



Senate

General Assembly

File No. 254

January Session, 2013

Substitute Senate Bill No. 235

Senate, April 2, 2013

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE ADOPTION OF THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2013*) Sections 1 to 11, inclusive, of
2 this act may be cited as the Uniform Electronic Legal Material Act.

3 Sec. 2. (NEW) (*Effective July 1, 2013*) As used in sections 1 to 11,
4 inclusive, of this act:

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

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

9 (A) The Constitution of the state of Connecticut;

10 (B) The general statutes of the state of Connecticut;

11 (C) The regulations of Connecticut state agencies; and

12 (D) The reported decisions of the following state courts: The
13 Supreme Court, the Appellate Court and the Superior Court;

14 (3) "Official publisher" means:

15 (A) For the Constitution of the state of Connecticut, the Secretary of
16 the State;

17 (B) For the general statutes of the state of Connecticut, the Joint
18 Committee on Legislative Management;

19 (C) For the regulations of Connecticut state agencies, the Secretary
20 of the State; and

21 (D) For the reported decisions of the Supreme Court, the Appellate
22 Court and the Superior Court, the Commission on Official Legal
23 Publications;

24 (4) "Official record" means the version of legal material designated
25 by an official publisher as the official version of such material;

26 (5) "Publish" means to display, present or release to the public, or
27 cause to be displayed, presented or released to the public by the
28 official publisher;

29 (6) "Record" means information that is inscribed on a tangible
30 medium or that is stored in an electronic or other medium and is
31 retrievable in perceivable form; and

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

36 Sec. 3. (NEW) (*Effective July 1, 2013*) Sections 1 to 11, inclusive, of
37 this act shall apply to all legal material in an electronic record that is
38 designated as official under section 4 of this act and first published

39 electronically on or after July 1, 2013.

40 Sec. 4. (NEW) (*Effective July 1, 2013*) (a) If an official publisher
41 publishes legal material only in an electronic record, the publisher
42 shall: (1) Designate the electronic record as the official record; and (2)
43 comply with sections 5, 7 and 8 of this act.

44 (b) An official publisher that publishes legal material in an
45 electronic record and also publishes the material in a record other than
46 an electronic record may designate the electronic record as the official
47 record if the publisher complies with sections 5, 7 and 8 of this act.

48 Sec. 5. (NEW) (*Effective July 1, 2013*) An official publisher of legal
49 material in an electronic record that is designated as official under
50 section 4 of this act shall authenticate the electronic record. To
51 authenticate an electronic record, the official publisher shall provide a
52 method for a user to determine that the electronic record received by
53 the user from the official publisher is unaltered from the official record
54 published by the official publisher.

55 Sec. 6. (NEW) (*Effective July 1, 2013*) (a) Legal material in an
56 electronic record that is authenticated under section 5 of this act is
57 presumed to be an accurate copy of the legal material.

58 (b) If another state has adopted a law substantially similar to the
59 provisions of sections 1 to 11, inclusive, of this act, legal material in an
60 electronic record that is designated as official and authenticated by the
61 official publisher in that state is presumed to be an accurate copy of the
62 legal material.

63 (c) A party contesting the authentication of legal material in an
64 electronic record authenticated under section 5 of this act has the
65 burden of proving by a preponderance of the evidence that the record
66 is not authentic.

67 Sec. 7. (NEW) (*Effective July 1, 2013*) (a) An official publisher of legal
68 material in an electronic record that is or was designated as official
69 under section 4 of this act shall provide for the preservation and

70 security of the record in an electronic form or a form that is not
71 electronic.

72 (b) If legal material is preserved in an electronic record under
73 subsection (a) of this section, the official publisher shall: (1) Ensure the
74 integrity of the electronic record; (2) provide for backup and disaster
75 recovery of the electronic record; and (3) ensure the continuing
76 usability of the legal material.

77 Sec. 8. (NEW) (*Effective July 1, 2013*) An official publisher of legal
78 material in an electronic record that is required to be preserved under
79 section 7 of this act shall ensure that the material is reasonably
80 available for use by the public on a permanent basis.

81 Sec. 9. (NEW) (*Effective July 1, 2013*) In implementing the provisions
82 of sections 1 to 11, inclusive, of this act, an official publisher of legal
83 material in an electronic record shall consider:

84 (1) Standards and practices of other jurisdictions;

85 (2) The most recent standards regarding authentication of,
86 preservation and security of, and public access to, legal material in an
87 electronic record and other electronic records, as promulgated by
88 national standard-setting bodies and any standards or guidelines
89 established by the State Librarian or the Public Records Administrator
90 in accordance with sections 11-8 and 11-8a of the general statutes;

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

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

94 (5) To the extent practicable, methods and technologies for the
95 authentication of, preservation and security of, and public access to,
96 legal material which are compatible with the methods and
97 technologies used by other official publishers in this state and in other
98 states that have adopted a law substantially similar to the provisions of
99 sections 1 to 11, inclusive, of this act.

100 Sec. 10. (NEW) (*Effective July 1, 2013*) In applying and construing the
 101 provisions of the Uniform Electronic Legal Material Act, consideration
 102 shall be given to the need to promote uniformity of the law with
 103 respect to its subject matter among states that enact such uniform
 104 provisions.

105 Sec. 11. (NEW) (*Effective July 1, 2013*) The provisions of sections 1 to
 106 10, inclusive, of this act modify, limit and supersede the Electronic
 107 Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,
 108 but do not modify, limit or supersede Section 101(c) of said act, 15 USC
 109 7001(c), or authorize electronic delivery of any of the notices described
 110 in Section 103(b) of said act, 15 USC 7003(b).

