

I Mina'Trentai Kuáttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
82-34 (COR)	Mary Camacho Torres	AN ACT TO ADD <i>CHAPTER 50</i> TO TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS.	4/28/17 10:49 a.m.	5/1/17	Committee on Culture and Justice	5/11/17 10:00 a.m.	5/16/17 2:27 p.m. As amended by the Committee on Culture and Justice.	Fiscal Note Request 5/1/17 Fiscal Note Waiver 5/19/17	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	LAPSED INTO LAW	DATE	NOTES	
	5/23/2017	AN ACT TO <i>ADD</i> A NEW CHAPTER 50 TO TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS.	5/26/17	5/26/2017 5:25 p.m. As amended by the Committee on Culture and Justice.	6/7/17	Public Law No. 34-18	6/8/17	Received: 6/13/17 Mess and Comm. Doc. No. 34GL-17-0628	



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

JUN 13 2017

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuáttro Na
Lihselaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

GL# 34-17-629
Speaker Benjamin J.F. Cruz

JUN 13 2017

Time: 10:56 AM [] PM File No. _____
Received By:

Dear Mr. Speaker:

Transmitted herewith is Bill No. 82-34 (COR), "AN ACT TO ADD A NEW CHAPTER 50 TO TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS," which lapsed into law on June 8, 2017, as Public Law 34-18.

Senseramente,

EDDIE BAZA CALVO
Governor of Guam

2017 JUN 13 AM 11:39

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I MINA 'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Bill No. 82-34 (COR)**, "AN ACT TO ADD A NEW CHAPTER 50 TO TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS," was on the 26th day of May 2017, duly and regularly passed.


Benjamin J.F. Cruz
Speaker

Attested:


Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 26TH day of MAX,
2017, at 5:25 o'clock P.M.


Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: JUN 08 2017

Public Law No. 34-18

I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 82- 34 (COR)

As amended by the Committee on
Culture and Justice.

Introduced by:

Mary Camacho Torres
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
B. J.F. Cruz
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Telena Cruz Nelson
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Therese M. Terlaje

**AN ACT TO ADD A NEW CHAPTER 50 TO TITLE 15,
GUAM CODE ANNOTATED, RELATIVE TO
FIDUCIARY ACCESS TO DIGITAL ASSETS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the Revised Uniform Fiduciary Access to Digital Assets Act (Revised
4 UFADAA) is necessary to modernize Guam fiduciary law for the internet age.
5 Fiduciaries are the people appointed to manage our property when we die or lose the
6 capacity to manage it ourselves. Nearly everyone today has digital assets, such as
7 documents, photographs, email, and social media accounts, and fiduciaries are often
8 prevented from accessing those accounts by password protection or restrictive terms

1 of service. Digital assets may have real value, both monetary and sentimental, but
2 they also present unique privacy concerns. The UFADAA provides legal authority
3 for fiduciaries to manage digital assets in accordance with the user's estate plan,
4 while protecting a user's private communications from unwarranted disclosure.

5 This Act:

6 (a) Empowers Individuals. Users can specify whether their digital
7 assets should be preserved, distributed to heirs, or destroyed.

8 (b) Creates Uniformity. Digital assets travel across state lines nearly
9 instantaneously. In our modern mobile society, people relocate more often
10 than ever. Because state law governs fiduciaries, a uniform law ensures that
11 fiduciaries in every state will have equal access to digital assets and custodians
12 will have a single legal standard with which to comply.

13 (c) Respects Privacy Interests. This Act prevents the companies that
14 store our communications from releasing them to fiduciaries unless the user
15 consented to disclosure.

16 (d) Addresses Four (4) Common Types of Fiduciaries. This Act
17 provides appropriate default rules for executors of a decedent's estate, agents
18 under a power of attorney, guardians, and trustees.

19 (e) Complies with Federal Laws. Under this Act, fiduciaries must
20 provide proof of their authority in the form of a certified document.
21 Custodians of digital assets that comply with a fiduciary's apparently
22 authorized request for access are immune from any liability under statutes that
23 prohibit unauthorized access. A fiduciary's authority over digital assets is
24 limited by federal law, including the Copyright Act and the Electronic
25 Communications Privacy Act.

