

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 12-1209

BY REPRESENTATIVE(S) Gardner B., Barker, Fischer, Labuda, Wilson;
also SENATOR(S) Carroll, Williams S.

CONCERNING THE "UNIFORM ELECTRONIC LEGAL MATERIAL ACT", AND, IN
CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 71.5 to title 24 as follows:

ARTICLE 71.5 **Uniform Electronic Legal Material Act**

24-71.5-101. Short title. THIS ARTICLE MAY BE CITED AS THE "UNIFORM ELECTRONIC LEGAL MATERIAL ACT".

24-71.5-102. Definitions. IN THIS ARTICLE:

(1) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) "LEGAL MATERIAL" MEANS, WHETHER OR NOT IN EFFECT:

(a) THE CONSTITUTION OF THIS STATE;

(b) THE SESSION LAWS OF COLORADO;

(c) THE COLORADO REVISED STATUTES; AND

(d) A STATE AGENCY RULE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE.

(3) "OFFICIAL PUBLISHER" MEANS:

(a) FOR THE CONSTITUTION OF THIS STATE, THE GENERAL ASSEMBLY;

(b) FOR THE SESSION LAWS OF COLORADO, THE GENERAL ASSEMBLY;

(c) FOR THE COLORADO REVISED STATUTES, THE GENERAL ASSEMBLY; AND

(d) FOR A RULE PUBLISHED IN THE CODE OF COLORADO REGULATIONS, THE SECRETARY OF STATE.

(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.

24-71.5-103. Applicability. THIS ARTICLE APPLIES TO ALL LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION 24-71.5-104 AND FIRST PUBLISHED ELECTRONICALLY ON OR AFTER THE EFFECTIVE DATE OF THE ARTICLE.

24-71.5-104. 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) MEET THE REQUIREMENTS OF SECTIONS 24-71.5-105, 24-71.5-107, AND 24-71.5-108.

(2) AN OFFICIAL PUBLISHER THAT PUBLISHES LEGAL MATERIAL IN A RECORD OTHER THAN AN ELECTRONIC RECORD MAY DESIGNATE AN ELECTRONIC RECORD AS OFFICIAL IF THE REQUIREMENTS OF SECTIONS 24-71.5-105, 24-71.5-107, AND 24-71.5-108 ARE MET.

24-71.5-105. Authentication of official electronic record. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION 24-71.5-104 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.

24-71.5-106. Effect of authentication. (1) LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS AUTHENTICATED UNDER SECTION 24-71.5-105 IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL MATERIAL.

(2) IF ANOTHER STATE HAS ADOPTED AN ACT SUBSTANTIALLY SIMILAR TO THIS ARTICLE, LEGAL MATERIAL IN AN ELECTRONIC RECORD DESIGNATED AS OFFICIAL AND AUTHENTICATED BY THAT STATE IS PRESUMED TO BE AN ACCURATE COPY OF THAT LEGAL MATERIAL.

(3) A PARTY CONTESTING THE AUTHENTICATION OF LEGAL MATERIAL HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE LEGAL MATERIAL IS NOT AUTHENTIC.

24-71.5-107. Preservation 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 24-71.5-104 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 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.

24-71.5-108. Public access to legal material in official electronic record. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT MUST BE PRESERVED UNDER SECTION 24-71.5-107 SHALL ENSURE THAT THE MATERIAL IS REASONABLY AVAILABLE FOR USE BY THE PUBLIC ON A PERMANENT BASIS.

24-71.5-109. Standards. (1) IN IMPLEMENTING THIS ARTICLE, AN OFFICIAL PUBLISHER OF LEGAL MATERIAL SHALL CONSIDER:

(a) STANDARDS AND PRACTICES OF OTHER JURISDICTIONS;

(b) 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;

(c) THE NEEDS OF USERS OF LEGAL MATERIAL IN AN ELECTRONIC RECORD;

(d) THE VIEWS OF GOVERNMENTAL OFFICIALS AND ENTITIES AND OTHER INTERESTED PERSONS; AND

(e) 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 IN HARMONY AND COMPATIBLE WITH THE METHODS AND TECHNOLOGIES USED BY OTHER OFFICIAL PUBLISHERS IN THIS STATE AND IN OTHER STATES THAT HAVE ADOPTED THIS ARTICLE.

24-71.5-110. Uniformity of application and construction. IN

APPLYING AND CONSTRUING THIS ARTICLE, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

24-71.5-111. Relation to electronic signatures in global and national commerce act. THIS ARTICLE MODIFIES, LIMITS, OR SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

24-71.5-112. Effective date. THIS ARTICLE TAKES EFFECT ON MARCH 31, 2014.

SECTION 2. In Colorado Revised Statutes, 2-5-102, **add** (12) as follows:

2-5-102. Inclusions - nonstatutory. (12) THERE SHALL BE INCLUDED IN THE PUBLICATION OF THE "UNIFORM ELECTRONIC LEGAL MATERIAL ACT" AS NONSTATUTORY MATTER, FOLLOWING EACH AMENDED OR ADDED SECTION, THE FULL TEXT OF THE OFFICIAL COMMENTS TO THAT SECTION CONTAINED IN THE 2011 OFFICIAL TEXT OF THE "UNIFORM ELECTRONIC LEGAL MATERIAL ACT" ISSUED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, WITH ANY CHANGES IN THE OFFICIAL COMMENTS TO CORRESPOND TO COLORADO CHANGES IN THE "UNIFORM ELECTRONIC LEGAL MATERIAL ACT". THE COMMENTS SHALL BE PREPARED BY THE REVISOR OF STATUTES AND APPROVED FOR PUBLICATION BY THE COMMITTEE ON LEGAL SERVICES.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2012, the sum of \$198,912, or so much thereof as may be necessary, for allocation to information technology services related to the implementation of this act.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the

ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO