

# House Amendment 9015

## Amendment Text

PAG LIN

1 1 Amend [House File 2205](#), as amended, passed, and  
1 2 reprinted by the House, as follows:  
1 3 #1. Page 4, by striking lines 23 through 25.  
1 4 #2. Page 4, by inserting before line 26 the  
1 5 following:  
1 6 "(\_) An electronic transaction initiated at a  
1 7 satellite terminal, as defined in section 527.2, or  
1 8 the processing and routing of transaction data by a  
1 9 central routing unit or a data processing center, each  
1 10 as defined in section 527.2."  
1 11 #3. Page 5, line 6, by striking the figure  
1 12 "554.2106" and inserting the following: "554.1206".  
1 13 #4. Page 5, by striking lines 14 through 28 and  
1 14 inserting the following:  
1 15 "4. A choice of law provision, which is contained  
1 16 in a computer information agreement that governs a  
1 17 transaction subject to this chapter, that provides  
1 18 that the contract is to be interpreted pursuant to the  
1 19 laws of a state that has enacted the uniform computer  
1 20 information transactions Act, as proposed by the  
1 21 national conference of commissioners on uniform state  
1 22 laws, or any substantially similar law, is voidable  
1 23 and the agreement shall be interpreted pursuant to the  
1 24 laws of this state if the party against whom  
1 25 enforcement of the choice of law provision is sought  
1 26 is a resident of this state or has its principal place  
1 27 of business located in this state. For purposes of  
1 28 this subsection, a "computer information agreement"  
1 29 means an agreement that would be governed by the  
1 30 uniform computer information transactions Act or  
1 31 substantially similar law as enacted in the state  
1 32 specified in the choice of laws provision if that  
1 33 state's law were applied to the agreement."  
1 34 #5. Page 7, by inserting after line 9 the  
1 35 following:  
1 36 "Sec. \_\_\_\_\_. NEW SECTION. 554D.108A LEGAL  
1 37 RECOGNITION OF ELECTRONIC RECORDS AFFECTING INTERESTS  
1 38 IN REAL PROPERTY.  
1 39 An electronic record that grants a legal or  
1 40 equitable interest in real property, including a deed,  
1 41 mortgage, deed of trust, pledge, security interest, or  
1 42 other lien or encumbrance, and any disclosure required  
1 43 under chapter 558A shall comply with all of the  
1 44 following:  
1 45 1. Be created using a security procedure and  
1 46 signed by use of a digital signature.  
1 47 2. Shall not be recorded or have effect against  
1 48 third parties until a duplicate paper original of the  
1 49 electronic record is executed in writing by the  
1 50 parties, acknowledged, and recorded. The burden of  
2 1 proof that the duplicate paper original of the  
2 2 electronic record is identical to the original  
2 3 electronic record rests upon the party submitting the  
2 4 duplicate paper original.  
2 5 3. Comply with all requirements of Iowa law  
2 6 regarding the recording of instruments and all other  
2 7 applicable state requirements."

2 8 #6. Page 8, line 27, by striking the word  
2 9 "Notwithstanding" and inserting the following: "In  
2 10 addition to".

2 11 #7. Page 15, line 15, by inserting after the word  
2 12 "state" the following: "other than a state executive  
2 13 branch agency, department, board, commission,  
2 14 authority, or institution,".

2 15 #8. Page 15, by inserting after line 20 the  
2 16 following:

2 17 "1A. Except as otherwise provided in section  
2 18 554D.113, subsection 6, on or before July 1, 2003, a  
2 19 state executive branch agency, department, board,  
2 20 commission, authority, or institution, in consultation  
2 21 and cooperation with the information technology  
2 22 services division of the department of general  
2 23 services, shall send and accept electronic records and  
2 24 electronic signatures to and from other persons and  
2 25 otherwise create, generate, communicate, store,  
2 26 process, use, and rely upon electronic records and  
2 27 signatures. The department of management, upon the  
2 28 written request of a state executive branch agency,  
2 29 department, board, commission, authority, or  
2 30 institution and for good cause shown, may grant a  
2 31 waiver from the July 1, 2003, deadline established in  
2 32 this section to the state executive branch agency,  
2 33 department, board, commission, authority, or  
2 34 institution."

2 35 #9. Page 15, line 23, by inserting after the  
2 36 figure "1" the following: "or 1A".

