording and the electronic payment of fees and taxes.

64 Sec. 5. (NEW) (*Effective October 1, 2009*) (a) The State Librarian, in  
65 consultation with the Public Records Administrator and the Real  
66 Property Electronic Recording Advisory Committee established in  
67 subsection (b) of this section, shall adopt regulations, in accordance  
68 with chapter 54 of the general statutes, to implement sections 1 to 7,  
69 inclusive, of this act.

70 (b) (1) The State Librarian shall establish a Real Property Electronic  
71 Recording Advisory Committee. The members of the committee shall

72 be appointed by, and serve at the pleasure of, the State Librarian. The  
73 members of the committee shall serve without compensation, but shall  
74 be reimbursed, within available appropriations, for expenses  
75 necessarily incurred in the performance of their duties. The committee  
76 shall advise the State Librarian with respect to adopting, amending  
77 and repealing regulations under this section.

78 (2) The committee shall consist of the following:

79 (A) Three town clerks, one of whom shall be the town clerk of a  
80 municipality having a population of less than twenty thousand, one of  
81 whom shall be the town clerk of a municipality having a population of  
82 at least twenty thousand but less than sixty thousand, and one of  
83 whom shall be the town clerk of a municipality having a population of  
84 at least sixty thousand;

85 (B) Three attorneys experienced in real estate law;

86 (C) The Secretary of the State, or a designee;

87 (D) The Public Records Administrator, or a designee;

88 (E) An individual experienced in mortgage banking;

89 (F) An individual experienced in the business of title insurance;

90 (G) A notary public;

91 (H) An individual with experience performing title searches of real  
92 property; and

93 (I) A licensed real estate broker.

94 (c) To keep the standards and practices of town clerks in this state in  
95 harmony with the standards and practices of recording offices in other  
96 jurisdictions that enact legislation substantially the same as sections 1  
97 to 7, inclusive, of this act and to keep the technology used by town  
98 clerks in this state compatible with technology used by recording  
99 offices in other jurisdictions that enact legislation substantially the

100 same as sections 1 to 7, inclusive, of this act, the State Librarian, so far  
101 as is consistent with the purposes, policies and provisions of sections 1  
102 to 7, inclusive, of this act, in adopting, amending and repealing  
103 regulations shall consider: (1) Standards and practices of other  
104 jurisdictions; (2) the most recent standards promulgated by national  
105 standard-setting bodies, such as the Property Records Industry  
106 Association; (3) the views of interested persons and governmental  
107 officials and entities; (4) the needs of municipalities of varying size,  
108 population and resources; and (5) standards requiring adequate  
109 information security protection to ensure that electronic documents are  
110 accurate, authentic, adequately preserved and resistant to tampering.

111 Sec. 6. (NEW) (*Effective October 1, 2009*) In applying and construing  
112 the uniform provisions of sections 1 to 7, inclusive, of this act,  
113 consideration must be given to the need to promote uniformity of the  
114 law with respect to its subject matter among states that enact such  
115 uniform provisions.

116 Sec. 7. (NEW) (*Effective October 1, 2009*) Sections 1 to 7, inclusive, of  
117 this act modify, limit and supersede the federal Electronic Signatures  
118 in Global and National Commerce Act, 15 USC 7001 et seq., but does  
119 not modify, limit or supersede Section 101(c) of said act, 15 USC  
120 7001(c), or authorize electronic delivery of any of the notices described  
121 in Section 103(b) of said act, 15 USC 7003(b).

