

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0126.01 Jerry Barry x4341

SENATE BILL 16-088

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE "REVISED UNIFORM FIDUCIARY ACCESS TO
102 DIGITAL ASSETS ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Colorado Commission on Uniform State Laws. The bill enacts the "Revised Uniform Fiduciary Access to Digital Assets Act", as amended, as Colorado law. The bill sets forth the conditions under which certain fiduciaries may access:

- ! The content of an electronic communication of a principal or decedent;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! A catalog of electronic communications sent or received by a principal or decedent; and
- ! Any other digital asset in which a principal has a right or interest or in which a decedent had a right or interest at death.

As to tangible personal property capable of receiving, storing, processing, or sending a digital asset, a fiduciary with authority over the property of a decedent, protected person, principal, or settlor may access the property and any digital asset stored in it and is an authorized user for purposes of computer fraud and unauthorized computer access laws.

A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good-faith compliance with the provisions of the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 15 to article
3 1 of title 15 as follows:

4 **PART 15**

5 **REVISED UNIFORM FIDUCIARY ACCESS**

6 **TO DIGITAL ASSETS ACT**

7 **15-1-1501. Short title.** THIS PART 15 MAY BE CITED AS THE
8 "REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT".

9 **15-1-1502. Definitions.** IN THIS PART 15:

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

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

16 (3) "CARRIES" MEANS ENGAGES IN THE TRANSMISSION OF AN
17 ELECTRONIC COMMUNICATION.

18 (4) "CATALOG OF ELECTRONIC COMMUNICATIONS" MEANS

1 INFORMATION THAT IDENTIFIES EACH PERSON WITH WHICH A USER HAS
2 HAD AN ELECTRONIC COMMUNICATION, THE TIME AND DATE OF THE
3 COMMUNICATION, AND THE ELECTRONIC ADDRESS OF THE PERSON.

4 (5) "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO
5 MANAGE THE ESTATE OF A LIVING INDIVIDUAL. THE TERM INCLUDES A
6 LIMITED CONSERVATOR.

7 (6) "CONTENT OF AN ELECTRONIC COMMUNICATION" MEANS
8 INFORMATION CONCERNING THE SUBSTANCE OR MEANING OF A
9 COMMUNICATION THAT:

10 (a) HAS BEEN SENT OR RECEIVED BY A USER;

11 (b) IS IN ELECTRONIC STORAGE BY A CUSTODIAN PROVIDING AN
12 ELECTRONIC-COMMUNICATION SERVICE TO THE PUBLIC OR IS CARRIED OR
13 MAINTAINED BY A CUSTODIAN PROVIDING A REMOTE-COMPUTING SERVICE
14 TO THE PUBLIC; AND

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

16 (7) "COURT" MEANS THE DISTRICT COURT, EXCEPT IN THE CITY
17 AND COUNTY OF DENVER WHERE IT IS THE PROBATE COURT.

18 (8) "CUSTODIAN" MEANS A PERSON THAT CARRIES, MAINTAINS,
19 PROCESSES, RECEIVES, OR STORES A DIGITAL ASSET OF A USER.

20 (9) "DESIGNATED RECIPIENT" MEANS A PERSON CHOSEN BY A USER
21 USING AN ON-LINE TOOL TO ADMINISTER DIGITAL ASSETS OF THE USER.

22 (10) "DIGITAL ASSET" MEANS AN ELECTRONIC RECORD IN WHICH
23 AN INDIVIDUAL HAS A RIGHT OR INTEREST. THE TERM DOES NOT INCLUDE
24 AN UNDERLYING ASSET OR LIABILITY UNLESS THE ASSET OR LIABILITY IS
25 ITSELF AN ELECTRONIC RECORD.

26 (11) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING
27 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL,

1 ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

2 (12) "ELECTRONIC COMMUNICATION" HAS THE MEANING SET
3 FORTH IN 18 U.S.C. SEC. 2510(12), AS AMENDED.

4 (13) "ELECTRONIC-COMMUNICATION SERVICE" MEANS A
5 CUSTODIAN THAT PROVIDES TO A USER THE ABILITY TO SEND OR RECEIVE
6 AN ELECTRONIC COMMUNICATION.

7 (14) "FIDUCIARY" MEANS AN ORIGINAL, ADDITIONAL, OR
8 SUCCESSOR PERSONAL REPRESENTATIVE, CONSERVATOR, AGENT, OR
9 TRUSTEE.

10 (15) "INFORMATION" MEANS DATA, TEXT, IMAGES, VIDEOS,
11 SOUNDS, CODES, COMPUTER PROGRAMS, SOFTWARE, DATABASES, OR THE
12 LIKE.

13 (16) "ON-LINE TOOL" MEANS AN ELECTRONIC SERVICE PROVIDED
14 BY A CUSTODIAN THAT ALLOWS THE USER, IN AN AGREEMENT DISTINCT
15 FROM THE TERMS-OF-SERVICE AGREEMENT BETWEEN THE CUSTODIAN AND
16 USER, TO PROVIDE DIRECTIONS FOR DISCLOSURE OR NONDISCLOSURE OF
17 DIGITAL ASSETS TO A THIRD PERSON.

18 (17) "PERSON" MEANS AN INDIVIDUAL; ESTATE; BUSINESS OR
19 NONPROFIT ENTITY; PUBLIC CORPORATION; GOVERNMENT OR
20 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY; OR OTHER
21 LEGAL ENTITY.

22 (18) "PERSONAL REPRESENTATIVE" MEANS AN EXECUTOR,
23 ADMINISTRATOR, SPECIAL ADMINISTRATOR, OR PERSON THAT PERFORMS
24 SUBSTANTIALLY THE SAME FUNCTION UNDER LAW OF THIS STATE OTHER
25 THAN THIS PART 15.

26 (19) "POWER OF ATTORNEY" MEANS A RECORD THAT GRANTS AN
27 AGENT AUTHORITY TO ACT IN THE PLACE OF A PRINCIPAL.

1 (20) "PRINCIPAL" MEANS AN INDIVIDUAL WHO GRANTS AUTHORITY
2 TO AN AGENT IN A POWER OF ATTORNEY.

3 (21) "PROTECTED PERSON" MEANS AN INDIVIDUAL FOR WHOM A
4 CONSERVATOR HAS BEEN APPOINTED. THE TERM INCLUDES AN INDIVIDUAL
5 FOR WHOM AN APPLICATION FOR THE APPOINTMENT OF A CONSERVATOR
6 IS PENDING.

7 (22) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
8 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
9 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

10 (23) "REMOTE-COMPUTING SERVICE" MEANS A CUSTODIAN THAT
11 PROVIDES TO A USER COMPUTER-PROCESSING SERVICES OR THE STORAGE
12 OF DIGITAL ASSETS BY MEANS OF AN ELECTRONIC COMMUNICATIONS
13 SYSTEM, AS DEFINED IN 18 U.S.C. SEC. 2510(14), AS AMENDED.

14 (24) "TERMS-OF-SERVICE AGREEMENT" MEANS AN AGREEMENT
15 THAT CONTROLS THE RELATIONSHIP BETWEEN A USER AND A CUSTODIAN.

16 (25) "TRUSTEE" MEANS A FIDUCIARY WITH LEGAL TITLE TO
17 PROPERTY UNDER AN AGREEMENT OR DECLARATION THAT CREATES A
18 BENEFICIAL INTEREST IN ANOTHER. THE TERM INCLUDES A SUCCESSOR
19 TRUSTEE.

20 (26) "USER" MEANS A PERSON THAT HAS AN ACCOUNT WITH A
21 CUSTODIAN.

22 (27) "WILL" INCLUDES A CODICIL, TESTAMENTARY INSTRUMENT
23 THAT ONLY APPOINTS AN EXECUTOR, AND INSTRUMENT THAT REVOKES OR
24 REVISES A TESTAMENTARY INSTRUMENT.

25 **15-1-1503. Applicability.** (1) THIS PART 15 APPLIES TO:

26 (a) A FIDUCIARY ACTING UNDER A WILL OR POWER OF ATTORNEY
27 EXECUTED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS PART 15;

1 (b) A PERSONAL REPRESENTATIVE ACTING FOR A DECEDENT WHO
2 DIED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS PART 15;

3 (c) A CONSERVATORSHIP PROCEEDING COMMENCED BEFORE, ON,
4 OR AFTER THE EFFECTIVE DATE OF THIS PART 15; AND

5 (d) A TRUSTEE ACTING UNDER A TRUST CREATED BEFORE, ON, OR
6 AFTER THE EFFECTIVE DATE OF THIS PART 15.

7 (2) THIS PART 15 APPLIES TO A CUSTODIAN IF THE USER RESIDES IN
8 THIS STATE OR RESIDED IN THIS STATE AT THE TIME OF THE USER'S DEATH.

9 (3) (a) THIS PART 15 DOES NOT APPLY TO A DIGITAL ASSET OF AN
10 EMPLOYER USED BY AN EMPLOYEE IN THE ORDINARY COURSE OF THE
11 EMPLOYER'S BUSINESS.

12 (b) THIS PART 15 DOES NOT APPLY TO A DIGITAL ASSET OF AN
13 ENTITY USED BY A MANAGER, OWNER, OR OTHER PERSON IN THE COURSE
14 OF THE CONDUCT OF THE INTERNAL AFFAIRS OF THE ENTITY. THE TERMS
15 "ENTITY", "MANAGER", AND "OWNER" IN THIS PARAGRAPH (b) HAVE THE
16 SAME MEANING AS DEFINED IN SECTION 7-90-102, C.R.S.

17 **15-1-1504. User direction for disclosure of digital assets.** (1) A
18 USER MAY USE AN ON-LINE TOOL TO DIRECT THE CUSTODIAN TO DISCLOSE
19 OR TO NOT DISCLOSE SOME OR ALL OF THE USER'S DIGITAL ASSETS,
20 INCLUDING THE CONTENT OF ELECTRONIC COMMUNICATIONS. IF THE
21 ON-LINE TOOL ALLOWS THE USER TO MODIFY OR DELETE A DIRECTION AT
22 ALL TIMES, A DIRECTION REGARDING DISCLOSURE USING AN ON-LINE TOOL
23 OVERRIDES A CONTRARY DIRECTION BY THE USER IN A WILL, TRUST,
24 POWER OF ATTORNEY, OR OTHER RECORD.

25 (2) IF A USER HAS NOT USED AN ON-LINE TOOL TO GIVE DIRECTION
26 UNDER SUBSECTION (1) OF THIS SECTION OR IF THE CUSTODIAN HAS NOT
27 PROVIDED AN ON-LINE TOOL, THE USER MAY ALLOW OR PROHIBIT IN A

1 WILL, TRUST, POWER OF ATTORNEY, OR OTHER RECORD, DISCLOSURE TO A
2 FIDUCIARY OF SOME OR ALL OF THE USER'S DIGITAL ASSETS, INCLUDING
3 THE CONTENT OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY
4 THE USER.

5 (3) A USER'S DIRECTION UNDER SUBSECTION (1) OR (2) OF THIS
6 SECTION OVERRIDES A CONTRARY PROVISION IN A TERMS-OF-SERVICE
7 AGREEMENT THAT DOES NOT REQUIRE THE USER TO ACT AFFIRMATIVELY
8 AND DISTINCTLY FROM THE USER'S ASSENT TO THE TERMS OF SERVICE.

9 **15-1-1505. Terms-of-service agreement.** (1) THIS PART 15 DOES
10 NOT CHANGE OR IMPAIR A RIGHT OF A CUSTODIAN OR A USER UNDER A
11 TERMS-OF-SERVICE AGREEMENT TO ACCESS AND USE DIGITAL ASSETS OF
12 THE USER.

13 (2) THIS PART 15 DOES NOT GIVE A FIDUCIARY ANY NEW OR
14 EXPANDED RIGHTS OTHER THAN THOSE HELD BY THE USER FOR WHOM, OR
15 FOR WHOSE ESTATE, THE FIDUCIARY ACTS OR REPRESENTS.

16 (3) A FIDUCIARY'S ACCESS TO DIGITAL ASSETS MAY BE MODIFIED
17 OR ELIMINATED BY A USER, BY FEDERAL LAW, OR BY A TERMS-OF-SERVICE
18 AGREEMENT IF THE USER HAS NOT PROVIDED DIRECTION UNDER SECTION
19 15-1-1504.

20 **15-1-1506. Procedure for disclosing digital assets.** (1) WHEN
21 DISCLOSING DIGITAL ASSETS OF A USER UNDER THIS PART 15, THE
22 CUSTODIAN MAY AT ITS SOLE DISCRETION:

23 (a) GRANT A FIDUCIARY OR DESIGNATED RECIPIENT FULL ACCESS
24 TO THE USER'S ACCOUNT;

25 (b) GRANT A FIDUCIARY OR DESIGNATED RECIPIENT PARTIAL
26 ACCESS TO THE USER'S ACCOUNT SUFFICIENT TO PERFORM THE TASKS WITH
27 WHICH THE FIDUCIARY OR DESIGNATED RECIPIENT IS CHARGED; OR

1 (c) PROVIDE A FIDUCIARY OR DESIGNATED RECIPIENT A COPY IN A
2 RECORD OF ANY DIGITAL ASSET THAT, ON THE DATE THE CUSTODIAN
3 RECEIVED THE REQUEST FOR DISCLOSURE, THE USER COULD HAVE
4 ACCESSED IF THE USER WERE ALIVE AND HAD FULL CAPACITY AND ACCESS
5 TO THE ACCOUNT.

6 (2) A CUSTODIAN MAY ASSESS A REASONABLE ADMINISTRATIVE
7 CHARGE FOR THE COST OF DISCLOSING DIGITAL ASSETS UNDER THIS PART
8 15.

9 (3) A CUSTODIAN NEED NOT DISCLOSE UNDER THIS PART 15 A
10 DIGITAL ASSET DELETED BY A USER.

11 (4) IF A USER DIRECTS OR A FIDUCIARY REQUESTS A CUSTODIAN TO
12 DISCLOSE UNDER THIS PART 15 SOME, BUT NOT ALL, OF THE USER'S DIGITAL
13 ASSETS, THE CUSTODIAN NEED NOT DISCLOSE THE ASSETS IF SEGREGATION
14 OF THE ASSETS WOULD IMPOSE AN UNDUE BURDEN ON THE CUSTODIAN. IF
15 THE CUSTODIAN BELIEVES THE DIRECTION OR REQUEST IMPOSES AN UNDUE
16 BURDEN, THE CUSTODIAN OR FIDUCIARY MAY SEEK AN ORDER FROM THE
17 COURT TO DISCLOSE:

18 (a) A SUBSET LIMITED BY DATE OF THE USER'S DIGITAL ASSETS;

19 (b) ALL OF THE USER'S DIGITAL ASSETS TO THE FIDUCIARY OR
20 DESIGNATED RECIPIENT;

21 (c) NONE OF THE USER'S DIGITAL ASSETS; OR

22 (d) ALL OF THE USER'S DIGITAL ASSETS TO THE COURT FOR REVIEW
23 IN CAMERA.

24 **15-1-1507. Disclosure of content of electronic communications**
25 **of deceased user.** (1) IF A DECEASED USER CONSENTED OR A COURT
26 DIRECTS DISCLOSURE OF THE CONTENTS OF ELECTRONIC COMMUNICATIONS
27 OF THE USER, THE CUSTODIAN SHALL DISCLOSE TO THE PERSONAL

1 REPRESENTATIVE OF THE ESTATE OF THE USER THE CONTENT OF AN
2 ELECTRONIC COMMUNICATION SENT OR RECEIVED BY THE USER IF THE
3 REPRESENTATIVE GIVES THE CUSTODIAN:

4 (a) A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR
5 ELECTRONIC FORM;

6 (b) A CERTIFIED COPY OF THE DEATH CERTIFICATE OF THE USER;

7 (c) A CERTIFIED COPY OF THE LETTER OF APPOINTMENT OF THE
8 REPRESENTATIVE OR A SMALL-ESTATE AFFIDAVIT OR COURT ORDER;

9 (d) UNLESS THE USER PROVIDED DIRECTION USING AN ON-LINE
10 TOOL, A COPY OF THE USER'S WILL, TRUST, POWER OF ATTORNEY, OR
11 OTHER RECORD EVIDENCING THE USER'S CONSENT TO DISCLOSURE OF THE
12 CONTENT OF ELECTRONIC COMMUNICATIONS; AND

13 (e) IF REQUESTED BY THE CUSTODIAN:

14 (I) A NUMBER, USERNAME, ADDRESS, OR OTHER UNIQUE
15 SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO
16 IDENTIFY THE USER'S ACCOUNT;

17 (II) EVIDENCE LINKING THE ACCOUNT TO THE USER; OR

18 (III) A FINDING BY THE COURT THAT:

19 (A) THE USER HAD A SPECIFIC ACCOUNT WITH THE CUSTODIAN,
20 IDENTIFIABLE BY THE INFORMATION SPECIFIED IN SUBPARAGRAPH (I) OF
21 THIS PARAGRAPH (e);

22 (B) DISCLOSURE OF THE CONTENT OF ELECTRONIC
23 COMMUNICATIONS OF THE USER WOULD NOT VIOLATE 18 U.S.C. SEC. 2701,
24 ET SEQ., AS AMENDED; 47 U.S.C. SEC. 222, AS AMENDED; OR OTHER
25 APPLICABLE LAW;

26 (C) UNLESS THE USER PROVIDED DIRECTION USING AN ON-LINE
27 TOOL, THE USER CONSENTED TO DISCLOSURE OF THE CONTENT OF

1 ELECTRONIC COMMUNICATIONS; OR

2 (D) DISCLOSURE OF THE CONTENT OF ELECTRONIC
3 COMMUNICATIONS OF THE USER IS REASONABLY NECESSARY FOR
4 ADMINISTRATION OF THE ESTATE.

