

5438

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

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

AN ACT to amend the estates, powers and trust law, the mental hygiene law, the surrogate's court procedure act and the general business law, in relation to decedent's electronic mail service accounts

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

1 Section 1. Subparagraph 22 of paragraph (b) of section 11-1.1 of the
2 estates, powers and trusts law, as renumbered by chapter 904 of the laws
3 of 1973, is renumbered subparagraph 23 and a new paragraph 22 is added
4 to read as follows:
5 (22) WITH RESPECT TO A DECEDENT'S ELECTRONIC MAIL SERVICE ACCOUNTS, TO
6 ENGAGE IN ACTIVITIES AUTHORIZED BY SECTION 11-1.12 OF THIS PART.
7 S 2. The estates, powers and trusts law is amended by adding a new
8 section 11-1.12 to read as follows:
9 S 11-1.12 LIMITED POWER OF FIDUCIARY WITH REGARD TO A DECEDENT'S ELEC-
10 TRONIC MAIL SERVICE ACCOUNT.
11 (A) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL
12 HAVE THE FOLLOWING MEANINGS:
13 1. "ACCOUNT HOLDER" MEANS A NATURAL PERSON WHO HAS ENTERED INTO AN
14 AGREEMENT WITH AN ELECTRONIC MAIL SERVICE PROVIDER FOR THE PROVISION OF
15 AN ELECTRONIC MAIL ACCOUNT.
16 2. "CATALOG OF ELECTRONIC MAIL MESSAGES" MEANS A LIST OF EVERY ELEC-
17 TRONIC MAIL MESSAGE RECEIVED BY, SENT FROM, AND STORED IN AN ELECTRONIC
18 MAIL SERVICE ACCOUNT THAT INCLUDES THE HEADER INFORMATION FOR EACH ELEC-
19 TRONIC MAIL MESSAGE ALONG WITH THE CORRESPONDING DATE THAT SUCH MESSAGE
20 WAS SENT OR RECEIVED.
21 3. "COMMERCIAL ELECTRONIC MAIL MESSAGE" MEANS AN ELECTRONIC MAIL
22 MESSAGE SENT IN THE ORDINARY COURSE OF BUSINESS THAT IS NOT A CONFIDEN-
23 TIAL ELECTRONIC MAIL MESSAGE, AND THAT:

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

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(I) FACILITATES, COMPLETES, OR CONFIRMS A COMMERCIAL TRANSACTION THAT THE RECIPIENT HAS PREVIOUSLY AGREED TO ENTER INTO WITH THE SENDER;

(II) PROVIDES WARRANTY INFORMATION, PRODUCT RECALL INFORMATION, OR SAFETY OR SECURITY INFORMATION WITH RESPECT TO A COMMERCIAL PRODUCT OR SERVICE USED OR PURCHASED BY THE RECIPIENT;

(III) PROVIDES (I) NOTIFICATION CONCERNING A CHANGE IN THE TERMS OR FEATURES OF;

(II) NOTIFICATION OF A CHANGE IN THE RECIPIENT'S STANDING OR STATUS WITH RESPECT TO;

(III) AT REGULAR PERIODIC INTERVALS, ACCOUNT BALANCE INFORMATION, BILLING INFORMATION, OR OTHER TYPE OF ACCOUNT STATEMENT WITH RESPECT TO, A SUBSCRIPTION, MEMBERSHIP, ACCOUNT, LOAN, OR COMPARABLE ONGOING COMMERCIAL RELATIONSHIP INVOLVING THE ONGOING PURCHASE OR USE BY THE RECIPIENT OF PRODUCTS OR SERVICES OFFERED BY THE SENDER; OR

(IV) DELIVERS GOODS OR SERVICES, INCLUDING PRODUCT UPDATES OR UPGRADES, THAT THE RECIPIENT IS ENTITLED TO RECEIVE UNDER THE TERMS OF A TRANSACTION THAT THE RECIPIENT HAS PREVIOUSLY AGREED TO ENTER INTO WITH THE SENDER.

4. "CONFIDENTIAL ELECTRONIC MAIL MESSAGE" MEANS AN ELECTRONIC MAIL MESSAGE THAT IS PRIVILEGED DUE TO THE RELATIONSHIP BETWEEN THE SENDER AND RECIPIENT AND NOT SUBJECT TO DISCLOSURE PURSUANT TO THE LAWS OF THIS STATE WITHOUT A WAIVER OF SUCH PRIVILEGE.

5. "CONTENT" MEANS THE SUBSTANCE OF AN ELECTRONIC MAIL MESSAGE AND ANY ELECTRONIC DATA ATTACHED TO SUCH ELECTRONIC MAIL MESSAGE OTHER THAN HEADER INFORMATION.

6. "ELECTRONIC" MEANS OF OR RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

7. "ELECTRONIC DATA" MEANS ANY DATA, IMAGES, PICTURES, SOUNDS, VIDEO, OR WRITING PRODUCED OR STORED BY ELECTRONIC MEANS AND CAPABLE OF BEING ACCURATELY REPRODUCED IN FORMS PERCEPTIBLE BY HUMAN SENSORY CAPABILITIES.

8. "ELECTRONIC MAIL ACCOUNT" MEANS AN ACCOUNT, OTHER THAN AN ACCOUNT PROVIDED BY AN EMPLOYER TO AN EMPLOYEE WITHIN THE SCOPE OF EMPLOYMENT, WITH AN ASSOCIATED ELECTRONIC MAIL ADDRESS FROM WHICH ELECTRONIC MAIL MESSAGES MAY BE SENT AND STORED, AND TO WHICH ELECTRONIC MAIL MESSAGES MAY BE RECEIVED AND STORED.

9. "ELECTRONIC MAIL ADDRESS" MEANS A DESTINATION, COMMONLY EXPRESSED AS A STRING OF CHARACTERS, CONSISTING OF A UNIQUE USER NAME OR MAILBOX AND A REFERENCE TO AN INTERNET DOMAIN, WHETHER OR NOT DISPLAYED, TO WHICH ELECTRONIC MAIL CAN BE SENT OR DELIVERED.

10. "ELECTRONIC MAIL MESSAGE" MEANS ELECTRONIC DATA THAT IS TRANSMITTED FROM ONE ELECTRONIC MAIL ADDRESS TO ANOTHER ELECTRONIC MAIL ADDRESS FOR THE PURPOSE OF COMMUNICATION.

