DRAFT

FOR DISCUSSION ONLY

AUTHENTICATION AND PRESERVATION OF STATE ELECTRONIC LEGAL MATERIALS ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-NINETEENTH YEAR CHICAGO, ILLINOIS JULY 9 - JULY 16, 2010

AUTHENTICATION AND PRESERVATION OF STATE ELECTRONIC LEGAL MATERIALS ACT

WITH PREFATORY NOTE AND COMMENTS

Copyright ©2010 By 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.

DRAFTING COMMITTEE FOR AUTHENTICATION AND PRESERVATION OF STATE ELECTRONIC LEGAL MATERIALS 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, 11S. 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., Legislative Reference Bureau, Main Capitol Bldg., Room 641, Harrisburg, PA 17120-0033
- GENE H. HENNIG, 500 IDS Center, 80 South Eighth 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 Colorado at Boulder, 424 Wolf Law Bldg., 401 UCB, Boulder, CO 80309-0401, *Reporter*

EX OFFICIO

ROBERT A. STEIN, University of Minnesota Law School, 229 19th Ave. South, 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, North Carolina General Assembly, 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.nccusl.org

AUTHENTICATION AND PRESERVATION OF STATE ELECTRONIC LEGAL MATERIALS ACT

TABLE OF CONTENTS

Prefatory NotePrefatory Note	1
SECTION 1. SHORT TITLE.	4
SECTION 2. DEFINITIONS	4
SECTION 3. OFFICIAL ELECTRONIC LEGAL MATERIAL	7
SECTION 4. AUTHENTICATION OF ELECTRONIC LEGAL MATERIAL	7
SECTION 5. EFFECT OF AUTHENTICATION	9
SECTION 6. PRESERVATION OF ELECTRONIC LEGAL MATERIAL	9
SECTION 7. PUBLIC ACCESS TO ELECTRONIC LEGAL MATERIAL	10
SECTION 8. STANDARDS	11
SECTION 9. UNIFORMITY OF APPLICATION AND CONSTRUCTION	12
SECTION 10. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND	
NATIONAL COMMERCE ACT	12
SECTION 11. EFFECTIVE DATE.	13

AUTHENTICATION AND PRESERVATION OF STATE ELECTRONIC LEGAL MATERIALS ACT

Prefatory Note

Introduction. Providing information online is integral to the conduct of state government in the 21st century. The ease and speed with which information can be created, updated, and distributed electronically, especially in contrast to the time required for the production of print materials, enables governments to meet their obligations to provide legal information to the public in a timely and cost-effective manner. State governments have moved rapidly to the online distribution of legal information, in some instances declaring a publication in electronic format to be an official publication equivalent to a print version. Some state governments are eliminating certain print publications altogether. The availability of government information online facilitates transparency and accountability, provides widespread access, and encourages citizen participation in the democratic process. Changing to an electronic environment also raises new issues in information management.

Electronic legal information moves from its originating computer through a series of other computers or servers until it eventually reaches the individual consumer. The information is susceptible to being altered, whether accidentally or maliciously, at each transfer. Any such alterations are virtually undetectable. A major issue raised by the change to an electronic environment, therefore, is whether the information consulted by consumers is trustworthy, or authentic.

"An *authentic* text is one whose content has been verified by a government entity to be complete and unaltered when compared to the version approved or published by the content originator." When a document is authentic, it means that the version of the legal resource seen by the user is the same version that was approved by the lawmakers. A chain of custody for that document has been established that ensures its integrity, establishing that the transfer between the official publisher and the end-user has not been tampered with. Few state governments have taken the actions necessary to ensure that the electronic legal information they create and distribute remains unaltered and is, therefore, trustworthy or authentic.

Authenticity is an issue unknown in the print age, where legal information typically exists in multiple copies, the content of which is "fixed" once printed, making the text easily verifiable and changes readily detectible. Print copies of legal material are routinely certified by state officials, and the certification assures the user of the trustworthiness of the document. It stands to reason, therefore, that before state governments can transition fully into the electronic legal information environment they must develop procedures to ensure the trustworthiness of their electronic legal information.

