
By: **Delegates Haddaway, Aumann, Bartlett, Barve, Bates, Boteler, Bromwell, Cardin, V. Clagett, Cluster, Costa, Eckardt, Elmore, Feldman, Frank, Gilleland, Holmes, Impallaria, Jameson, Kach, Krebs, Love, McConkey, McHale, Miller, Moe, Myers, Ramirez, Ross, Smigiel, Sophocleus, Stocksdale, Taylor, Vaughn, and Weir**

Introduced and read first time: February 2, 2005

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Uniform Electronic Transactions Act - Use of Electronic**
3 **Postmarks**

4 FOR the purpose of providing that a requirement under a law other than the
5 Maryland Uniform Electronic Transactions Act to send, communicate, or
6 transmit a record by registered or certified mail, postage prepaid, or by regular
7 mail is satisfied by an electronic record that meets certain requirements under
8 certain circumstances; providing that an electronic record that meets certain
9 requirements is subject to the same legal protections as the United States mail;
10 defining certain terms; and generally relating to electronic postmarks and the
11 Maryland Uniform Electronic Transactions Act.

12 BY repealing and reenacting, without amendments,
13 Article - Commercial Law
14 Section 21-107(b)
15 Annotated Code of Maryland
16 (2000 Replacement Volume and 2004 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Commercial Law
19 Section 21-107(d)
20 Annotated Code of Maryland
21 (2000 Replacement Volume and 2004 Supplement)

22 BY adding to
23 Article - Commercial Law
24 Section 21-118.1
25 Annotated Code of Maryland
26 (2000 Replacement Volume and 2004 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Commercial Law**

4 21-107.

5 (b) If a law other than this title requires a record to be posted or displayed in
6 a certain manner, to be sent, communicated, or transmitted by a specified method, or
7 to contain information that is formatted in a certain manner, the following rules
8 apply:

9 (1) The record must be posted or displayed in the manner specified in the
10 other law;

11 (2) Except as otherwise provided in subsection (d)(2) of this section, the
12 record must be sent, communicated, or transmitted by the method specified in the
13 other law; and

14 (3) The record must contain the information formatted in the manner
15 specified in the other law.

16 (d) The requirements of this section may not be varied by agreement, but:

17 (1) To the extent a law other than this title requires information to be
18 provided, sent, or delivered in writing but permits that requirement to be varied by
19 agreement, the requirement under subsection (a) of this section that the information
20 be in the form of an electronic record capable of retention may also be varied by
21 agreement; and

22 (2) A requirement under a law other than this title to send,
23 communicate, or transmit a record by registered or certified mail, postage prepaid, or
24 by regular mail, may be varied by agreement to the extent permitted by the other law
25 OR BY § 21-118.1 OF THIS TITLE.

26 21-118.1.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (2) "ELECTRONIC POSTMARK CERTIFICATE" MEANS EVIDENTIARY
30 PROOF, PROVIDED TO THE SENDER OR RECIPIENT OF AN ELECTRONIC RECORD,
31 THAT THE ELECTRONIC RECORD:

32 (I) WAS POSTMARKED BY A POSTAL AUTHORITY WITH A VALID
33 ELECTRONIC POSTMARK ON THE DATE AND TIME INDICATED;

34 (II) WAS TRANSMITTED IN A CERTAIN FORM ON A SPECIFIC DATE
35 AND TIME; AND

1 (III) WAS SENT BY THE PERSON INDICATED, TO THE PERSON
2 INDICATED, AND ON THE DATE AND TIME INDICATED.

3 (3) "POSTAL AUTHORITY" MEANS:

4 (I) THE UNITED STATES POSTAL SERVICE OR OTHER NATIONAL
5 PUBLIC OR PRIVATE MAIL DELIVERY SERVICE THAT PROVIDES ELECTRONIC
6 POSTMARKS; OR

7 (II) A PUBLIC OR PRIVATE ENTITY THAT HAS THE REGULATORY
8 AUTHORITY OR LEGAL RESPONSIBILITY FOR PROVIDING ELECTRONIC POSTMARKS.

9 (B) SUBJECT TO § 21-117 OF THIS TITLE, A REQUIREMENT UNDER A LAW
10 OTHER THAN THIS TITLE TO SEND, COMMUNICATE, OR TRANSMIT A RECORD BY
11 REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, OR BY REGULAR MAIL IS
12 SATISFIED BY AN ELECTRONIC RECORD THAT:

13 (1) IS ADDRESSED PROPERLY OR OTHERWISE DIRECTED PROPERLY TO
14 AN INFORMATION PROCESSING SYSTEM THAT THE RECIPIENT HAS DESIGNATED;

15 (2) (I) ENTERS AN INFORMATION PROCESSING SYSTEM THAT IS
16 OUTSIDE THE CONTROL OF THE SENDER; OR

17 (II) ENTERS A REGION OF AN INFORMATION PROCESSING SYSTEM
18 THAT IS UNDER THE CONTROL OF THE RECIPIENT;

19 (3) IS POSTMARKED BY A POSTAL AUTHORITY WITH AN ELECTRONIC
20 POSTMARK; AND

21 (4) IS AUTHENTICATED BY AN ELECTRONIC POSTMARK CERTIFICATE.

22 (C) AN ELECTRONIC RECORD IS SUBJECT TO THE SAME LEGAL PROTECTIONS
23 AS THE UNITED STATES MAIL IF:

24 (1) THE ELECTRONIC RECORD MEETS THE REQUIREMENTS OF
25 SUBSECTION (B) OF THIS SECTION; AND

26 (2) THE POSTAL AUTHORITY THAT POSTMARKED THE ELECTRONIC
27 RECORD UNDER SUBSECTION (B)(3) OF THIS SECTION IS THE UNITED STATES POSTAL
28 SERVICE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2005.