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2013</i>	New section
Sec. 2	<i>July 1, 2013</i>	New section
Sec. 3	<i>July 1, 2013</i>	New section
Sec. 4	<i>July 1, 2013</i>	New section
Sec. 5	<i>July 1, 2013</i>	New section
Sec. 6	<i>July 1, 2013</i>	New section
Sec. 7	<i>July 1, 2013</i>	New section
Sec. 8	<i>July 1, 2013</i>	New section
Sec. 9	<i>July 1, 2013</i>	New section
Sec. 10	<i>July 1, 2013</i>	New section
Sec. 11	<i>July 1, 2013</i>	New section

Statement of Legislative Commissioners:

In section 4(a) and (b), "the electronic record as official" was changed to "the electronic record as the official record" for consistency with the defined term.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill enacts the Uniform Electronic Legal Material Act (UELMA) and does not result in a fiscal impact. The bill does not require the state to publish legal materials electronically, but sets certain requirements if the state does so and designates the electronic record as official.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**SB 235*****AN ACT CONCERNING THE ADOPTION OF THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT.*****SUMMARY:**

This bill enacts the Uniform Electronic Legal Material Act (UELMA).

UELMA provides for the authentication and preservation of electronic records of legal material published by the state (e.g., the General Statutes or court cases). The bill does not require the state to publish legal material electronically, but sets certain requirements if the state does so and designates the record as official.

Among other things, the bill provides that properly authenticated electronic legal materials are presumed to be accurate copies of the official material.

EFFECTIVE DATE: July 1, 2013

UELMA**§ 2-3 — *Applicability and Definitions***

The bill applies to all legal material in an electronic record that is designated as official under the bill and first published electronically on or after July 1, 2013. Thus, in addition to new material, the bill applies to older material being converted into an electronic format if that format is designated as the official version (see below).

The following definitions apply in the bill.

“Legal material” means the following, whether or not they are in effect: the state constitution; the General Statutes; state agency regulations; and reported decisions of the state Supreme, Appellate, and Superior courts.

The “official publisher” of legal material varies depending on the material. The secretary of the state is the official publisher of the state constitution and state agency regulations. The Joint Committee on Legislative Management is the official publisher of the General Statutes. The Commission on Official Legal Publications is the official publisher of reported court decisions.

A “state” means a U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to U.S. jurisdiction.

§ 4 — *Legal Material in Official Electronic Records*

Under the bill, if an official publisher publishes legal material only in an electronic record, the publisher must (1) designate the electronic record as the official record and (2) comply with the bill’s provisions on authentication (§ 5), preservation and security (§ 7), and permanent public access (§ 8).

If the official publisher publishes legal material in both an electronic and non-electronic record, it can designate the electronic record as the official record if it complies with the provisions noted above.

§ 5 — *Authentication of Official Electronic Records*

The bill requires the official publisher to authenticate an official electronic record. To do so, the publisher must provide a way for a user to determine that the record he or she receives from the official publisher is the same as the version that the publisher designated as the official version. (The bill does not specify how a publisher might do this.)

§ 6 — *Effect of Authentication*

Under the bill, authenticated legal material in an electronic record is presumed to be an accurate copy of the legal material. Someone contesting such an authentication has the burden of proving by a preponderance of the evidence that the record is not authentic.

The bill specifies that legal material in electronic records maintained

by other states is presumed to be an accurate copy if that state has properly authenticated it.

§ 7 — Preservation and Security

The bill requires an official publisher of legal material in an electronic record that is or was designated as official to provide for the record's preservation and security, in electronic form or otherwise. Publishers that preserve such material electronically must (1) ensure the record's integrity, (2) provide for its backup and recovery in case of disaster, and (3) ensure the material's continuing usability.

§ 8 — Public Access

Official publishers of legal material in an electronic record that must be preserved under the bill must ensure that the material is reasonably and permanently available for public use.

§ 9 — Standards

The bill requires official publishers of legal material in electronic records, in implementing the bill, to consider:

1. other jurisdictions' standards and practices;
2. the most recent authentication, preservation, security, and public access standards promulgated by national standard-setting bodies, and standards or guidelines that the state librarian or public records administrator establishes addressing these topics and their applicability to legal material in electronic records covered by the bill and other unspecified electronic records;
3. the needs of the material's users;
4. the views of government officials, government entities, and other interested persons; and
5. to the extent practicable, methods and technologies for giving public access to and authenticating, preserving, and securing legal material that are compatible with those used by other

official publishers in Connecticut and other states that have adopted a law substantially similar to UELMA.

§ 10 — Uniformity of Application and Construction

The bill specifies that in applying and construing UELMA, consideration must be given to the need to promote uniformity of law with respect to its subject matter among states that enact it.

§ 11 — E-SIGN Act

The bill provides that its provisions modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act. But they do not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures (such as when consumers are considered to have consented to electronic disclosures) or (2) authorize electronic delivery of specified notices not subject to E-SIGN (see BACKGROUND).

BACKGROUND

E-SIGN

The federal E-SIGN Act (15 USC § 7001 et seq.) validates the use of electronic records and signatures in commercial transactions. The act does not apply to:

1. court orders or notices, or official court documents required to be executed in connection with court proceedings;
2. utility cancellation or termination notices;
3. notices of eviction, foreclosure, repossession, acceleration, default, or the right to cure, under a rental agreement or a credit agreement secured by someone's primary residence;
4. notices that life insurance benefits, health insurance, or health insurance benefits are being cancelled or terminated, other than with respect to annuities;
5. notices of the recall or material failure of products that could

endanger health or safety; and

6. documents required for transporting or handling hazardous material, pesticides, or other toxic or dangerous material (15 USC § 7003(b)).

Connecticut has also enacted the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to 1-286). CUETA and E-SIGN overlap significantly.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (03/13/2013)