The ease with which electronic legal information is created and changed raises a second critical consideration: how is legal information with long-term, historical value (including, for example, amended statutes, repealed sections of regulations, and overruled cases) preserved for

¹ American Association of Law Libraries, STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES 8 (2007).

future use? In a print environment, information is preserved by maintaining paper copies of key legislative documents, administrative materials, and judicial resources. It is typical for more than one library, archive, or institution to keep a copy of these historical documents, further insuring their preservation.

Electronic information resides, however, on a computer. New versions of computer hardware and software and changing storage media continually result in an inability to read or access older files, thereby losing their content. As hardware, software, and storage media change, old documents are preserved by "migrating" to new formats. Electronic legal information of long-term value must be preserved in a usable format. Unfortunately, few states have addressed this critical need, and fewer still have an infrastructure in place to monitor older data and keep its storage method up-to-date. The governmental and societal benefits of electronic creation and distribution are limited severely if state government information becomes unusable because of technological changes.

A third issue raised by the electronic creation and distribution of legal materials flows from the necessity of preserving all forms of documents with long-term value: the issue is the responsibility of state government to make its legal resources easily, and permanently, accessible. Legal information is consulted by citizens, legislators, government administrators and officials, judges, attorneys, researchers, and scholars, all of whom may require access to both the current law and to older materials, including that which has been amended and superseded. Once properly preserved, electronic legal information of long-term value must also be easily accessible on the same basis as other legal information; that is, electronic legal information should be authenticated and widely available, on a permanent basis. State governments must ensure an informed citizenry, which is essential for our democracy to function.

The issues that arise as state governments transition to an electronic legal information environment are common to every state. These issues are also encountered by subdivisions of state government, including municipalities and counties, as well as the American Indian tribes. These governments face the same situation as the larger state government, and likewise must manage the entire life cycle of government information, from creation and publication to preservation. This act can be adapted for use by any governmental entity.

About the act.

The Uniform Authentication and Preservation of State Electronic Legal Material Act provides states with an outcomes-oriented approach to the authentication and preservation of legal material. That is, the goals of the authentication and preservation program outlined in the act are to allow end-users to verify the trustworthiness of the legal material they are using and to provide a framework for states to preserve legal material in perpetuity in a manner that allows for permanent access.

The act does not require specific technologies, leaving the choice of specific technology up to the states. Giving states the flexibility to choose any technology that meets the required outcomes allows each state to choose the best and most cost-effective method for their state. In

addition, this flexible, outcomes-based approach anticipates that technologies will change over time.

It should be noted that there are some important issues that this act does not address, leaving those issues to other law or policy. The act does not mandate that states publish electronically. The act does not deal with copyright issues, leaving those to federal law. The act does not interfere with the contractual relationship between the state and one or more commercial publishers where the state contracts out the production of its legal material. The act does not supersede the state's rules of evidence, as it simply provides that authenticated legal material is presumed to be a true and correct copy.

Conclusion. Digital information formats have become fundamental and indispensable to the operation of state government. This act addresses the critical need to manage electronic legal information in a manner that guarantees the trustworthiness of and continuing access to important state documents. Technology changes quickly enough that state governments must address this issue, as existing electronic legal documents are in danger of being lost already. A uniform act will allow state governments to develop similar systems of authentication and preservation, aiding the free flow of information across state lines and the sharing of experiences and expertise to keep costs as low as possible.

A uniform act should set forth provisions that can be efficiently followed and that achieve the stated purposes of the act. The Drafting Committee believes that this proposed uniform act meets these requirements. The act is straightforward in its terms, creates no additional administrative offices, and has no requirement of judicial or administrative oversight. The act is based on proposed language from the Study Committee, developed through extensive discussion and debate.

The Drafting Committee was assisted by numerous advisors and observers, representing an array of organizations. In addition to the American Bar Association advisors listed above, important contributions were made by the observers who attended meetings, participated in conference calls, and submitted many comments and suggestions to the various drafts of the act. The act is better for their contributions.

