

DRAFT  
FOR DISCUSSION ONLY

# AUTHENTICATION AND PRESERVATION OF STATE ELECTRONIC LEGAL MATERIALS ACT

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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May 2010 Interim Draft

*Without Prefatory Note or Comments*

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*The ideas and conclusions set forth in this draft, including the proposed statutory language and any comments or reporter's notes, have not been passed upon by the National Conference of Commissioners on Uniform State Laws or the Drafting Committee. They do not necessarily reflect the views of the Conference and its Commissioners and the Drafting Committee and its Members and Reporter. Proposed statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.*

May 6, 2010

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**AUTHENTICATION AND PRESERVATION OF STATE ELECTRONIC LEGAL  
MATERIALS ACT**

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1 [(E) for a decision of a state administrative agency that has precedential effect, the  
2 [agency or official]][:;] [and]

3 [(F) for an appellate judicial decision or other judicial decision that has  
4 precedential effect, the [agency or official]][:;] [and]

5 [(G) for any other record specified, the [agency or official]][:;] [and]

6 [(H) for any legal material for which no official publisher is designated, the  
7 [secretary of state or other agency or official]].

8 (4) “Publish” means to display, present, or release to the public.

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

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

14 **SECTION 3. OFFICIAL ELECTRONIC LEGAL MATERIAL.**

15 (a) If the official publisher of legal material publishes a print version of the legal  
16 material, the official publisher may designate an electronic version as official if the requirements  
17 of Sections 4, 6, and 7 are met.

18 (b) If the official publisher of legal material publishes the legal material only in an  
19 electronic version, the official publisher shall:

20 (1) designate the electronic version as official; and

21 (2) meet the requirements of Sections 4, 6, and 7.

22 **SECTION 4. AUTHENTICATION OF ELECTRONIC LEGAL MATERIAL.** The  
23 official publisher of legal material in an electronic record that is designated official under Section

1 3 shall authenticate the record. To authenticate the record, the official publisher shall certify that  
2 the electronic record is a true and correct copy of the legal material by providing:

3 (1) a method for users to determine that the electronic record is unaltered from the one  
4 published by the official publisher; and

5 (2) sufficient information to determine that the certification is valid.

6 **SECTION 5. EFFECT OF AUTHENTICATION.**

7 (1) Electronic legal material authenticated under Section 4 is presumed to be a true and  
8 correct copy of the legal material.

9 (2) Electronic legal material from another state that is authenticated in a manner that  
10 complies with Section 4 is presumed to be a true and correct copy of the legal material.

11 **SECTION 6. PRESERVATION OF ELECTRONIC LEGAL MATERIAL.** The  
12 official publisher of legal material in an electronic record shall preserve all published legal  
13 material. To preserve legal material, the official publisher shall:

14 (1) protect the electronic record, which includes retention of formatting with legal  
15 significance; and

16 (2) provide for back-up and disaster recovery; and

17  
18 (3) ensure the continuing usability of the legal material, which may include periodic  
19 updating into new electronic formats as necessary.

20 **SECTION 7. PUBLIC ACCESS TO ELECTRONIC LEGAL MATERIAL.** The

21 official publisher of legal material in an electronic record shall ensure that the legal material  
22 preserved under Section 6 is reasonably available on a permanent basis for use by the general

23 public. If the legal material is published only in an electronic record, the official publisher shall  
24 continue to publish it in an electronic record.

1           **SECTION 8. STANDARDS.** In implementing the requirements of this [act], the  
2 official publisher shall consider:

3           (1) standards and practices of other jurisdictions;

4           (2) any standards on authentication and preservation of records adopted by national  
5 standard-setting bodies; and

6           (3) the needs of electronic record users.

7           **SECTION 9. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In  
8 applying and construing this uniform act, consideration must be given to the need to promote  
9 uniformity of the law with respect to its subject matter among the states that enact it.

10           **SECTION 10. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**  
11 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal  
12 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq.,  
13 but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or  
14 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15  
15 U.S.C. Section 7003(b).

16           **SECTION 11. EFFECTIVE DATE.** This [act] takes effect [date]...