

LOCAL GOVERNMENT CODE

TITLE 6. RECORDS

SUBTITLE C. RECORDS PROVISIONS APPLYING TO MORE THAN ONE TYPE OF
LOCAL GOVERNMENT

CHAPTER 205. ELECTRONIC STORAGE OF RECORDS

Sec. 205.001. DEFINITIONS. In this chapter:

(1) "Electronic storage" means the maintenance of local government record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-readable medium.

(2) "Local government record data" means the information that by law, regulation, rule of court, ordinance, or administrative procedure in a local government comprises a local government record as defined by Section 201.003.

(3) "Source document" means the local government record from which local government record data is obtained for electronic storage. The term does not include backup copies of the data in any media generated from electronic storage.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.002. AUTHORIZATION. Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of this chapter and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.003. STANDARDS AND PROCEDURES TO BE ADOPTED. (a) The commission shall adopt rules establishing standards and procedures for the electronic storage of any local government record data of permanent value and may adopt rules establishing standards and procedures for the electronic storage of any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission. The rules must be approved as required by Section 441.165, Government Code.

(b) With regard to the types of local government record data covered by Subsection (a), the rules may require or prescribe:

(1) standards and procedures for the generation of backup or preservation copies of the local government record data on paper, microfilm, electronic, or other approved media;

(2) standards and procedures for the recopying or duplication of the magnetic tape, optical disk, or similar machine-readable medium on which the local government record data are stored;

(3) standards and procedures for the physical storage and maintenance of magnetic tapes, optical disks, or similar machine-readable media;

(4) standards and procedures for providing access by members of the public to electronically stored local government record data to which they are entitled under law; and

(5) other standards and procedures that the commission considers necessary to ensure the availability, readability, or integrity of the local government record data.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.004. RULES TO BE UPDATED. The director and librarian shall monitor standards and procedures relating to electronic storage developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of records and information management in order to recommend to the commission any needed amendments to rules.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.005. SUPREME COURT RULES. This chapter is not intended to conflict with Subchapter I, Chapter 51, Government Code, relating to the electronic filing of certain documents in district and county courts. The commission shall incorporate any rules adopted under that subchapter into its own.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.006. INDEX. An index to local government record data stored electronically must provide the same information that may be required by state law for an index to the source document, if applicable.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.008. DESTRUCTION OF SOURCE DOCUMENTS. (a) The source document, if any, for electronically stored local government record data covered by rules adopted under Section 205.003(a) may be destroyed or returned to the person who filed it for record.

(b) The magnetic tape, optical disk, or similar medium containing the local government record data and the hardware and software necessary to provide access to it must be retained by the local government or be available to the local government until the expiration of the retention period for all source documents, subject to the rules adopted under this chapter.

(c) The source document, if any, for electronically stored local government record data not covered by rules adopted under Section 205.003(a) may be destroyed before the expiration of the retention period for the source document in a records retention schedule issued by the commission if the magnetic tape, optical disk, or similar medium and hardware and software necessary to provide access to local government record data on the media are retained for the retention period in the schedule. Conversely, the magnetic tape, optical disk, or similar medium may be erased, written over, or destroyed before the expiration of the retention period for a source document for local government record data not covered by rules adopted under Section 205.003(a), if the source document, if any, is retained until the expiration of its retention period or, if the source document has already been destroyed, paper or microfilm copies are generated from the magnetic tape, optical disk, or similar medium before destruction or erasure and retained until the expiration of the retention period for the source document.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 19, eff. September 1, 2019.

Sec. 205.009. DENIAL OF ACCESS PROHIBITED. A person under contract or agreement with a local government or elected county

officer to create, file, or store local government record data electronically or to provide services, equipment, or the means for the creation, filing, or storage, may not, under any circumstances, refuse to provide local government record data to the local government in a timely manner in a format accessible and useable by the local government.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.010. SECURITY BREACH NOTIFICATION BY LOCAL GOVERNMENT. (a) In this section:

(1) "Breach of system security" has the meaning assigned by Section 521.053, Business & Commerce Code.

(2) "Sensitive personal information" has the meaning assigned by Section 521.002, Business & Commerce Code.

(b) A local government that owns, licenses, or maintains computerized data that includes sensitive personal information shall comply, in the event of a breach of system security, with the notification requirements of Section 521.053, Business & Commerce Code, to the same extent as a person who conducts business in this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 419 (H.B. 2004), Sec. 6, eff. September 1, 2009.