

CHAPTER 357
FORMERLY
HOUSE BILL NO. 403

AN ACT TO AMEND TITLE 1 OF THE DELAWARE CODE RELATING TO ELECTRONIC LEGAL MATERIAL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 1 of the Delaware Code by adding a new chapter as shown by underline as follows:

CHAPTER 4. UNIFORM ELECTRONIC LEGAL MATERIAL ACT

§ 401. Short title.

This chapter may be cited as the “Uniform Electronic Legal Material Act.”

§ 402. Definitions.

In this chapter:

(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 Constitution of Delaware;

b. The Laws of Delaware;

c. The Delaware Code; and

d. A state agency regulation promulgated in accordance with §§ 10111 through 10119 of Title 29.

(3) “Official publisher” means:

a. For the Constitution of Delaware, the General Assembly;

b. For the Laws of Delaware, the General Assembly;

c. For the Delaware Code, the General Assembly; and

d. For a regulation published in the Delaware Administrative Code, the General Assembly.

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

(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.

§ 403. Applicability.

This chapter applies to all legal material in an electronic record that is designated as official under § 404 of this title and first published electronically on or after the effective date of this act.

§ 404. 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 §§ 405, 407, and 408 of this title.

(b) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the requirements of §§ 405, 407, and 408 of this title are met.

§ 405. Authentication of official electronic record.

(a) An official publisher of legal material in an electronic record that is designated as official under § 404 of this title shall authenticate the record.

(b) To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

§ 406. Effect of authentication.

(a) Legal material in an electronic record that is authenticated under § 405 of this title is presumed to be an accurate copy of the legal material.

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

(c) A party contesting the authentication of legal material in an electronic record authenticated under § 405 of this title has the burden of proving by a preponderance of the evidence that the record is not authentic.

§ 407. Preservation and security of legal material in official electronic record.

(a) An official publisher of legal material in an electronic record that is or was designated as official under § 404 of this title shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

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

- (1) Ensure the integrity of the record;
- (2) Provide for backup and disaster recovery of the record; and
- (3) Ensure the continuing usability of the material.

§ 408. Public access to legal material in official electronic record.

An official publisher of legal material in an electronic record that must be preserved under § 407 of this title shall ensure that the material is reasonably available for use by the public on a permanent basis.

§ 409. Standards.

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

- (1) Standards and practices of other jurisdictions;
- (2) The most recent standards regarding authentication of, preservation and security 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;
- (4) The views of governmental officials and entities and other interested persons; and
- (5) To the extent practicable, the use of methods and technologies for the authentication of, preservation and security of, and public access to, legal material that are compatible with the methods and technologies used by other official publishers in this State and in other states that have adopted a law substantially similar to this chapter.

§ 410. Uniformity of application and construction.

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

§ 411. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the “Electronic Signatures in Global and National Commerce Act,” 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. § 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. § 7003 (b).

Section 2. This Act becomes effective 90 days after its enactment into law.

Approved July 23, 2014