



SPONSOR: Rep. Stone & Sen. McBride;  
Reps. Gilligan, Hudson, Lofink, Maier, Spence, Valihura;  
Sen. Sokola

HOUSE OF REPRESENTATIVES  
144th GENERAL ASSEMBLY

HOUSE BILL NO. 174

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO ELECTRONIC POSTMARKS AND  
THE UNIFORM ELECTRONIC TRANSACTIONS ACT.

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

1 Section 1. Amend §12A-102, Title 6 of the Delaware Code by redesignating subsections (7) to (16) as subsections (8)  
2 to (17) respectively and by adding to §12A-102 a new subsection (7) to read:

3 "(7) 'Electronic postmark certificate' means evidentiary proof provided to the sender or recipient of an  
4 electronic record that the electronic record:

- 5 a. was postmarked by a postal authority with a valid electronic postmark on the date and time  
6 indicated;
- 7 b. was transmitted in a certain form on a specific date and time; and
- 8 c. was sent by the person indicated, to the person indicated, and on the date and time  
9 indicated."

10 Section 2. Amend §12A-102, Title 6 of the Delaware Code by redesignating subsections (14) to (17) as subsections  
11 (15) to (18) respectively and by adding to §12A-102 a new subsection (14) to read:

12 "(14) 'Postal authority' means:

- 13 a. the United States Postal Service or other national public or private mail delivery service that  
14 provides electronic postmarks; or
- 15 b. a public or private entity that has the regulatory authority or legal responsibility for  
16 providing electronic postmarks."

17 Section 3. Amend §12A-108, Title 6 of the Delaware Code by adding thereto a new paragraph (3) to subsection (d)  
18 and new subsections (e) and (f) to read:

19 "(3) A requirement under a law other than under this title to send, communicate, or transmit a record by  
20 registered or certified mail, postage prepaid, or by regular mail is satisfied by an electronic record that:

- 21 a. is addressed properly or otherwise directed properly to an information processing system  
22 that the recipient has designated; and

- 23                               b. provides a contractually obligated reliable and assured delivery to the recipient; and
- 24                               c. enters an information processing system that is outside the control of the sender; or
- 25                               d. enters a region of an information processing system that is under the control of the recipient;
- 26                               and
- 27                               e. is postmarked by a postal authority with an electronic postmark; and
- 28                               f. is authenticated by an electronic postmark certificate.
- 29       (e) An electronic record is subject to the same legal protections as the United States mail if:
- 30                               (1) the electronic record meets the requirements of subsection (d) of this section; and
- 31                               (2) the postal authority that postmarked the electronic record under subsection (3)d. of this section is the
- 32                               United State Postal Service.
- 33       (f) This section does not authorize the use of an electronic postmark or electronic postmark certificate for the
- 34       service of a summons, complaint, or other document for the purpose of obtaining jurisdiction over a defendant in a
- 35       lawsuit."

#### SYNOPSIS

This bill provides that a legal requirement to send, communicate, or transmit a record by registered or certified mail is satisfied by an electronic record that: (1) is addressed properly or otherwise directed properly to an information processing system designated by the recipient; (2) either enters an information processing system outside the sender's control or enters a region of an information processing system under the recipient's control; (3) is postmarked with a postal service's electronic postmark; and (4) is authenticated by an electronic postmark certificate. An electronic record is subject to the same legal protections as the U.S. mail if it meets these requirements and the U.S. Postal Service is the postal authority that postmarked it. The bill does not authorize the use of an electronic postmark or electronic certificate for the purpose of service of a summons, complaint, or other document for the purpose of obtaining jurisdiction over a defendant in a lawsuit.

The U.S. Postal Service, through its partner, Authentidate, Inc., offers an electronic postmark to verify times and dates that electronic mail (e-mail) is sent and received. The service also verifies the content of the e-mail. The process complies with the federal Electronic Signatures in Global and National Commerce Act, which is similar to Delaware's Uniform Electronic Transactions Act, and provides for the validity of electronic signatures and records.

The cost to send a one-ounce letter via certified mail, return receipt requested, is \$4.42. The cost to send a one-ounce letter via registered mail, return receipt requested, is \$9.62. Depending on the number of electronic postmarks purchased under a contract, the cost per electronic postmark could be about \$0.80 each. For small businesses that send many communications by certified or registered mail to meet a legal requirement, the savings could be significant.