1	AUTHENTICATION AND PRESERVATION OF STATE ELECTRONIC
2	LEGAL MATERIALS ACT
3	
4	SECTION 1. SHORT TITLE. This [act] may be cited as the Authentication and
5	Preservation of State Electronic Legal Materials Act.
6	SECTION 2. DEFINITIONS. For the purposes of this [act]:
7	(1) "Electronic" means relating to technology having electrical, digital, magnetic,
8	wireless, optical, electromagnetic, or similar capabilities.
9	(2) "Legal material" means:
10	(A) a law or statute enacted by the [state legislature];
11	(B) a codified law or statute; [and]
12	(C) an administrative rule adopted under [the state APA][;] [and]
13	[(D) any other state administrative rule][;] [and]
14	[(E) a decision of a state administrative agency that has precedential effect][;]
15	[and]
16	[(F) an appellate judicial decision or other judicial decision that has precedential
17	effect][;] [and]
18	[(G) any other record, as specified].
19	(3) "Official publisher" means:
20	(A) for a law or statute enacted by the [state legislature], the [agency or official]:
21	(B) for a codified law or statute, the [agency or official]; [and]
22	(C) for an administrative rule adopted under [the state APA], the [agency or
23	official][;] [and]

1	[(D) for any other state administrative rule, the [agency or official]][;] [and]
2	[(E) for a decision of a state administrative agency that has precedential effect, the
3	[agency or official]][;] [and]
4	[(F) for an appellate judicial decision or other judicial decision that has
5	precedential effect, the [agency or official]][;] [and]
6	[(G) for any other record specified, the [agency or official]][;] [and]
7	[(H) for any legal material for which no official publisher is designated, the
8	[secretary of state or other agency or official]].
9	(4) "Publish" means to display, present, or release to the public.
10	(5) "Record" means information that is inscribed on a tangible medium or that is stored in
11	an electronic or other medium and is retrievable in perceivable form.
12	(6) "State" means a state of the United States, the District of Columbia, Puerto
13	Rico, the United States Virgin Islands, or any territory or insular possession subject to the
14	jurisdiction of the United States.
15	Comment
16 17 18 19 20 21 22 23	Several definitions used in this act are those recommended by the Conference, including "electronic," "record," and "state." These words, so defined, have been used in other acts promulgated by the Conference, including notably the Uniform Electronic Transactions Act (UETA), ² which has been adopted by 46 states, the District of Columbia, and the Virgin Islands as of May, 2010. The use of these terms in the same manner in several acts leads to a consistency within the laws of each state adopting the several acts in addition to the sought-after uniformity among states.
24 25 26 27 28 29	Legal material. (Section 2(3)). The definition of "legal material" is intentionally narrow. As drafted, it includes only the most basic state-level legal documents: session laws, codified laws, and administrative rules adopted under the state's version of the Administrative Procedure Act (APA). The act gives adopting states the option to expand the definition, and several alternatives are presented including administrative rules of agencies not covered by the state APA, certain state administrative agency decisions, and certain judicial decisions.

 2 The definition of "state" in UETA includes a second sentence regarding Indian tribes and Alaskan villages that is not part of this act's definition.

Optional language for administrative decisions is provided in recognition of the varying ways in which state governments may create and regulate executive branch agencies. An individual state may have some administrative agencies that are subject to the provisions of the state APA while other agencies in that state are not.

State administrative agency decisions with precedential effect is included as an option for two reasons. First, not all state administrative agencies render decisions, and second, not all state administrative agency decisions have precedential effect.

In some states, the publication of judicial decisions is handled by the judicial branch, over which the state legislature may have no authority to mandate specific procedures such as created by this act. Because of this potential separation of powers issue, judicial decisions are included in this act as an option in the definition of legal material.

 An option is provided for each state to decide for itself what other records may be included in the definition of legal material. Many important documents, like those comprising legislative histories, legislative journals and calendars, and many agency publications, could be included.

Whether a state legislature can include in the coverage of the act the records from certain executive branch officials (executive orders and proclamations, or attorney general opinions, for example) raises a separation of powers issue similar to that regarding judicial decisions. These records would fit within Section 2(G), if a state desired to include them.

