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HOUSE BILL NO. 2415

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend the Code of Virginia by adding a section numbered 8.01-390.4, relating to business records electronically registered on a blockchain self-authenticating.

Patron—Davis

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-390.4 as follows:

§ 8.01-390.4. Business records stored on a blockchain as evidence.

A. For purposes of this section, "blockchain" means a mathematically secured, chronological, and decentralized consensus ledger or database, whether maintained via Internet interaction, a peer-to-peer network, or otherwise.

B. In any civil proceeding where a business record electronically registered on a blockchain is material and otherwise admissible, the record shall be presumed to be self-authenticating and requires no extrinsic evidence of authenticity.

C. Such presumption shall not extend to the truthfulness, validity, or legal status of the contents of the fact or record, but shall include a presumption that (i) a fact or record verified through a valid application of blockchain technology is authentic; (ii) the date and time of the recordation of the fact or record established through such a blockchain is the date and time that the fact or record was added to the blockchain; (iii) the person established through such a blockchain as the person who made such recordation is the person who made the recordation; or (iv) if the parties before a court or other tribunal have agreed to a particular format or means of verification of a blockchain record, a certified presentation of a blockchain record consistent with this section to the court or other tribunal in the particular format or means agreed to by the parties demonstrates the contents of the record.

D. A record that meets the requirements of subdivision B shall be considered a record of regularly conducted business activity unless the source of information or the method or circumstance of preparation indicates lack of trustworthiness. The proponent of a business record electronically registered on a blockchain shall provide a copy of the record to all other parties so that all parties have a fair opportunity to challenge the record. The notice and copy of the record shall be provided no later than 15 days in advance of the trial or hearing, unless an order of the court specifies a different time. Objections shall be made within five days thereafter, unless an order of the court specifies a different time.

E. The presumption of authenticity created by subdivision B shall apply to a record used to determine (i) contractual parties, provisions, execution, effective dates, or status; (ii) the ownership, assignment, negotiation, or transfer of money, property, contracts, instruments, or other legal rights or duties; (iii) identity, participation, or status in the formation, management, recordkeeping, or governance of any person; (iv) identity, participation, or status for interactions in private transactions or with a government or governmental subdivision, agency, or instrumentality; (v) the authenticity or integrity of a record, whether publicly or privately relevant; or (vi) the authenticity or integrity of records of communication.

F. A person against whom the fact operates shall have the burden of producing evidence sufficient to support a finding that the presumed fact, record, time, or identity is not authentic as set forth on the date added to the blockchain.

INTRODUCED

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