



**OFFICE OF AUDITOR OF STATE**  
STATE OF IOWA

David A. Vaudt, CPA  
Auditor of State

State Capitol Building  
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

**AOS Technical Update**  
**Electronic Check Retention**

**Question:** Chapter 554D.114(5) of the Code of Iowa requires front and back for check retention. Many governmental entities receive electronic images on paper or CD which we believe satisfies this requirement.

However, if the financial institution (bank) has the ability to retain this information and make it accessible to the governmental entity upon request, for the recommended retention period (usually 5 years), would that satisfy the requirements of Chapter 554D.114 of the Code of Iowa?

**Informal Advice from Christie J. Scase, Assistant Attorney General:**

"Code chapter 554D, "the Uniform Electronic Transactions Act," is a relatively new statute and there are no formal interpretations of the Iowa statute available for guidance. However, subsection 554D.114(3) explicitly provides that "[a] person may satisfy subsection 1 (which lists the requirements for electronic record retention) by using the services of another person if the requirements of that subsection (i.e. subsection 1) are satisfied." Subsection 554D.103(12) defines the term "person," as used in chapter 554D, as "an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity." Therefore, I believe that this provision does allow a municipality or governmental agency to use services of another entity to retain the official electronic record of check and warrant transactions.

From the standpoint of the public records law, the municipality or governmental agency which "owns" the record would remain the "lawful custodian," even though the record is stored outside of the agency. See Code § 22.1(2) (2nd sentence: "The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record.")

In order to meet the requirements of 554D.114(1), the entity which holds the record on behalf of the government body must maintain an electronic record which: "(a) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise" and "(b) remains accessible for later reference" for the entire term of the applicable retention period. In addition, subsection 554D.114(5) provides that if the record is a check (or warrant) retention requirements may only be met by maintaining "an electronic record of the information on the front and back of the check" in accordance with subsection 554D.114(1).

Before allowing a bank or other financial institution to hold records on its behalf, I believe that a government body should either have a written agreement with the institution ensuring that these conditions will be met or ensure that the institution has an across the board record retention policy which meets these criteria."

**Additional Considerations:**

The Office of Auditor of State recommends governmental entities include provisions in the written agreement with the institution to ensure the records are available for a reasonable period of time and accessible timely. The cost to provide this service, if any, should also be determined before governmental entities approve this type of arrangement. Hopefully, financial institutions would not charge local governments since this arrangement mutually benefits both parties.