

A BILL

21-890

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



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To enact the Uniform Electronic Legal Material Act, to provide for the official designation, authentication, and preservation of certain legal material in electronic records by an official publisher.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Uniform Electronic Legal Material Act of 2016”.

Sec. 2. For purposes of this act, the term:

(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) “Legal material” means, whether or not in effect:

- (A) The acts and resolutions of the Council of the District of Columbia;
- (B) The District of Columbia Official Code;
- (C) The District of Columbia Municipal Regulations; and
- (D) Other legal materials designated by the Mayor by rule.

(3) “Official publisher” means:

- (A) For the acts and resolutions of the Council of the District of Columbia, the Secretary of the Council of the District of Columbia;
- (B) For the District of Columbia Official Code, the General Counsel of the Council of the District of Columbia;

29 (C) For the District of Columbia Municipal Regulations, the Administrator
30 of the District of Columbia Office of Documents, established by the District of Columbia Office
31 of Documents Act of 1978, effective March 6, 1979 (D.C. Law 2-153; D.C. Official Code § 2-611
32 *et seq.*); and

33 (D) For other legal material designated by the Mayor pursuant to paragraph
34 (2)(D), the Mayor.

35 (4) “Publish” means to display, present, or release to the public, or cause to be
36 displayed, presented, or released to the public, by the official publisher.

37 (5) “Record” means information that is inscribed on a tangible medium or that is
38 stored in an electronic or other medium and is retrievable in perceivable form.

39 (6) “State” means a state of the United States, the District of Columbia, Puerto Rico,
40 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
41 of the United States.

42 Sec. 3. Applicability.

43 This act applies to all legal material in an electronic record that is designated as official
44 under section 4 and first published electronically on or after July 1, 2017.

45 Sec. 4. Legal material in official electronic record.

46 (a) If an official publisher publishes legal material only in an electronic record, the official
47 publisher shall:

48 (1) Designate the electronic record as official; and

49 (2) Comply with sections 5, 7, and 8.

50 (b) An official publisher that publishes legal material in an electronic record and also
51 publishes the material in a record other than an electronic record may designate the electronic
52 record as official if the official publisher complies with sections 5, 7, and 8.

53 Sec. 5. Authentication of official electronic record.

54 An official publisher of legal material in an electronic record that is designated as official
55 under section 4 shall authenticate the record. To authenticate an electronic record, the official
56 publisher shall provide a method for a user to determine that the record received by the user from
57 the official publisher is unaltered from the official record published by the official publisher.

58 Sec. 6. Effect of authentication.

59 (a) Legal material in an electronic record that is authenticated under section 5 is presumed
60 to be an accurate copy of the legal material.

61 (b) If another state has adopted a law substantially similar to this act, legal material in an
62 electronic record that is designated as official and authenticated by the official publisher in that
63 state is presumed to be an accurate copy of the legal material.

64 (c) A party contesting the authentication of legal material in an electronic record
65 authenticated under section 5 has the burden of proving by a preponderance of the evidence that
66 the record is inauthentic.

67 Sec. 7. Preservation and security of legal material in official electronic record.

68 (a) An official publisher of legal material in an electronic record that is or was designated
69 as official under section 4 shall provide for the preservation and security of the record in an
70 electronic form or a form that is not electronic.

71 (b) If legal material is preserved under subsection (a) in an electronic record, the official
72 publisher shall:

- 73 (1) Ensure the integrity of the record;
- 74 (2) Provide for backup and recovery of the record in the event of a disaster; and
- 75 (3) Ensure the continuing usability of the material.

76 Sec. 8. Public access to legal material in official electronic record.

77 An official publisher of legal material in an electronic record that is required to be
78 preserved under section 7 shall ensure that the material is reasonably available for use by the public
79 on a permanent basis.

80 Sec. 9. Standards.

81 In implementing this act, an official publisher of legal material in an electronic record shall
82 consider:

- 83 (1) Standards and practices of other jurisdictions;
- 84 (2) The most recent standards regarding authentication of, preservation and security
85 of, and public access to, legal material in an electronic record and other electronic records, as
86 promulgated by national standard-setting bodies;
- 87 (3) The needs of users of legal material in an electronic record;
- 88 (4) The views of governmental officials and entities and other interested persons;

89 and

- 90 (5) To the extent practicable, methods and technologies for the authentication of,
91 preservation and security of, and public access to, legal material which are compatible with the

92 methods and technologies used by other official publishers in the District of Columbia and in states
93 that have adopted a law substantially similar to this act.

94 Sec. 10. Rules.

95 (a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure
96 Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*),
97 may promulgate rules to carry out the purposes of this act pursuant to his or her authority under
98 sections (2)(3)(C) and (D) of this act.

99 (b) The Council may adopt its own rules of organization and procedure to implement the
100 provisions of this act that are exclusively applicable to the Council pursuant to its authority under
101 sections (2)(3)(A) and (B) of this act.

102 Sec. 11. Uniformity of application and construction.

103 In applying and construing this uniform act, consideration shall be given to the need to
104 promote uniformity of the law with respect to its subject matter among states that enact it.

105 Sec. 12. Relation to Electronic Signatures in Global and National Commerce Act.

106 This act modifies, limits, or supersedes the Electronic Signatures in Global and National
107 Commerce Act, approved June 30, 2000 (144 Stat. 464; 15 U.S.C. § 7001 *et seq.*), but does not
108 modify, limit, or supersede section 101(c) of that act (15 U.S.C. § 7001(c)), or authorize electronic
109 delivery of any of the notices described in section 103(b) of that act (15 U.S.C. § 7003(b)).

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113 Sec. 13. Fiscal impact statement.

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114 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
115 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
116 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

117 Sec. 14. Effective date.

118 This act shall take effect after approval by the Mayor (or in the event of a veto by the
119 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
120 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
121 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
122 Columbia Register.