11. "ELECTRONIC MAIL SERVICE PROVIDER" MEANS A NATURAL PERSON OR ENTITY THAT, IN THE REGULAR COURSE OF BUSINESS, OFFERS ELECTRONIC MAIL ACCOUNTS TO THE GENERAL PUBLIC.

12. "ENTITY" MEANS AN ASSOCIATION, COMPANY, FIRM, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, SOLE PROPRIETORSHIP AND ANY OTHER FORM OF LEGALLY RECOGNIZED ENTITY, OTHER THAN A STATE OR LOCAL GOVERNMENT.

13. "HEADER INFORMATION" MEANS THE ELECTRONIC DATA PROVIDING SOURCE, DESTINATION, ROUTING AND DELIVERY DATE INFORMATION THAT IS ATTACHED TO AN ELECTRONIC MAIL MESSAGE, INCLUDING THE ORIGINATING DOMAIN NAME AND ORIGINATING ELECTRONIC MAIL ADDRESS, AND ANY OTHER INFORMATION THAT

1 APPEARS IN THE LINE IDENTIFYING, OR PURPORTING TO IDENTIFY, A PERSON
2 INITIATING THE MESSAGE.

3 14. "INDIVIDUAL" MEANS A NATURAL PERSON.

4 15. "PERSONAL ELECTRONIC MAIL MESSAGE" MEANS AN ELECTRONIC MAIL
5 MESSAGE THAT IS EITHER SENT FROM ONE INDIVIDUAL TO ANOTHER INDIVIDUAL
6 THAT DOES NOT INCLUDE ANY ELEMENTS OF A COMMERCIAL ELECTRONIC MAIL
7 MESSAGE OR A CONFIDENTIAL ELECTRONIC MAIL MESSAGE, REGARDLESS OF WHETHER
8 THE MESSAGE IS SENT DIRECTLY BY THE SENDER OR FORWARDED BY OR SENT
9 THROUGH A SERVICE THAT OFFERS MEMBERS OR SUBSCRIBERS THE OPPORTUNITY TO
10 COMMUNICATE USING ELECTRONIC MAIL MESSAGES.

11 (B) REQUEST FOR A CATALOG OF ELECTRONIC MAIL MESSAGES. UNLESS EXPRESS-
12 LY PROHIBITED IN THE WILL OR OTHER INSTRUMENT, THE PERSONAL REPRESENTATIVE
13 OR OTHER PERSON ACTING IN A FIDUCIARY CAPACITY WITH RESPECT TO A
14 DECEDENT'S ESTATE, HEREINAFTER CALLED THE "FIDUCIARY", SHALL BE AUTHORIZED
15 TO REQUEST A CATALOG OF ELECTRONIC MAIL MESSAGES AND OTHER INFORMATION
16 PERTAINING TO THE DECEDENT'S ELECTRONIC MAIL SERVICE ACCOUNT WHEN
17 SUCH REQUEST IS NECESSARY FOR THE ADMINISTRATION OF THE ESTATE. SUCH A
18 REQUEST SHALL NOT INCLUDE A REQUEST FOR DISCLOSURE OF THE CONTENT OF ANY
19 ELECTRONIC MAIL MESSAGE IN SUCH ACCOUNT OR ANY OTHER INFORMATION FOR
20 WHICH DISCLOSURE TO ANY PERSON IS NOT AUTHORIZED PURSUANT TO FEDERAL
21 LAW.

22 (C) REQUEST FOR DISCLOSURE OF THE CONTENT OF COMMERCIAL ELECTRONIC
23 MAIL MESSAGES. AFTER RECEIPT AND REVIEW OF THE CATALOG OF ELECTRONIC
24 MAIL MESSAGES RECEIVED FROM THE DECEDENT'S ELECTRONIC MAIL SERVICE
25 PROVIDER, THE FIDUCIARY MAY PETITION THE COURT FOR AN ORDER PURSUANT TO
26 SECTION TWO THOUSAND ONE HUNDRED SIXTEEN OF THE SURROGATE'S COURTS
27 PROCEDURE ACT TO REQUIRE THE ELECTRONIC MAIL SERVICE PROVIDER TO
28 DISCLOSE THE HEADER AND CONTENT OF SPECIFIC COMMERCIAL ELECTRONIC MAIL
29 MESSAGES WHEN SUCH DISCLOSURE IS NECESSARY FOR THE ADMINISTRATION OF THE
30 ESTATE. ANY ORDER OF THE COURT SHALL REQUIRE THE ESTATE TO INDEMNIFY THE
31 ELECTRONIC MAIL SERVICE PROVIDER FROM ALL LIABILITY IN COMPLYING WITH
32 SUCH ORDER.

33 (D) PERSONAL ELECTRONIC MAIL MESSAGES AND CONFIDENTIAL ELECTRONIC MAIL
34 MESSAGES. THE FIDUCIARY IS NOT AUTHORIZED TO PETITION THE COURT TO
35 REQUEST DISCLOSURE OF THE CONTENT OF ANY PERSONAL ELECTRONIC MAIL
36 MESSAGES OR CONFIDENTIAL ELECTRONIC MAIL MESSAGES LISTED IN ANY CATALOG
37 OF ELECTRONIC MAIL MESSAGES RECEIVED BY SUCH FIDUCIARY.

38 (E) DECEDENT'S CONSENT TO THE DISCLOSURE OF CONTENT OF ELECTRONIC MAIL
39 MESSAGES. WHEN, IN ACCORDANCE WITH SECTION ONE HUNDRED SIXTY-SEVEN-A OF
40 THE GENERAL BUSINESS LAW, AN ELECTRONIC MAIL SERVICE PROVIDER OFFERED A
41 DECEDENT THE OPPORTUNITY TO CONSENT TO AND AUTHORIZE THE DISCLOSURE OF
42 THE CONTENT OF THE ELECTRONIC MAIL MESSAGES STORED IN HIS OR HER ELECTRONIC
43 MAIL SERVICES ACCOUNT TO AN INDIVIDUAL AND THE DECEDENT EXERCISED
44 SUCH OPTION IN FAVOR OF AN INDIVIDUAL WHO IS SERVING AS A FIDUCIARY FOR
45 THE DECEDENT'S ESTATE, SUCH INDIVIDUAL SHALL HAVE THE POWER TO SEEK
46 DISCLOSURE OF THE CONTENT OF ANY ELECTRONIC MAIL MESSAGES STORED IN THE
47 DECEDENT'S ELECTRONIC MAIL SERVICE ACCOUNT WITHOUT FIRST OBTAINING AN
48 ORDER FROM THE COURT.

