

REFERENCE TITLE: **fiduciary access to digital assets**

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2467

Introduced by

Representative Brophy McGee, Senators Driggs, Worsley; Representatives
Borrelli, Carter, Cobb, Coleman, Lawrence, Mesnard, Shope, Thorpe, Senator
Yee

AN ACT

**AMENDING TITLE 14, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 13; RELATING
TO FIDUCIARY ACCESS TO ELECTRONIC RECORDS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 14, Arizona Revised Statutes, is amended by adding
3 chapter 13, to read:

4 CHAPTER 13

5 REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

6 ARTICLE 1. GENERAL PROVISIONS

7 14-13101. Short title

8 THIS CHAPTER MAY BE CITED AS THE REVISED UNIFORM FIDUCIARY ACCESS TO
9 DIGITAL ASSETS ACT.

10 14-13102. Definitions

11 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

12 1. "ACCOUNT" MEANS AN ARRANGEMENT UNDER A TERMS-OF-SERVICE AGREEMENT
13 IN WHICH A CUSTODIAN CARRIES, MAINTAINS, PROCESSES, RECEIVES OR STORES A
14 DIGITAL ASSET OF THE USER OR PROVIDES GOODS OR SERVICES TO THE USER.

15 2. "AGENT" MEANS AN ATTORNEY-IN-FACT GRANTED AUTHORITY UNDER A DURABLE
16 OR NONDURABLE POWER OF ATTORNEY.

17 3. "CARRIES" MEANS ENGAGES IN THE TRANSMISSION OF AN ELECTRONIC
18 COMMUNICATION.

19 4. "CATALOGUE OF ELECTRONIC COMMUNICATIONS" MEANS INFORMATION THAT
20 IDENTIFIES EACH PERSON WITH WHICH A USER HAS HAD AN ELECTRONIC COMMUNICATION,
21 THE TIME AND DATE OF THE COMMUNICATION AND THE ELECTRONIC ADDRESS OF THE
22 PERSON.

23 5. "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO MANAGE THE
24 ESTATE OF A LIVING INDIVIDUAL AND INCLUDES A LIMITED CONSERVATOR.

25 6. "CONTENT OF AN ELECTRONIC COMMUNICATION" MEANS INFORMATION
26 CONCERNING THE SUBSTANCE OR MEANING OF THE COMMUNICATION THAT MEETS ALL OF
27 THE FOLLOWING REQUIREMENTS:

28 (a) HAS BEEN SENT OR RECEIVED BY A USER.

29 (b) IS IN ELECTRONIC STORAGE BY A CUSTODIAN PROVIDING AN
30 ELECTRONIC-COMMUNICATION SERVICE TO THE PUBLIC OR IS CARRIED OR MAINTAINED BY
31 A CUSTODIAN PROVIDING A REMOTE-COMPUTING SERVICE TO THE PUBLIC.

32 (c) IS NOT READILY ACCESSIBLE TO THE PUBLIC.

33 7. "COURT" MEANS THE SUPERIOR COURT.

34 8. "CUSTODIAN" MEANS A PERSON THAT CARRIES, MAINTAINS, PROCESSES,
35 RECEIVES OR STORES A DIGITAL ASSET OF A USER.

36 9. "DESIGNATED RECIPIENT" MEANS A PERSON CHOSEN BY A USER USING AN
37 ONLINE TOOL TO ADMINISTER DIGITAL ASSETS OF THE USER.

38 10. "DIGITAL ASSET" MEANS AN ELECTRONIC RECORD IN WHICH AN INDIVIDUAL
39 HAS A RIGHT OR INTEREST. DIGITAL ASSET DOES NOT INCLUDE AN UNDERLYING ASSET
40 OR LIABILITY UNLESS THE ASSET OR LIABILITY IS ITSELF AN ELECTRONIC RECORD.

41 11. "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL,
42 DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC OR SIMILAR
43 CAPABILITIES.

44 12. "ELECTRONIC COMMUNICATION" HAS THE SAME MEANING PRESCRIBED IN 18
45 UNITED STATES CODE SECTION 2510(12).

