

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/1/99
A Bill

SENATE BILL 418

5 By: Senator Gordon
6 By: Representatives Horn, *Lendall*
7

8
9 **For An Act To Be Entitled**

10 "AN ACT TO CREATE THE ARKANSAS ELECTRONICS RECORDS AND
11 SIGNATURES ACT. "

12
13 **Subtitle**

14 "TO CREATE THE ARKANSAS ELECTRONIC
15 RECORDS AND SIGNATURES ACT. "

16
17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19
20 SECTION 1. Short Title.

21 This chapter shall be known and may be cited as the "Arkansas Electronic
22 Records and Signatures Act."
23

24 SECTION 2. Construction.

25 The provisions of this chapter shall be construed to promote the
26 development of electronic government and electronic commerce. The Secretary
27 of State shall develop guidelines for the use of electronic signatures and
28 provide a register of electronic signature verification companies.
29

30 SECTION 3. Definitions.

31 As used in this chapter the term:

32 (1) "Electronic signature" means an electronic or digital method
33 executed or adopted by a party with the intent to be bound by or to
34 authenticate a record, which is unique to the person using it, is capable of
35 verification, is under the sole control of the person using it, and is linked
36 to data in such a manner that if the data are changed the electronic signature

1 is invalidated.

2 (2) "Person" means a natural person, corporation, trust, partnership,
3 incorporated or unincorporated association, or any other legal entity, and
4 also includes any department, agency, authority, or instrumentality of the
5 state or its political subdivisions.

6 (3) "Record" means information that is inscribed on a tangible medium
7 or that is stored in an electronic or other medium and is retrievable in
8 perceivable form. Record includes both electronic records and printed,
9 typewritten, and tangible records.

10 (4) "Electronic Signature Verification Company" means a company
11 providing verification of an electronic signature. An electronic verification
12 company shall obtain a surety bond in the amount of two hundred fifty-thousand
13 dollars (\$250,000).

14
15 SECTION 4. Agreement to Electronic Record or Signature.

16 Any person may, but shall not be required to, accept or agree to be
17 bound by an electronic record which is executed or adopted with an electronic
18 signature and, where that acceptance or agreement is otherwise required to be
19 witnessed or notarized, which is witnessed or notarized using an electronic
20 signature. Where a person or other entity accepts or agrees to be bound by an
21 electronic record as provided in this code section, then:

22 (a) Any rule of law which requires a record of that type to be in
23 writing shall be deemed satisfied;

24 (b) Any rule of law which requires a signature shall be deemed
25 satisfied; and

26 (c) Any rule of law which requires a witness or notary shall be deemed
27 satisfied by the electronic signature of such witness or notary.

28
29 SECTION 5. Unauthorized use of Electronic Signature.

30 A person whose electronic signature is used in an unauthorized fashion
31 may recover or obtain any or all of the following against the person who
32 engaged in such unauthorized use, provided that the use of such electronic
33 signature in an unauthorized fashion was negligent, reckless, or intentional:

34 (a) Actual damages;

35 (b) Equitable relief including, but not limited to, an injunction or
36 restitution of money or property;

