

CHAPTER 221

AN ACT

HB 2944

Relating to electronic legal material; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 10 of this 2013 Act:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(2) "Legal material" means, whether or not in effect:

(a) The Oregon Constitution;

(b) Session laws published by the Legislative Counsel under ORS 171.236;

(c) The Oregon Revised Statutes; or

(d) Oregon Administrative Rules.

(3) "Official publisher" means:

(a) For the Oregon Constitution, the Legislative Counsel;

(b) For Oregon Laws, the Legislative Counsel;

(c) For the Oregon Revised Statutes, the Legislative Counsel; or

(d) For a rule published in the Oregon Administrative Rules, the Secretary of State.

(4) "Publish" means to display, present or release to the public, or cause to be displayed, presented or released to the public, by the official publisher.

(5) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

SECTION 2. (1) If an official publisher publishes legal material only in an electronic record, the publisher shall:

(a) Designate the electronic record as official; and

(b) Comply with sections 3, 5 and 6 of this 2013 Act.

(2) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the publisher complies with sections 3, 5 and 6 of this 2013 Act.

SECTION 3. An official publisher of legal material in an electronic record that is designated as official under section 2 shall authenticate the record. To authenticate an electronic record, the publisher shall provide a

method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

SECTION 4. (1) Legal material in an electronic record that is authenticated under section 3 of this 2013 Act is presumed to be an accurate copy of the legal material.

(2) If another state has adopted a law substantially similar to sections 1 to 10 of this 2013 Act, legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

(3) A party contesting the authentication of legal material in an electronic record authenticated under section 3 of this 2013 Act has the burden of proving by a preponderance of the evidence that the record is not authentic.

SECTION 5. (1) An official publisher of legal material in an electronic record that is or was designated as official under section 2 of this 2013 Act shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(2) If legal material is preserved under subsection (1) of this section in an electronic record, the official publisher shall:

(a) Ensure the integrity of the record;

(b) Provide for backup and disaster recovery of the record; and

(c) Ensure the continuing usability of the material.

SECTION 6. An official publisher of legal material in an electronic record that is required to be preserved under section 5 of this 2013 Act shall ensure that the material is reasonably available for use by the public on a permanent basis.

SECTION 7. In implementing sections 1 to 10 of this 2013 Act, an official publisher of legal material in an electronic record shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;

(3) The needs of users of legal material in an electronic record;

(4) The views of governmental officials and entities and other interested persons; and

(5) To the extent practicable, methods and technologies for the authentication of, preservation and security of and public access to legal material which are compatible with the methods and technologies used by other official publish-

ers in this state and in other states that have adopted a law substantially similar to sections 1 to 10 of this 2013 Act.

SECTION 8. In applying and construing sections 1 to 10 of this 2013 Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 9. Sections 1 to 10 of this 2013 Act modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but do not modify, limit or supersede section 101(c) of that Act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. 7003(b).

SECTION 10. Sections 1 to 10 of this 2013 Act may be cited as the Uniform Electronic Legal Material Act.

SECTION 11. Sections 1 to 10 of this 2013 Act apply to all legal material in an electronic record that is designated as official under section 2 of this 2013 Act and first published electronically on or after the effective date of this 2013 Act.

SECTION 12. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Approved by the Governor May 23, 2013
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