49 (F) TIME PERIOD FOR PRODUCTION OF A CATALOG OF ELECTRONIC MAIL
50 MESSAGES. WHEN A REQUEST FOR A CATALOG OF ELECTRONIC MAIL MESSAGES HAS
51 BEEN MADE PURSUANT TO THIS SECTION, AN ELECTRONIC MAIL SERVICES PROVIDER
52 MAY REQUIRE THE FIDUCIARY TO PROVIDE A COPY OF THE ORDER OF THE COURT
53 APPOINTING HIM OR HER FIDUCIARY OF THE DECEDENT'S ESTATE, A COPY OF THE
54 DECEDENT'S DEATH CERTIFICATE, AND ANY OTHER INFORMATION THAT IS NECESSARY
55 FOR SUCH SERVICE PROVIDER TO COMPLETE THE REQUEST. UPON RECEIPT OF
56 SUCH INFORMATION, THE ELECTRONIC MAIL SERVICE PROVIDER SHALL PROVIDE THE

1 REQUESTING FIDUCIARY WITH A CATALOG OF ELECTRONIC MAIL MESSAGES WITHIN
2 THIRTY DAYS.

3 S 3. Paragraph 20 of subdivision (a) of section 81.21 of the mental
4 hygiene law is renumbered paragraph 21 and a new paragraph 20 is added
5 to read as follows:

6 20. WITH RESPECT TO AN INCAPACITATED PERSON'S ELECTRONIC MAIL SERVICE
7 ACCOUNTS, TO ENGAGE IN ACTIVITIES AUTHORIZED BY SECTION 81.45 OF THIS
8 ARTICLE; AND

9 S 4. Paragraph 19 of subdivision (a) of section 81.21 of the mental
10 hygiene law, as added by chapter 438 of the laws of 2004, is amended to
11 read as follows.

12 19. pay bills after the death of the incapacitated person provided the
13 authority existed to pay such bills prior to death until a temporary
14 administrator or executor is appointed; [and]

15 S 5. Subdivision (g) of section 81.44 of the mental hygiene law, as
16 added by chapter 175 of the laws of 2008, is relettered subdivision (h)
17 and amended and a new subdivision (g) is added to read as follows:

18 (G) WITHIN ONE HUNDRED FIFTY DAYS OF THE INCAPACITATED PERSON'S DEATH,
19 THE GUARDIAN SHALL SERVE UPON THE PERSONAL REPRESENTATIVE OF THE
20 DECEDENT'S ESTATE OR WHERE THERE IS NO PERSONAL REPRESENTATIVE, UPON THE
21 PUBLIC ADMINISTRATOR OR CHIEF FISCAL OFFICER, COPIES OF ALL CATALOGS OF
22 ELECTRONIC MAIL MESSAGES RECEIVED BY THE GUARDIAN PURSUANT TO SECTION
23 82.21 OF THIS ARTICLE AND COPIES OF ALL ELECTRONIC MAIL MESSAGES
24 DISCLOSED TO THE GUARDIAN PURSUANT TO SECTION 81.45 OF THIS ARTICLE.
25 THERE SHALL BE NO EXTENSION OF THE TIME TO FILE A FINAL REPORT EXCEPT BY
26 ORDER OF THE COURT.

27 (h) Upon failure of the guardian to comply with subdivisions (d) [or],
28 (f) OR (G) of this section, any person entitled to notice of this
29 proceeding may file a petition to compel the guardian to account, to
30 suspend and/or remove the guardian, and to take and state the guardian's
31 account.

32 S 6. The mental hygiene law is amended by adding a new section 81.45
33 to read as follows:

34 S 81.45 LIMITED POWER OF THE GUARDIAN TO OBTAIN DISCLOSURE OF THE
35 CONTENT OF THE INCOMPETENT PERSON'S ELECTRONIC MAIL MESSAGES.

36 (A) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL
37 HAVE THE FOLLOWING MEANINGS:

38 1. "ACCOUNT HOLDER" MEANS A NATURAL PERSON WHO HAS ENTERED INTO AN
39 AGREEMENT WITH AN ELECTRONIC MAIL SERVICE PROVIDER FOR THE PROVISION OF
40 AN ELECTRONIC MAIL ACCOUNT.

41 2. "CATALOG OF ELECTRONIC MAIL MESSAGES" MEANS A LIST OF EVERY ELEC-
42 TRONIC MAIL MESSAGE RECEIVED BY, SENT FROM, AND STORED IN AN ELECTRONIC
43 MAIL SERVICE ACCOUNT THAT INCLUDES THE HEADER INFORMATION FOR EACH ELEC-
44 TRONIC MAIL MESSAGE ALONG WITH THE CORRESPONDING DATE THAT SUCH MESSAGE
45 WAS SENT OR RECEIVED.

46 3. "COMMERCIAL ELECTRONIC MAIL MESSAGE" MEANS AN ELECTRONIC MAIL
47 MESSAGE SENT IN THE ORDINARY COURSE OF BUSINESS THAT IS NOT A CONFIDEN-
48 TIAL ELECTRONIC MAIL MESSAGE, AND THAT:

49 (I) FACILITATES, COMPLETES, OR CONFIRMS A COMMERCIAL TRANSACTION THAT
50 THE RECIPIENT HAS PREVIOUSLY AGREED TO ENTER INTO WITH THE SENDER;

51 (II) PROVIDES WARRANTY INFORMATION, PRODUCT RECALL INFORMATION, OR
52 SAFETY OR SECURITY INFORMATION WITH RESPECT TO A COMMERCIAL PRODUCT OR
53 SERVICE USED OR PURCHASED BY THE RECIPIENT;

54 (III) PROVIDES (I) NOTIFICATION CONCERNING A CHANGE IN THE TERMS OR
55 FEATURES OF;

(II) NOTIFICATION OF A CHANGE IN THE RECIPIENT'S STANDING OR STATUS WITH RESPECT TO;

(III) AT REGULAR PERIODIC INTERVALS, ACCOUNT BALANCE INFORMATION, BILLING INFORMATION, OR OTHER TYPE OF ACCOUNT STATEMENT WITH RESPECT TO, A SUBSCRIPTION, MEMBERSHIP, ACCOUNT, LOAN, OR COMPARABLE ONGOING COMMERCIAL RELATIONSHIP INVOLVING THE ONGOING PURCHASE OR USE BY THE RECIPIENT OF PRODUCTS OR SERVICES OFFERED BY THE SENDER; OR

(IV) DELIVERS GOODS OR SERVICES, INCLUDING PRODUCT UPDATES OR UPGRADES, THAT THE RECIPIENT IS ENTITLED TO RECEIVE UNDER THE TERMS OF A TRANSACTION THAT THE RECIPIENT HAS PREVIOUSLY AGREED TO ENTER INTO WITH THE SENDER.