2 37 #10. Page 16, by inserting after line 13 the  
2 38 following:

2 39 "4. Notwithstanding this section, an institution  
2 40 governed under chapter 262 shall conform with national  
2 41 standards with respect to electronic records and  
2 42 electronic signatures, as such standards are  
2 43 developed."

2 44 #11. Page 17, by inserting after line 28 the  
2 45 following:

2 46 "Sec. \_\_\_\_ NEW SECTION. 75.14 ELECTRONIC  
2 47 BIDDING.

2 48 Notwithstanding contrary provisions of this  
2 49 chapter, a public body authorized to issue bonds,  
2 50 notes, or other obligations may elect to receive bids  
3 1 to purchase such bonds, notes, or other obligations by  
3 2 means of electronic, internet or wireless  
3 3 communication, a proprietary bidding procedure or  
3 4 system, or by facsimile transmission to a location  
3 5 deemed appropriate by the governing body, in each  
3 6 instance as may be approved by the governing body and  
3 7 provided for in the notice of sale. An electronic bid  
3 8 shall be submitted in substantial conformity with the  
3 9 requirements of chapter 554D and any rules adopted  
3 10 pursuant to that chapter with respect to the  
3 11 acceptance of electronic records by a governmental  
3 12 agency. Additionally, before approving the use of an  
3 13 electronic bidding procedure, the public body shall  
3 14 find and determine that the specific procedure to be  
3 15 used will provide reasonable security and maintain the  
3 16 integrity of the competitive bidding process, and  
3 17 facilitate the delivery of bids by interested parties  
3 18 under the circumstances of the particular sale.

3 19 Sec. \_\_\_\_ ADVISORY COMMITTEE CREATED. An advisory  
3 20 committee is created to study issues associated with  
3 21 the electronic filing, recording, and indexing of  
3 22 instruments affecting real property pursuant to  
3 23 chapter 558, and the electronic use of real property  
3 24 disclosures required pursuant to chapter 558A. The

3 25 advisory committee shall consider matters relating to  
3 26 the facilitation of electronic filing, recording, and  
3 27 indexing of instruments affecting real property. The  
3 28 advisory committee may consider matters including, but  
3 29 not limited to, access to electronic transactions,  
3 30 reliability and security, storage of records, training  
3 31 of public officials, conversion from a paper recording  
3 32 system to an electronic system, and other issues as  
3 33 are necessary and appropriate with respect to  
3 34 establishing a statewide uniform electronic filing  
3 35 system for real property transactions. The membership  
3 36 of the advisory committee shall be appointed by the  
3 37 legislative council and shall include, but is not  
3 38 limited to, representatives of the Iowa county  
3 39 recorders association, the Iowa state bar association,  
3 40 the Iowa state association of counties, Iowa title  
3 41 guaranty, the Iowa land title association, the Iowa  
3 42 bankers association, the Iowa independent bankers  
3 43 association, the Iowa association of realtors, the  
3 44 Iowa mortgage bankers association, and the office of  
3 45 the attorney general. The advisory committee shall  
3 46 provide an initial written report, including any  
3 47 recommendations, to the general assembly by no later  
3 48 than January 20, 2001. Such report shall include a  
3 49 recommendation for the initiation of a pilot program  
3 50 for electronic land transfers, including a date  
4 1 certain by which such program may be initiated and the  
4 2 cost of such pilot program. The advisory committee  
4 3 shall provide a written report to the general assembly  
4 4 in January of each year subsequent to the commencement  
4 5 of the pilot program including the results of the  
4 6 pilot program; any additional recommendations; a  
4 7 schedule for the implementation of a statewide uniform  
4 8 electronic land transfer system, if appropriate; and  
4 9 the costs associated with such implementation  
4 10 including any identifiable ongoing costs and costs for  
4 11 training associated with the system."