- 1 13. "ELECTRONIC-COMMUNICATION SERVICE" MEANS A CUSTODIAN THAT PROVIDES
2 TO A USER THE ABILITY TO SEND OR RECEIVE AN ELECTRONIC COMMUNICATION.
- 3 14. "FIDUCIARY" MEANS AN ORIGINAL, ADDITIONAL OR SUCCESSOR PERSONAL
4 REPRESENTATIVE, CONSERVATOR, AGENT OR TRUSTEE.
- 5 15. "INFORMATION" MEANS DATA, TEXT, IMAGES, VIDEOS, SOUNDS, CODES,
6 COMPUTER PROGRAMS, SOFTWARE, DATABASES OR THE LIKE.
- 7 16. "ONLINE TOOL" MEANS AN ELECTRONIC SERVICE PROVIDED BY A CUSTODIAN
8 THAT ALLOWS THE USER, IN AN AGREEMENT DISTINCT FROM THE TERMS-OF-SERVICE
9 AGREEMENT BETWEEN THE CUSTODIAN AND USER, TO PROVIDE DIRECTIONS FOR
10 DISCLOSURE OR NONDISCLOSURE OF DIGITAL ASSETS TO A THIRD PERSON.
- 11 17. "PERSON" MEANS AN INDIVIDUAL, AN ESTATE, A BUSINESS OR NONPROFIT
12 ENTITY, A PUBLIC CORPORATION, A GOVERNMENT OR GOVERNMENTAL SUBDIVISION,
13 AGENCY OR INSTRUMENTALITY OR ANY OTHER LEGAL ENTITY.
- 14 18. "PERSONAL REPRESENTATIVE" MEANS AN EXECUTOR, AN ADMINISTRATOR, A
15 SPECIAL ADMINISTRATOR OR PERSON THAT PERFORMS SUBSTANTIALLY THE SAME FUNCTION
16 UNDER LAW OF THIS STATE OTHER THAN THIS CHAPTER.
- 17 19. "POWER OF ATTORNEY" MEANS A RECORD THAT GRANTS AN AGENT AUTHORITY
18 TO ACT IN THE PLACE OF A PRINCIPAL.
- 19 20. "PRINCIPAL" MEANS AN INDIVIDUAL WHO GRANTS AUTHORITY TO AN AGENT
20 IN A POWER OF ATTORNEY.
- 21 21. "PROTECTED PERSON" MEANS AN INDIVIDUAL FOR WHOM A CONSERVATOR HAS
22 BEEN APPOINTED. PROTECTED PERSON INCLUDES AN INDIVIDUAL FOR WHOM AN
23 APPLICATION FOR THE APPOINTMENT OF A CONSERVATOR IS PENDING.
- 24 22. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM
25 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND THAT IS RETRIEVABLE IN
26 PERCEIVABLE FORM.
- 27 23. "REMOTE-COMPUTING SERVICE" MEANS A CUSTODIAN THAT PROVIDES TO A
28 USER COMPUTER-PROCESSING SERVICES OR THE STORAGE OF DIGITAL ASSETS BY MEANS
29 OF AN ELECTRONIC COMMUNICATIONS SYSTEM, AS DEFINED IN 18 UNITED STATES CODE
30 SECTION 2510(14).
- 31 24. "TERMS-OF-SERVICE AGREEMENT" MEANS AN AGREEMENT THAT CONTROLS THE
32 RELATIONSHIP BETWEEN A USER AND A CUSTODIAN.
- 33 25. "TRUSTEE" MEANS A FIDUCIARY WITH LEGAL TITLE TO PROPERTY UNDER AN
34 AGREEMENT OR DECLARATION THAT CREATES A BENEFICIAL INTEREST IN ANOTHER.
35 TRUSTEE INCLUDES A SUCCESSOR TRUSTEE.
- 36 26. "USER" MEANS A PERSON THAT HAS AN ACCOUNT WITH A CUSTODIAN.
- 37 27. "WILL" INCLUDES A CODICIL, TESTAMENTARY INSTRUMENT THAT ONLY
38 APPOINTS AN EXECUTOR AND INSTRUMENT THAT REVOKES OR REVISES A TESTAMENTARY
39 INSTRUMENT.
- 40 14-13103. Applicability
- 41 A. THIS CHAPTER APPLIES TO ALL OF THE FOLLOWING:
- 42 1. A FIDUCIARY ACTING UNDER A WILL OR POWER OF ATTORNEY EXECUTED
43 BEFORE, ON OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER.
- 44 2. A PERSONAL REPRESENTATIVE ACTING FOR A DECEDENT WHO DIED BEFORE, ON
45 OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER.

1 3. A CONSERVATORSHIP PROCEEDING COMMENCED BEFORE, ON OR AFTER THE
2 EFFECTIVE DATE OF THIS CHAPTER.

3 4. A TRUSTEE ACTING UNDER A TRUST CREATED BEFORE, ON OR AFTER THE
4 EFFECTIVE DATE OF THIS CHAPTER.