4. "CONFIDENTIAL ELECTRONIC MAIL MESSAGE" MEANS AND ELECTRONIC MAIL MESSAGE THAT IS PRIVILEGED DUE TO THE RELATIONSHIP BETWEEN THE SENDER AND RECIPIENT AND NOT SUBJECT TO DISCLOSURE PURSUANT TO THE LAWS OF THIS STATE WITHOUT A WAIVER OF SUCH PRIVILEGE.

5. "CONTENT" MEANS THE SUBSTANCE OF AN ELECTRONIC MAIL MESSAGE AND ANY ELECTRONIC DATA ATTACHED TO SUCH ELECTRONIC MAIL MESSAGE OTHER THAN HEADER INFORMATION.

6. "ELECTRONIC" MEANS OF OR RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

7. "ELECTRONIC DATA" MEANS ANY DATA, IMAGES, PICTURES, SOUNDS, VIDEO, OR WRITING PRODUCED OR STORED BY ELECTRONIC MEANS AND CAPABLE OF BEING ACCURATELY REPRODUCED IN FORMS PERCEPTIBLE BY HUMAN SENSORY CAPABILITIES.

8. "ELECTRONIC MAIL ACCOUNT" MEANS AN ACCOUNT, OTHER THAN AN ACCOUNT PROVIDED BY AN EMPLOYER TO AN EMPLOYEE WITHIN THE SCOPE OF EMPLOYMENT, WITH AN ASSOCIATED ELECTRONIC MAIL ADDRESS FROM WHICH ELECTRONIC MAIL MESSAGES MAY BE SENT AND STORED, AND TO WHICH ELECTRONIC MAIL MESSAGES MAY BE RECEIVED AND STORED.

9. "ELECTRONIC MAIL ADDRESS" MEANS A DESTINATION, COMMONLY EXPRESSED AS A STRING OF CHARACTERS, CONSISTING OF A UNIQUE USER NAME OR MAILBOX AND A REFERENCE TO AN INTERNET DOMAIN, WHETHER OR NOT DISPLAYED, TO WHICH ELECTRONIC MAIL CAN BE SENT OR DELIVERED.

10. "ELECTRONIC MAIL MESSAGE" MEANS ELECTRONIC DATA THAT IS TRANSMITTED FROM ONE ELECTRONIC MAIL ADDRESS TO ANOTHER ELECTRONIC MAIL ADDRESS FOR THE PURPOSE OF COMMUNICATION.

11. "ELECTRONIC MAIL SERVICE PROVIDER" MEANS A NATURAL PERSON OR ENTITY THAT, IN THE REGULAR COURSE OF BUSINESS, OFFERS ELECTRONIC MAIL ACCOUNTS TO THE GENERAL PUBLIC.

12. "ENTITY" MEANS AN ASSOCIATION, COMPANY, FIRM, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, SOLE PROPRIETORSHIP AND ANY OTHER FORM OF LEGALLY RECOGNIZED ENTITY, OTHER THAN STATE OR LOCAL GOVERNMENT.

13. "HEADER INFORMATION" MEANS THE ELECTRONIC DATA PROVIDING SOURCE, DESTINATION, ROUTING AND DELIVERY DATE INFORMATION THAT IS ATTACHED TO AN ELECTRONIC MAIL MESSAGE, INCLUDING THE ORIGINATING DOMAIN NAME AND ORIGINATING ELECTRONIC MAIL ADDRESS AND ANY OTHER INFORMATION THAT APPEARS IN THE LINE IDENTIFYING, OR PURPORTING TO IDENTIFY, A PERSON INITIATING THE MESSAGE.

14. "INDIVIDUAL" MEANS A NATURAL PERSON.

15. "PERSONAL ELECTRONIC MAIL MESSAGE" MEANS AN ELECTRONIC MAIL MESSAGE THAT IS EITHER SENT FROM ONE INDIVIDUAL TO ANOTHER INDIVIDUAL THAT DOES NOT INCLUDE ANY ELEMENTS OF A COMMERCIAL ELECTRONIC MAIL MESSAGE OR A CONFIDENTIAL ELECTRONIC MAIL MESSAGE, REGARDLESS OF WHETHER THE MESSAGE IS SENT DIRECTLY BY THE SENDER OR FORWARDED BY OR SENT

1 THROUGH A SERVICE THAT OFFERS MEMBERS OR SUBSCRIBES THE OPPORTUNITY TO
2 COMMUNICATE USING ELECTRONIC MAIL MESSAGES.

3 (B) REQUEST FOR A CATALOG OF ELECTRONIC MAIL MESSAGES. THE INDIVIDUAL
4 WHO HAS BEEN APPOINTED GUARDIAN FOR AN INCAPACITATED PERSON SHALL BE
5 AUTHORIZED TO REQUEST A CATALOG OF ELECTRONIC MAIL MESSAGES AND OTHER
6 INFORMATION PERTAINING TO SUCH INCAPACITATED PERSON'S ELECTRONIC MAIL
7 SERVICE ACCOUNT WHEN SUCH REQUEST IS NECESSARY OR APPROPRIATE FOR THE
8 PROPER MANAGEMENT OF THE INCAPACITATED PERSON'S PROPERTY OR FINANCIAL
9 AFFAIRS. SUCH A REQUEST SHALL NOT INCLUDE A REQUEST FOR DISCLOSURE OF
10 THE CONTENTS OF ANY ELECTRONIC MAIL MESSAGE IN SUCH ACCOUNT OR ANY OTHER
11 INFORMATION FOR WHICH DISCLOSURE TO ANY PERSON IS NOT AUTHORIZED PURSU-
12 ANT TO FEDERAL LAW.