5 **15-1-1508. Disclosure of other digital assets of deceased user.**

6 (1) UNLESS THE USER PROHIBITED DISCLOSURE OF DIGITAL ASSETS OR
7 THE COURT DIRECTS OTHERWISE, A CUSTODIAN SHALL DISCLOSE TO THE
8 PERSONAL REPRESENTATIVE OF THE ESTATE OF A DECEASED USER A
9 CATALOG OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY THE
10 USER AND DIGITAL ASSETS, OTHER THAN THE CONTENT OF ELECTRONIC
11 COMMUNICATIONS, OF THE USER, IF THE REPRESENTATIVE GIVES THE
12 CUSTODIAN:

13 (a) A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR
14 ELECTRONIC FORM;

15 (b) A CERTIFIED COPY OF THE DEATH CERTIFICATE OF THE USER;

16 (c) A CERTIFIED COPY OF THE LETTER OF APPOINTMENT OF THE
17 REPRESENTATIVE OR A SMALL-ESTATE AFFIDAVIT OR COURT ORDER; AND

18 (d) IF REQUESTED BY THE CUSTODIAN:

19 (I) A NUMBER, USERNAME, ADDRESS, OR OTHER UNIQUE
20 SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO
21 IDENTIFY THE USER'S ACCOUNT;

22 (II) EVIDENCE LINKING THE ACCOUNT TO THE USER;

23 (III) AN AFFIDAVIT STATING THAT DISCLOSURE OF THE USER'S
24 DIGITAL ASSETS IS REASONABLY NECESSARY FOR ADMINISTRATION OF THE
25 ESTATE; OR

26 (IV) A FINDING BY THE COURT THAT:

27 (A) THE USER HAD A SPECIFIC ACCOUNT WITH THE CUSTODIAN,

1 IDENTIFIABLE BY THE INFORMATION SPECIFIED IN SUBPARAGRAPH (I) OF
2 THIS PARAGRAPH (d); OR

3 (B) DISCLOSURE OF THE USER'S DIGITAL ASSETS IS REASONABLY
4 NECESSARY FOR ADMINISTRATION OF THE ESTATE.

5 **15-1-1509. Disclosure of content of electronic communications**

6 **of principal.** (1) TO THE EXTENT A POWER OF ATTORNEY EXPRESSLY
7 GRANTS AN AGENT AUTHORITY OVER THE CONTENT OF ELECTRONIC
8 COMMUNICATIONS SENT OR RECEIVED BY THE PRINCIPAL AND UNLESS
9 DIRECTED OTHERWISE BY THE PRINCIPAL OR THE COURT, A CUSTODIAN
10 SHALL DISCLOSE TO THE AGENT THE CONTENT IF THE AGENT GIVES THE
11 CUSTODIAN:

12 (a) A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR
13 ELECTRONIC FORM;

14 (b) AN ORIGINAL OR COPY OF THE POWER OF ATTORNEY EXPRESSLY
15 GRANTING THE AGENT AUTHORITY OVER THE CONTENT OF ELECTRONIC
16 COMMUNICATIONS OF THE PRINCIPAL;

17 (c) A CERTIFICATION BY THE AGENT, UNDER PENALTY OF PERJURY,
18 THAT THE POWER OF ATTORNEY IS IN EFFECT; AND

19 (d) IF REQUESTED BY THE CUSTODIAN:

20 (I) A NUMBER, USERNAME, ADDRESS, OR OTHER UNIQUE
21 SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO
22 IDENTIFY THE PRINCIPAL'S ACCOUNT; OR

23 (II) EVIDENCE LINKING THE ACCOUNT TO THE PRINCIPAL.

24 **15-1-1510. Disclosure of other digital assets of principal.**

25 (1) UNLESS OTHERWISE ORDERED BY THE COURT, DIRECTED BY THE
26 PRINCIPAL, OR PROVIDED BY A POWER OF ATTORNEY, A CUSTODIAN SHALL
27 DISCLOSE TO AN AGENT WITH SPECIFIC AUTHORITY OVER DIGITAL ASSETS

1 OR GENERAL AUTHORITY TO ACT ON BEHALF OF A PRINCIPAL A CATALOG
2 OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY THE PRINCIPAL
3 AND DIGITAL ASSETS, OTHER THAN THE CONTENT OF ELECTRONIC
4 COMMUNICATIONS, OF THE PRINCIPAL IF THE AGENT GIVES THE
5 CUSTODIAN:

6 (a) A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR
7 ELECTRONIC FORM;

8 (b) AN ORIGINAL OR A COPY OF THE POWER OF ATTORNEY THAT
9 GIVES THE AGENT SPECIFIC AUTHORITY OVER DIGITAL ASSETS OR GENERAL
10 AUTHORITY TO ACT ON BEHALF OF THE PRINCIPAL;

11 (c) A CERTIFICATION BY THE AGENT, UNDER PENALTY OF PERJURY,
12 THAT THE POWER OF ATTORNEY IS IN EFFECT; AND

13 (d) IF REQUESTED BY THE CUSTODIAN:

14 (I) A NUMBER, USERNAME, ADDRESS, OR OTHER UNIQUE
15 SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO
16 IDENTIFY THE PRINCIPAL'S ACCOUNT; OR

17 (II) EVIDENCE LINKING THE ACCOUNT TO THE PRINCIPAL.

