

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 139

**Senators Skindell, Eklund
Cosponsor: Senator Thomas**

A BILL

To enact sections 149.21, 149.22, 149.23, 149.24, 1
149.25, 149.26, and 149.27 of the Revised Code 2
to adopt the Uniform Electronic Legal Material 3
Act. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 149.21, 149.22, 149.23, 149.24, 5
149.25, 149.26, and 149.27 of the Revised Code be enacted to 6
read as follows: 7

Sec. 149.21. (A) As used in sections 149.21 to 149.27 of 8
the Revised Code: 9

(1) "Electronic" means relating to technology having 10
electrical, digital, magnetic, wireless, optical, 11
electromagnetic, or similar capabilities. 12

(2) "Legal material" means all of the following, whether 13
or not in effect: 14

(a) The Constitution of this state; 15

(b) The session laws of this state; 16

| | |
|--|----------------------|
| <u>(c) The Revised Code;</u> | 17 |
| <u>(d) State agency rules that have or had the effect of law;</u> | 18 |
| <u>(e) The final decisions of state administrative agencies.</u> | 19 |
| <u>(3) "Official publisher" includes all of the following:</u> | 20 |
| <u>(a) For the Constitution of this state, the secretary of state;</u> | 21 22 |
| <u>(b) For the session laws of this state, the secretary of state;</u> | 23 24 |
| <u>(c) For the Revised Code, the legislative service commission;</u> | 25 26 |
| <u>(d) For the Ohio administrative code, the legislative service commission;</u> | 27 28 |
| <u>(e) For a rule not published in the Ohio administrative code, the state agency adopting the rule;</u> | 29 30 |
| <u>(f) For the final decision of a state administrative agency, the agency making the decision.</u> | 31 32 |
| <u>(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.</u> | 33 34 35 |
| <u>(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.</u> | 36 37 38 |
| <u>(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.</u> | 39 40 41 42 |

(B) Sections 149.21 to 149.27 of the Revised Code may be 43
cited as the Uniform Electronic Legal Material Act. 44

(C) Sections 149.21 to 149.27 of the Revised Code apply to 45
all legal material in an electronic record that is designated as 46
official under section 149.22 of the Revised Code and is first 47
published electronically on or after the effective date of this 48
act. 49

Sec. 149.22. (A) If an official publisher publishes legal 50
material only in an electronic record, the publisher shall 51
designate the electronic record as official and comply with 52
division (A) of section 149.23 and with section 149.24 of the 53
Revised Code. 54

(B) An official publisher that publishes legal material in 55
an electronic record and also publishes the material in a record 56
other than an electronic record may designate the electronic 57
record as official if the publisher complies with division (A) 58
of section 149.23 and with section 149.24 of the Revised Code. 59

Sec. 149.23. (A) An official publisher of legal material 60
in an electronic record that is designated as official under 61
section 149.22 of the Revised Code shall authenticate the 62
record. To authenticate an electronic record, the publisher 63
shall provide a method for a user to determine that the record 64
received by the user from the publisher is unaltered from the 65
official record published by the publisher. 66

(B) Legal material in an electronic record that is 67
authenticated under division (A) of this section is presumed to 68
be an accurate copy of the legal material. 69

(C) If another state has adopted a law substantially 70
similar to sections 149.21 to 149.27 of the Revised Code, legal 71

material in an electronic record that is designated as official 72
and authenticated by the official publisher in that state is 73
presumed to be an accurate copy of the legal material. 74

(D) A party that contests the authentication of legal 75
material in an electronic record authenticated under division 76
(A) of this section has the burden of proving by a preponderance 77
of the evidence that the record is not authentic. 78

Sec. 149.24. (A) An official publisher of legal material 79
in an electronic record that is or was designated as official 80
under section 149.22 of the Revised Code shall provide for the 81
preservation and security of the record in an electronic or 82
nonelectronic form, and shall do all of the following: 83

(1) Ensure the integrity of the record; 84

(2) Provide for backup and disaster recovery of the 85
record; 86

(3) Ensure the continuing usability of the material. 87

(B) An official publisher of legal material in an 88
electronic record that is required to be preserved under 89
division (A) of this section shall ensure that the material is 90
reasonably available for use by the public on a permanent basis. 91

Sec. 149.25. In implementing sections 149.21 to 149.27 of 92
the Revised Code, an official publisher of legal material in an 93
electronic record shall consider all of the following: 94

(A) Standards and practices of other jurisdictions; 95

(B) The most recent standards regarding authentication of, 96
preservation and security of, and public access to, legal 97
material in an electronic record, and other electronic records, 98
as promulgated by national standard-setting bodies; 99

| | |
|--|-----|
| <u>(C) The needs of users of legal material in an electronic</u> | 100 |
| <u>record;</u> | 101 |
| <u>(D) The views of governmental officials and entities, and</u> | 102 |
| <u>other interested persons;</u> | 103 |
| <u>(E) To the extent practicable, methods and technologies</u> | 104 |
| <u>for the authentication of, preservation and security of, and</u> | 105 |
| <u>public access to, legal material that are compatible with the</u> | 106 |
| <u>methods and technologies used by other official publishers in</u> | 107 |
| <u>this state and in other states that have adopted a law</u> | 108 |
| <u>substantially similar to sections 149.21 to 149.27 of the</u> | 109 |
| <u>Revised Code.</u> | 110 |
| <u>Sec. 149.26. In applying and construing sections 149.21 to</u> | 111 |
| <u>149.27 of the Revised Code, a court shall consider the need to</u> | 112 |
| <u>promote uniformity of the Uniform Electronic Legal Material Act</u> | 113 |
| <u>with respect to its subject matter among states that enact it.</u> | 114 |
| <u>Sec. 149.27. Sections 149.21 to 149.27 of the Revised Code</u> | 115 |
| <u>modify, limit, and supersede the Electronic Signatures in Global</u> | 116 |
| <u>and National Commerce Act, 15 U.S.C. 7001 et seq., but do not</u> | 117 |
| <u>modify, limit, or supersede 15 U.S.C. 7001(c) or authorize</u> | 118 |
| <u>electronic delivery of any of the notices or documents described</u> | 119 |
| <u>in 15 U.S.C. 7003(b).</u> | 120 |