

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 487

(Delegate Haddaway, *et al.*)

Economic Matters

Finance

Maryland Uniform Electronic Transactions Act - Use of Electronic Postmarks

This bill provides that a legal requirement to send, communicate, or transmit a record by registered or certified mail is satisfied by an electronic record that: (1) is addressed properly or otherwise directed properly to an information processing system designated by the recipient; (2) either enters an information processing system outside the sender's control or a region of an information processing system under the recipient's control; (3) is postmarked with a postal service's electronic postmark; and (4) is authenticated by an electronic postmark certificate. An electronic record is subject to the same legal protections as the U.S. mail if it meets these requirements and the U.S. Postal Service is the postal authority that postmarked it. The bill does not authorize the use of an electronic postmark or electronic postmark certificate for the purpose of service of a summons, complaint, or other papers for the purpose of obtaining jurisdiction over a defendant in a lawsuit.

Fiscal Summary

State Effect: General and special fund expenditures could decrease to the extent State agencies take advantage of the bill's provisions. Revenues would not be affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Generally, under the Maryland Uniform Electronic Transactions Act (UETA), a record or signature may not be denied legal effect or enforceability solely

because it is in an electronic form. If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered in an electronic record capable of retention by the recipient at the time received. Under UETA, a record must be posted or displayed in the manner specified under an applicable law. UETA requires a record to be sent, communicated, or transmitted by the method specified under applicable law. The record must also contain the information formatted in the manner specified under that law.

Background: The U.S. Postal Service, through its partner, Authentidate, Inc., offers an electronic postmark to verify times and dates electronic mail (e-mail) is sent and received. The service also verifies the content of the e-mail. The process complies with the federal Electronic Signatures in Global and National Commerce Act, which similar to UETA, provides for the validity of electronic signatures and records.

South Carolina recently enacted a provision authorizing service of process by e-mail if the e-mail has been: (1) postmarked by a U.S. Postal Service electronic postmark in a manner approved by the South Carolina Supreme Court; and (2) sent to an e-mail address registered with the Secretary of State for service of process for a corporation or its agent.

State Expenditures: Various provisions of the code require a unit of State government to send a document by certified mail. Frequently, these are communications to licensees relating to disciplinary actions or proceedings. Under UETA, each governmental agency may determine its use of, and compliance with, the Act. The cost to send a one-ounce letter via certified mail, return receipt requested is \$4.42. Depending on the number of electronic postmarks purchased under a contract, the cost per electronic postmark could be about \$0.80 each. State agencies that opt to use the Postal Service's electronic postmark could experience savings under the bill. The amount of savings realized under the bill cannot be accurately estimated but could be significant.

Small Business Effect: The cost to send a one-ounce letter via certified mail, return receipt requested is \$4.42. The cost to send a one-ounce letter via registered mail, return receipt requested is \$9.62. Depending on the number of electronic postmarks purchased under a contract, the cost per electronic postmark could be about \$0.80 each. For small businesses that send many communications by certified or registered mail to meet a legal requirement, the savings could be significant.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); U.S. Postal Service; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2005
mam/jr Revised - House Third Reader - March 30, 2005

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