26 **Section 2.** A new Chapter 50 is hereby *added* to Title 15, Guam Annotated
27 Code, to read as follows:

“CHAPTER 50

REVISED UNIFORM FIDUCIARY ACCESS

TO DIGITAL ASSETS ACT

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- § 5001. Short Title.
- § 5002. Definitions.
- § 5003. Applicability.
- § 5004. User Direction for Disclosure of Digital Assets.
- § 5005. Terms-of-Service Agreement.
- § 5006. Procedure for Disclosing Digital Assets.
- § 5007. Disclosure of Content of Electronic Communications of Deceased User.
- § 5008. Disclosure of Other Digital Assets of Deceased User.
- § 5009. Disclosure of Content of Electronic Communications of Principal.
- § 5010. Disclosure of Other Digital Assets of Principal.
- § 5011. Disclosure of Digital Assets Held in Trust when Trustee is Original User.
- § 5012. Disclosure of Contents of Electronic Communications Held in Trust When Trustee Not Original User.
- § 5013. Disclosure of Other Digital Assets Held in Trust When Trustee Not Original User.
- § 5014. Disclosure of Digital Assets to Guardian of Ward.
- § 5015. Fiduciary Duty and Authority.
- § 5016. Custodian Compliance and Immunity.
- § 5017. Uniformity of Application and Construction.
- § 5018. Relation to Electronic Signatures in Global and National Commerce Act.

1 § 5019. Severability.

2 § 5001. **Short Title.** This Act *shall* be known and may be cited as the
3 “Revised Uniform Fiduciary Access to Digital Assets Act.”

4 § 5002. **Definitions.** In this Act:

5 (a) *Account* means an arrangement under a terms-of-service
6 agreement in which a custodian carries, maintains, processes, receives, or
7 stores a digital asset of the user or provides goods or services to the user.

8 (b) *Agent* means an attorney-in-fact granted authority under a
9 durable or nondurable power of attorney.

10 (c) *Carries* means engages in the transmission of an electronic
11 communication.

12 (d) *Catalogue of electronic communications* means information that
13 identifies each person with which a user has had an electronic communication,
14 the time and date of the communication, and the electronic address of the
15 person.

16 (e) *Content of an electronic communication* means information
17 concerning the substance or meaning of the communication which:

18 (1) has been sent or received by a user;

19 (2) is in electronic storage by a custodian providing an
20 electronic communication service to the public or is carried or
21 maintained by a custodian providing a remote computing service to the
22 public; and

23 (3) is not readily accessible to the public.

24 (f) *Court* means the Superior Court of Guam or any other Guam
25 court of competent jurisdiction.

26 (g) *Custodian* means a person that carries, maintains, processes,
27 receives, or stores a digital asset of a user.

1 (h) *Designated recipient* means a person chosen by a user using an
2 online tool to administer digital assets of the user.

3 (i) *Digital asset* means an electronic record in which an individual
4 has a right or interest. The term does not include an underlying asset or
5 liability unless the asset or liability is itself an electronic record.

6 (j) *Electronic* means relating to technology having electrical,
7 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

8 (k) *Electronic communication* has the meaning set forth in 18 U.S.C.
9 § 2510(12), as amended.

10 (l) *Electronic communication service* means a custodian that
11 provides to a user the ability to send or receive an electronic communication.

12 (m) *Fiduciary* means an original, additional, or successor personal
13 representative, guardian, agent, or trustee.

14 (n) *Guardian* means a person appointed by a court to manage the
15 estate of a living individual. The term includes a limited guardian.

16 (o) *Information* means data, text, images, videos, sounds, codes,
17 computer programs, software, databases, or the like.

18 (p) *Online tool* means an electronic service provided by a custodian
19 that allows the user, in an agreement distinct from the terms-of-service
20 agreement between the custodian and user, to provide directions for disclosure
21 or nondisclosure of digital assets to a third person.

22 (q) *Person* means an individual, estate, business or nonprofit entity,
23 public corporation, government or governmental subdivision, agency, or
24 instrumentality, or other legal entity.

25 (r) *Personal representative* means an executor, administrator,
26 special administrator, or person that performs substantially the same function
27 under the laws of Guam other than this Act.

1 (s) *Power of attorney* means a record that grants an agent authority
2 to act in the place of a principal.

3 (t) *Principal* means an individual who grants authority to an agent
4 in a power of attorney.