5 B. THIS CHAPTER APPLIES TO A CUSTODIAN IF THE USER RESIDES IN THIS
6 STATE OR RESIDED IN THIS STATE AT THE TIME OF THE USER'S DEATH.

7 C. THIS CHAPTER DOES NOT APPLY TO A DIGITAL ASSET OF AN EMPLOYER USED
8 BY AN EMPLOYEE IN THE ORDINARY COURSE OF THE EMPLOYER'S BUSINESS.

9 14-13104. User direction for disclosure of digital assets

10 A. A USER MAY USE AN ONLINE TOOL TO DIRECT THE CUSTODIAN TO DISCLOSE
11 OR NOT TO DISCLOSE SOME OR ALL OF THE USER'S DIGITAL ASSETS, INCLUDING THE
12 CONTENT OF ELECTRONIC COMMUNICATIONS. IF THE ONLINE TOOL ALLOWS THE USER TO
13 MODIFY OR DELETE A DIRECTION AT ALL TIMES, A DIRECTION REGARDING DISCLOSURE
14 USING AN ONLINE TOOL OVERRIDES A CONTRARY DIRECTION BY THE USER IN A WILL,
15 TRUST, POWER OF ATTORNEY OR OTHER RECORD.

16 B. IF A USER HAS NOT USED AN ONLINE TOOL TO GIVE DIRECTION UNDER
17 SUBSECTION A OF THIS SECTION OR IF THE CUSTODIAN HAS NOT PROVIDED AN ONLINE
18 TOOL, THE USER MAY ALLOW OR PROHIBIT IN A WILL, TRUST, POWER OF ATTORNEY OR
19 OTHER RECORD DISCLOSURE TO A FIDUCIARY OF SOME OR ALL OF THE USER'S DIGITAL
20 ASSETS, INCLUDING THE CONTENT OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED
21 BY THE USER.

22 C. A USER'S DIRECTION UNDER SUBSECTION A OR B OF THIS SECTION
23 OVERRIDES A CONTRARY PROVISION IN A TERMS-OF-SERVICE AGREEMENT THAT DOES NOT
24 REQUIRE THE USER TO ACT AFFIRMATIVELY AND DISTINCTLY FROM THE USER'S ASSENT
25 TO THE TERMS OF SERVICE.

26 14-13105. Terms-of-service agreement

27 A. THIS CHAPTER DOES NOT CHANGE OR IMPAIR A RIGHT OF A CUSTODIAN OR A
28 USER UNDER A TERMS-OF-SERVICE AGREEMENT TO ACCESS AND USE DIGITAL ASSETS OF
29 THE USER.

30 B. THIS CHAPTER DOES NOT GIVE A FIDUCIARY ANY NEW OR EXPANDED RIGHTS
31 OTHER THAN THOSE HELD BY THE USER FOR WHOM, OR FOR WHOSE ESTATE, THE
32 FIDUCIARY ACTS OR REPRESENTS.

33 C. A FIDUCIARY'S ACCESS TO DIGITAL ASSETS MAY BE MODIFIED OR
34 ELIMINATED BY A USER, BY FEDERAL LAW OR BY A TERMS-OF-SERVICE AGREEMENT IF
35 THE USER HAS NOT PROVIDED DIRECTION UNDER SECTION 14-13104.

36 14-13106. Procedure for disclosing digital assets

37 A. WHEN DISCLOSING DIGITAL ASSETS OF A USER UNDER THIS CHAPTER, THE
38 CUSTODIAN MAY DO, AT ITS SOLE DISCRETION, ANY OF THE FOLLOWING:

39 1. GRANT A FIDUCIARY OR DESIGNATED RECIPIENT FULL ACCESS TO THE USER'S
40 ACCOUNT.

41 2. GRANT A FIDUCIARY OR DESIGNATED RECIPIENT PARTIAL ACCESS TO THE
42 USER'S ACCOUNT SUFFICIENT TO PERFORM THE TASKS WITH WHICH THE FIDUCIARY OR
43 DESIGNATED RECIPIENT IS CHARGED.

44 3. PROVIDE A FIDUCIARY OR DESIGNATED RECIPIENT A COPY IN A RECORD OF
45 ANY DIGITAL ASSET THAT, ON THE DATE THE CUSTODIAN RECEIVED THE REQUEST FOR

1 DISCLOSURE, THE USER COULD HAVE ACCESSED IF THE USER WERE ALIVE AND HAD FULL
2 CAPACITY AND ACCESS TO THE ACCOUNT.

3 B. A CUSTODIAN MAY ASSESS A REASONABLE ADMINISTRATIVE CHARGE FOR THE
4 COST OF DISCLOSING DIGITAL ASSETS UNDER THIS CHAPTER.

