

- SUBJECT:** Signature requirements for recording paper documents
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 8 ayes — Giddings, Elkins, Darby, Bohac, Castro, Martinez, Solomons, Zedler
- 0 nays
- 1 absent — Bailey
- WITNESSES:** For — Nancy Rister, County and District Clerks Association
- Against — None
- On — (*Registered, but did not testify:* Nancy E. Rister)
- BACKGROUND:** Documents that involve a transfer or encumbrance of real or personal property must be documented and filed and recorded with the county clerk to be valid for future transfers, sales, liens, or mortgages. These property transfers or encumbrances may be documented on paper or may be documented electronically. The Uniform Electronic Transaction Act (UETA) allows for the electronic transmission of real property documents. Paper documents concerning property must adhere to standards under the Property Code. These standards require that a document relating to real property be recorded in the county in which the property is located and be signed by the person conveying the property in the presence of two or more witnesses. The witnesses also must sign the document, and a notary public must be present and affix his or her seal to the documents.
- DIGEST:** CSHB 732 would amend Property Code, ch. 12, adding sec. 12.0011 to stipulate signature requirements for the recording of paper documents concerning real and personal property. For a paper document concerning real or personal property to be recorded, the document would have to:
- have an original “wet” signature or signatures that were sworn to before a judge, notary public, or other person authorized to take oaths; or

- be attached to an affidavit or another document that had original “wet” signatures given while under oath.

An original or “wet” signature would be a signature that was signed on the document being recorded.

The requirements for an original signature specified by the bill would not apply to electronic documents that complied with the requirements for electronic instruments under Business and Commerce Code, ch. 43 (the Uniform Electronic Transactions Act), or with Property Code, ch. 15 (the Uniform Real Property Electronic Recording Act) or with Local Government Code, ch. 195, concerning electronic filing of records with the county clerk.

The bill would take effect September 1, 2007, and apply only to documents filed or recorded on or after that date.

**SUPPORTERS  
SAY:**

CSHB 732 would help eliminate confusion for new county clerks who are unaware of which documents do and do not need original “wet” signatures. Many county clerks have in the past been presented with e-mails, faxes, and PDFs as paper documents and been confused as to whether these documents concerning real property would be acceptable for recording and filing. The bill would simplify and clarify what would be needed for the recording of paper documents concerning real property.

The standards in CSHB 732 would be the least expensive means to accomplish the goal of clarifying and simplifying the types of documents that can be filed in paper form. It would provide a simple standard for paper documents and would state expressly that electronic documents would be governed under the requirements of existing law.

**OPPONENTS  
SAY:**

What county clerks really need is clarification concerning what is required for electronic documents. County clerks have had questions about whether to accept e-mails, faxes, and PDFs, and these are electronic, not paper, documents. CSHB 732 would not alleviate the problems these clerks have faced. The requirements on what is necessary for paper documents already are fairly clear.

**NOTES:**

The original bill would have amended sec. 11.004(a)(1) and sec. 12.001(a) of the Property Code to require county clerks to record documents that contained an original signature sworn under law provided

that the signature was not on an electronic document. It also would have amended sections of the Local Government Code concerning the manner of recording documents. The committee substitute would specify the signature requirements for recording paper documents concerning real or personal property and that the requirements would not apply to documents that comply with requirements for electronic instruments under sections of the Property Code, Local Government Code, and Business & Commerce Code.