Official publisher. (Section 2(4)). For each type of legal material defined by the act, the state must designate an official publisher. This can, and most likely will, be an existing state agency or employee who already has responsibility for the publication of the legal material. The official publisher is the state employee charged with carrying out the provisions of this act.

To complete the definition of official publisher, an appropriate government agency or employee for each type of legal material must be identified, as indicated by bracketed language. Because the legal material may come from different departments and even different branches of the government, the official publisher may be one employee or agency, or several. In addition, states should name a default official publisher. This provision ensures that a specific agency or employee has responsibility ultimately for any legal material covered by the act.

Many states contract with commercial printers or publishers for the production of their legal material. The act does not interfere with that contractual relationship.

Copyright and licensing of legal material is not addressed, nor are commercial versions of legal materials that are not published under the responsibility of the official publisher. This act only applies to legal material published by the official publisher.

1 SECTION 3. OFFICIAL ELECTRONIC LEGAL MATERIAL. 2 (a) If the official publisher of legal material publishes a print version of the legal 3 material, the official publisher may designate an electronic version as official if the requirements 4 of Sections 4, 6, and 7 are met. 5 (b) If the official publisher of legal material publishes the legal material only in an 6 electronic version, the official publisher shall: 7 (1) designate the electronic version as official; and 8 (2) meet the requirements of Sections 4, 6, and 7. 9 Comment 10 11 This act does not direct a state to publish its legal material in any specific format or in 12 multiple formats. That decision is left to the state. Nor does the act require that legal material 13 published in a specific format be designated official; again, that is a matter left to the individual 14 state. This act applies to legal material published in an electronic format that is designated 15 official by the official publisher. The act leaves policy decisions regarding format of its legal material to the legislature, but requires that electronic versions be clearly designated as official if 16 17 that is the state's intent. 18 19 For legal material published in both print and electronic formats, as is typical in many 20 states, the official publisher may choose to designate the electronic version as official. If 21 designated official, the requirements of the act must be met. 22 23 The act imposes responsibilities on the official publisher where the legal material is published only in an electronic format. Section 3 requires that legal material published only in 24 25 electronic format be designated official. This is a common sense requirement; if legal material is 26 available from the state government in one version only, it follows that that version must be 27 official. 28 29 If the electronic version is not designated official, and is not, therefore, covered by this 30 act, the state should include information that displays with the legal material that explains the procedure by which the public can obtain a certified copy of the official version of the legal 31 32 material. 33 34 SECTION 4. AUTHENTICATION OF ELECTRONIC LEGAL MATERIAL. The

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

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

6 Comment

The intent of this act is to be technology-neutral, leaving it to the adopting state to choose its preferred technology for authentication (and preservation and access) of legal material, and allowing the state to change technologies when necessary or desired. The vulnerability of electronic records to inadvertent or malicious change underscores the importance of ensuring the authenticity of electronic legal material.

Certification of legal material is the standard in the print world. End-users of legal material understand the meaning of a "certified" document, that is, that the document is official and accurate, as attested to by an official signature, seal, stamp, or other device. This act provides for an equivalent procedure for electronic legal material.

The act presents an outcomes-based approach to dealing with electronic legal material, using an approach to authentication that consists of two parts. First, the state provides a method for users to determine that the legal material is authentic, or trustworthy. This is comparable to providing certification in the print world. In addition, the state provides information for the enduser to determine that the certification itself is valid. This allows the end-user to be satisfied that the chain of custody for the legal material has not been interrupted and the legal material is, therefore, unaltered. The second step is necessary in the world of electronic legal information, where multiple copies are not available to allow the end-user to compare the legal material with a second copy. The official publisher provides assurance of authenticity and the end-user can verify that assurance. The outcome is that the state's promise of authenticity is verified.

Authentication is a term of art in this context. The term "authenticate" has been used different manners in other uniform acts, for example in Article 9 of the Uniform Commercial Code. While acknowledging that the term is used differently in various contexts, its use in this act is consistent with its usage in information management and computer security settings.

