

D R A F T
FOR DISCUSSION ONLY

ELECTRONIC LEGAL MATERIAL ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

Includes changes from February 2011 Drafting Committee Meeting

Without Prefatory Note or Comments

Name Change Pending Executive Committee Approval

Copyright © 2009
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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.

March 15, 2011

DRAFTING COMMITTEE FOR ELECTRONIC LEGAL MATERIAL ACT

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in drafting this Act consists of the following individuals:

MICHELE L. TIMMONS, Office of the Revisor of Statutes, 700 State Office Bldg., 100 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155, *Chair*

JERRY L. BASSETT, Legislative Reference Service, 613 Alabama State House, 11 S. Union St., Montgomery, AL 36130

DAVID D. BIKLEN, 153 N. Beacon St., Hartford, CT 06105

DIANE F. BOYER-VINE, Office of Legislative Counsel, State Capitol, Room 3021, Sacramento, CA 95814-4996

STEPHEN Y. CHOW, 125 Summer St., Boston, MA 02110-1624

VINCENT C. DeLIBERATO, Jr., Main Capitol Bldg., Room 641, Harrisburg, PA 17120-0033

GENE H. HENNIG, 500 IDS Center, 80 S. 8th St., Minneapolis, MN 55402-3796

STEVEN L. WILLBORN, University of Nebraska College of Law, Ross McCollum Hall, 42 & Fair St., P.O. Box 830902, Lincoln, NE 68583-0902

BARBARA A. BINTLIFF, University of Texas School of Law, 727 E. Dean Keeton St., Austin, TX 78705, *Reporter*

EX OFFICIO

ROBERT A. STEIN, University of Minnesota Law School, 229 19th Avenue S., Minneapolis, MN 55455, *President*

JACK DAVIES, 1201 Yale Pl., Unit 2004, Minneapolis, MN 55403-1961, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISOR

LUCY THOMSON, 915 N. Quaker Dr., Alexandria, VA 22302, *ABA Advisor*

PHYLLIS B. PICKETT, 401 Legislative Office Bldg., 300 N. Salisbury St., Raleigh, NC 27603, *ABA Section Advisor*

EXECUTIVE DIRECTOR

JOHN A. SEBERT, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, *Executive Director*

Copies of this Act may be obtained from:
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
111 N. Wabash Ave., Suite 1010
Chicago, Illinois 60602
312/450-6600
www.uniformlaws.org

ELECTRONIC LEGAL MATERIAL ACT

TABLE OF CONTENTS

SECTION 1. SHORT TITLE.	1
SECTION 2. DEFINITIONS.....	1
SECTION 3. APPLICABILITY.....	2
SECTION 4. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.....	2
SECTION 5. AUTHENTICATION OF ELECTRONIC RECORD.	3
SECTION 6. EFFECT OF AUTHENTICATION.....	3
SECTION 7. PRESERVATION OF LEGAL MATERIAL IN ELECTRONIC RECORD.	3
SECTION 8. PUBLIC ACCESS TO LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.	3
SECTION 9. STANDARDS.....	4
SECTION 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION.....	4
SECTION 11. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.....	4
SECTION 12. EFFECTIVE DATE.....	4

[NOTE: Changes to the table of contents are made by ULC staff. The table of contents are not susceptible to editing, and changes, therefore, are not made by reporters.]

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

[(E) for any rule not published in the [insert name of administrative code], the

state agency adopting the rule][;] [and]

[(F) for a state administrative agency decision which has precedential effect, the

[insert appropriate agency or official]][;] [and]

[(G) for a state court judicial decision which has precedential effect, the [insert

appropriate agency or official]][;] [and]

[(H) for state court rules, the [insert appropriate agency or official].

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

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

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

SECTION 3. APPLICABILITY. This [act] applies to all legal material in an electronic record that is designated as official under Section 4 and first published on or after the effective date of the [act].

SECTION 4. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.

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

(1) designate the electronic record as official; and

(2) meet the requirements of Sections 5, 7, and 8.

(b) If an official publisher publishes legal material in a record other than an electronic record, the publisher may designate an electronic record as official if the requirements of Sections 5, 7, and 8 are met.

SECTION 5. AUTHENTICATION OF ELECTRONIC RECORD. An official publisher of legal material in an electronic record that is designated as official under Section 4 shall authenticate the record by providing a method for users to determine that the record is unaltered from the one published by the publisher.

SECTION 6. EFFECT OF AUTHENTICATION.

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

(b) The presumption under (a) applies to legal material in an electronic record designated as official by another state that has adopted this [act].

SECTION 7. PRESERVATION OF LEGAL MATERIAL IN ELECTRONIC RECORD.

(a) An official publisher of legal material in an electronic record shall provide for the preservation, electronically or non-electronically, of a record that is or was designated as official under Section 4.

(b) If legal material is preserved in an electronic record, the official publisher shall:

(1) ensure the integrity of the record;

(2) provide for back-up and disaster recovery of the record; and

(3) ensure the continuing usability of the material.

SECTION 8. PUBLIC ACCESS TO LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD. An official publisher of legal material in an electronic record that is required to be preserved under Section 7 shall ensure that the material is reasonably available on a permanent basis for use by the public.

SECTION 9. STANDARDS. In implementing this [act], an official publisher of legal material shall consider:

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

SECTION 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

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

SECTION 12. EFFECTIVE DATE. This act is effective on _____.