5 C. A CUSTODIAN NEED NOT DISCLOSE UNDER THIS CHAPTER A DIGITAL ASSET
6 DELETED BY A USER.

7 D. IF A USER DIRECTS OR A FIDUCIARY REQUESTS A CUSTODIAN TO DISCLOSE
8 UNDER THIS CHAPTER SOME, BUT NOT ALL, OF THE USER'S DIGITAL ASSETS, THE
9 CUSTODIAN NEED NOT DISCLOSE THE ASSETS IF SEGREGATION OF THE ASSETS WOULD
10 IMPOSE AN UNDUE BURDEN ON THE CUSTODIAN. IF THE CUSTODIAN BELIEVES THE
11 DIRECTION OR REQUEST IMPOSES AN UNDUE BURDEN, THE CUSTODIAN OR FIDUCIARY MAY
12 SEEK AN ORDER FROM THE COURT TO DISCLOSE ANY OF THE FOLLOWING:

13 1. A SUBSET LIMITED BY DATE OF THE USER'S DIGITAL ASSETS.
14 2. ALL OF THE USER'S DIGITAL ASSETS TO THE FIDUCIARY OR DESIGNATED
15 RECIPIENT.
16 3. NONE OF THE USER'S DIGITAL ASSETS.
17 4. ALL OF THE USER'S DIGITAL ASSETS TO THE COURT FOR REVIEW IN CAMERA.
18 14-13107. Disclosure of content of electronic communications of
19 deceased user

20 A. IF A DECEASED USER CONSENTED OR A COURT DIRECTS DISCLOSURE OF THE
21 CONTENTS OF ELECTRONIC COMMUNICATIONS OF THE USER, THE CUSTODIAN SHALL
22 DISCLOSE TO THE PERSONAL REPRESENTATIVE OF THE ESTATE OF THE USER THE CONTENT
23 OF AN ELECTRONIC COMMUNICATION SENT OR RECEIVED BY THE USER IF THE
24 REPRESENTATIVE GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

25 1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.
26 2. A CERTIFIED COPY OF THE DEATH CERTIFICATE OF THE USER.
27 3. A CERTIFIED COPY OF THE LETTERS TESTAMENTARY, A SMALL-ESTATE
28 AFFIDAVIT OR A COURT ORDER.
29 4. UNLESS THE USER PROVIDED DIRECTION USING AN ONLINE TOOL, A COPY OF
30 THE USER'S WILL, TRUST, POWER OF ATTORNEY OR OTHER RECORD EVIDENCING THE
31 USER'S CONSENT TO DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS.
32 5. IF REQUESTED BY THE CUSTODIAN, ANY OF THE FOLLOWING:

33 (a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT
34 IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE USER'S ACCOUNT.
35 (b) EVIDENCE LINKING THE ACCOUNT TO THE USER.
36 (c) A FINDING BY THE COURT OF ONE OR MORE OF THE FOLLOWING:
37 (i) THE USER HAD A SPECIFIC ACCOUNT WITH THE CUSTODIAN, IDENTIFIABLE
38 BY THE INFORMATION SPECIFIED IN SUBDIVISION (a) OF THIS PARAGRAPH.
39 (ii) DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS OF THE
40 USER WOULD NOT VIOLATE 18 UNITED STATES CODE SECTIONS 2701 THROUGH 2712,
41 47 UNITED STATES CODE SECTION 222 OR OTHER APPLICABLE LAW.
42 (iii) UNLESS THE USER PROVIDED DIRECTION USING AN ONLINE TOOL, THE
43 USER CONSENTED TO DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS.
44 (iv) DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS OF THE
45 USER IS REASONABLY NECESSARY FOR ADMINISTRATION OF THE ESTATE.

1 14-13108. Disclosure of other digital assets of deceased user

2 UNLESS THE USER PROHIBITED DISCLOSURE OF DIGITAL ASSETS OR THE COURT
3 DIRECTS OTHERWISE, A CUSTODIAN SHALL DISCLOSE TO THE PERSONAL REPRESENTATIVE
4 OF THE ESTATE OF A DECEASED USER A CATALOGUE OF ELECTRONIC COMMUNICATIONS
5 SENT OR RECEIVED BY THE USER AND DIGITAL ASSETS, OTHER THAN THE CONTENT OF
6 ELECTRONIC COMMUNICATIONS, OF THE USER, IF THE REPRESENTATIVE GIVES THE
7 CUSTODIAN ALL OF THE FOLLOWING:

8 1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

9 2. A CERTIFIED COPY OF THE DEATH CERTIFICATE OF THE USER.

