

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 397 (Senator Teitelbaum, *et al.*)
(Chairman, Joint Technology Oversight Committee)

Finance

Economic Matters

Maryland Uniform Electronic Transactions Act - Scope

This bill adds three exemptions to the Maryland Uniform Electronic Transactions Act (Md. UETA): (1) notices of product recalls or material failures of products that risk endangering health or safety; (2) a law governing adoption, divorce, or other family law matters; and (3) documents required to accompany transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials. The bill repeals: (1) the Md. UETA exemption for records that serve as unique and transferable instruments of rights and obligations; and (2) the Md. UETA provision authorizing a governmental agency to adopt regulations requiring that specified notices be made in writing. The bill provides that Md. UETA may not modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act (E-Sign) as it relates to use of an electronic record to provide or make information available that is required to be provided or made available in writing to a consumer.

The bill provides that its intent is to be consistent with E-Sign.

The bill is effective June 1, 2001.

Fiscal Summary

State Effect: Any change in State activities would not materially affect State finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Under Md. UETA, a record or signature may not be denied legal effect or enforceability solely because it is in an electronic form. Md. UETA does not apply to: (1) laws covering the creation or execution of wills; (2) parts of the Maryland Uniform Commercial Code; (3) the Uniform Computer Information Transactions Act; (4) laws or regulations governing the cancellation of utility services, or of health or life insurance; specified rights under credit, mortgage, or rental agreements for a primary residence; (5) court orders, notices, or official court documents, except as provided under the Maryland Rules; or (6) records that serve as unique and transferable instruments of rights and obligations, including title instruments whose possession is deemed to confer title, that allow for the existence of only one original, can be possessed by only one person, and cannot be copied except in a form that is identifiable as a copy.

Background: After passage of Md. UETA in the 2000 session, E-Sign was enacted at the federal level. E-Sign, like Md. UETA, provides for the validity of electronic signatures and records, and specifies areas of law in which electronic signatures and records would not be permitted. Congress authorized states to modify, limit, or supersede provisions of E-Sign by statutes, regulations, or other rules of law if the statute, regulation, or rule: (1) is an enactment of the Uniform Electronic Transactions Act (UETA) as approved by the National Conference of Commissioners on Uniform State Laws in July 1999; or (2) provides for electronic signatures or records in a manner consistent with E-Sign and does not discriminate in legal status or effect among types of technology used in electronic signature or records. E-Sign preempts inconsistent scope provisions of state enactments of UETA.

Additional Information

Prior Introductions: None.

Cross File: HB 519 (Delegate Barve, *et al.*) – Economic Matters.

Information Source(s): Office of the Attorney General, Department of Legislative Services

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cm/jr

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