

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 2072

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H.P. 1451

House of Representatives, March 30, 1999

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### **An Act to Clarify the Admissibility of Electronic Records and Signatures.**

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Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.  
Cosponsored by Representative MADORE of Augusta, Senator: LONGLEY of Waldo.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 16 MRSA §358 is enacted to read:

**§358. Electronic records and signatures**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Electronic" means electrical, digital, magnetic, optical, eletromagnetic or any other similar technology.

B. "Electronic record" means a record generated, communicated, received or stored by electronic means.

C. "Electronic signature" means any identifier or authentication technique attached to or logically associated with an electronic record that is intended by the person using it to have the same force and effect as a manual signature.

D. "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.

E. "Rule of law" means a statute, rule, regulation, ordinance, common-law rule, court decision or other law relating to a governmental transaction enacted, established or adopted by the State or any agency, commission, department, court, political subdivision or other authority of the State.

2. Scope. The provisions of this section do not apply:

A. To the extent that their application would involve a construction of a rule of law that is clearly inconsistent with the manifest intent of the lawmaking body or repugnant to the context of the same rule of law, provided that the requirement that information be in writing, written, printed or signed or in any other manner purports to specify or require a particular communications medium is not by itself sufficient to establish such intent; or

B. To any record that serves as a unique and transferable physical token of rights and obligations including, without limitation, negotiable instruments and other instruments of title in the case of which possession of the instrument is deemed to confer title.

2 3. Electronic records. A record may not be denied legal  
3 effect, validity or enforceability solely because it is in the  
4 form of an electronic record. If a rule of law requires a record  
5 to be in writing, or provides consequences if it is not, an  
6 electronic record satisfies that rule of law.

8 4. Electronic signatures. A signature may not be denied  
9 legal effect, validity or enforceability solely because it is in  
10 the form of an electronic signature. If a rule of law requires a  
11 signature, or provides consequences in the absence of a  
12 signature, an electronic signature satisfies that rule of law.

14 5. Admissibility into evidence. In any legal proceeding,  
15 nothing in the application of the rules of evidence may apply so  
16 as to deny the admissibility of an electronic record or  
17 electronic signature into evidence on the sole ground that it is  
18 an electronic record or an electronic signature or on the grounds  
19 that it is not in its original form or is not an original.

20 6. Originals. If a rule of law requires a record to be  
21 presented or retained in its original form, or provides  
22 consequences for the record not being presented or retained in  
23 its original form, that requirement is met by an electronic  
24 record if it accurately reproduces the original record as it  
25 existed at the time in question.

28 7. Retention of electronic records. If a rule of law  
29 requires that a record be retained, that requirement is met by  
30 retaining an electronic record if it accurately reproduces the  
31 original record as it existed at the time in question and for so  
32 long as may be required by law. Nothing in this section  
33 precludes any federal or state agency from specifying additional  
34 requirements for the retention of records, either written or  
35 electronic, that are subject to the jurisdiction of that agency.

36 8. Business entities. A contract between business entities  
37 may not be unenforceable, nor inadmissible in evidence, on the  
38 sole ground that the contract is evidenced by an electronic  
39 record or that it has been signed with an electronic signature.  
40 For purposes of this subsection, "contract" means a contract for  
41 the sale of goods or services, for the sale or license of digital  
42 information or for the lease of tangible personal property.

44 A. Nothing in this subsection may be construed to prevent a  
45 party from establishing reasonable requirements with respect  
46 to the method executed or adopted by a party to sign a  
47 contract, absent agreement to the contrary.

48 B. Nothing in this subsection may be construed to mean that  
49 electronic records and electronic signatures do not satisfy  
50 the requirements of this subsection.

2           legal requirements for a writing or a signed writing in  
3           transactions not covered by this section.

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#### SUMMARY

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7           This bill provides for the validity and admissibility into  
8           evidence in a legal proceeding of electronic records and also  
9           allows for an electronic signature to have the same legal force  
10          and effect as a manual signature.