10 3. A CERTIFIED COPY OF THE LETTERS TESTAMENTARY, A SMALL-ESTATE
11 AFFIDAVIT OR A COURT ORDER.

12 4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

13 (a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT
14 IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE USER'S ACCOUNT.

15 (b) EVIDENCE LINKING THE ACCOUNT TO THE USER.

16 (c) AN AFFIDAVIT STATING THAT DISCLOSURE OF THE USER'S DIGITAL ASSETS
17 IS REASONABLY NECESSARY FOR ADMINISTRATION OF THE ESTATE.

18 (d) A FINDING BY THE COURT OF EITHER OF THE FOLLOWING:

19 (i) THE USER HAD A SPECIFIC ACCOUNT WITH THE CUSTODIAN, IDENTIFIABLE
20 BY THE INFORMATION SPECIFIED IN SUBDIVISION (a) OF THIS PARAGRAPH.

21 (ii) DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS OF THE
22 USER IS REASONABLY NECESSARY FOR ADMINISTRATION OF THE ESTATE.

23 14-13109. Disclosure of content of electronic communications of
24 principal

25 TO THE EXTENT A POWER OF ATTORNEY EXPRESSLY GRANTS AN AGENT AUTHORITY
26 OVER THE CONTENT OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY THE
27 PRINCIPAL AND UNLESS DIRECTED OTHERWISE BY THE PRINCIPAL OR THE COURT, A
28 CUSTODIAN SHALL DISCLOSE TO THE AGENT THE CONTENT IF THE AGENT GIVES THE
29 CUSTODIAN ALL OF THE FOLLOWING:

30 1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

31 2. AN ORIGINAL OR COPY OF THE POWER OF ATTORNEY EXPRESSLY GRANTING THE
32 AGENT AUTHORITY OVER THE CONTENT OF ELECTRONIC COMMUNICATIONS OF THE
33 PRINCIPAL.

34 3. A CERTIFICATION BY THE AGENT, UNDER PENALTY OF PERJURY, THAT THE
35 POWER OF ATTORNEY IS IN EFFECT.

36 4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

37 (a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT
38 IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE PRINCIPAL'S ACCOUNT.

39 (b) EVIDENCE LINKING THE ACCOUNT TO THE PRINCIPAL.

40 14-13110. Disclosure of other digital assets of principal

41 UNLESS OTHERWISE ORDERED BY THE COURT, DIRECTED BY THE PRINCIPAL OR
42 PROVIDED BY A POWER OF ATTORNEY, A CUSTODIAN SHALL DISCLOSE TO AN AGENT WITH
43 SPECIFIC AUTHORITY OVER DIGITAL ASSETS OR GENERAL AUTHORITY TO ACT ON BEHALF
44 OF A PRINCIPAL A CATALOGUE OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY
45 THE PRINCIPAL AND DIGITAL ASSETS, OTHER THAN THE CONTENT OF ELECTRONIC

1 COMMUNICATIONS, OF THE PRINCIPAL IF THE AGENT GIVES THE CUSTODIAN ALL OF THE
2 FOLLOWING:

- 3 1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.
- 4 2. AN ORIGINAL OR A COPY OF THE POWER OF ATTORNEY THAT GIVES THE AGENT
5 SPECIFIC AUTHORITY OVER DIGITAL ASSETS OR GENERAL AUTHORITY TO ACT ON BEHALF
6 OF THE PRINCIPAL.
- 7 3. A CERTIFICATION BY THE AGENT, UNDER PENALTY OF PERJURY, THAT THE
8 POWER OF ATTORNEY IS IN EFFECT.
- 9 4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:
 - 10 (a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT
11 IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE PRINCIPAL'S ACCOUNT.
 - 12 (b) EVIDENCE LINKING THE ACCOUNT TO THE PRINCIPAL.

13 14-13111. Disclosure of digital assets held in trust when
14 trustee is original user

15 UNLESS OTHERWISE ORDERED BY THE COURT OR PROVIDED IN A TRUST, A
16 CUSTODIAN SHALL DISCLOSE TO A TRUSTEE THAT IS AN ORIGINAL USER OF AN ACCOUNT
17 ANY DIGITAL ASSET OF THE ACCOUNT HELD IN TRUST, INCLUDING A CATALOGUE OF
18 ELECTRONIC COMMUNICATIONS OF THE TRUSTEE AND THE CONTENT OF ELECTRONIC
19 COMMUNICATIONS.

