State of Arkansas 1 As Engrossed: S3/1/99 A Bill 2 82nd General Assembly Act 718 of 1999 3 Regular Session, 1999 SENATE BILL 418 4 By: Senator Gordon 5 By: Representatives Horn, Lendall 6 7 8 For An Act To Be Entitled 9 "AN ACT TO CREATE THE ARKANSAS ELECTRONICS RECORDS AND 10 SIGNATURES ACT. " 11 12 Subtitle 13 "TO CREATE THE ARKANSAS ELECTRONIC 14 15 RECORDS AND SIGNATURES ACT. " 16 17 18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: 19 20 SECTION 1. Short Title. 21 This chapter shall be known and may be cited as the "Arkansas Electronic 22 Records and Signatures Act." 23 24 SECTION 2. Construction. The provisions of this chapter shall be construed to promote the 25 development of electronic government and electronic commerce. The Secretary 26 27 of State shall develop guidelines for the use of electronic signatures and 28 provide a register of electronic signature verification companies. 29 30 SECTION 3. Definitions. 31 As used in this chapter the term: 32 (1) "Electronic signature" means an electronic or digital method executed or adopted by a party with the intent to be bound by or to 33 authenticate a record, which is unique to the person using it, is capable of 34 35 verification, is under the sole control of the person using it, and is linked to data in such a manner that if the data are changed the electronic signature 36

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1 is invalidated.

(2) "Person" means a natural person, corporation, trust, partnership,
incorporated or unincorporated association, or any other legal entity, and
also includes any department, agency, authority, or instrumentality of the
state or its political subdivisions.

- (3) "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. Record includes both electronic records and printed, typewritten, and tangible records.
- (4) "Electronic Signature Verification Company" means a company providing verification of an electronic signature. An electronic verification company shall obtain a surety bond in the amount of two hundred fifty-thousand dollars (\$250,000).

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- SECTION 4. Agreement to Electronic Record or Signature.
- Any person may, but shall not be required to, accept or agree to be bound by an electronic record which is executed or adopted with an electronic signature and, where that acceptance or agreement is otherwise required to be witnessed or notarized, which is witnessed or notarized using an electronic signature. Where a person or other entity accepts or agrees to be bound by an electronic record as provided in this code section, then:
- (a) Any rule of law which requires a record of that type to be in writing shall be deemed satisfied;
- 24 <u>(b) Any rule of law which requires a signature shall be deemed</u> 25 <u>satisfied; and</u>
  - (c) Any rule of law which requires a witness or notary shall be deemed satisfied by the electronic signature of such witness or notary.

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- SECTION 5. Unauthorized use of Electronic Signature.
- A person whose electronic signature is used in an unauthorized fashion may recover or obtain any or all of the following against the person who engaged in such unauthorized use, provided that the use of such electronic signature in an unauthorized fashion was negligent, reckless, or intentional:
- 34 (a) Actual damages;
- 35 <u>(b) Equitable relief including, but not limited to, an injunction or restitution of money or property;</u>

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2	(d) Reasonable attorneys' fees and expenses;
3	(e) Any other relief which the court deems proper; and
4	(f) Nothing in this statute shall preclude criminal sanctions.
5	Nothing in this code section shall be deemed to waive the sovereign immunity
6	otherwise provided by law to the state or any of its political subdivisions.
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8	SECTION 6. All provisions of this act of a general and permanent nature
9	are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
10	Revision Commission shall incorporate the same in the Code.
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12	SECTION 7. If any provision of this act or the application thereof to
13	any person or circumstance is held invalid, such invalidity shall not affect
14	other provisions or applications of the act which can be given effect without
15	the invalid provision or application, and to this end the provisions of this
16	act are declared to be severable.
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18	SECTION 8. All laws and parts of laws in conflict with this act are
19	hereby repealed.
20	/s/ Gordon
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23	APPROVED: 3/18/1999
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