13 (C) REQUEST FOR DISCLOSURE OF THE CONTENT OF COMMERCIAL ELECTRONIC
14 MAIL MESSAGES. TO THE EXTENT THAT IT IS CONSISTENT WITH THE AUTHORITY
15 OTHERWISE GRANTED BY THE COURT A GUARDIAN, AFTER RECEIPT AND REVIEW OF
16 THE CATALOG OF ELECTRONIC MAIL MESSAGES RECEIVED FROM THE INCAPACITATED
17 PERSON'S ELECTRONIC MAIL SERVICE PROVIDER, MAY COMMENCE A PROCEEDING IN
18 THE COURT WHICH APPOINTED THE GUARDIAN TO REQUIRE THE DISCLOSURE OF THE
19 HEADER AND CONTENT OF SPECIFIC COMMERCIAL ELECTRONIC MAIL MESSAGES WHEN
20 SUCH DISCLOSURE IS NECESSARY OR APPROPRIATE FOR THE PROPER MANAGEMENT OF
21 THE INCAPACITATED PERSON'S PROPERTY OR FINANCIAL AFFAIRS. ANY ORDER OF
22 THE COURT SHALL NOT AUTHORIZE THE DISCLOSURE OF PERSONAL ELECTRONIC MAIL
23 MESSAGES OR CONFIDENTIAL ELECTRONIC MAIL MESSAGES AND SHALL REQUIRE THE
24 GUARDIAN TO INDEMNIFY THE ELECTRONIC MAIL SERVICE PROVIDER FROM ALL
25 LIABILITY IN COMPLYING WITH SUCH ORDER.

26 (D) PERSONAL ELECTRONIC MAIL MESSAGES AND CONFIDENTIAL ELECTRONIC MAIL
27 MESSAGES. A GUARDIAN IS NOT AUTHORIZED TO PETITION THE COURT TO PRAY FOR
28 AN ORDER REQUIRING DISCLOSURE OF THE CONTENT OF ANY PERSONAL ELECTRONIC
29 MAIL MESSAGES OR CONFIDENTIAL ELECTRONIC MAIL MESSAGES LISTED IN ANY
30 CATALOG OF ELECTRONIC MAIL MESSAGES RECEIVED BY SUCH GUARDIAN.

31 S 7. The surrogate's court procedure act is amended by adding a new
32 section 2116 to read as follows:

33 S 2116. PROCEEDING BY FIDUCIARY TO COMPEL DISCLOSURE OF THE CONTENT OF
34 COMMERCIAL ELECTRONIC MAIL MESSAGES

35 1. A FIDUCIARY WHO IS IN RECEIPT OF THE CATALOG OF ELECTRONIC MAIL
36 MESSAGES FROM AN ELECTRONIC MAIL ACCOUNT HELD BY THE DECEDENT AND
37 BELIEVES THAT THE CONTENT OF ONE OR MORE OF THE COMMERCIAL ELECTRONIC
38 MAIL MESSAGES LISTED IN SUCH CATALOG IS NECESSARY FOR THE ADMINISTRATION
39 OF THE ESTATE MAY PRESENT TO THE COURT WHICH HAS JURISDICTION OVER THE
40 ESTATE A PETITION SHOWING THE FACTS, INCLUDING THE NECESSITY FOR DISCLO-
41 SURE, AND PRAYING THAT THE COURT ISSUE AN ORDER DIRECTING THE DISCLOSURE
42 OF THE CONTENT OF SUCH ELECTRONIC MAIL MESSAGES.

43 2. IF THE COURT IS SATISFIED THAT (A) AN ELECTRONIC MAIL MESSAGE LIST-
44 ED IN THE PETITION IS A COMMERCIAL ELECTRONIC MAIL MESSAGE AND NOT A
45 CONFIDENTIAL ELECTRONIC MAIL MESSAGE OR A PERSONAL ELECTRONIC MAIL
46 MESSAGE, AND (B) THE DISCLOSURE OF THE CONTENT OF SUCH COMMERCIAL ELEC-
47 TRONIC MAIL MESSAGES IS NECESSARY FOR ADMINISTRATION OF THE ESTATE, THE
48 COURT SHALL ISSUE AN ORDER DIRECTING THE DISCLOSURE OF THE HEADER INFOR-
49 MATION AND CONTENT OF SUCH COMMERCIAL ELECTRONIC MAIL MESSAGE AND INDEM-
50 NIFYING THE ELECTRONIC MAIL SERVICE PROVIDER FROM ANY LIABILITY INCURRED
51 DUE TO SUCH DISCLOSURE.

52 3. IF THE COURT FINDS THAT THE PETITION SEEKS DISCLOSURE OF THE
53 CONTENT OF ONE OR MORE ELECTRONIC MAIL MESSAGES THAT ARE NOT COMMERCIAL
54 ELECTRONIC MAIL MESSAGES, THE COURT SHALL EXCLUDE SUCH ELECTRONIC MAIL
55 MESSAGES FROM ITS ORDER.

1 4. THE COURT SHALL REQUIRE A BOND NOTWITHSTANDING THAT THE WILL
2 AUTHORIZED AN EXECUTOR TO SERVE WITHOUT BOND.

3 5. THE TERMS "CATALOG OF ELECTRONIC MAIL MESSAGES," "COMMERCIAL ELEC-
4 TRONIC MAIL MESSAGES," "CONFIDENTIAL ELECTRONIC MAIL MESSAGES,"
5 "CONTENT," "ELECTRONIC MAIL ACCOUNT," "ELECTRONIC MAIL SERVICE PROVID-
6 ER," AND "PERSONAL ELECTRONIC MAIL MESSAGES" SHALL HAVE THE SAME MEANING
7 AS IN SECTION 11-1.12 OF THE ESTATES, POWERS AND TRUSTS LAW.

8 S 8. The general business law is amended by adding a new article 10-C
9 to read as follows:

10 ARTICLE 10-C

11 ELECTRONIC MAIL ACCOUNT SERVICES

12 SECTION 167. DEFINITIONS.

13 167-A. ELECTRONIC MAIL ACCOUNTS; CONSENT TO DISCLOSURE OF
14 CONTENT AFTER DEATH.

15 167-B. CONSENT TO THE DISCLOSURE OF COMMERCIAL ELECTRONIC MAIL
16 MESSAGE CONTENT.

17 167-C. DISCLOSURE OF ELECTRONIC MAIL MESSAGE CONTENT TO A NOMI-
18 NEE.