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

8 (v) *Remote computing service* means a custodian that provides to a
9 user computer-processing services or the storage of digital assets by means of
10 an electronic communications system, as defined in 18 U.S.C. § 2510(14), as
11 amended.

12 (w) *Terms of service agreement* means an agreement that controls the
13 relationship between a user and a custodian.

14 (x) *Trustee* means a fiduciary with legal title to property under an
15 agreement or declaration that creates a beneficial interest in another. The term
16 includes a successor trustee.

17 (y) *User* means a person that has an account with a custodian.

18 (z) *Ward* means an individual for whom a guardian has been
19 appointed. The term includes an individual for whom an application for the
20 appointment of a guardian is pending.

21 (aa) *Will* includes a codicil, testamentary instrument that only
22 appoints an executor, and instrument that revokes or revises a testamentary
23 instrument.

24 **§ 5003. Applicability.**

25 (a) This Act applies to:

26 (1) a fiduciary acting under a will or power of attorney
27 executed before, on, or after the effective date of this Act;

1 (2) a personal representative acting for a decedent who died
2 before, on, or after the effective date of this Act;

3 (3) a guardianship proceeding commenced before, on, or after
4 the effective date of this Act; and

5 (4) a trustee acting under a trust created before, on, or after the
6 effective date of this Act.

7 (b) This Act applies to a custodian if the user resides in Guam or
8 resided in Guam at the time of the user's death.

9 (c) This Act does not apply to a digital asset of an employer used by
10 an employee in the ordinary course of the employer's business.

11 **§ 5004. User Direction for Disclosure of Digital Assets.**

12 (a) A user may use an online tool to direct the custodian to disclose
13 to a designated recipient or not to disclose some or all of the user's digital
14 assets, including the content of electronic communications. If the online tool
15 allows the user to modify or delete a direction at all times, a direction
16 regarding disclosure using an online tool overrides a contrary direction by the
17 user in a will, trust, power of attorney, or other record.

18 (b) If a user has not used an online tool to give direction under
19 Subsection (a), or if the custodian has not provided an online tool, the user
20 may allow or prohibit in a will, trust, power of attorney, or other record,
21 disclosure to a fiduciary of some or all of the user's digital assets, including
22 the content of electronic communications sent or received by the user.

23 (c) A user's direction under Subsection (a) or (b) overrides a
24 contrary provision in a terms-of-service agreement that does not require the
25 user to act affirmatively and distinctly from the user's assent to the terms of
26 service.

27 **§ 5005. Terms-of-Service Agreement.**

1 (a) This Act does not change or impair a right of a custodian or a
2 user under a terms-of-service agreement to access and use digital assets of the
3 user.

4 (b) This Act does not give a fiduciary or designated recipient any
5 new or expanded rights other than those held by the user for whom, or for
6 whose estate, the fiduciary or designated recipient acts or represents.

7 (c) A fiduciary's or designated recipient's access to digital assets
8 may be modified or eliminated by a user, by federal law, or by a terms-of-
9 service agreement if the user has not provided direction under § 5004.

10 **§ 5006. Procedure for Disclosing Digital Assets.**

11 (a) When disclosing digital assets of a user under this Act, the
12 custodian may at its sole discretion:

13 (1) grant a fiduciary or designated recipient full access to the
14 user's account;

15 (2) grant a fiduciary or designated recipient partial access to
16 the user's account sufficient to perform the tasks with which the
17 fiduciary or designated recipient is charged; or

18 (3) provide a fiduciary or designated recipient a copy in a
19 record of any digital asset that, on the date the custodian received the
20 request for disclosure, the user could have accessed if the user were
21 alive and had full capacity and access to the account.

22 (b) A custodian may assess a reasonable administrative charge for
23 the cost of disclosing digital assets under this Act.

24 (c) A custodian need not disclose under this Act a digital asset
25 deleted by a user.

26 (d) If a user directs or a fiduciary requests a custodian to disclose
27 under this Act some, but not all, of the user's digital assets, the custodian need

1 not disclose the assets if segregation of the assets would impose an undue
2 burden on the custodian. If the custodian believes the direction or request
3 imposes an undue burden, the custodian or fiduciary may seek an order from
4 the court to disclose:

5 (1) a subset limited by date of the user's digital assets;

6 (2) all of the user's digital assets to the fiduciary or designated
7 recipient;

8 (3) none of the user's digital assets; or

9 (4) all of the user's digital assets to the court for review in
10 camera.

