

Senate Bill 561

By: Senators Lamutt of the 21st, Shafer of the 48th, Harp of the 16th, Moody of the 27th, Zamarripa of the 36th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 12 of Title 10 of the Official Code of Georgia Annotated, relating to  
2 electronic records and signatures, so as to provide for the acceptance of digital or electronic  
3 signatures for warranty deed by state agencies; to provide for related matters; to repeal  
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 12 of Title 10 of the Official Code of Georgia Annotated, relating to electronic  
8 records and signatures, is amended by striking Code Section 10-12-4, relating to the legal  
9 effect of electronic records and signatures, and inserting in lieu thereof a new Code Section  
10 10-12-4 to read as follows:

11 "10-12-4.

12 (a) Records and signatures shall not be denied legal effect or validity solely on the grounds  
13 that they are electronic.

14 (b) In any legal proceeding, an electronic record or electronic signature shall not be  
15 inadmissible as evidence solely on the basis that it is electronic.

16 (c) When a rule of law requires a writing, an electronic record satisfies that rule of law.

17 (d) When a rule of law requires a signature, an electronic signature satisfies that rule of  
18 law.

19 (e) When a rule of law requires an original record or signature, an electronic record or  
20 electronic signature shall satisfy such rule of law.

21 (f) Nothing in this Code section shall prevent a party from contesting an electronic record  
22 or signature on the basis of fraud.

23 (g) Nothing in this Code section shall relieve any party to a legal proceeding from  
24 complying with applicable rules of evidence requiring authentication or identification of  
25 a record or signature as a condition precedent to its admission into evidence.

(h) Where the authenticity or the integrity of an electronic record or signature is challenged in a court of law, the proponent of the electronic record or signature shall have the burden of proving that the electronic record or signature is authentic.

(i) Notwithstanding the preceding subsections of this Code section, the legal validity, effect, and admissibility of electronic records and electronic signatures shall be limited as follows:

(1) Each department, agency, authority, or instrumentality of the state or its political subdivisions shall determine how and the extent to which it will create, send, receive, store, recognize, accept, be bound by, or otherwise use electronic records or electronic signatures. Nothing in this chapter shall be construed to require any department, agency, authority, or instrumentality of the state or its political subdivisions to create, send, receive, store, recognize, accept, be bound by, or otherwise use electronic records or electronic signatures;

(2) A consumer shall not be required to create, send, receive, recognize, accept, be bound by, or otherwise use electronic records or electronic signatures without such consumer's consent. This paragraph shall apply to natural persons when engaged in transactions involving money, property, or services primarily used for household purposes; and

(3) The provisions of this Code section shall not apply to any rule of law governing the creation or execution of a will or testamentary or donative trust, living will, or health care power of attorney, or to any record that serves as a unique and transferable physical token of rights and obligations, including, without limitation, negotiable instruments and instruments of title wherein possession of the instrument is deemed to confer title.

(j) Any rule of law which requires a notary shall be deemed satisfied by the secure electronic signature of such notary.

(k) Even when a statute, regulation, or other rule of law specifies a particular type of record other than an electronic record or a particular type of signature other than an electronic signature, this chapter shall control to permit the use of electronic records and electronic signatures in the circumstances otherwise governed by such statute, regulation, or other rule of law, unless such statute, regulation, or other rule of law expressly refers to and limits the application of this chapter.

(l) If a department, agency, authority, or instrumentality of the state or its political subdivision chooses a vendor for digital or electronic signature, that department must be able to accept electronically signed documents from other electronic systems that comply with the federal E-sign Act of 2001 as long as the identity of the signer was first confirmed and can be electronically confirmed at a future date if a question around authenticity arises.

(m) If a document, including but not limited to a warranty deed, is electronically signed, and the individual who utilizes the electronic signature is first verified and authenticated

1 as such signer utilizing at least one state or federal government issued document, form, or  
2 number, whether electronically or in paper, then the electronic signature shall be  
3 self-notarizing.

4 (n) A printed version of an electronically signed electronic document which document  
5 contents and electronic signature authenticity can be verified via digital hashing or other  
6 comparable means, including but not limited to encryption seal, and has the digital hash or  
7 other similar results attached to the printed version of the electronic document, an original  
8 shall be considered as an original.

9 (o) It is legal within this state to file and store electronic copies of warranty deeds which  
10 have been electronically signed."

11 **SECTION 2.**

12 All laws and parts of laws in conflict with this Act are repealed.