19 167-D. ELECTRONIC MAIL ACCOUNTS; ACCOUNT TERMINATION UPON DEATH.

20 167-E. CONSUMER EDUCATION.

21 S 167. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
22 HAVE THE FOLLOWING MEANINGS:

23 1. "ACCOUNT HOLDER" MEANS A NATURAL PERSON WHO HAS ENTERED INTO AN
24 AGREEMENT WITH AN ELECTRONIC MAIL SERVICE PROVIDER FOR THE PROVISION OF
25 AN ELECTRONIC MAIL ACCOUNT.

26 2. "CATALOG OF ELECTRONIC MAIL MESSAGES" MEANS A LIST OF EVERY ELEC-
27 TRONIC MAIL MESSAGE RECEIVED BY, SENT FROM, AND STORED IN AN ELECTRONIC
28 MAIL SERVICE ACCOUNT THAT INCLUDES THE HEADER INFORMATION FOR EACH ELEC-
29 TRONIC MAIL MESSAGE ALONG WITH THE CORRESPONDING DATE THAT SUCH MESSAGE
30 WAS SENT OR RECEIVED.

31 3. "COMMERCIAL ELECTRONIC MAIL MESSAGE" MEANS AN ELECTRONIC MAIL
32 MESSAGE SENT IN THE ORDINARY COURSE OF BUSINESS THAT IS NOT A CONFIDEN-
33 TIAL ELECTRONIC MAIL MESSAGE, AND THAT:

34 (I) FACILITATES, COMPLETES, OR CONFIRMS A COMMERCIAL TRANSACTION THAT
35 THE RECIPIENT HAS PREVIOUSLY AGREED TO ENTER INTO WITH THE SENDER;

36 (II) PROVIDES WARRANTY INFORMATION, PRODUCT RECALL INFORMATION, OR
37 SAFETY OR SECURITY INFORMATION WITH RESPECT TO A COMMERCIAL PRODUCT OR
38 SERVICE USED OR PURCHASED BY THE RECIPIENT;

39 (III) PROVIDES (I) NOTIFICATION CONCERNING A CHANGE IN THE TERMS OR
40 FEATURES OF;

41 (II) NOTIFICATION OF A CHANGE IN THE RECIPIENT'S STANDING OR STATUS
42 WITH RESPECT TO;

43 (III) AT REGULAR PERIODIC INTERVALS, ACCOUNT BALANCE INFORMATION,
44 BILLING INFORMATION, OR OTHER TYPE OF ACCOUNT STATEMENT WITH RESPECT TO,
45 A SUBSCRIPTION, MEMBERSHIP, ACCOUNT, LOAN, OR COMPARABLE ONGOING COMMER-
46 CIAL RELATIONSHIP INVOLVING THE ONGOING PURCHASE OR USE BY THE RECIPIENT
47 OF PRODUCTS OR SERVICES OFFERED BY THE SENDER; OR

48 (IV) DELIVERS GOODS OR SERVICES, INCLUDING PRODUCT UPDATES OR
49 UPGRADES, THAT THE RECIPIENT IS ENTITLED TO RECEIVE UNDER THE TERMS OF A
50 TRANSACTION THAT THE RECIPIENT HAS PREVIOUSLY AGREED TO ENTER INTO WITH
51 THE SENDER.

52 4. "CONFIDENTIAL ELECTRONIC MAIL MESSAGE" MEANS AN ELECTRONIC MAIL
53 MESSAGE THAT IS PRIVILEGED DUE TO THE RELATIONSHIP BETWEEN THE SENDER
54 AND RECIPIENT AND NOT SUBJECT TO DISCLOSURE PURSUANT TO THE LAWS OF THIS
55 STATE WITHOUT A WAIVER OF SUCH PRIVILEGE.

1 5. "CONTENT" MEANS THE SUBSTANCE OF AN ELECTRONIC MAIL MESSAGE AND ANY
2 ELECTRONIC DATA ATTACHED TO SUCH ELECTRONIC MAIL MESSAGE OTHER THAN
3 HEADER INFORMATION.

4 6. "ELECTRONIC" MEANS OF OR RELATING TO TECHNOLOGY HAVING ELECTRICAL,
5 DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPA-
6 BILITIES.

7 7. "ELECTRONIC DATA" MEANS ANY DATA, IMAGES, PICTURES, SOUNDS, VIDEO,
8 OR WRITING PRODUCED OR STORED BY ELECTRONIC MEANS AND CAPABLE OF BEING
9 ACCURATELY REPRODUCED IN FORMS PERCEPTIBLE BY HUMAN SENSORY CAPABILI-
10 TIES.

11 8. "ELECTRONIC MAIL ACCOUNT" MEANS AN ACCOUNT, OTHER THAN AN ACCOUNT
12 PROVIDED BY AN EMPLOYER TO AN EMPLOYEE WITHIN THE SCOPE OF EMPLOYMENT,
13 WITH AN ASSOCIATED ELECTRONIC MAIL ADDRESS FROM WHICH ELECTRONIC MAIL
14 MESSAGES MAY BE SENT AND STORED, AND TO WHICH ELECTRONIC MAIL MESSAGES
15 MAY BE RECEIVED AND STORED.

16 9. "ELECTRONIC MAIL ADDRESS" MEANS A DESTINATION, COMMONLY EXPRESSED
17 AS A STRING OF CHARACTERS, CONSISTING OF A UNIQUE USER NAME OR MAILBOX
18 AND A REFERENCE TO AN INTERNET DOMAIN, WHETHER OR NOT DISPLAYED, TO
19 WHICH ELECTRONIC MAIL CAN BE SENT OR DELIVERED.

20 10. "ELECTRONIC MAIL MESSAGE" MEANS ELECTRONIC DATA THAT IS TRANSMIT-
21 TED FROM ONE ELECTRONIC MAIL ADDRESS TO ANOTHER ELECTRONIC MAIL ADDRESS
22 FOR THE PURPOSE OF COMMUNICATION.

23 11. "ELECTRONIC MAIL SERVICE PROVIDER" MEANS A NATURAL PERSON OR ENTI-
24 TY THAT, IN THE REGULAR COURSE OF BUSINESS, OFFERS ELECTRONIC MAIL
25 ACCOUNTS TO THE GENERAL PUBLIC.

