

FINAL BILL REPORT

HB 1471

C 198 L 06

Synopsis as Enacted

Brief Description: Changing provisions relating to authentication of documents.

Sponsors: By Representatives Lovick, McDonald and Takko.

House Committee on Judiciary

Senate Committee on Judiciary

Background:

In court proceedings, parties who wish to introduce a document into evidence must overcome three specific hurdles in addition to the normal evidentiary requirements. First, the document must be shown to be authentic. Second, the contents of a document might be hearsay and, if so, must fit within an exception to the hearsay rule. Finally, court rules require production of either an original or a mechanically or electronically produced duplicate in most circumstances.

Under state law, copies of public records meet all three hurdles if they satisfy statutory requirements for the particular type of document. Court records, public records of state agencies, recorded instruments (deeds, mortgages, etc.) filed in offices with official seals, and county records may all be admitted into evidence if accompanied by an official seal and certification from a clerk or other custodian of the records. Copies of certified written instruments may also be sent by telegraph and have the same effect as if the original were sent.

The Legislature last updated the seal requirement in 1881. When a seal is required to authenticate public records, it must be impressed directly on the paper, although a wafer or wax seal is not required. When the document is telegraphed, the seal requirement is satisfied if the telegraph contains the letters "L.S." or the word "seal." The party challenging the authenticity of the telegraphed document bears the burden of proof.

A search of appellate level decisions reveals no successful challenges to admission of a document because of an improperly affixed seal. The only reported case to address the issue occurred in 1992. In that case, the Court of Appeals upheld admission of a faxed copy of a document that had been impressed with a seal prior to transmission.

Summary:

Seals required to authenticate documents need only be printed onto the document in some fashion to be considered valid. Additionally, certified copies of official documents may be sent by telegraph or other electronic transmission and still be treated as genuine.

Votes on Final Passage:

House 89 0

House 96 0

Senate 46 0

Effective: June 7, 2006