18 **15-1-1511. Disclosure of digital assets held in trust when**
19 **trustee is original user.** UNLESS OTHERWISE ORDERED BY THE COURT OR
20 PROVIDED IN A TRUST, A CUSTODIAN SHALL DISCLOSE TO A TRUSTEE THAT
21 IS AN ORIGINAL USER OF AN ACCOUNT ANY DIGITAL ASSET OF THE
22 ACCOUNT HELD IN TRUST, INCLUDING A CATALOG OF ELECTRONIC
23 COMMUNICATIONS OF THE TRUSTEE AND THE CONTENT OF ELECTRONIC
24 COMMUNICATIONS.

25 **15-1-1512. Disclosure of contents of electronic**
26 **communications held in trust when trustee not original user.**

27 (1) UNLESS OTHERWISE ORDERED BY THE COURT, DIRECTED BY THE USER,

1 OR PROVIDED IN A TRUST, A CUSTODIAN SHALL DISCLOSE TO A TRUSTEE
2 THAT IS NOT AN ORIGINAL USER OF AN ACCOUNT THE CONTENT OF AN
3 ELECTRONIC COMMUNICATION SENT OR RECEIVED BY AN ORIGINAL OR
4 SUCCESSOR USER AND CARRIED, MAINTAINED, PROCESSED, RECEIVED, OR
5 STORED BY THE CUSTODIAN IN THE ACCOUNT OF THE TRUST IF THE
6 TRUSTEE GIVES THE CUSTODIAN:

7 (a) A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR
8 ELECTRONIC FORM;

9 (b) A CERTIFIED COPY OF THE TRUST INSTRUMENT OR A
10 REGISTRATION OF THE TRUST UNDER PART 1 OF ARTICLE 16 OF THIS TITLE
11 THAT INCLUDES CONSENT TO DISCLOSURE OF THE CONTENT OF
12 ELECTRONIC COMMUNICATIONS TO THE TRUSTEE;

13 (c) A CERTIFICATION BY THE TRUSTEE, UNDER PENALTY OF
14 PERJURY, THAT THE TRUST EXISTS AND THE TRUSTEE IS A CURRENTLY
15 ACTING TRUSTEE OF THE TRUST; AND

16 (d) IF REQUESTED BY THE CUSTODIAN:

17 (I) A NUMBER, USERNAME, ADDRESS, OR OTHER UNIQUE
18 SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO
19 IDENTIFY THE TRUST'S ACCOUNT; OR

20 (II) EVIDENCE LINKING THE ACCOUNT TO THE TRUST.

21 **15-1-1513. Disclosure of other digital assets held in trust when**
22 **trustee not original user.** (1) UNLESS OTHERWISE ORDERED BY THE
23 COURT, DIRECTED BY THE USER, OR PROVIDED IN A TRUST, A CUSTODIAN
24 SHALL DISCLOSE, TO A TRUSTEE THAT IS NOT AN ORIGINAL USER OF AN
25 ACCOUNT, A CATALOG OF ELECTRONIC COMMUNICATIONS SENT OR
26 RECEIVED BY AN ORIGINAL OR SUCCESSOR USER AND STORED, CARRIED, OR
27 MAINTAINED BY THE CUSTODIAN IN AN ACCOUNT OF THE TRUST AND ANY

1 DIGITAL ASSETS, OTHER THAN THE CONTENT OF ELECTRONIC
2 COMMUNICATIONS, IN WHICH THE TRUST HAS A RIGHT OR INTEREST IF THE
3 TRUSTEE GIVES THE CUSTODIAN:

4 (a) A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR
5 ELECTRONIC FORM;

6 (b) A CERTIFIED COPY OF THE TRUST INSTRUMENT OR A
7 REGISTRATION OF THE TRUST UNDER PART 1 OF ARTICLE 16 OF THIS TITLE;

8 (c) A CERTIFICATION BY THE TRUSTEE, UNDER PENALTY OF
9 PERJURY, THAT THE TRUST EXISTS AND THE TRUSTEE IS A CURRENTLY
10 ACTING TRUSTEE OF THE TRUST; AND

11 (d) IF REQUESTED BY THE CUSTODIAN:

12 (I) A NUMBER, USERNAME, ADDRESS, OR OTHER UNIQUE
13 SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO
14 IDENTIFY THE TRUST'S ACCOUNT; OR

15 (II) EVIDENCE LINKING THE ACCOUNT TO THE TRUST.