20 14-13112. Disclosure of contents of electronic communications
21 held in trust when trustee is not original user

22 UNLESS OTHERWISE ORDERED BY THE COURT, DIRECTED BY THE USER OR PROVIDED
23 IN A TRUST, A CUSTODIAN SHALL DISCLOSE TO A TRUSTEE THAT IS NOT AN ORIGINAL
24 USER OF AN ACCOUNT THE CONTENT OF AN ELECTRONIC COMMUNICATION SENT OR
25 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
27 TRUSTEE GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

- 28 1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.
- 29 2. A CERTIFIED COPY OF THE TRUST INSTRUMENT OR A CERTIFICATION OF THE
30 TRUST UNDER SECTION 14-11013 THAT INCLUDES CONSENT TO DISCLOSURE OF THE
31 CONTENT OF ELECTRONIC COMMUNICATIONS TO THE TRUSTEE.
- 32 3. A CERTIFICATION BY THE TRUSTEE, UNDER PENALTY OF PERJURY, THAT THE
33 TRUST EXISTS AND THE TRUSTEE IS A CURRENTLY ACTING TRUSTEE OF THE TRUST.
- 34 4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:
 - 35 (a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT
36 IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE TRUST'S ACCOUNT.
 - 37 (b) EVIDENCE LINKING THE ACCOUNT TO THE TRUST.

38 14-13113. Disclosure of other digital assets held in trust when
39 trustee is not original user

40 UNLESS OTHERWISE ORDERED BY THE COURT, DIRECTED BY THE USER OR PROVIDED
41 IN A TRUST, A CUSTODIAN SHALL DISCLOSE TO A TRUSTEE THAT IS NOT AN ORIGINAL
42 USER OF AN ACCOUNT A CATALOGUE OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED
43 BY AN ORIGINAL OR SUCCESSOR USER AND STORED, CARRIED OR MAINTAINED BY THE
44 CUSTODIAN IN AN ACCOUNT OF THE TRUST AND ANY DIGITAL ASSETS, OTHER THAN THE

1 CONTENT OF ELECTRONIC COMMUNICATIONS, IN WHICH THE TRUST HAS A RIGHT OR
2 INTEREST IF THE TRUSTEE GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

- 3 1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.
- 4 2. A CERTIFIED COPY OF THE TRUST INSTRUMENT OR A CERTIFICATION OF THE
5 TRUST UNDER SECTION 14-11013.
- 6 3. A CERTIFICATION BY THE TRUSTEE, UNDER PENALTY OF PERJURY, THAT THE
7 TRUST EXISTS AND THE TRUSTEE IS A CURRENTLY ACTING TRUSTEE OF THE TRUST.
- 8 4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:
- 9 (a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT
10 IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE TRUST'S ACCOUNT.
- 11 (b) EVIDENCE LINKING THE ACCOUNT TO THE TRUST.

12 14-13114. Disclosure of digital assets to conservator of
13 protected person

14 A. AFTER AN OPPORTUNITY FOR A HEARING UNDER CHAPTER 5, ARTICLE 4 OF
15 THIS TITLE, THE COURT MAY GRANT A CONSERVATOR ACCESS TO THE DIGITAL ASSETS OF
16 A PROTECTED PERSON.

17 B. UNLESS OTHERWISE ORDERED BY THE COURT OR DIRECTED BY THE USER, A
18 CUSTODIAN SHALL DISCLOSE TO A CONSERVATOR THE CATALOGUE OF ELECTRONIC
19 COMMUNICATIONS SENT OR RECEIVED BY A PROTECTED PERSON AND ANY DIGITAL ASSETS,
20 OTHER THAN THE CONTENT OF ELECTRONIC COMMUNICATIONS, IN WHICH THE PROTECTED
21 PERSON HAS A RIGHT OR INTEREST IF THE CONSERVATOR GIVES THE CUSTODIAN ALL OF
22 THE FOLLOWING:

- 23 1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.
- 24 2. A CERTIFIED COPY OF THE COURT ORDER THAT GIVES THE CONSERVATOR
25 AUTHORITY OVER THE DIGITAL ASSETS OF THE PROTECTED PERSON.
- 26 3. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:
- 27 (a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT
28 IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE ACCOUNT OF THE PROTECTED
29 PERSON.
- 30 (b) EVIDENCE LINKING THE ACCOUNT TO THE TRUST.