11 **§ 5007. Disclosure of Content of Electronic Communications of**
12 **Deceased User.** If a deceased user consented or a court directs disclosure of the
13 contents of electronic communications of the user, the custodian *shall* disclose to the
14 personal representative of the estate of the user the content of an electronic
15 communication sent or received by the user if the representative gives the custodian:

16 (a) a written request for disclosure in physical or electronic form;

17 (b) a certified copy of the death certificate of the user;

18 (c) a certified copy of the letter of appointment of the representative
19 or a small estate affidavit or court order;

20 (d) unless the user provided direction using an online tool, a copy of
21 the user's will, trust, power of attorney, or other record evidencing the user's
22 consent to disclosure of the content of electronic communications; and

23 (e) if requested by the custodian:

24 (1) a number, username, address, or other unique subscriber
25 or account identifier assigned by the custodian to identify the user's
26 account;

27 (2) evidence linking the account to the user; or

1 (3) a finding by the court that:

2 (A) the user had a specific account with the custodian,
3 identifiable by the information specified in Subparagraph (1);

4 (B) disclosure of the content of electronic
5 communications of the user would not violate 18 U.S.C. § 2701
6 *et seq.*, as amended, 47 U.S.C. § 222, as amended, or other
7 applicable law;

8 (C) unless the user provided direction using an online
9 tool, the user consented to disclosure of the content of electronic
10 communications; or

11 (D) disclosure of the content of electronic
12 communications of the user is reasonably necessary for
13 administration of the estate.

14 **§ 5008. Disclosure of Other Digital Assets of Deceased User.** Unless
15 the user prohibited disclosure of digital assets or the court directs otherwise, a
16 custodian *shall* disclose to the personal representative of the estate of a deceased
17 user a catalogue of electronic communications sent or received by the user and
18 digital assets, other than the content of electronic communications, of the user, if the
19 representative gives the custodian:

20 (a) a written request for disclosure in physical or electronic form;

21 (b) a certified copy of the death certificate of the user;

22 (c) a certified copy of the letter of appointment of the representative
23 or a small estate affidavit or court order; and

24 (d) if requested by the custodian:

25 (1) a number, username, address, or other unique subscriber
26 or account identifier assigned by the custodian to identify the user's
27 account;

1 (2) evidence linking the account to the user;

2 (3) an affidavit stating that disclosure of the user's digital
3 assets is reasonably necessary for administration of the estate; or

4 (4) a finding by the court that:

5 (A) the user had a specific account with the custodian,
6 identifiable by the information specified in Subparagraph (1); or

7 (B) disclosure of the user's digital assets is reasonably
8 necessary for administration of the estate.

9 **§ 5009. Disclosure of Content of Electronic Communications of**
10 **Principal.** To the extent a power of attorney expressly grants an agent authority over
11 the content of electronic communications sent or received by the principal and unless
12 directed otherwise by the principal or the court, a custodian *shall* disclose to the
13 agent the content if the agent gives the custodian:

14 (a) a written request for disclosure in physical or electronic form;

15 (b) an original or copy of the power of attorney expressly granting
16 the agent authority over the content of electronic communications of the
17 principal;

18 (c) a certification by the agent, under penalty of perjury, that the
19 power of attorney is in effect; and

20 (d) if requested by the custodian:

21 (1) a number, username, address, or other unique subscriber
22 or account identifier assigned by the custodian to identify the
23 principal's account; or

24 (2) evidence linking the account to the principal.

25 **§ 5010. Disclosure of Other Digital Assets of Principal.** Unless
26 otherwise ordered by the court, directed by the principal, or provided by a power of
27 attorney, a custodian *shall* disclose to an agent with specific authority over digital

1 assets or general authority to act on behalf of a principal a catalogue of electronic
2 communications sent or received by the principal and digital assets, other than the
3 content of electronic communications, of the principal if the agent gives the
4 custodian:

5 (a) a written request for disclosure in physical or electronic form;

6 (b) an original or a copy of the power of attorney that gives the agent
7 specific authority over digital assets or general authority to act on behalf of
8 the principal;

9 (c) a certification by the agent, under penalty of perjury, that the
10 power of attorney is in effect; and

11 (d) if requested by the custodian:

12 (1) a number, username, address, or other unique subscriber
13 or account identifier assigned by the custodian to identify the
14 principal's account; or

15 (2) evidence linking the account to the principal.

