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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

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2005

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CHAPTER \_\_\_\_\_

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 providing that certain provisions of this Act do not authorize the use of an  
 11 electronic postmark or electronic postmark certificate for certain purposes;  
 12 defining certain terms; and generally relating to electronic postmarks and the  
 13 Maryland Uniform Electronic Transactions Act.

14 BY repealing and reenacting, without amendments,  
 15 Article - Commercial Law  
 16 Section 21-107(b)  
 17 Annotated Code of Maryland  
 18 (2000 Replacement Volume and 2004 Supplement)

19 BY repealing and reenacting, with amendments,  
 20 Article - Commercial Law  
 21 Section 21-107(d)

1 Annotated Code of Maryland  
2 (2000 Replacement Volume and 2004 Supplement)

3 BY adding to  
4 Article - Commercial Law  
5 Section 21-118.1  
6 Annotated Code of Maryland  
7 (2000 Replacement Volume and 2004 Supplement)

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

10 **Article - Commercial Law**

11 21-107.

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

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

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

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

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

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

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

33 21-118.1.

34 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
35 INDICATED.

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

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

6 (II) WAS TRANSMITTED IN A CERTAIN FORM ON A SPECIFIC DATE  
7 AND TIME; AND

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

10 (3) "POSTAL AUTHORITY" MEANS:

11 (I) THE UNITED STATES POSTAL SERVICE OR OTHER NATIONAL  
12 PUBLIC OR PRIVATE MAIL DELIVERY SERVICE THAT PROVIDES ELECTRONIC  
13 POSTMARKS; OR

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

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

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

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

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

26 (3) IS POSTMARKED BY A POSTAL AUTHORITY WITH AN ELECTRONIC  
27 POSTMARK; AND

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

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

31 (1) THE ELECTRONIC RECORD MEETS THE REQUIREMENTS OF  
32 SUBSECTION (B) OF THIS SECTION; AND

33 (2) THE POSTAL AUTHORITY THAT POSTMARKED THE ELECTRONIC  
34 RECORD UNDER SUBSECTION (B)(3) OF THIS SECTION IS THE UNITED STATES POSTAL  
35 SERVICE.

1 (D) THIS SECTION DOES NOT AUTHORIZE THE USE OF AN ELECTRONIC  
2 POSTMARK OR ELECTRONIC POSTMARK CERTIFICATE FOR THE SERVICE OF A  
3 SUMMONS, COMPLAINT, OR OTHER PAPERS FOR THE PURPOSE OF OBTAINING  
4 JURISDICTION OVER A DEFENDANT IN A LAWSUIT.

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