As Introduced

132nd General Assembly

Regular Session 2017-2018

S. B. No. 139

Senators Skindell, Eklund Cosponsor: Senator Thomas

A BILL

То	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

(c) The Revised Code;	17
(d) State agency rules that have or had the effect of law;	18
(e) The final decisions of state administrative agencies.	19
(3) "Official publisher" includes all of the following:	20
(a) For the Constitution of this state, the secretary of	21
<pre>state;</pre>	22
(b) For the session laws of this state, the secretary of	23
<pre>state;</pre>	24
(c) For the Revised Code, the legislative service	25
<pre>commission;</pre>	26
(d) For the Ohio administrative code, the legislative	27
<pre>service commission;</pre>	28
(e) For a rule not published in the Ohio administrative	29
code, the state agency adopting the rule;	30
(f) For the final decision of a state administrative	31
agency, the agency making the decision.	32
(4) "Publish" means to display, present, or release to the	33
public, or cause to be displayed, presented, or released to the	34
public, by the official publisher.	35
(5) "Record" means information that is inscribed on a	36
tangible medium or that is stored in an electronic or other	37
medium and is retrievable in perceivable form.	38
(6) "State" means a state of the United States, the	39
District of Columbia, Puerto Rico, the United States Virgin	40
Islands, or any territory or insular possession subject to the	41
jurisdiction of the United States.	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	
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;	
(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	8.9
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

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