31 C. A CONSERVATOR WITH GENERAL AUTHORITY TO MANAGE THE ASSETS OF A
32 PROTECTED PERSON MAY REQUEST A CUSTODIAN OF THE DIGITAL ASSETS OF THE
33 PROTECTED PERSON TO SUSPEND OR TERMINATE AN ACCOUNT OF THE PROTECTED PERSON
34 FOR GOOD CAUSE. A REQUEST MADE UNDER THIS SUBSECTION MUST BE ACCOMPANIED BY
35 A CERTIFIED COPY OF THE COURT ORDER GIVING THE CONSERVATOR AUTHORITY OVER THE
36 PROTECTED PERSON'S PROPERTY.

37 14-13115. Fiduciary duty and authority

38 A. THE LEGAL DUTIES IMPOSED ON A FIDUCIARY CHARGED WITH MANAGING
39 TANGIBLE PROPERTY APPLY TO THE MANAGEMENT OF DIGITAL ASSETS, INCLUDING ALL OF
40 THE FOLLOWING, IF APPLICABLE:

- 41 1. THE DUTY OF CARE.
- 42 2. THE DUTY OF LOYALTY.
- 43 3. THE DUTY OF CONFIDENTIALITY.

44 B. A FIDUCIARY'S AUTHORITY WITH RESPECT TO A DIGITAL ASSET OF A USER:

1 1. EXCEPT AS OTHERWISE PROVIDED IN SECTION 14-13104, IS SUBJECT TO THE
2 APPLICABLE TERMS OF SERVICE.
3 2. IS SUBJECT TO OTHER APPLICABLE LAW, INCLUDING COPYRIGHT LAW.
4 3. IS LIMITED BY THE SCOPE OF THE FIDUCIARY'S DUTIES.
5 4. MAY NOT BE USED TO IMPERSONATE THE USER.
6 C. A FIDUCIARY WITH AUTHORITY OVER THE PROPERTY OF A DECEDENT,
7 PROTECTED PERSON, PRINCIPAL OR SETTLOR HAS THE RIGHT TO ACCESS ANY DIGITAL
8 ASSET IN WHICH THE DECEDENT, PROTECTED PERSON, PRINCIPAL OR SETTLOR HAD A
9 RIGHT OR INTEREST AND THAT IS NOT HELD BY A CUSTODIAN OR SUBJECT TO A
10 TERMS-OF-SERVICE AGREEMENT.
11 D. A FIDUCIARY ACTING WITHIN THE SCOPE OF THE FIDUCIARY'S DUTIES IS AN
12 AUTHORIZED USER OF THE PROPERTY OF THE DECEDENT, PROTECTED PERSON, PRINCIPAL
13 OR SETTLOR FOR THE PURPOSE OF APPLICABLE COMPUTER-FRAUD AND
14 UNAUTHORIZED-COMPUTER-ACCESS LAWS, INCLUDING SECTION 13-2316.
15 E. A FIDUCIARY WITH AUTHORITY OVER THE TANGIBLE, PERSONAL PROPERTY OF
16 A DECEDENT, PROTECTED PERSON, PRINCIPAL OR SETTLOR:
17 1. HAS THE RIGHT TO ACCESS THE PROPERTY AND ANY DIGITAL ASSET STORED
18 IN IT.
19 2. IS AN AUTHORIZED USER FOR THE PURPOSE OF COMPUTER-FRAUD AND
20 UNAUTHORIZED-COMPUTER-ACCESS LAWS, INCLUDING SECTION 13-2316.
21 F. A CUSTODIAN MAY DISCLOSE INFORMATION IN AN ACCOUNT TO A FIDUCIARY
22 OF THE USER WHEN THE INFORMATION IS REQUIRED TO TERMINATE AN ACCOUNT USED TO
23 ACCESS DIGITAL ASSETS LICENSED TO THE USER.
24 G. A FIDUCIARY OF A USER MAY REQUEST A CUSTODIAN TO TERMINATE THE
25 USER'S ACCOUNT. A REQUEST FOR TERMINATION MUST BE IN WRITING, IN EITHER
26 PHYSICAL OR ELECTRONIC FORM, AND ACCOMPANIED BY ALL OF THE FOLLOWING:
27 1. IF THE USER IS DECEASED, A CERTIFIED COPY OF THE DEATH CERTIFICATE
28 OF THE USER.
29 2. A CERTIFIED COPY OF THE LETTERS TESTAMENTARY OF THE REPRESENTATIVE,
30 SMALL-ESTATE AFFIDAVIT, COURT ORDER, POWER OF ATTORNEY OR TRUST GIVING THE
31 FIDUCIARY AUTHORITY OVER THE ACCOUNT.
32 3. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:
33 (a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT
34 IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE USER'S ACCOUNT.
35 (b) EVIDENCE LINKING THE ACCOUNT TO THE USER.
36 (c) A FINDING BY THE COURT THAT THE USER HAD A SPECIFIC ACCOUNT WITH
37 THE CUSTODIAN, IDENTIFIABLE BY THE INFORMATION SPECIFIED IN SUBDIVISION (a)
38 OF THIS PARAGRAPH.
39 14-13116. Custodian compliance and immunity
40 A. NOT LATER THAN SIXTY DAYS AFTER RECEIPT OF THE INFORMATION REQUIRED
41 UNDER SECTION 14-13107, 14-13108, 14-13109, 14-13110, 14-13111, 14-13112,
42 14-13113, 14-13114 OR 14-13115, A CUSTODIAN SHALL COMPLY WITH A REQUEST UNDER
43 THIS CHAPTER FROM A FIDUCIARY OR DESIGNATED RECIPIENT TO DISCLOSE DIGITAL
44 ASSETS OR TERMINATE AN ACCOUNT. IF THE CUSTODIAN FAILS TO COMPLY, THE

