

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 59.1-481 and 59.1-494 of the Code of Virginia, relating to the Uniform Electronic Transactions Act; technical amendments.

[H 2411]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-481 and 59.1-494 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-481. Scope.

(a) Except as otherwise provided in subsection (b), this chapter applies to electronic records and electronic signatures relating to a transaction.

(b) This chapter does not apply to a transaction to the extent it is governed by:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts; *and*

(2) Title 8.1 except §§ 8.1-107 and 8.1-206, Title 8.3A, Title 8.4, Title 8.4A, Title 8.5A, Title 8.6A, Title 8.7, Title 8.8A, Title 8.9A, Title 8.10, and Title 8.11; *and*.

~~(3) Article 4 (§ 17.1-255 et seq.) of Chapter 2 of Title 17.1.~~

(c) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection (b) to the extent it is governed by law other than those specified in subsection (b).

(d) A transaction subject to this chapter is also subject to other applicable substantive law.

§ 59.1-494. Transferable records.

(a) In this section, "transferable record" means an electronic record that:

(1) Would be a note under Title 8.3A or a document under Title 8.7 if the electronic record were in writing; and

(2) The issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies subsection (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) The authoritative copy identifies the person asserting control as:

(A) The person to which the transferable record was issued; or

(B) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in § 8.1-201 (20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under Titles 8.1 through 8.11, including, if the applicable statutory requirements under §§ 8.3A-302 (a), 8.7-501, or ~~§ 8.9-308~~ § 8.9A-330 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under Titles 8.1 through 8.11.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

ENROLLED

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