Councilmember Tommy Wells

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Tommy Wells introduced the following bill, which was referred to the Committee on ______________________________.

To enact the Uniform Electronic Legal Material Act to provide for the official designation, authentication, and preservation of certain legal material in electronic records by an official publisher.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Uniform Electronic Legal Material Act of 2013.”

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) “Legal material” means, whether or not in effect:

(A) The acts and resolutions of the Council of the District of Columbia;

(B) The District of Columbia Official Code;

(C) The District of Columbia Municipal Regulations; and

(D) Other legal materials designated by the Mayor by rule.
(3) “Official publisher” means:

(A) For the acts and resolutions of the Council of the District of Columbia, the Council of the District of Columbia;

(B) For the District of Columbia Official Code, the Council of the District of Columbia;

(C) For the District of Columbia Municipal Regulations, the Administrator of the District of Columbia Office of Documents, established by the District of Columbia Documents Act, effective March 6, 1979(D.C. Law 2-153; D.C. Official Code § 2-551 et seq.); and.

(D) For other legal material designated by the Mayor pursuant to paragraph (2)(D) of this section, the Mayor.

(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.

(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.

(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.

Sec. 3. Applicability.

This act applies to all legal material in an electronic record that is designated as official under section 4 and first published electronically on or after January 1, 2015.

Sec. 4. Legal material in official electronic record.

(a) If an official publisher publishes legal material only in an electronic record, the publisher shall:
(1) Designate the electronic record as official; and

(2) Comply with sections 5, 7, and 8.

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

Sec. 5. Authentication of official electronic record.

(a) An official publisher of legal material in an electronic record that is designated as official under section 4 shall authenticate the record.

(b) To authenticate an electronic record, the official publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the official publisher.

Sec. 6. Effect of authentication.

(a) Legal material in an electronic record that is authenticated under section 5 is presumed to be an accurate copy of the legal material.

(b) If another state has adopted a law substantially similar to this act, legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

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

Sec. 7. Preservation and security of legal material in official electronic record.
(a) An official publisher of legal material in an electronic record that is or was designated as official under section 4 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(b) If legal material is preserved under subsection (a) of this section in an electronic record, the official publisher shall:

1. Ensure the integrity of the record;
2. Provide for backup and disaster recovery of the record; and
3. Ensure the continuing usability of the material.

Sec. 8. Public access to legal material in official electronic record.

An official publisher of legal material in an electronic record that is required to be preserved under section 7 shall ensure that the material is reasonably available for use by the public on a permanent basis.

Sec. 9. Standards.

In implementing this act, an official publisher of legal material in an electronic record shall consider:

1. Standards and practices of other jurisdictions;
2. The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;
3. The needs of users of legal material in an electronic record;
4. The views of governmental officials and entities and other interested persons; and
5. To the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the
methods and technologies used by other official publishers in the District of Columbia and in
states that have adopted a law substantially similar to this act.

Sec. 10. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act,
approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may promulgate
rules to carry out the purposes of this act.

Sec. 11. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to
promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 12. Relation to electronic signatures in global and national commerce act.

This act modifies, limits, or supersedes the Electronic Signatures in Global and National
does not modify, limit, or supersedes the Electronic Signatures in Global and National
does not modify, limit, or supersede section 101(c) of the Act, or authorize electronic delivery of
any of the notices described in section 103(b) of the Act.

Sec. 13. Fiscal impact.

The Council adopts the fiscal impact statement in the committee report as the fiscal
impact statement required by section 602(c)(3) of the Home Rule Act, approved December 24,
1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 14. Effective date.

This act shall take effect after approval by the Mayor (or in the event of a veto by the
Mayor, override of the veto by the Council, a 30-day period of Congressional review as provided
in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973

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(87 Stat. 813; D.C. Official Code § 1-206.02(c)(1), and publication in the District of Columbia Register.)