

HOUSE BILL No. 4406

March 10, 1999, Introduced by Rep. Mortimer and referred to the Committee on Insurance and Financial Services.

A bill to authorize the transmission, receipt, and storage of information and signatures by electronic means.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Electronic" means the use of electrical, digital, mag-
3 netic, optical, electromagnetic, or any other similar form of
4 technological means for the transmission of data.

5 (b) "Electronic record" means a digital representation of
6 data or information generated, communicated, received, or stored
7 by electronic means for use in an information system or for
8 transmission from 1 information system to another.

9 (c) "Electronic signature" means an electronic identifier
10 whose use is intended by the person using it to have the same
11 force and effect as the use of a manual signature and containing
12 all of the following characteristics:

1 (i) It is unique to the person using it.

2 (ii) It is capable of verification.

3 (iii) It is under the sole control of the person using it.

4 (d) "Record" means information that is inscribed, stored, or
5 otherwise fixed on a tangible medium or that is stored in an
6 electronic or other medium and is retrievable in perceivable
7 form.

8 Sec. 2. Except as provided under section 3, if all parties
9 to a private transaction or in dealings with a governmental
10 entity agree to the use of an electronic record or an electronic
11 signature, all of the following apply:

12 (a) Information, records, and electronic signatures shall
13 have legal effect, validity, and enforceability.

14 (b) If a statute or other law requires a "written" signa-
15 ture, an electronic signature shall have the same force and
16 effect as the use of a manual signature.

17 (c) If a statute or other law requires information to be
18 "written", that statute or other law shall be satisfied by an
19 electronic record.

20 (d) If a statute or other law requires information to be
21 presented or retained in its original form, that statute or other
22 law shall be satisfied by an electronic record if there exists
23 reliable assurance as to the integrity of the data or the infor-
24 mation from the time when it was first generated to its final
25 form.

26 Sec. 3. (1) This act does not apply to any of the
27 following:

1 (a) A situation in which the application of this act would
2 be inconsistent with the express intent of the parties to a writ-
3 ten document.

4 (b) A legal requirement governing the creation or execution
5 of a document that serves to convey rights and obligations under
6 a will or trust.

7 (c) A legal requirement governing the conveyance of an
8 interest in real property.

9 (d) A legal requirement governing the creation or transfer
10 of a negotiable instrument or any instrument establishing title
11 or an interest in title.

12 (2) This act shall not be construed to do any of the
13 following:

14 (a) Require a recipient or any other person asked to rely on
15 an electronic record or an electronic signature to accept the
16 electronic record or electronic signature or to respond to or act
17 upon an electronic record or electronic signature, unless the
18 parties have voluntarily agreed to the use of an electronic
19 record or electronic signature prior to transmission.

20 (b) Preclude the recipient of an electronic record or an
21 electronic signature from establishing the conditions under which
22 the recipient will accept the electronic record or electronic
23 signature, unless the parties have voluntarily agreed to the con-
24 ditions under which the recipient would accept the electronic
25 record or electronic signature prior to transmission.

26 (c) Require a governmental entity to accept an electronic
27 record or electronic signature, unless the entity or agency has

1 agreed to accept the electronic record or electronic signature in
2 advance of transmission and the manner and medium of transmission
3 is acceptable to the governmental entity.