26 12. "ENTITY" MEANS AN ASSOCIATION, COMPANY, FIRM, PARTNERSHIP, CORPO-
27 RATION, LIMITED LIABILITY COMPANY, SOLE PROPRIETORSHIP AND ANY OTHER
28 FORM OF LEGALLY RECOGNIZED ENTITY, OTHER THAN A STATE OR LOCAL GOVERN-
29 MENT.

30 13. "HEADER INFORMATION" MEANS THE ELECTRONIC DATA PROVIDING SOURCE,
31 DESTINATION, ROUTING AND DELIVERY DATE INFORMATION THAT IS ATTACHED TO
32 AN ELECTRONIC MAIL MESSAGE, INCLUDING THE ORIGINATING DOMAIN NAME AND
33 ORIGINATING ELECTRONIC MAIL ADDRESS, AND ANY OTHER INFORMATION THAT
34 APPEARS IN THE LINE IDENTIFYING, OR PURPORTING TO IDENTIFY, A PERSON
35 INITIATING THE MESSAGE.

36 14. "INDIVIDUAL" MEANS A NATURAL PERSON.

37 15. "PERSONAL ELECTRONIC MAIL MESSAGE" MEANS AN ELECTRONIC MAIL
38 MESSAGE THAT IS EITHER SENT FROM ONE INDIVIDUAL TO ANOTHER INDIVIDUAL
39 THAT DOES NOT INCLUDE ANY ELEMENTS OF A COMMERCIAL ELECTRONIC MAIL
40 MESSAGE OR A CONFIDENTIAL ELECTRONIC MAIL MESSAGE, REGARDLESS OF WHETHER
41 THE MESSAGE IS SENT DIRECTLY BY THE SENDER OR FORWARDED BY OR SENT
42 THROUGH A SERVICE THAT OFFERS MEMBERS OR SUBSCRIBERS THE OPPORTUNITY TO
43 COMMUNICATE USING ELECTRONIC MAIL MESSAGES.

44 S 167-A. ELECTRONIC MAIL ACCOUNTS; CONSENT TO DISCLOSURE OF CONTENT
45 AFTER DEATH.

46 1. CONSENT TO DISCLOSE. (A) FOR ANY ELECTRONIC MAIL SERVICE ACCOUNT
47 OPENED AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, THE ELECTRONIC
48 MAIL SERVICE PROVIDER MAY PROVIDE AN ACCOUNT HOLDER RESIDING IN THIS
49 STATE WITH THE OPTION TO NOMINATE AN INDIVIDUAL TO RECEIVE THE CONTENT
50 OF THE ELECTRONIC MAIL MESSAGES STORED IN HIS OR HER ELECTRONIC MAIL
51 SERVICE ACCOUNT AFTER HIS OR HER DEATH. SUCH AUTHORIZATION SHALL BE
52 DEEMED TO BE THE ACCOUNT HOLDER'S CONSENT TO THE ELECTRONIC MAIL SERVICE
53 PROVIDER'S DISCLOSURE TO THE NOMINEE OF THE CONTENT OF ANY ELECTRONIC
54 MAIL MESSAGES THAT ARE: (I) STORED IN SUCH ACCOUNT AT THE TIME OF HIS
55 OR HER DEATH, INCLUDING ELECTRONIC MAIL MESSAGES THAT HAVE BEEN DELIV-

1 ERED BUT ARE UNREAD, AND (II) ELECTRONIC MAIL MESSAGES THAT ARE DELIV-
2 ERED TO SUCH ACCOUNT AFTER HIS OR HER DEATH.

3 (B) FOR ANY ELECTRONIC MAIL SERVICE ACCOUNT OPENED BEFORE JANUARY
4 FIRST, TWO THOUSAND SEVENTEEN, THE ELECTRONIC MAIL SERVICE PROVIDER MAY
5 PROVIDE AN ACCOUNT HOLDER RESIDING IN THIS STATE WITH THE OPTION TO
6 NOMINATE AN INDIVIDUAL TO RECEIVE THE CONTENT OF THE ELECTRONIC MAIL
7 MESSAGES STORED IN HIS OR HER ELECTRONIC MAIL SERVICE ACCOUNT AFTER HIS
8 OR HER DEATH. SUCH AUTHORIZATION SHALL BE DEEMED TO BE THE ACCOUNT
9 HOLDER'S CONSENT TO THE ELECTRONIC MAIL SERVICE PROVIDERS' DISCLOSURE TO
10 THE NOMINEE OF THE CONTENT OF ANY ELECTRIC MAIL MESSAGES THAT ARE: (I)
11 STORED IN SUCH ACCOUNT AT THE TIME OF HIS OR HER DEATH, INCLUDING ELEC-
12 TRONIC MAIL MESSAGES THAT HAVE BEEN DELIVERED BUT ARE UNREAD, AND (II)
13 ELECTRONIC MAIL MESSAGES THAT ARE DELIVERED TO SUCH ACCOUNT AFTER HIS OR
14 HER DEATH.

15 (C) AN ACCOUNT HOLDER SHALL BE DEEMED A RESIDENT OF THIS STATE FOR
16 PURPOSES OF THIS SUBDIVISION IF HE OR SHE (I) PROVIDED THE ELECTRONIC
17 MAIL SERVICE PROVIDER WITH A BILLING ADDRESS WITHIN THIS STATE AT THE
18 TIME HE OR SHE OPENED THE ELECTRONIC MAIL SERVICE ACCOUNT, OR (II) IF A
19 BILLING ADDRESS WAS NOT REQUIRED TO OPEN THE ELECTRONIC MAIL SERVICE,
20 PROVIDED AN ADDRESS OR ZIP CODE WITHIN THIS STATE TO THE PROVIDER AT THE
21 TIME THE ELECTRONIC MAIL SERVICE ACCOUNT WAS OPENED.

22 2. NOMINEE CHANGE AND REVOCATION. IF AN ELECTRONIC MAIL SERVICE
23 PROVIDER PROVIDES RESIDENTS OF THIS STATE WITH THE OPPORTUNITY TO
24 CONSENT TO DISCLOSURE PURSUANT TO SUBDIVISION ONE OF THIS SECTION, SUCH
25 SERVICE PROVIDER SHALL ALSO PROVIDE THE ABILITY TO REVOKE A NOMINATION
26 AND TO NOMINATE A DIFFERENT INDIVIDUAL. IF A NOMINATION IS REVOKED AND
27 ANOTHER INDIVIDUAL IS NOT NOMINATED, THE CONSENT TO DISCLOSURE IS DEEMED
28 TO BE REVOKED. SUCH REVOCATION WILL NOT PROHIBIT THE DISCLOSURE OF
29 COMMERCIAL ELECTRONIC MAIL PURSUANT TO AN ORDER OF A COURT OF COMPETENT
30 JURISDICTION.

