

COMMITTEE ON GOVERNMENT OPERATIONS  
AND CONSUMER PROTECTION

06/25/2021-AMENDED AND REPORTED OUT TO THE FLOOR  
06/14/2021-REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

**BILL NO. 34-0034**

**Thirty-Fourth Legislature of the Virgin Islands**

**April 9, 2021**

An Act amending title1 Virgin Islands Code by adding chapter 3A enacting the Uniform Electronic Legal Material Act, to provide for the management of electronic legal information in a manner that guarantees the trustworthiness of and continuing access to important governmental legal material

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**PROPOSED BY:** Senators Carla Joseph and Genevieve Whitaker  
Co-sponsor: Samuel Carrión

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1 *Be it enacted by the Legislature of the Virgin Islands:*

2       **SECTION 1.** Title 1 Virgin Islands Code is amended by adding a chapter 3A to  
3 read as follows:

4       **“Chapter 3A. The Uniform Electronic Legal Material Act**

5       **§ 60a. Short title**

6       This chapter may be cited as the Uniform Electronic Legal Material Act.

7       **§ 60b. Definitions**

8       In this chapter:

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

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

- 1 (A) the Revised Organic Act of the Virgin Islands;
- 2 (B) the Session Laws of the Virgin Islands;
- 3 (C) the Virgin Islands Code Annotated;
- 4 (D) the Code of the United States Virgin Islands Rules;
- 5 (E) the Opinions of the Attorney General of the Virgin Islands;
- 6 (F) Reported decisions of the following courts: the Superior  
7 Court of the Virgin Islands and the Supreme Court of the Virgin Islands;
- 8 (G) Virgin Islands State Court Rules; and
- 9 (H) Virgin Islands Government Register.

10 (3) “Official publisher” means:

- 11 (A) for the Revised Organic Act of the Virgin Islands, the Office  
12 of the Code Revisor;
- 13 (B) for Session Laws of the Virgin Islands, the Office of the  
14 Code Revisor;
- 15 (C) for the Virgin Islands Code Annotated, the Office of the  
16 Code Revisor;
- 17 (D) for a rule published in the Code of the United States Virgin  
18 Islands Rules, the Lieutenant Governor of the Virgin Islands;
- 19 (E) for the opinions of the Attorney General of the Virgin  
20 Islands, the Virgin Islands Department of Justice, Office of the Attorney  
21 General;
- 22 (F) for court decisions included under paragraph (2)(F), the  
23 Office of the Administrator of Courts;
- 24 (G) for Virgin Islands State Court Rules, the Office of the  
25 Administrator of Courts; and

1 (H) for the Virgin Islands Government Register, the Office of  
2 Lieutenant Governor.

3 (4) “Publish” means to display, present, or release to the public, or cause to be  
4 displayed, presented, or released to the public, by the official publisher.

5 (5) “Record” means information that is inscribed on a tangible medium or that  
6 is stored in an electronic or other medium and is retrievable in perceivable form.

7 (6) “State” means a state of the United States, the District of Columbia, Puerto  
8 Rico, the Virgin Islands, or any territory or insular possession subject to the jurisdiction of  
9 the United States.

#### 10 **§ 60c. Applicability**

11 This chapter applies to all legal material in an electronic record that is designated  
12 as official under § 60d and first published electronically on or after the effective date of  
13 this chapter.

#### 14 **§ 60d. Legal Material in Official Electronic Record**

15 (a) If an official publisher publishes legal material only in an electronic record,  
16 the publisher shall:

17 (1) designate the electronic record as official; and

18 (2) comply with §§ 60e, 60g, and 60h.

19 (b) An official publisher that publishes legal material in an electronic record  
20 and also publishes the material in a record other than an electronic record may designate  
21 the electronic record as official if the publisher complies with §§ 60e, 60g, and 60h.

#### 22 **§ 60e. Authentication of Official Electronic Record**

23 An official publisher of legal material in an electronic record that is designated as  
24 official under § 60d shall authenticate the record. To authenticate an electronic record, the  
25 publisher shall provide a method for a user to determine that the record received by the  
26 user from the publisher is unaltered from the official record published by the publisher.

1           **§ 60f. Effect of Authentication**

2           (a)     Legal material in an electronic record that is authenticated under § 60e is  
3 presumed to be an accurate copy of the legal material.

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

7           (c)     A party contesting the authentication of legal material in an electronic  
8 record authenticated under § 60e has the burden of proving by a preponderance of the  
9 evidence that the record is not authentic.

10           **§ 60g. Preservation and Security of Legal Material in Official Electronic**  
11 **Record**

12           (a)     An official publisher of legal material in an electronic record that is or was  
13 designated as official under § 60d shall provide for the preservation and security of the  
14 record in an electronic form or a form that is not electronic.

