

created, stored, and assigned in such a manner that—

(A) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(B) the authoritative copy identifies the person asserting control as—

(i) the person to which the transferable record was issued; or

(ii) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(iii) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(iv) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(v) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(vi) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(4) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 1-201(20) of the Uniform Commercial Code, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under section 3-302(a), 7-501, or 9-308 of the Uniform Commercial Code are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(6) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(g) **ELECTRONIC AGENTS.**—A contract relating to a commercial transaction affecting interstate commerce may not be denied legal effect solely because its formation involved—

(1) the interaction of electronic agents of the parties; or

(2) the interaction of an electronic agent of a party and an individual who acts on that individual's own behalf or for another person.

(h) **SPECIFIC EXCLUSIONS.**—The provisions of this section shall not apply to a statute, regulation, or other rule of law governing any of the following:

(1) The Uniform Commercial Code, as in effect in a state, other than sections 1-107 and 1-206, Article 2, and Article 2A.

(2) The creation or execution of wills, codicils, or testamentary trusts.

(3) Premarital agreements, marriage, adoption, divorce or other matters of family law.

(4) Court orders or notices, or documents used in court proceedings.

(5) Documents of title which are filed of record with a governmental unit until such time that a state or subdivision thereof chooses to accept filings electronically.

(6) Residential landlord-tenant relationships.

(7) The Uniform Health-Care Decisions Act.

(i) **INSURANCE.**—It is the specific intent of the Congress that the benefits of this title apply to the business of insurance. This section applies to any Federal and State law and regulation governing the business of insurance that requires manual signatures or communications to be printed or in writing, document delivery, and retention.

(j) **APPLICATION IN UETA STATES.**—This section does not preempt the Uniform Electronic Transactions Act as in effect in a State, if that Act, as in effect in that State, is not inconsistent, in any significant manner, with the provisions of this Act.

SEC. 6. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS.

To the extent practicable, the Federal Government shall observe the following principles in an international context to enable commercial electronic transaction:

(1) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law.

(2) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(3) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(4) Take a non-discriminatory approach to electronic signatures and authentication methods from other jurisdictions.

SEC. 7. STUDY OF LEGAL AND REGULATORY BARRIERS TO ELECTRONIC COMMERCE.

(a) **BARRIERS.**—Each Federal agency shall, not later than 6 months after the date of enactment of this Act, provide a report to the Director of the Office of Management and Budget and the Secretary of Commerce identifying any provision of law administered by such agency, or any regulations issued by such agency and in effect on the date of enactment of this Act, that may impose a barrier to electronic transactions, or otherwise to the conduct of commerce online or be electronic means. Such barriers include, but are not limited to, barriers imposed by a law or regulation directly or indirectly requiring that signatures, or records of transactions, be accomplished or retained in other than electronic form. In its report, each agency that shall identify the barriers among those identified whose removal would require legislative action, and shall indicate agency plans to undertake regulatory action to remove such barriers among those identified as are caused by regulations issued by the agency.

(b) **REPORT TO CONGRESS.**—The Secretary of Commerce, in consultation with the Director of the Office of Management and Budget, shall, within 18 months after the date of enactment of this Act, and after the consultation required by subsection (c) of this section, report to the Congress concerning—

(1) legislation needed to remove barriers to electronic transactions or otherwise to the

conduct of commerce online or by electronic means; and

(2) actions being taken by the Executive Branch and individual Federal agencies to remove such barriers as are caused by agency regulations or policies.

(c) **CONSULTATION.**—In preparing the report required by this section, the Secretary of Commerce shall consult with the General Services Administration, the National Archives and Records Administration, and the Attorney General concerning matters involving the authenticity of records, their storage and retention, and their usability for law enforcement purposes.

(d) **INCLUDE FINDINGS IF NO RECOMMENDATIONS.**—If the report required by this section omits recommendations for actions needed to fully remove identified barriers to electronic transactions or to online or electronic commerce, it shall include a finding or findings, including substantial reasons therefor, that such removal is impracticable or would be inconsistent with the implementation or enforcement of applicable laws.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that a full committee oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The oversight hearing will take place Tuesday, October 26, 1999, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the interpretation and implementation plans of Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition to Include Waters Subject to Subsistence Priority; Final Rule. Only the administration will present testimony.

Those who wish to submit written testimony should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Presentation of oral testimony is by committee invitation only. For information, please contact Jo Meuse or Brian Malnak at (202) 224-6730.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON SMALL BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled "Internet Cramming: The Latest High-Tech Fraud on Small Businesses." The hearing will be held on Monday, October 25, 1999, beginning at 1 p.m. in room 652 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.