

AN ACT

RELATING TO ELECTRONIC RECORDS; PROVIDING FOR TECHNOLOGICAL NEUTRALITY; CHANGING DEFINITIONS; PROVIDING BROAD RULE-MAKING AUTHORITY; CHANGING RESPONSIBILITY FOR ELECTRONIC AUTHENTICATION OF DOCUMENTS FROM THE SECRETARY OF STATE TO THE INFORMATION TECHNOLOGY MANAGEMENT OFFICE; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 14-15-2 NMSA 1978 (being Laws 1996, Chapter 11, Section 2, as amended) is amended to read:

"14-15-2. PURPOSE. -- The purpose of the Electronic Authentication of Documents Act is to:

- A. provide a centralized technical approach to authenticating electronic documents;
- B. promote electronic commerce by eliminating barriers resulting from uncertainties over signature requirements and promoting the development of the legal and business infrastructure necessary to implement secure electronic commerce;
- C. facilitate electronic filing of documents with government agencies and promote efficient delivery of government services by means of reliable, secure electronic records and document transactions;
- D. establish a coherent approach to rules and

standards regarding the authentication of electronic records;
and

E. promote technological neutrality in electronic authentication. "

Section 2. Section 14-15-3 NMSA 1978 (being Laws 1996, Chapter 11, Section 3, as amended) is amended to read:

"14-15-3. DEFINITIONS. --As used in the Electronic Authentication of Documents Act:

A. "authenticate" means to ascertain the identity of the originator, verify the integrity of the electronic data and establish a link between the data and the originator;

B. "document" means an identifiable collection of words, letters or graphical knowledge representations, regardless of the mode of representation. "Document" includes correspondence, agreements, invoices, reports, certifications, maps, drawings and images in both electronic and hard copy formats;

C. "electronic authentication" means the electronic signing of a document that establishes a verifiable link between the originator of a document and the document by means of optical, electrical, digital, magnetic, electromagnetic, wireless, telephonic, biological, a public key and private key system or other technology providing similar capabilities;

D. "office" means the information technology management office;

E. "originator" means the person who signs a document electronically;

F. "person" means an individual or entity, including:

(1) an estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture or syndicate; and

(2) any federal, state or local governmental unit or subdivision or any agency, department or instrumentality thereof;

G. "signed" or "signature" means a symbol executed or adopted or a security procedure employed or adopted using electronic means or otherwise, by or on behalf of a person with the intent to authenticate a record; and

H. "technological neutrality" means the methods selected to carry out electronic authentication that do not require or accord greater legal status or effect to the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating or authenticating electronic records or electronic signatures."

Section 3. Section 14-15-5 NMSA 1978 (being Laws 1996, Chapter 11, Section 5) is amended to read:

"14-15-5. RULES. --

A. The information technology commission shall adopt rules and standards to accomplish the purposes of the Electronic Authentication of Documents Act.

B. The rules shall address circumstances under which standards other than adopted standards may be used."

Section 4. Section 14-15-6 NMSA 1978 (being Laws 1996, Chapter 11, Section 6) is amended to read:

"14-15-6. CONTRACTING SERVICES. --The office may contract with a private, public or quasi-public organization for the provision of services under the Electronic Authentication of Documents Act. A contract for services shall comply with rules adopted pursuant to the Electronic Authentication of Documents Act and the provisions of the Public Records Act and the Procurement Code."

Section 5. REPEAL. --Section 14-15-4 NMSA 1978 (being Laws 1996, Chapter 11, Section 4) is repealed.

Section 6. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2001. _____