S T A T E O F N E W Y O R K

4606

2015-2016 Regular Sessions

I N S E N A T E

March 30, 2015

Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the New York state printing and public documents law, in relation to enacting the "uniform electronic legal material act"

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

Section 1. The New York state printing and public documents law is amended by adding a new article 3-A to read as follows:

ARTICLE 3-A

UNIFORM ELECTRONIC LEGAL MATERIAL ACT

SECTION 15. SHORT TITLE.
15-A. DEFINITIONS.
15-B. APPLICABILITY.
15-C. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.
15-D. AUTHENTICATION OF OFFICIAL ELECTRONIC RECORD.
15-E. EFFECT OF AUTHENTICATION.
15-F. PRESERVATION AND SECURITY OF LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.
15-G. PUBLIC ACCESS TO LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.
15-H. STANDARDS.
15-I. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
15-J. RELATION OF ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

S 15. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "UNIFORM ELECTRONIC LEGAL MATERIAL ACT".

S 15-A. DEFINITIONS. IN THIS ARTICLE:

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:

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

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A. THE CONSTITUTION OF THE STATE OF NEW YORK;
B. THE LAWS OF THE STATE OF NEW YORK;
C. A STATE AGENCY RULE, REGULATION OR DECISION THAT HAS OR HAD THE EFFECT OF LAW;
D. MATERIAL PUBLISHED IN THE NEW YORK REGISTER;
E. THE NEW YORK CODE OF RULES AND REGULATIONS;
F. REPORTED DECISIONS OF THE FOLLOWING STATE COURTS: THE COURT OF APPEALS, THE APPELLATE DIVISION AND THE SUPREME COURTS.

3. "OFFICIAL PUBLISHER" MEANS:
A. FOR THE CONSTITUTION OF THE STATE OF NEW YORK, THE LEGISLATIVE BILL DRAFTING COMMISSION;
B. FOR THE LAWS OF THE STATE OF NEW YORK, THE LEGISLATIVE BILL DRAFTING COMMISSION;
C. FOR A STATE AGENCY RULE, REGULATION OR DECISION THAT HAS OR HAD THE EFFECT OF LAW, THE STATE AGENCY;
D. FOR MATERIAL PUBLISHED IN THE NEW YORK REGISTER, THE SECRETARY OF STATE;
E. FOR THE NEW YORK CODE OF RULES AND REGULATIONS, THE LEGISLATIVE BILL DRAFTING COMMISSION;
F. FOR REPORTED DECISIONS OF THE FOLLOWING STATE COURTS: THE COURT OF APPEALS, THE APPELLATE DIVISION AND THE SUPREME COURTS, THE OFFICE OF COURT ADMINISTRATION.

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.

S 15-B. APPLICABILITY. THIS ARTICLE APPLIES TO ALL LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION FIFTEEN-C OF THIS ARTICLE AND FIRST PUBLISHED ELECTRONICALLY ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

S 15-C. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD. 1. IF AN OFFICIAL PUBLISHER PUBLISHES LEGAL MATERIAL ONLY IN AN ELECTRONIC RECORD, THE PUBLISHER SHALL:
A. DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL; AND
B. COMPLY WITH SECTIONS FIFTEEN-D, FIFTEEN-F AND FIFTEEN-G OF THIS ARTICLE.

2. 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 PUBLISHER COMPLIES WITH SECTIONS FIFTEEN-D, FIFTEEN-F AND FIFTEEN-G OF THIS ARTICLE.

S 15-D. AUTHENTICATION OF OFFICIAL ELECTRONIC RECORD. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION FIFTEEN-C OF THIS ARTICLE SHALL AUTHENTICATE THE RECORD. 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.

S 15-E. EFFECT OF AUTHENTICATION. 1. LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS AUTHENTICATED UNDER SECTION FIFTEEN-D OF THIS ARTICLE IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL MATERIAL.

2. IF ANOTHER STATE HAS ADOPTED A LAW SUBSTANTIALLY SIMILAR TO THIS ARTICLE, 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.

3. A PARTY CONTESTING THE AUTHENTICATION OF LEGAL MATERIAL IN AN ELECTRONIC RECORD AUTHENTICATED UNDER SECTION FIFTEEN-D OF THIS ARTICLE HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE RECORD IS NOT AUTHENTIC.

S 15-F. PRESERVATION AND SECURITY OF LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD. 1. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER SECTION FIFTEEN-C OF THIS ARTICLE SHALL PROVIDE FOR THE PRESERVATION AND SECURITY OF THE RECORD IN AN ELECTRONIC FORM OR A FORM THAT IS NOT ELECTRONIC.

2. IF LEGAL MATERIAL IS PRESERVED UNDER SUBDIVISION ONE OF THIS SECTION IN AN ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL:

A. ENSURE THE INTEGRITY OF THE RECORD;

B. PROVIDE FOR BACKUP AND DISASTER RECOVERY OF THE RECORD; AND

C. ENSURE THE CONTINUING USABILITY OF THE MATERIAL.

S 15-G. PUBLIC ACCESS TO LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS REQUIRED TO BE PRESERVED UNDER SECTION FIFTEEN-F OF THIS ARTICLE SHALL ENSURE THAT THE MATERIAL IS REASONABLY AVAILABLE FOR USE BY THE PUBLIC ON A PERMANENT BASIS.

S 15-H. STANDARDS. IN IMPLEMENTING THIS ARTICLE, 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 THE 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, METHODS AND TECHNOLOGIES FOR THE AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC ACCESS TO, LEGAL MATERIAL WHICH 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 ARTICLE.

S 15-I. UNIFORMITY OF APPLICATION AND CONSTRUCTION. IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

S 15-J. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. THIS ARTICLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001 ET SEQ., 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 U.S.C. SECTION 7003(B).

S 2. This act shall take effect immediately.