

1 **UNIFORM ELECTRONIC LEGAL MATERIAL ACT**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lyle W. Hillyard**

5 House Sponsor: V. Lowry Snow

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts the Uniform Electronic Legal Material Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ enacts the Uniform Electronic Legal Material Act, including:
- 13 • defining terms;
 - 14 • establishing the applicability of the act;
 - 15 • addressing the legal material that is an official electronic record;
 - 16 • providing for authentication;
 - 17 • addressing preservation and security;
 - 18 • addressing public access;
 - 19 • establishing standards;
 - 20 • providing for uniformity of application and construction; and
 - 21 • addressing relation to Electronic Signatures in Global and National Commerce

22 Act.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**

28 ENACTS:

29 **46-5-101**, Utah Code Annotated 1953

- 30 **46-5-102**, Utah Code Annotated 1953
- 31 **46-5-103**, Utah Code Annotated 1953
- 32 **46-5-104**, Utah Code Annotated 1953
- 33 **46-5-105**, Utah Code Annotated 1953
- 34 **46-5-106**, Utah Code Annotated 1953
- 35 **46-5-107**, Utah Code Annotated 1953
- 36 **46-5-108**, Utah Code Annotated 1953
- 37 **48-5-109**, Utah Code Annotated 1953
- 38 **48-5-110**, Utah Code Annotated 1953
- 39 **48-5-111**, Utah Code Annotated 1953

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41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **46-5-101** is enacted to read:

43 **TITLE 46. NOTARIZATION AND AUTHENTICATION OF DOCUMENTS,**
 44 **ELECTRONIC SIGNATURES, AND LEGAL MATERIAL**
 45 **CHAPTER 5. UNIFORM ELECTRONIC LEGAL MATERIAL ACT**

46 **46-5-101. Title.**

47 This chapter is known as the "Uniform Electronic Legal Material Act."

48 Section 2. Section **46-5-102** is enacted to read:

49 **46-5-102. Definitions.**

50 In this chapter:

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

53 (2) "Legal material" means, whether or not in effect:

54 (a) the Utah Constitution;

55 (b) the Laws of Utah;

56 (c) the Utah Code;

57 (d) the Utah Administrative Code; or

- 58 (e) the Utah State Bulletin.
- 59 (3) "Official publisher" means:
- 60 (a) for the Utah Constitution, the Office of Legislative Research and General Counsel;
- 61 (b) for the Laws of Utah, the Office of Legislative Research and General Counsel;
- 62 (c) for the Utah Code, the Office of Legislative Research and General Counsel;
- 63 (d) for the Utah Administrative Code, the Office of Administrative Rules created in
- 64 Section [63G-3-401](#) within the Department of Administrative Services; or
- 65 (e) for the Utah State Bulletin, the Office of Administrative Rules.
- 66 (4) "Publish" means to display, present, or release to the public, or cause to be
- 67 displayed, presented, or released to the public, by the official publisher.
- 68 (5) "Record" means information that is inscribed on a tangible medium or that is stored
- 69 in an electronic or other medium and is retrievable in perceivable form.
- 70 (6) "State" means a state of the United States, the District of Columbia, Puerto Rico,
- 71 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
- 72 of the United States.

73 Section 3. Section **46-5-103** is enacted to read:

74 **46-5-103. Applicability.**

75 This chapter applies to all legal material in an electronic record that is designated as

76 official under Section [46-5-104](#) and first published electronically on or after January 1, 2019.

77 Section 4. Section **46-5-104** is enacted to read:

78 **46-5-104. Legal material in official electronic record.**

79 (1) If an official publisher publishes legal material only in an electronic record, the

80 official publisher shall:

81 (a) designate the electronic record as official; and

82 (b) comply with Sections [46-5-105](#), [46-5-107](#), and [46-5-108](#).

83 (2) An official publisher that publishes legal material in an electronic record and also

84 publishes the material in a record other than an electronic record may designate the electronic

85 record as official if the official publisher complies with Sections [46-5-105](#), [46-5-107](#), and

86 [46-5-108.](#)

87 Section 5. Section **46-5-105** is enacted to read:

88 **46-5-105. Authentication of official electronic record.**

89 An official publisher of legal material in an electronic record that is designated as
90 official under Section [46-5-104](#) shall authenticate the record. To authenticate an electronic
91 record, the official publisher shall provide a method for a user to determine that the record
92 received by the user from the official publisher is unaltered from the official record published
93 by the official publisher.

94 Section 6. Section **46-5-106** is enacted to read:

95 **46-5-106. Effect of authentication.**

96 (1) Legal material in an electronic record that is authenticated under Section [46-5-105](#)
97 is presumed to be an accurate copy of the legal material.

98 (2) If another state has adopted a law substantially similar to this chapter, legal material
99 in an electronic record that is designated as official and authenticated by the official publisher
100 in that state is presumed to be an accurate copy of the legal material.

101 (3) A party contesting the authentication of legal material in an electronic record
102 authenticated under Section [46-5-105](#) has the burden of proving by a preponderance of the
103 evidence that the record is not authentic.

104 Section 7. Section **46-5-107** is enacted to read:

105 **46-5-107. Preservation and security of legal material in official electronic records.**

106 (1) An official publisher of legal material in an electronic record that is or was
107 designated as official under Section [46-5-104](#) shall provide for the preservation and security of
108 the record in an electronic form or a form that is not electronic.

109 (2) If legal material is preserved under Subsection (1) in an electronic record, the
110 official publisher shall:

111 (a) ensure the integrity of the record;

112 (b) provide for backup and disaster recovery of the record; and

113 (c) ensure the continuing usability of the material.

114 Section 8. Section **46-5-108** is enacted to read:

115 **46-5-108. Public access to legal material in official electronic record.**

116 An official publisher of legal material in an electronic record that is required to be
117 preserved under Section 48-5-107 shall ensure that the material is reasonably available for use
118 by the public on a permanent basis.

119 Section 9. Section **48-5-109** is enacted to read:

120 **48-5-109. Standards.**

121 In implementing this chapter, an official publisher of legal material in an electronic
122 record shall consider:

123 (1) standards and practices of other jurisdictions;

124 (2) the most recent standards regarding authentication of, preservation and security of,
125 and public access to, legal material in an electronic record and other electronic records, as
126 promulgated by national standard-setting bodies;

127 (3) the needs of users of legal material in an electronic record;

128 (4) the views of governmental officials and entities and other interested persons; and

129 (5) to the extent practicable, methods and technologies for the authentication of,
130 preservation and security of, and public access to, legal material which are compatible with the
131 methods and technologies used by other official publishers in this state and in other states that
132 have adopted a law substantially similar to this chapter.

133 Section 10. Section **48-5-110** is enacted to read:

134 **48-5-110. Uniformity of application and construction.**

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

137 Section 11. Section **48-5-111** is enacted to read:

138 **48-5-111. Relation to Electronic Signatures in Global and National Commerce**
139 **Act.**

140 This chapter modifies, limits, and supersedes the Electronic Signatures in Global and
141 National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede

142 Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the
143 notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

144 Section 12. **Effective date.**

145 This bill takes effect on January 1, 2019.