122 Sec. 8. Subsection (b) of section 1-268 of the general statutes is  
123 repealed and the following is substituted in lieu thereof (*Effective*  
124 *October 1, 2009*):

125 (b) Sections 1-266 to 1-286, inclusive, do not apply to a transaction to  
126 the extent it is governed by:

127 (1) A law governing the creation and execution of wills, codicils or  
128 testamentary trusts; or

129 (2) Except to the extent provided in section 1-281, the Uniform  
130 Commercial Code, other than section 42a-1-306 and articles 2 and 2A

131 of title 42a. [; or]

132 [(3) Sections 47-10, 47-12, 47-12a, 47-14g, 47-14j, 47-14k, 47-15, 47-16,  
133 47-17, 47-18a and 47-19.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	New section
Sec. 4	<i>October 1, 2009</i>	New section
Sec. 5	<i>October 1, 2009</i>	New section
Sec. 6	<i>October 1, 2009</i>	New section
Sec. 7	<i>October 1, 2009</i>	New section
Sec. 8	<i>October 1, 2009</i>	1-268(b)

**JUD**      *Joint Favorable*

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 chamber thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

Municipalities	Effect	FY 09 \$	FY 10 \$
All Municipalities	Cost	Potential	Potential

**Explanation**

This bill allows town clerks to record, in electronic format, mortgages, deeds, and other papers in land records. As this bill is permissive, there is no fiscal impact to municipalities unless a municipality chooses to use an electronic format. In that case, there is a potential cost to record the documents into electronic format.

This bill also requires the state librarian to 1) establish a Real Property Electronic Recording Advisory Committee and 2) in consultation with the committee and the public records administrator, adopt regulations to implement the bill. The duties required of the state librarian can be accomplished with existing resources.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****HB 5535*****AN ACT ADOPTING THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.*****SUMMARY:**

The bill authorizes town clerks to:

1. receive, index, store, archive, and transmit electronic documents;
2. provide for access to, and for search and retrieval of, documents and information electronically;
3. convert paper documents accepted for recording into electronic form;
4. convert into electronic form information recorded before they began to record electronic documents;
5. accept electronically any fee or tax that they are authorized to collect; and
6. agree with federal and other Connecticut state and local officials on (a) procedures or processes to facilitate the electronic satisfaction of prior approvals, (b) conditions precedent to recording, and (c) the electronic payment of fees and taxes (§ 4).

The bill requires town clerks who (1) exercise any of this authority to comply with regulations adopted by the State Librarian under this bill and (2) accept electronic documents for recording to continue to accept paper documents as authorized by state law and place entries for both types of documents in the same index.

EFFECTIVE DATE: October 1, 2009

**CONDITIONS FOR RECORDING**

This bill specifies that if a law requires, as a condition for recording, that a document be an original, signed, on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying the bill's requirements.

The bill also specifies that:

1. a requirement that a document or a signature associated with it 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 and
2. a physical or electronic image of a stamp, impression or seal need not accompany an electronic signature.

**STATE LIBRARIAN DUTIES**

The bill requires the state librarian to (1) establish a Real Property Electronic Recording Advisory Committee and (2) in consultation with the committee and the public records administrator, adopt implementing regulations.

The bill also requires the state librarian, so far as is consistent with the bill's purposes, policies, and provisions, in adopting, amending, and repealing regulations to 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 government officials and entities;

4. the needs of municipalities of varying sizes, 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

The bill specifies that the purpose of this requirement is to harmonize the standards and practices of Connecticut town clerks with those of recording offices in other jurisdictions that enact legislation substantially the same as this bill.

#### **ELECTRONIC RECORDING ADVISORY COMMITTEE**

The committee consists of:

1. three town clerks, one from a town with a population under 20,000, one from a town whose population is between 20,000 and 60,000, and one from a town with a population of at least 60,000;
2. three attorneys experienced in real estate law;
3. the secretary of the state, or a designee;
4. the public records administrator, or a designee;
5. an individual experienced in mortgage banking;
6. someone experienced in the title insurance business;
7. a notary public;
8. an individual with experience performing title searches of real property; and
9. a licensed real estate broker.

The bill requires that members of the committee be appointed by, and serve at the pleasure of, the state librarian. The members must

serve without compensation, but must be reimbursed, within available appropriations, for expenses necessarily incurred performing their duties. The committee must advise the state librarian with respect to adopting, amending, and repealing regulations.

