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SENATE BILL 28

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Richard C. Martinez

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO REAL PROPERTY; ENACTING THE UNIFORM REAL PROPERTY  
ELECTRONIC RECORDING ACT; PROVIDING FOR THE RECORDING OF  
ELECTRONIC REAL PROPERTY DOCUMENTS BY COUNTY CLERKS AND THE  
VALIDITY OF REAL PROPERTY DOCUMENTS WITH ELECTRONIC SIGNATURES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Uniform Real Property Electronic Recording Act".

Section 2. DEFINITIONS.--As used in the Uniform Real  
Property Electronic Recording Act:

A. "document" means information that is:

(1) inscribed on a tangible medium or that is  
stored in an electronic or other medium and that is retrievable  
in perceivable form; and

(2) eligible to be recorded in the land

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1 records maintained by a county clerk;

2 B. "electronic" means relating to technology having  
3 electrical, digital, magnetic, wireless, optical,  
4 electromagnetic or similar capabilities;

5 C. "electronic document" means a document that is  
6 received by a county clerk in an electronic form;

7 D. "electronic signature" means an electronic  
8 sound, symbol or process attached to or logically associated  
9 with a document and executed or adopted by a person with the  
10 intent to sign the document;

11 E. "person" means an individual, corporation,  
12 business trust, estate, trust, partnership, limited liability  
13 company, association, joint venture, public corporation,  
14 government or governmental subdivision, agency or  
15 instrumentality or any other legal or commercial entity; and

16 F. "state" means a state of the United States, the  
17 District of Columbia, Puerto Rico, the United States Virgin  
18 Islands or any territory or insular possession subject to the  
19 jurisdiction of the United States.

20 Section 3. VALIDITY OF ELECTRONIC DOCUMENTS.--

21 A. If a law requires, as a condition for recording,  
22 that a document be an original, be on paper or another tangible  
23 medium or be in writing, the requirement is satisfied by an  
24 electronic document satisfying the Uniform Real Property  
25 Electronic Recording Act.

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1           B. If a law requires, as a condition for recording,  
2 that a document be signed, the requirement is satisfied by an  
3 electronic signature.

4           C. A requirement that a document or a signature  
5 associated with a document be notarized, acknowledged,  
6 verified, witnessed or made under oath is satisfied if the  
7 electronic signature of the person authorized to perform that  
8 act and all other information required to be included is  
9 attached to or logically associated with the document or  
10 signature. A physical or electronic image of a stamp,  
11 impression or seal need not accompany an electronic signature.

12           Section 4. RECORDING OF DOCUMENTS.--

13           A. In this section, "paper document" means a  
14 document that is received by the recorder in a form that is not  
15 electronic.

16           B. A county clerk:

17                 (1) who implements any of the functions listed  
18 in this section shall do so in compliance with standards  
19 established by the information technology commission, in  
20 consultation with the county clerks of New Mexico, pursuant to  
21 Section 5 of the Uniform Real Property Electronic Recording  
22 Act;

23                 (2) may receive, index, store, archive and  
24 transmit electronic documents;

25                 (3) may provide for access to, and for search

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1 and retrieval of, documents and information by electronic  
2 means;

3 (4) who accepts electronic documents for  
4 recording shall continue to accept paper documents as  
5 authorized by state law and shall place entries for both types  
6 of documents in the same index;

7 (5) may convert paper documents accepted for  
8 recording into electronic form;

9 (6) may convert into electronic form  
10 information recorded before the recorder began to record  
11 electronic documents;

12 (7) may accept electronically any fee that the  
13 county clerk is authorized to collect; and

14 (8) may agree with other officials of a state  
15 or a political subdivision thereof, or of the United States, on  
16 procedures or processes to facilitate the electronic  
17 satisfaction of prior approvals and conditions precedent to  
18 recording and the electronic payment of fees.

19 Section 5. ADMINISTRATION AND STANDARDS.--

20 A. The information technology commission, in  
21 consultation with the county clerks of New Mexico, shall adopt  
22 standards to implement the Uniform Real Property Electronic  
23 Recording Act.

24 B. To keep the standards and practices of county  
25 clerks in this state in harmony with the standards and

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1 practices of recording offices in other jurisdictions that  
2 enact substantially the Uniform Real Property Electronic  
3 Recording Act and to keep the technology used by recorders in  
4 this state compatible with technology used by recording offices  
5 in other jurisdictions that enact substantially the Uniform  
6 Real Property Electronic Recording Act, the information  
7 technology commission, in consultation with the county clerks  
8 of New Mexico, so far as is consistent with the purposes,  
9 policies and provisions of the Uniform Real Property Electronic  
10 Recording Act, in adopting, amending and repealing standards  
11 shall consider:

12 (1) standards and practices of other  
13 jurisdictions;

14 (2) the most recent standards promulgated by  
15 national standard-setting bodies, such as the property records  
16 industry association;

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

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

21 Section 6. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--  
22 In applying and construing the Uniform Real Property Electronic  
23 Recording Act, consideration shall be given to the need to  
24 promote uniformity of the law with respect to its subject  
25 matter among states that enact it.

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1           Section 7. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL  
2 AND NATIONAL COMMERCE ACT.--The Uniform Real Property  
3 Electronic Recording Act modifies, limits and supersedes the  
4 federal Electronic Signatures in Global and National Commerce  
5 Act but does not modify, limit or supersede Section 101(c) of  
6 that act or authorize electronic delivery of any of the notices  
7 described in Section 103(b) of that act.

8           Section 8. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2006.

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