This act does not specify the baseline document against which all others are to be compared for purposes of authentication. The enacting state must identify the baseline document, the "real document," against which all others are compared, as part of the implementation of this act. The baseline document may vary based type of legal material to be authenticated; in some instances the baseline document may be in print while in others it may be electronic.

1	SECTION 5. EFFECT OF AUTHENTICATION.
2	(1) Electronic legal material authenticated under Section 4 is presumed to be a true and
3	correct copy of the legal material.
4	(2) Electronic legal material from another state that is authenticated in a manner that
5	complies with Section 4 is presumed to be a true and correct copy of the legal material.
6	Comment
7 8 9 10	Certification of a document, the standard in the print world, provides a presumption that the certified legal material is accurate and complete. The intent of this act is to provide the end user of electronic legal material with the same presumption.
11 12 13 14 15	The act does not supersede any rules of evidence. The act does not require electronic legal material from another state to be authenticated for use in the enacting state. If, however, electronic legal material from another state is authenticated in a manner that complies with Section 4, it is provided with the same presumption of accuracy and completeness.
16	SECTION 6. PRESERVATION OF ELECTRONIC LEGAL MATERIAL. The
17	official publisher of legal material in an electronic record shall preserve all published legal
18	material. To preserve legal material, the official publisher shall:
19	(1) protect the electronic record, which includes retention of formatting with legal
20	significance; and
21 22 23	(2) provide for back-up and disaster recovery; and
	(3) ensure the continuing usability of the legal material, which may include periodic
24	updating into new electronic formats as necessary.
25	Comment
26 27 28 29 30 31 32	Enacting states are given discretion to decide what legal material must be preserved. This is done through the definition of legal material in Section 2. Once published, however, the legal material must be preserved. This includes legal material that is subsequently amended or repealed, as happens with statutes, as well as legal material like cases that may be reversed or overruled. Legal material retains its historical value regardless of its current effectiveness.

All states have incorporated electronic technologies into their operations; most have begun to produce electronic legal material, even if the electronic legal material is not designated official. As electronic technologies become indispensable to state operations, security and preservation measures become more important. Electronic records are vulnerable to natural disasters, accidental corruption, mishandling, and intentional change.

Best practices for providing preservation and security of electronic records include the maintenance of multiple copies of electronic records that are geographically and administratively separated. Multiple copies ensure that at least one copy of important records is available even in an emergency. Storage of copies in separate locations, under control of different personnel, adds an additional measure of security. Two or three copies of electronic records, if secured and separated appropriately, are generally considered adequate for preservation and security purposes. Most states already have adopted these best practices, which are the foundation for the preservation of electronic legal material. This act requires the official publisher of legal material to protect the record using security and preservation methods determined by the state.

Legal material is often complex in organization and presentation. The formatting of the content of the legal material, including italicization, indentation, numbering, bold face fonts, and internal subdivisions and subsections, can be significant. Hierarchies are defined and priorities are established, for example, by formatting. The official publisher is required to preserve the legally significant formatting of electronic legal material to ensure that both the content and the organization are available in the future.

Further, the official publisher is required to provide for back-up of electronic legal material by storing additional copies of the legal material for use in restoring records that may be lost or damaged, including by natural disaster. The back-up may be by many means, such as by a mirror site, which is a second, exact, copy of the electronic legal material in a different site than the original, or by creating multiple disks or tapes of the legal material that are stored in remote locations. The back-up may be incremental, essentially tracking all changes to the original, or a continuous backing up of the entire system that saves the complete text of each version, among other methods. Whatever method the state chooses must back-up the original material plus subsequent changes; a changed record becomes a new record with content that must be backed-up also. Legal material is continually updated; states must develop systems that recognize the dynamic nature of legal material and provide for appropriate preservation.

The rapid evolution of electronic technologies in the last decade, and especially the changes in storage media, emphasize the necessity of updating stored electronic records to new technologies. While the exact specifications for new technologies are not known at the present, the fact that new technologies will be developed is a certainty. This section requires migration to new technologies, as needed, to ensure preservation of legal material and for the continued usability of the information. Preservation must include a means by which the content of the original record can be retrievable in a readable form that can be authenticated.