16 **15-1-1514. Disclosure of digital assets to conservator of**
17 **protected person.** (1) AFTER AN OPPORTUNITY FOR A HEARING UNDER
18 ARTICLE 14 OF THIS TITLE, THE COURT MAY GRANT A CONSERVATOR
19 ACCESS TO THE DIGITAL ASSETS OF A PROTECTED PERSON.

20 (2) UNLESS OTHERWISE ORDERED BY THE COURT OR DIRECTED BY
21 THE USER, A CUSTODIAN SHALL DISCLOSE TO A CONSERVATOR THE
22 CATALOG OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY A
23 PROTECTED PERSON AND ANY DIGITAL ASSETS, OTHER THAN THE CONTENT
24 OF ELECTRONIC COMMUNICATIONS, IN WHICH THE PROTECTED PERSON HAS
25 A RIGHT OR INTEREST IF THE CONSERVATOR GIVES THE CUSTODIAN:

26 (a) A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR
27 ELECTRONIC FORM;

1 (b) A CERTIFIED COPY OF THE COURT ORDER THAT GIVES THE
2 CONSERVATOR AUTHORITY OVER THE DIGITAL ASSETS OF THE PROTECTED
3 PERSON; AND

4 (c) IF REQUESTED BY THE CUSTODIAN:

5 (I) A NUMBER, USERNAME, ADDRESS, OR OTHER UNIQUE
6 SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO
7 IDENTIFY THE ACCOUNT OF THE PROTECTED PERSON; OR

8 (II) EVIDENCE LINKING THE ACCOUNT TO THE PROTECTED PERSON.

9 (3) A CONSERVATOR WITH GENERAL AUTHORITY TO MANAGE THE
10 ASSETS OF A PROTECTED PERSON MAY REQUEST A CUSTODIAN OF THE
11 DIGITAL ASSETS OF THE PROTECTED PERSON TO SUSPEND OR TERMINATE
12 AN ACCOUNT OF THE PROTECTED PERSON FOR GOOD CAUSE. A REQUEST
13 MADE UNDER THIS SECTION MUST BE ACCOMPANIED BY A CERTIFIED COPY
14 OF THE COURT ORDER GIVING THE CONSERVATOR AUTHORITY OVER THE
15 PROTECTED PERSON'S PROPERTY.

16 **15-1-1515. Fiduciary duty and authority.** (1) THE LEGAL
17 DUTIES IMPOSED ON A FIDUCIARY CHARGED WITH MANAGING TANGIBLE
18 PROPERTY APPLY TO THE MANAGEMENT OF DIGITAL ASSETS, INCLUDING:

19 (a) THE DUTY OF CARE;

20 (b) THE DUTY OF LOYALTY; AND

21 (c) THE DUTY OF CONFIDENTIALITY.

22 (2) A FIDUCIARY'S AUTHORITY WITH RESPECT TO A DIGITAL ASSET
23 OF A USER:

24 (a) EXCEPT AS OTHERWISE PROVIDED IN SECTION 15-1-1504, IS
25 SUBJECT TO THE APPLICABLE TERMS OF SERVICE;

26 (b) IS SUBJECT TO OTHER APPLICABLE LAW, INCLUDING COPYRIGHT
27 LAW;

1 (c) IS LIMITED BY THE SCOPE OF THE FIDUCIARY'S DUTIES; AND

2 (d) MAY NOT BE USED TO IMPERSONATE THE USER.

3 (3) A FIDUCIARY WITH AUTHORITY OVER THE PROPERTY OF A
4 DECEDENT, PROTECTED PERSON, PRINCIPAL, OR SETTLOR HAS THE RIGHT
5 TO ACCESS ANY DIGITAL ASSET IN WHICH THE DECEDENT, PROTECTED
6 PERSON, PRINCIPAL, OR SETTLOR HAD A RIGHT OR INTEREST AND THAT IS
7 NOT HELD BY A CUSTODIAN OR SUBJECT TO A TERMS-OF-SERVICE
8 AGREEMENT.

9 (4) A FIDUCIARY ACTING WITHIN THE SCOPE OF THE FIDUCIARY'S
10 DUTIES IS AN AUTHORIZED USER OF THE PROPERTY OF THE DECEDENT,
11 PROTECTED PERSON, PRINCIPAL, OR SETTLOR FOR THE PURPOSE OF
12 APPLICABLE COMPUTER-FRAUD AND UNAUTHORIZED-COMPUTER-ACCESS
13 LAWS, INCLUDING ARTICLE 5.5 OF TITLE 18, C.R.S.