4 12 #12. Page 17, by inserting after line 28 the  
4 13 following:

4 14 "Sec. 105. Section [421.60](#), subsection 2, Code  
4 15 1999, is amended by adding the following new  
4 16 paragraph:

4 17 NEW PARAGRAPH. m. (1) The director may abate  
4 18 unpaid state sales and use taxes and local sales and  
4 19 services taxes owed by a retailer in the event that  
4 20 the retailer failed to collect tax from the purchaser  
4 21 as a result of erroneous written advice issued by the  
4 22 department that was specially directed to the retailer  
4 23 by the department and the retailer is unable to  
4 24 collect the tax, interest, or penalties from the  
4 25 purchaser. Before the tax, interest, and penalties  
4 26 shall be abated on the basis of erroneous written  
4 27 advice, the retailer must present a copy of the  
4 28 retailer's request for written advice to the  
4 29 department and a copy of the department's reply. The  
4 30 department shall not maintain a position against the  
4 31 retailer that is inconsistent with the erroneous  
4 32 written advice, except on the basis of subsequent  
4 33 written advice sent by the department to that  
4 34 retailer, or a change in state or federal law, a  
4 35 reported court case to the contrary, a contrary rule  
4 36 adopted by the department, a change in material facts  
4 37 or circumstances relating to the retailer, or the  
4 38 retailer's misrepresentation or incomplete or  
4 39 inadequate representation of material facts and  
4 40 circumstances in requesting the written advice.

4 41 (2) The director shall abate the unpaid state

4 42 sales and use taxes and any local sales and services  
4 43 taxes owed by a retailer where the retailer failed to  
4 44 collect the tax from the purchaser on the charges paid  
4 45 for access to on-line computer services as a result of  
4 46 erroneous written advice issued by the department  
4 47 regarding the taxability of charges paid for access to  
4 48 on-line computer services. To qualify for the  
4 49 abatement under this subparagraph, the erroneous  
4 50 written advice shall have been issued by the  
5 1 department prior to July 1, 1999, and shall have been  
5 2 specially directed to the retailer by the department.

5 3 (3) The director shall prepare quarterly reports  
5 4 summarizing each case in which abatement of tax,  
5 5 interest, or penalties was made. However, the report  
5 6 shall not disclose the identity of the taxpayer. An  
5 7 abatement authorized by this paragraph to a retailer  
5 8 shall not preclude the department from proceeding to  
5 9 collect the liability from a purchaser.

5 10 Sec. 106. Section [422.45](#), subsection 56, Code  
5 11 Supplement 1999, is amended to read as follows:

5 12 56. The gross receipts from charges paid to a  
5 13 provider for access to on-line computer services. For  
5 14 purposes of this subsection, "on-line computer  
5 15 service" means a service that provides or enables  
5 16 computer access by multiple users to the internet or  
5 17 to other information made available through a computer  
5 18 server.

5 19 Sec. 107. Section [422.52](#), subsection 6, paragraph  
5 20 a, Code Supplement 1999, is amended to read as  
5 21 follows:

5 22 a. If a purchaser fails to pay tax imposed by this  
5 23 division to the retailer required to collect the tax,  
5 24 then in addition to all of the rights, obligations,  
5 25 and remedies provided, the tax is payable by the  
5 26 purchaser directly to the department, and sections  
5 27 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,  
5 28 422.57, 422.58, and 422.59 apply to the purchaser.  
5 29 For failure, the retailer and purchaser are liable,  
5 30 unless the circumstances described in section 421.60,  
5 31 subsection 2, paragraph "m", or section 422.47,  
5 32 subsection 3, paragraph "b" or "e", or subsection 4,  
5 33 paragraph "b" or "d" are applicable."

5 34 #13. Page 17, by inserting after line 29 the  
5 35 following:

5 36 "Sec. \_\_\_\_\_. REPEAL EFFECTIVE DATE.

5 37 1. Section 554D.104, subsection 4, as enacted in  
5 38 this Act, is amended by striking the subsection.

5 39 2. This section of this Act takes effect July 1,  
5 40 2001.

5 41 Sec. \_\_\_\_\_. LEGISLATIVE INTENT. It is the intent of  
5 42 the general assembly that the general assembly  
5 43 consider the proposed uniform computer information  
5 44 transactions Act, as adopted by the national  
5 45 conference of commissioners on uniform state laws,  
5 46 during the 2001 regular session."

5 47 #14. Page 17, by inserting after line 29 the  
5 48 following:

5 49 "Sec. \_\_\_\_\_. EFFECTIVE DATE. Sections 105, 106, and  
5 50 107 of this Act, being deemed of immediate importance,  
6 1 take effect upon enactment."

6 2 #15. Title page, line 3, by inserting after the  
6 3 word "records" the following: ", relating to sales  
6 4 and use tax exemption for access to electronic  
6 5 commerce,".

6 6 #16. By renumbering, relettering, or redesignating  
6 7 and correcting internal references as necessary.

6 8 [HF 2205S](#)

