Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

Senate Bill 3 (Senator Miller)
Finance

Commercial Law - The Maryland Uniform Electronic Transactions Act

This bill provides that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

The bill applies to electronic signatures or electronic records created, sent, communicated, received, or stored on or after the bill's June 1, 2000 effective date.

Fiscal Summary

State Effect: Minimal. State agencies could experience a slight decrease in procurement and storage costs. Any additional caseload could be handled with existing budgeted resources of the Judiciary. Revenues would not be affected.

Local Effect: Minimal. Local governments could experience a slight decrease in procurement and storage costs. Revenues would not be affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: This bill provides that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form. An "electronic record" is defined as "a record created, generated, sent, communicated, received, or stored by electronic means." An "electronic signature" is defined as "an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record." The bill applies only to transactions in which each party has agreed to conduct transactions by electronic means. An agreement to conduct a transaction electronically may not be inferred solely from the fact that a party has used electronic means to pay an account or register a purchase warranty.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the bill recognizes the electronic signature of a person authorized to perform those acts for electronic signatures or records.

A law requiring that a record be retained is satisfied by retaining an electronic record that accurately reflects the information in the record and remains accessible for later reference. Record retention in this manner would satisfy a law requiring a record to be presented or retained in its original form.

The bill excludes transactions covered by parts of the Maryland Uniform Commercial Code; laws governing the execution of wills; and laws or regulations governing notice concerning the cancellation of utility services, rental or mortgage agreements for a primary residence, or the cancellation of health or life insurance.

Current Law: A writing, a signature, or written record retention is required in order to enforce many commercial transactions, e.g., sales of goods exceeding $500, leases of goods exceeding $1,000, interests in real property, contracts which cannot be performed within one year.

Background: Several states, including California, Florida, Illinois, Indiana, Kansas, Massachusetts, Utah, and Washington, have enacted laws regulating the use of electronic signatures. The National Conference of Commissioners on Uniform State Laws completed the Uniform Electronic Transactions Act (UETA), on which this bill is modeled, in early 1999 to govern the enforceability of electronic contracts and signatures. California became the first state to adopt the UETA in October 1999. Legislation is pending before Congress that would set a minimum standard for electronic signatures and electronic records for states that have not adopted UETA.

The Maryland Digital Signature Pilot Program, enacted in 1998, authorizes electronic signatures for transactions between authorized State agencies or between State agencies and other governmental entities. The designated State agencies include the Secretary of State, the State Archives, the Department of General Services, the Department of Budget and Management, and any other agency authorized by the Governor.

Small Business Effect: Many businesses and consumers are wary of conducting extensive business electronically over the Internet because of a lack of a predictable legal environment governing transactions. Uniform standards ensure greater certainty in transactions, especially interstate transactions. By adding predictability, the bill would likely result in an increase in the number of electronic transactions. Businesses could conduct transactions faster over greater distances, thus opening new markets for goods and services. Similarly, businesses would have lower storage costs because of electronic record retention.

Additional Information

Prior Introductions: None.

Cross File: HB 18 (Delegate Taylor, *et al.*) - Economic Matters.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Budget and Management, Secretary of State, Department of Legislative Services

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