

117TH CONGRESS
2D SESSION

S. 3715

To amend the Electronic Signatures in Global and National Commerce Act
to accommodate emerging technologies.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2022

Mr. THUNE (for himself, Mr. MORAN, Mr. YOUNG, and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Electronic Signatures in Global and National
Commerce Act to accommodate emerging technologies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “E-SIGN Modernization
5 Act of 2022”.

6 **SEC. 2. REQUIREMENTS FOR CONSENT TO ELECTRONIC**
7 **DISCLOSURES.**

8 (a) IN GENERAL.—Title I of the Electronic Signa-
9 tures in Global and National Commerce Act (15 U.S.C.
10 7001 et seq.) is amended—

1 (1) in section 101(c) (15 U.S.C. 7001(c))—

2 (A) in paragraph (1), by striking subpara-
3 graphs (C) and (D) and inserting the following:

4 “(C) the consumer, prior to consenting, is
5 provided with a statement of the hardware and
6 software requirements for access to and reten-
7 tion of the electronic records; and

8 “(D) after the consent of a consumer in
9 accordance with subparagraph (A), if a change
10 in the hardware or software requirements need-
11 ed to access or retain electronic records creates
12 a material risk that the consumer will not be
13 able to access or retain a subsequent electronic
14 record that was the subject of the consent, the
15 person providing the electronic record provides
16 the consumer with a statement of—

17 “(i) the revised hardware and soft-
18 ware requirements for access to and reten-
19 tion of the electronic records; and

20 “(ii) the right to withdraw consent
21 without the imposition of any fees for such
22 withdrawal and without the imposition of
23 any condition or consequence that was not
24 disclosed under subparagraph (B)(i).”;

25 (B) by striking paragraph (3); and

1 (C) by redesignating paragraphs (4), (5),
 2 and (6) as paragraphs (3), (4), and (5), respec-
 3 tively;

4 (2) in section 104(d)(1) (15 U.S.C.
 5 7004(d)(1)), by inserting “or a State regulatory
 6 agency” after “Federal regulatory agency”;

7 (3) by striking section 105 (15 U.S.C. 7005);
 8 and

9 (4) by redesignating sections 106 and 107 (15
 10 U.S.C. 7006, 7001 note) as sections 105 and 106,
 11 respectively.

12 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

13 (1) ECONOMIC GROWTH, REGULATORY RELIEF,
 14 AND CONSUMER PROTECTION ACT.—Section
 15 215(f)(2) of the Economic Growth, Regulatory Re-
 16 lief, and Consumer Protection Act (42 U.S.C.
 17 405b(f)(2)) is amended by striking “section 106 of
 18 the Electronic Signatures in Global and National
 19 Commerce Act (15 U.S.C. 7006)” and inserting
 20 “section 105 of the Electronic Signatures in Global
 21 and National Commerce Act”.

22 (2) ELECTRONIC FUND TRANSFER ACT.—Sec-
 23 tion 920(g)(2)(A) of the Electronic Fund Transfer
 24 Act (15 U.S.C. 1693o–1(g)(2)(A)) is amended by
 25 striking “section 106(2) of the Electronic Signatures

1 in Global and National Commerce Act (15 U.S.C.
 2 7006(2))” and inserting “section 105(2) of the Elec-
 3 tronic Signatures in Global and National Commerce
 4 Act”.

5 (3) ELECTRONIC SIGNATURES IN GLOBAL AND
 6 NATIONAL COMMERCE ACT.—The Electronic Signa-
 7 tures in Global and National Commerce Act (15
 8 U.S.C. 7001 et seq.) is amended—

9 (A) in section 201(a)(2) (15 U.S.C.
 10 7021(a)(2)), by striking “section 106” and in-
 11 serting “section 105”; and

12 (B) in section 301(c) (15 U.S.C. 7031(c)),
 13 by striking “section 106” and inserting “section
 14 105”.

15 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
 16 tion, or the amendments made by this section, may be con-
 17 strued as affecting the consent provided by any consumer
 18 under section 101(c) of the Electronic Signatures in Glob-
 19 al and National Commerce Act (15 U.S.C. 7001(c)) before
 20 the date of enactment of this Act.

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