16 **§ 5011. Disclosure of Digital Assets Held in Trust When Trustee is**
17 **Original User.** Unless otherwise ordered by the court or provided in a trust, a
18 custodian *shall* disclose to a trustee that is an original user of an account any digital
19 asset of the account held in trust, including a catalogue of electronic communications
20 of the trustee and the content of electronic communications.

21 **§ 5012. Disclosure of Contents of Electronic Communications Held**
22 **in Trust When Trustee Not Original User.** Unless otherwise ordered by the court,
23 directed by the user, or provided in a trust, a custodian *shall* disclose to a trustee that
24 is not an original user of an account the content of an electronic communication sent
25 or received by an original or successor user and carried, maintained, processed,
26 received, or stored by the custodian in the account of the trust if the trustee gives the
27 custodian:

- 1 (a) a written request for disclosure in physical or electronic form;
- 2 (b) a certified copy of the trust instrument that includes consent to
3 disclosure of the content of electronic communications to the trustee;
- 4 (c) a certification by the trustee, under penalty of perjury, that the
5 trust exists and the trustee is a currently acting trustee of the trust; and
- 6 (d) if requested by the custodian:
 - 7 (1) a number, username, address, or other unique subscriber
8 or account identifier assigned by the custodian to identify the trust's
9 account; or
 - 10 (2) evidence linking the account to the trust.

11 **§ 5013. Disclosure of Other Digital Assets Held in Trust When**
12 **Trustee Not Original User.** Unless otherwise ordered by the court, directed by the
13 user, or provided in a trust, a custodian *shall* disclose to a trustee that is not an
14 original user of an account a catalogue of electronic communications sent or received
15 by an original or successor user and stored, carried, or maintained by the custodian
16 in an account of the trust and any digital assets, other than the content of electronic
17 communications, in which the trust has a right or interest if the trustee gives the
18 custodian:

- 19 (a) a written request for disclosure in physical or electronic form;
- 20 (b) a certified copy of the trust instrument;
- 21 (c) a certification by the trustee, under penalty of perjury, that the
22 trust exists and the trustee is a currently acting trustee of the trust; and
- 23 (d) if requested by the custodian:
 - 24 (1) a number, username, address, or other unique subscriber
25 or account identifier assigned by the custodian to identify the trust's
26 account; or
 - 27 (2) evidence linking the account to the trust.

1 **§ 5014. Disclosure of Digital Assets to Guardian of Ward.**

2 (a) After an opportunity for a hearing under Division 4 of Title 15,
3 Guam Code Annotated, the court may grant a guardian access to the digital
4 assets of a ward.

5 (b) Unless otherwise ordered by the court or directed by the user, a
6 custodian *shall* disclose to a guardian the catalogue of electronic
7 communications sent or received by a ward; and any digital assets, other than
8 the content of electronic communications, in which the ward has a right or
9 interest if the guardian gives the custodian:

10 (1) a written request for disclosure in physical or electronic
11 form;

12 (2) a certified copy of the court order that gives the guardian
13 authority over the digital assets of the ward; and

14 (3) if requested by the custodian:

15 (A) a number, username, address, or other unique
16 subscriber or account identifier assigned by the custodian to
17 identify the account of the ward; or

18 (B) evidence linking the account to the ward.

19 (c) A guardian with general authority to manage the assets of a ward
20 may request a custodian of the digital assets of the ward to suspend or terminate
21 an account of the ward for good cause. A request made under this Subsection
22 must be accompanied by a certified copy of the court order giving the guardian
23 authority over the ward's property.

24 **§ 5015. Fiduciary Duty and Authority.**

25 (a) The legal duties imposed on a fiduciary charged with managing
26 tangible property apply to the management of digital assets, including:

27 (1) the duty of care;

1 (2) the duty of loyalty; and

2 (3) the duty of confidentiality.