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

- 17                   (1)     ensure the integrity of the record;
- 18                   (2)     provide for backup and disaster recovery of the record; and
- 19                   (3)     ensure the continuing usability of the material.

20           **§ 60h. Public Access to Legal Material in Official Electronic Record**

21           An official publisher of legal material in an electronic record that is required to be  
22 preserved under § 60g shall ensure that the material is reasonably available for use by the  
23 public on a permanent basis.

24           **§ 60i. Standards**

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

- 1 (1) standards and practices of other jurisdictions;
- 2 (2) the most recent standards regarding authentication of, preservation  
3 and security of, and public access to, legal material in an electronic record and other  
4 electronic records, as promulgated by national standard-setting bodies;
- 5 (3) the needs of users of legal material in an electronic record;
- 6 (4) the views of governmental officials and entities and other interested  
7 persons; and
- 8 (5) to the extent practicable, methods and technologies for the  
9 authentication of, preservation and security of, and public access to, legal material  
10 which are compatible with the methods and technologies used by other official  
11 publishers in the Virgin Islands and in other states that have adopted a law  
12 substantially similar to this chapter.

#### 13 **§ 60j. Uniformity of Application and Construction**

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

#### 17 **§ 60k. Relation to Electronic Signatures in Global and National Commerce**

#### 18 **Act**

19 This chapter modifies, limits, and supersedes the Electronic Signatures in Global  
20 and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit,  
21 or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic  
22 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section  
23 7003(b).

24 **SECTION 2.** This act takes effect 90 days after enactment.

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## **Bill Summary**

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This uniform law was adopted in 2011 by the National Conference of Commissioners of Uniform Laws (the Uniform Law Commission). It the prefatory note to the Uniform Electronic Act, the Drafting Committee in describing the purpose and feature of the act wrote:

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The Uniform Electronic Legal Material Act (UELMA) provides states with an outcomes-based approach to the authentication and preservation of electronic legal material. That is, the goals of the authentication and preservation program outlined in the act are to enable end-users to verify the trustworthiness of the legal material they are using and to provide a framework for states to preserve legal material in perpetuity in a manner that allows for permanent access.

It should be noted that there are some important issues this act does not address, leaving them to other law or policy. First, this act does not mandate that states publish legal material electronically; choice of format is left entirely to a state's discretion. Second, the act does not require a state to convert older legal material from print format to electronic format. Print remains an accepted medium for preservation of and access to legal material. If, however, a state converts older legal material from print to electronic format, and if the state then designates that electronic format as official, the requirements of the act apply.

Third, this act does not deal with copyright issues, leaving those to federal law and state practice.

Fourth, this act does not affect or supersede any rules of evidence; it only provides that electronic legal material that is authenticated is presumed to be a true copy.

Fifth, the act does not affect existing state law regarding the certification of printed documents.

Sixth, this act does not interfere with the contractual relationship between a state and a commercial publisher with which the state contracts for the production of its legal material. The act requires that the official publisher be responsible for implementing the terms of the act, regardless of where or by whom the legal material is actually printed or distributed. For the purposes of the act, only a state agency, officer, or employee can be the official publisher, although state policy may allow a commercial entity to produce an official version of the state's legal material.

The act is intended to be complementary to the Uniform Commercial Code (UCC, which covers sales and many commercial transactions), the Uniform Real Property Electronic Recording Act (URPERA, which provides for electronic recording of real property instruments), and the Uniform Electronic Transactions Act (UETA, which deals with electronic commerce). This act addresses the critical need to manage electronic legal information in a manner that guarantees the trustworthiness of and continuing access to important state legal material. Technology changes quickly enough that state governments must address this issue, as existing electronic legal information is already in danger of being lost. A uniform act will allow state governments to develop similar systems of authentication and preservation, aiding the free flow of information across state lines and the sharing of experiences and expertise to keep costs as low as possible.

1           The Uniform Electronic Legal Material Act has been enacted in approximately 21  
2 jurisdictions. The Act has been endorsed by American Association of Law Libraries);  
3 Endorsed as Suggested State Legislation by the Council of State Governments (CSG);  
4 American Bar Association Standing Committee on the Law Library of Congress; Houston  
5 Area Law Librarians; Law Library Association of Maryland; Association of Law Libraries  
6 of Upstate New York; Southeastern Chapter of American Association of Law Libraries;  
7 Western Pacific Chapter of American Association of Law Libraries; Ohio Regional  
8 Association of Law Libraries; New England; and Southwestern Association of Law  
9 Libraries

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11 **BR21-0334/March 8, 2021/SLR**