SECTION 7. PUBLIC ACCESS TO ELECTRONIC LEGAL MATERIAL. The

- official publisher of legal material in an electronic record shall ensure that the legal material
- 2 preserved under Section 6 is reasonably available on a permanent basis for use by the general
- 3 public. If the legal material is published only in an electronic record, the official publisher shall
- 4 continue to publish it in an electronic record.

5 Comment

Our democratic system of government depends on an informed citizenry. Legal material includes information essential to all citizens in a democracy, whether the legal material is effective currently or is of historical value only. Citizens must have reasonable access to all legal material. This section highlights the importance to the citizenry of legal material by requiring permanent public access to electronic legal material. Together with print's ubiquity of copies and access, permanent public access to electronic legal material allows citizens to stay informed of legal developments and carry out their democratic responsibilities.

Legal material preserved under this act must be "reasonably available" to the general public. Reasonable availability does not necessarily mean that the information must be accessible around the clock, every day of the year. An enacting state has discretion to decide what is reasonable, which should be determined in a manner consistent with other state practice. It may mean that the legal material is available during business hours at publicly accessible locations, such as designated state offices, public libraries, a state repository or archive, or similar location. This section recognizes that historical information, while important, is not usually as essential to all citizens as is current legal material. Therefore, access to preserved legal material may be limited, although it cannot be restricted to the point of unavailability. Legal material published only in an electronic record must be maintained in an electronic record to facilitate legal research and continued access to the legal material as originally published.

Access to preserved electronic legal material may be limited by the state's determination of reasonableness, but access must be offered permanently. That is, the electronic legal material must remain available in perpetuity. This requirement makes electronic legal material comparable to print legal material, which is stored on a permanent basis in libraries, archives, and offices.

- **SECTION 8. STANDARDS.** In implementing the requirements of this [act], the
- 33 official publisher shall consider:
- 34 (1) standards and practices of other jurisdictions;
- 35 (2) any standards on authentication and preservation of records adopted by national
- 36 standard-setting bodies; and

(3) the needs of electronic record users.

1

34

2 Comment 3 Standards for authentication, preservation, and permanent access of electronic records are 4 beginning to be developed by some governmental organizations at both state and federal levels. 5 Like many other technology-related practices, these standards will remain unfinished and under 6 revision for some time. 7 8 This language of this section, based on a similar provision in the Uniform Electronic Real 9 Estate Recording Act, requires consideration of the changing nature of these standards. The 10 official publisher must develop plans to authenticate and preserve legal material, determine 11 appropriate standards to allow for implementation of the plans, and update the plans as 12 necessary. The state's standards should include a method to evaluate the effectiveness of the 13 official publisher's actions in providing for authentication, preservation, and permanent access to electronic legal material. 14 15 16 Each enacting state will determine its own specific practices but, in the interest of 17 efficiency, states are encouraged to communicate and coordinate in the development of 18 authentication, preservation, and permanent access standards. Several national organizations are 19 considering the promulgation of best practices statements and standards; their work, when 20 completed, might offer sound guidance. International organizations may also be tackling this issue and, to the extent that their work is relevant to US states, it could also be considered. 21 22 SECTION 9. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In 23 24 applying and construing this uniform act, consideration must be given to the need to promote 25 uniformity of the law with respect to its subject matter among the states that enact it. 26 Comment 27 This language is based on a similar provision in the Uniform Electronic Real Estate 28 Recording Act. 29 30 SECTION 10. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND 31 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal 32 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., 33 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

1	U.S.C. Section 7003(b).
2	Comment
3 4 5	This language is based on a similar provision in the Uniform Electronic Real Estate Recording Act.
6	SECTION 11. EFFECTIVE DATE. This [act] takes effect [date]
7	Comment
8	This act applies to legal material created after the effective date of the act. Each enacting
9	state will need to determine the proper date of effectiveness of the act, including whether
10	additional time, beyond the usual date of effectiveness of its statutes, is needed in order to meet
11	the requirements of authentication, preservation and public access.