**APPLYING AND INTERPRETING THE BILL**

When applying and construing the bill consideration must be given to the need to promote uniformity of the law among states that enact uniform provisions.

**FEDERAL LAW**

The bill specifies that it modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act 15 USC 7001 et seq). But the bill also specifies that it does not modify, limit, or supersede consumer protections specified in federal law (15 USC 7001(c)), nor does it authorize electronic delivery of the notices described in 15 USC 7003(b) see BACKGROUND).

**AN ACT CONCERNING THE CONNECTICUT UNIFORM ELECTRONIC TRANSACTIONS ACT**

Current law exempts certain land transaction laws from *An Act Concerning the Connecticut Uniform Electronic Transaction Act* (CGS §§ 1-266 to 1-286). This bill removes this exemption, thus making the recording of deeds subject to this act (see BACKGROUND).

Specifically it removes the exemption for the following laws

<i>Citation</i>	<i>Title</i>
47-10	Conveyance to be recorded
47-12	Change in name or status of owner of real estate
47-12a	Affidavit of facts relating to title or interest in real estate
47-14g	Divorce or marriage dissolution of husband and wife joint tenants

47-14j	Conveyance to effect change in interests among tenants
47-14k	Conveyance or devise creating a joint tenancy
47-15	Certificate of taking land by appraisal to be recorded
47-16	Lost deed of land in two or more towns, copy recorded
47-17	Records of documents as notice of equitable rights
47-18a	Notice of listing of historic structure on National Register of Historic Places
47-19	Leases for more than one year

**BACKGROUND**

***Connecticut Uniform Electronic Transaction Act***

This act establishes as state law a version of the Uniform Electronic Transaction Act (UETA), which the National Conference of Commissioners on Uniform State Laws adopted on July 29, 1999. UETA provides uniform rules governing electronic commerce transactions.

Connecticut UETA establishes a legal foundation for the use of electronic communications in transactions where the parties have agreed to conduct business electronically. It validates the use of electronic records and signatures and places electronic commerce and paper-based commerce on the same legal footing. An “electronic record” is one created, generated, sent, communicated, received, or stored by electronic means. E-mails, faxes, and Internet messaging are examples of electronic records. “Electronic signatures” are electronic sounds, symbols, or processes that people attach to or logically associate with a record to indicate their signature.

***Electronic Signatures in Global and National Commerce Act***

On June 30, 2000, Congress enacted the Electronic Signatures in Global and National Commerce Act to facilitate the use of electronic

records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically (15 U.S.C. § 7001 *et seq.*).

This law (15 USC 7002) allows a state statute to modify, limit, or supersede it only if the state law:

1. constitutes an enactment or adoption of the Uniform Electronic Transactions Act, or
2. specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability if they satisfy certain standards and the state law makes specific reference to this Act [15 USCS §§ 7001 *et seq.* and 47 USCS § 231 note].

#### **Consumer Protections in 15 USC § 7001(c)**

If a statute, regulation, or other rule requires that information relating to any transaction in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that the information be in writing if the following conditions among others are satisfied:

1. the consumer has affirmatively consented to such use and has not withdrawn such consent; and
2. the consumer, before consenting, is provided with a clear and conspicuous statement that satisfies certain requirements, and is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and
3. the consumer consents or confirms consent electronically, in a way that reasonably demonstrates that he or she can access

information in the electronic form that will be used to provide the information that is the subject of the consent.

**Notices in 15 USC § 7003(b)**

This federal law specifies the following types of notices:

1. court notices, required to be executed in connection with court proceedings;
2. notices about the cancellation or termination of utility services;
3. default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or rental agreement for, an individual's primary residence;
4. the cancellation or termination of health or life insurance benefits; or
5. the recall or material failure of a product that risks health or safety.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 39 Nay 0 (03/12/2008)