1 FIDUCIARY OR DESIGNATED RECIPIENT MAY APPLY TO THE COURT FOR AN ORDER
2 DIRECTING COMPLIANCE.

3 B. AN ORDER UNDER SUBSECTION A OF THIS SECTION DIRECTING COMPLIANCE
4 MUST CONTAIN A FINDING THAT COMPLIANCE IS NOT IN VIOLATION OF 18 UNITED
5 STATES CODE SECTION 2702.

6 C. A CUSTODIAN MAY NOTIFY THE USER THAT A REQUEST FOR DISCLOSURE OR TO
7 TERMINATE AN ACCOUNT WAS MADE UNDER THIS CHAPTER.

8 D. A CUSTODIAN MAY DENY A REQUEST UNDER THIS CHAPTER FROM A FIDUCIARY
9 OR DESIGNATED RECIPIENT FOR DISCLOSURE OF DIGITAL ASSETS OR TO TERMINATE AN
10 ACCOUNT IF THE CUSTODIAN IS AWARE OF ANY LAWFUL ACCESS TO THE ACCOUNT
11 FOLLOWING THE RECEIPT OF THE FIDUCIARY'S REQUEST.

12 E. THIS CHAPTER DOES NOT LIMIT A CUSTODIAN'S ABILITY TO OBTAIN OR
13 REQUIRE A FIDUCIARY OR DESIGNATED RECIPIENT REQUESTING DISCLOSURE OR
14 TERMINATION UNDER THIS CHAPTER TO OBTAIN A COURT ORDER THAT DOES ANY OF THE
15 FOLLOWING:

16 1. SPECIFIES THAT AN ACCOUNT BELONGS TO THE PROTECTED PERSON OR
17 PRINCIPAL.

18 2. SPECIFIES THAT THERE IS SUFFICIENT CONSENT FROM THE PROTECTED
19 PERSON OR PRINCIPAL TO SUPPORT THE REQUESTED DISCLOSURE.

20 3. CONTAINS A FINDING REQUIRED BY LAW OTHER THAN THIS CHAPTER.

21 F. A CUSTODIAN AND ITS OFFICERS, EMPLOYEES AND AGENTS ARE IMMUNE FROM
22 LIABILITY FOR AN ACT OR OMISSION DONE IN GOOD FAITH IN COMPLIANCE WITH THIS
23 CHAPTER.

24 14-13117. Uniformity of application and construction

25 IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
26 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS
27 SUBJECT MATTER AMONG STATES THAT ENACT IT.

28 14-13118. Relation to electronic signatures in global and
29 national commerce act

30 THIS CHAPTER MODIFIES, LIMITS AND SUPERSEDES THE ELECTRONIC SIGNATURES
31 IN GLOBAL AND NATIONAL COMMERCE ACT, 15 UNITED STATES CODE SECTIONS 7001
32 THROUGH 7031, BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE 15 UNITED STATES CODE
33 SECTION 7001(c) OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
34 DESCRIBED IN 15 UNITED STATES CODE SECTION 7003(b).