3 (b) A fiduciary's or designated recipient's authority with respect to
4 a digital asset of a user:

5 (1) except as otherwise provided in § 5004, is subject to the
6 applicable terms of service;

7 (2) is subject to other applicable law, including copyright law;

8 (3) in the case of a fiduciary, is limited by the scope of the
9 fiduciary's duties; and

10 (4) may not be used to impersonate the user.

11 (c) A fiduciary with authority over the property of a decedent, ward,
12 principal, or settlor has the right to access any digital asset in which the
13 decedent, ward, principal, or settlor had a right or interest and that is not held
14 by a custodian or subject to a terms-of-service agreement.

15 (d) A fiduciary acting within the scope of the fiduciary's duties is an
16 authorized user of the property of the decedent, ward, principal, or settlor for
17 the purpose of applicable computer fraud and unauthorized computer access
18 laws, including applicable sections of Chapter 46 of Title 9, Guam Code
19 Annotated.

20 (e) A fiduciary with authority over the tangible, personal property of
21 a decedent, ward, principal, or settlor:

22 (1) has the right to access the property and any digital asset
23 stored in it; and

24 (2) is an authorized user for the purpose of computer fraud and
25 unauthorized computer access laws, including applicable sections of
26 Chapter 46 of Title 9, Guam Code Annotated.

1 (f) A custodian may disclose information in an account to a
2 fiduciary of the user when the information is required to terminate an account
3 used to access digital assets licensed to the user.

4 (g) A fiduciary of a user may request a custodian to terminate the
5 user's account. A request for termination must be in writing, in either physical
6 or electronic form, and accompanied by:

7 (1) if the user is deceased, a certified copy of the death
8 certificate of the user;

9 (2) a certified copy of the letter of appointment of the
10 representative or a small estate affidavit or court order, court order,
11 power of attorney, or trust giving the fiduciary authority over the
12 account; and

13 (3) if requested by the custodian:

14 (A) a number, username, address, or other unique
15 subscriber or account identifier assigned by the custodian to
16 identify the user's account;

17 (B) evidence linking the account to the user; or

18 (C) a finding by the court that the user had a specific
19 account with the custodian, identifiable by the information
20 specified in Subparagraph (A).

21 **§ 5016. Custodian Compliance and Immunity.**

22 (a) No later than sixty (60) days after receipt of the information
23 required under §§ 5007 through 5015, a custodian *shall* comply with a request
24 under this Act from a fiduciary or designated recipient to disclose digital
25 assets or terminate an account. If the custodian fails to comply, the fiduciary
26 or designated recipient may apply to the court for an order directing
27 compliance.

1 (b) An order under Subsection (a) directing compliance must contain
2 a finding that the compliance is not in violation of 18 U.S.C. § 2702, as
3 amended.

4 (c) A custodian may notify the user that a request for disclosure or
5 to terminate an account was made under this Act.

6 (d) A custodian may deny a request under this Act from a fiduciary
7 or designated recipient for disclosure of digital assets or to terminate an
8 account if the custodian is aware of any lawful access to the account following
9 the receipt of the fiduciary's request.

10 (e) This Act does not limit a custodian's ability to obtain or require
11 a fiduciary or designated recipient requesting disclosure or termination under
12 this Act to obtain a court order which:

13 (1) specifies that an account belongs to the ward or principal;

14 (2) specifies that there is sufficient consent from the ward or
15 principal to support the requested disclosure; and

16 (3) contains a finding required by law other than this Act.

17 (f) A custodian and its officers, employees, and agents are immune
18 from liability for an act or omission done in good faith in compliance with this
19 Act.

20 **§ 5017. Uniformity of Application and Construction.** In applying and
21 construing this uniform Act, consideration must be given to the need to promote
22 uniformity of the law with respect to its subject matter among states that enact it.

23 **§ 5018. Relation to Electronic Signatures in Global and National**
24 **Commerce Act.** This Act modifies, limits, or supersedes the Electronic Signatures
25 in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, but does not
26 modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or

1 authorize electronic delivery of any of the notices described in Section 103(b) of that
2 Act, 15 U.S.C. § 7003(b).

3 **§ 5019. Severability.** If any provision of this Act or its application to any
4 person or circumstance is found to be invalid, or contrary to law, such invalidity
5 *shall not* affect other provisions or applications of this Act that can be given effect
6 without the invalid provisions or applications, and to this end the provisions of this
7 Act are severable.