

Senate Resolution 1030

By: Senators Smith of the 52nd, Meyer von Bremen of the 12th, Harp of the 29th, Heath of the 31st, Staton of the 18th and others

ADOPTED SENATE

A RESOLUTION

1 Creating the Joint Electronic Records, Signatures, Filing, and Recording Study Committee;
2 and for other purposes.

3 WHEREAS, with the advent of electronic means of communication and information transfer,
4 business models and methods for doing business have evolved to take advantage of the
5 speed, efficiency, and cost benefits of electronic technologies; and

6 WHEREAS, these developments have occurred in the face of existing legal barriers to the
7 legal efficacy of records and documents which exist solely in electronic media; and

8 WHEREAS, it is important that, to the extent electronic records and signatures are validated
9 and effectuated under Georgia law, this be done within a clear framework with an eye toward
10 what is being done throughout the country so as to avoid making the use of such technology
11 more burdensome than it is in other states without legitimate reason and to prevent
12 discouraging people from conducting certain transactions within this state; and

13 WHEREAS, technology exists to provide for and improve upon mechanisms for electronic
14 court filings; and

15 WHEREAS, it is critical that before any new legislation is drafted in this area careful
16 consideration is given as to what the potential impact will be on matters such as the fees
17 associated with electronic court filings, search and retrieval of electronic court filings, the
18 admissibility of evidence, record retention, and notaries; and

19 WHEREAS, other areas of the law should also be reviewed in conjunction with the
20 evaluation of the use of electronic records and signatures such as contract law, business
21 transactions, automated transactions, and the use of electronic records and electronic
22 signatures between private parties; and

1 WHEREAS, it is now possible to have sale contracts, mortgage instruments, and promissory
2 notes in electronic form with the electronic signatures of the parties involved in the
3 transaction, and, in order to modernize real property law in Georgia for the 21st Century, the
4 implementation of an electronic recording system designed to help state administrative
5 agencies and other governmental entities meet the demands of the public for quick
6 identification of title ownership will serve to streamline real estate transactions to the benefit
7 of consumers in Georgia and every facet of the real estate industry in this state; and

8 WHEREAS, it may be in the best interests of the citizens of this state to authorize land
9 records officials to begin accepting records in electronic form, storing electronic records, and
10 setting up systems for searching for and retrieving these land records; and

11 WHEREAS, uniform acts exist such as the Uniform Electronic Transactions Act and the
12 Uniform Real Property Electronic Recording Act, which provide guidance and uniform
13 standards in using electronic records and signatures and adopting legislation addressing these
14 areas; and

15 WHEREAS, such model acts and the issues relating to the use of electronic records and
16 signatures warrant close study during the interim between the 2008 and 2009 regular sessions
17 of the General Assembly.

18 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF
19 GEORGIA that there is created the Joint Electronic Records, Signatures, Filing, and
20 Recording Study Committee to be composed of three members to be appointed by the
21 Speaker of the House of Representatives and three members to be appointed by the President
22 of the Senate. The Speaker of the House of Representatives shall designate a member and
23 the President of the Senate shall designate a member to serve as cochairpersons of the
24 committee. The committee shall meet at the call of the cochairpersons.

25 BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions,
26 needs, issues, and problems mentioned above or related thereto and recommend any actions
27 or legislation which the committee deems necessary or appropriate. At a minimum, the
28 committee shall:

29 (1) Conduct a review of the technology which exists as to electronic records, electronic
30 signatures, electronic filing, electronic recording, electronic storing, and searching and
31 retrieving electronic documents;

1 (2) Conduct a review of the model acts relating to electronic records, electronic
2 signatures, electronic filing, and the electronic recording of real estate records, including,
3 but not necessarily limited to, the Uniform Electronic Transactions Act and the Uniform
4 Real Property Electronic Recording Act; and

5 (3) Recommend what legislation, if any, should be adopted by the General Assembly
6 relating to electronic records, electronic filing, electronic signatures, and the electronic
7 recording of real estate records.

8 BE IT FURTHER RESOLVED that the committee may conduct such meetings at such
9 places and at such times as it may deem necessary or convenient to enable it to exercise fully
10 and effectively its powers, perform its duties, and accomplish the objectives and purposes
11 of this resolution. The legislative members of the committee shall receive the allowances
12 provided for in Code Section 28-1-8 of the Official Code of Georgia Annotated. The funds
13 necessary to carry out the provisions of this resolution shall come from funds appropriated
14 to the House of Representatives and the Senate. The expenses and allowances authorized by
15 this resolution shall not be received by any member of the committee for more than five days
16 unless additional days are authorized.

17 BE IT FURTHER RESOLVED that the committee is directed to make a report of its findings
18 and recommendations on or before the convening of the 2009 session of the General
19 Assembly, at which time the committee shall stand abolished.