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## IN SENATE

## April 4, 2012

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the state technology law, in relation to digital mail communications

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "secure digital mail communications act of 2012".

S 2. The state technology law is amended by adding a new article 5 to read as follows:

ARTICLE V

SECURE DIGITAL MAIL COMMUNICATIONS

SECTION 501. DEFINITION.

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- 502. COMPLIANCE WITH STATUTORILY MANDATED COMMUNICATIONS.
- 503. REQUIREMENTS FOR DIGITAL MAIL DELIVERY SERVICE.
- 504. RULES AND REGULATIONS.
- S 501. DEFINITION. AS USED IN THIS ARTICLE "DIGITAL MAIL DELIVERY MEANS A SERVICE THAT (A) EMPLOYS SECURITY PROCEDURES TO SERVICE" PROVIDE, SEND, DELIVER OR OTHERWISE COMMUNICATE ELECTRONIC RECORDS INTENDED RECIPIENTS BYMEANS THAT UTILIZE (I) SECURITY METHODS SUCH AS PASSWORDS, ENCRYPTION AND MATCHING AN ELECTRONIC ADDRESS POSTAL ADDRESS, OR (II) OTHER SECURITY METHODS PHYSICAL U.S. THAT ARE CONSISTENT WITH APPLICABLE LAW OR INDUSTRY STANDARDS; OPERATES SUBJECT TO OTHERWISE APPLICABLE REQUIREMENTS OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT OR THE UNIFORM ELECTRONIC TRANSACTIONS ACT ALLOWING INFORMATION TO BE PROVIDED, SENT, DELIVERED OR OTHERWISE COMMUNICATED BY OR FROM A GOVERNMENT AGENCY, GOVERNMENT CIAL OR ANY PERSON ACTING WITH OFFICIAL GOVERNMENT AUTHORITY TO A PERSON IN THE FORM OF AN ELECTRONIC RECORD.
- 24 S 502. COMPLIANCE WITH STATUTORILY MANDATED COMMUNICATIONS. ANY LAW 25 REQUIRING A GOVERNMENT AGENCY, GOVERNMENT OFFICIAL OR ANY PERSON ACTING 26 WITH OFFICIAL GOVERNMENT AUTHORITY TO COMMUNICATE WITH PERSONS IN WRIT-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 ING OR BY MAIL OR THE LIKE MAY BE SATISFIED BY USE OF A SECURE DIGITAL 2 MAIL DELIVERY SERVICE.

- S 503. REQUIREMENTS FOR DIGITAL MAIL DELIVERY SERVICE. FOR THE PURPOSES OF THIS ARTICLE, A DIGITAL MAIL DELIVERY SERVICE SHALL:
- (A) ALLOW RECIPIENTS OF COMMUNICATIONS TO OPT-INTO RECEIVING DIGITAL MAIL DELIVERY FROM EACH ENTITY FROM A LIST OF PUBLIC OR COMMERCIAL ENTITIES, INCLUDING BUSINESSES AND PUBLIC OR GOVERNMENT AGENCIES;
- (B) SATISFY ALL EXISTING PRIVACY AND SECURITY REQUIREMENTS FOR THE COMMUNICATION THAT IS BEING SENT;
- (C) PROVIDE THE SENDER WITH A DELIVERY LOG AND AUDIT CAPABILITY WHEN PROOF OF MAILING OR PROOF OF DELIVERY IS REQUIRED; AND
- (D) USE AT LEAST TWO DIFFERENT SOURCES OF VERIFICATION TO ENSURE THE IDENTIFY OF THE SUBSCRIBER AND THE CURRENT PHYSICAL ADDRESS OF THE SUBSCRIBER.
- S 504. RULES AND REGULATIONS. THE DIRECTOR SHALL PROMULGATE RULES AND REGULATIONS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ARTICLE.
- 17 S 3. This act shall take effect on the one hundred twentieth day after 18 it shall have become a law. Effective immediately, the addition, amend-19 ment and/or repeal of any rules or regulations necessary for the imple-20 mentation of this act on its effective date are authorized to be made on 21 or before such date.