31 3. PRESENTATION OF THE OPTION TO CONSENT TO DISCLOSURE. IF AN ELEC-
32 TRONIC MAIL SERVICE PROVIDER AFFORDS RESIDENTS OF THIS STATE THE OPPOR-
33 TUNITY TO AUTHORIZE DISCLOSURE PURSUANT TO SUBDIVISION ONE OF THIS
34 SECTION, SUCH SERVICE PROVIDER SHALL INCLUDE THE FOLLOWING STATEMENTS OF
35 SUBSTANTIALLY SIMILAR STATEMENTS;

36 (A) "IF YOU CHOOSE TO NOMINATE SOMEONE TO RECEIVE YOUR ELECTRONIC MAIL
37 MESSAGES, YOU ARE GIVING YOUR CONSENT FOR THAT PERSON TO READ ALL OF THE
38 ELECTRONIC MAIL MESSAGES, INCLUDING ATTACHMENTS, THAT ARE IN YOUR
39 ACCOUNT IF YOU DIE."

40 (B) "YOU MAY CHANGE THE PERSON WHO YOU NAMED AS YOUR NOMINEE AT ANY
41 TIME."

42 (C) "YOU MAY REVOKE YOUR NOMINATION OF A PERSON AT ANY TIME."

43 (D) "YOU ARE NOT REQUIRED TO NOMINATE ANYONE."

44 S 167-B. CONSENT TO THE DISCLOSURE OF COMMERCIAL ELECTRONIC MAIL
45 MESSAGE CONTENT. A PERSON ENGAGING IN BUSINESS IN THIS STATE SHALL, UPON
46 THE DEATH OF AN INDIVIDUAL RESIDING IN THIS STATE AT THE TIME OF HIS OR
47 HER DEATH, BE DEEMED TO HAVE GIVEN CONSENT TO THE DISCLOSURE OF THE
48 CONTENT OF ANY COMMERCIAL ELECTRONIC MAIL MESSAGE SENT BY OR ON BEHALF
49 OF SUCH PERSON TO SUCH DECEDENT PRIOR TO OR AFTER HIS OR HER DEATH,
50 PROVIDED THAT SUCH DISCLOSURE IS MADE PURSUANT TO SECTION ONE HUNDRED
51 SIXTY-SEVEN-C OF THIS ARTICLE OR AN ORDER OF THE COURT THAT HAS JURIS-
52 DICTION OVER THE DECEDENT'S ESTATE.

53 S 167-C. DISCLOSURE OF ELECTRONIC MAIL MESSAGE CONTENT TO A NOMINEE.
54 PRIOR TO DISCLOSING THE CONTENT OF ELECTRONIC MAIL MESSAGES STORED IN AN
55 ELECTRONIC MAIL ACCOUNT PURSUANT TO AN ELECTION MADE IN ACCORDANCE WITH
56 SECTION ONE HUNDRED SIXTY SEVEN-B OF THIS ARTICLE, THE ELECTRONIC MAIL

1 SERVICE PROVIDER MAY REQUIRE THE NOMINEE TO PROVIDE (A) PROOF OF HIS OR
2 HER IDENTITY, AND (B) PROOF THAT THE ACCOUNT HOLDER IS DECEASED. A
3 CERTIFIED COPY OF THE ACCOUNT HOLDER'S DEATH CERTIFICATE SHALL CONSTI-
4 TUTE SUFFICIENT PROOF OF DEATH.

5 S 167-D. ELECTRONIC MAIL ACCOUNTS; ACCOUNT TERMINATION UPON DEATH. 1.
6 ANY PROVISION IN AN ELECTRONIC MAIL SERVICE PROVIDER'S TERMS OF SERVICE
7 OR OTHER CONTRACTUAL AGREEMENT WITH AN ACCOUNT HOLDER WHO WAS A RESIDENT
8 OF THIS STATE AT THE TIME OF HIS OR HER DEATH FOR THE PROVISION OF AN
9 ELECTRONIC MAIL ACCOUNT THAT CAUSES THE DELETION OF ANY ELECTRONIC MAIL
10 MESSAGES STORED IN SUCH ACCOUNT UPON THE DEATH OF THE ACCOUNT HOLDER
11 SHALL BE VOID AS AGAINST PUBLIC POLICY.

12 2. UPON NOTIFICATION OF THE DEATH OF AN ACCOUNT HOLDER WHO WAS A RESI-
13 DENT OF THIS STATE AT THE TIME OF HIS OR HER DEATH, AN ELECTRONIC MAIL
14 SERVICE PROVIDER SHALL RETAIN ALL ELECTRONIC MAIL MESSAGES IN SUCH
15 ACCOUNT FOR A PERIOD OF NO LESS THAN SIX MONTHS FOLLOWING THE ACCOUNT
16 HOLDER'S DEATH, PROVIDED THAT A LONGER RETENTION PERIOD IS NOT
17 PRESCRIBED BY THE LAWS AND REGULATIONS OF THIS STATE, ANOTHER STATE, THE
18 UNITED STATES, OR ANOTHER COUNTRY.

19 S 167-E. CONSUMER EDUCATION. THE CONSUMER PROTECTION DIVISION, IN
20 CONSULTATION WITH THE DEPARTMENT OF FINANCIAL SERVICES, SHALL POST
21 INFORMATION ON THE HOME PAGE OF THE DIVISION'S WEBSITE REGARDING THE
22 IMPORTANCE OF ENSURING THAT ELECTRONIC MAIL ACCOUNTS CAN BE ACCESSED
23 AFTER DEATH WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE.
24 SUCH INFORMATION SHALL INCLUDE THE TYPES OF INFORMATION THAT MAY NEED TO
25 BE OBTAINED AFTER DEATH, INCLUDING, BUT NOT LIMITED TO, ELECTRONIC MAIL
26 MESSAGES REGARDING BANK, UTILITY, OR CREDIT ACCOUNTS, INSURANCE POLI-
27 CIES, AND OTHER TRANSACTIONS AFFECTING AN ESTATE.

28 S 9. This act shall take effect on the ninetieth day after it shall
29 have become a law.