14 (5) A FIDUCIARY WITH AUTHORITY OVER THE TANGIBLE, PERSONAL
15 PROPERTY OF A DECEDENT, PROTECTED PERSON, PRINCIPAL, OR SETTLOR:

16 (a) HAS THE RIGHT TO ACCESS THE PROPERTY AND ANY DIGITAL
17 ASSET STORED IN IT; AND

18 (b) IS AN AUTHORIZED USER FOR THE PURPOSE OF
19 COMPUTER-FRAUD AND UNAUTHORIZED-COMPUTER-ACCESS LAWS,
20 INCLUDING ARTICLE 5.5 OF TITLE 18, C.R.S.

21 (6) A CUSTODIAN MAY DISCLOSE INFORMATION IN AN ACCOUNT TO
22 A FIDUCIARY OF THE USER WHEN THE INFORMATION IS REQUIRED TO
23 TERMINATE AN ACCOUNT USED TO ACCESS DIGITAL ASSETS LICENSED TO
24 THE USER.

25 (7) A FIDUCIARY OF A USER MAY REQUEST A CUSTODIAN TO
26 TERMINATE THE USER'S ACCOUNT. A REQUEST FOR TERMINATION MUST BE
27 IN WRITING, IN EITHER PHYSICAL OR ELECTRONIC FORM, AND

1 ACCOMPANIED BY:

2 (a) IF THE USER IS DECEASED, A CERTIFIED COPY OF THE DEATH
3 CERTIFICATE OF THE USER;

4 (b) A CERTIFIED COPY OF THE LETTER OF APPOINTMENT OF THE
5 REPRESENTATIVE OR A SMALL-ESTATE AFFIDAVIT OR COURT ORDER,
6 COURT ORDER, POWER OF ATTORNEY, OR TRUST GIVING THE FIDUCIARY
7 AUTHORITY OVER THE ACCOUNT; AND

8 (c) IF REQUESTED BY THE CUSTODIAN:

9 (I) A NUMBER, USERNAME, ADDRESS, OR OTHER UNIQUE
10 SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO
11 IDENTIFY THE USER'S ACCOUNT;

12 (II) EVIDENCE LINKING THE ACCOUNT TO THE USER; OR

13 (III) A FINDING BY THE COURT THAT THE USER HAD A SPECIFIC
14 ACCOUNT WITH THE CUSTODIAN, IDENTIFIABLE BY THE INFORMATION
15 SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

16 **15-1-1516. Custodian compliance and immunity.** (1) NOT
17 LATER THAN SIXTY DAYS AFTER RECEIPT OF THE INFORMATION REQUIRED
18 UNDER SECTIONS 15-1-1507 TO 15-1-1514, A CUSTODIAN SHALL COMPLY
19 WITH A REQUEST UNDER THIS PART 15 FROM A FIDUCIARY OR DESIGNATED
20 RECIPIENT TO DISCLOSE DIGITAL ASSETS OR TERMINATE AN ACCOUNT. IF
21 THE CUSTODIAN FAILS TO COMPLY, THE FIDUCIARY OR DESIGNATED
22 RECIPIENT MAY APPLY TO THE COURT FOR AN ORDER DIRECTING
23 COMPLIANCE.

24 (2) AN ORDER UNDER SUBSECTION (1) OF THIS SECTION DIRECTING
25 COMPLIANCE MUST CONTAIN A FINDING THAT COMPLIANCE IS NOT IN
26 VIOLATION OF 18 U.S.C. SEC. 2702, AS AMENDED.

27 (3) A CUSTODIAN MAY NOTIFY THE USER THAT A REQUEST FOR

1 DISCLOSURE OR TO TERMINATE AN ACCOUNT WAS MADE UNDER THIS PART
2 15.

3 (4) A CUSTODIAN MAY DENY A REQUEST UNDER THIS PART 15
4 FROM A FIDUCIARY OR DESIGNATED RECIPIENT FOR DISCLOSURE OF
5 DIGITAL ASSETS OR TO TERMINATE AN ACCOUNT IF THE CUSTODIAN IS
6 AWARE OF ANY LAWFUL ACCESS TO THE ACCOUNT FOLLOWING THE
7 RECEIPT OF THE FIDUCIARY'S REQUEST.

8 (5) THIS PART 15 DOES NOT LIMIT A CUSTODIAN'S ABILITY TO
9 OBTAIN, OR TO REQUIRE A FIDUCIARY OR DESIGNATED RECIPIENT
10 REQUESTING DISCLOSURE OR TERMINATION UNDER THIS PART 15 TO
11 OBTAIN, A COURT ORDER THAT:

12 (a) SPECIFIES THAT AN ACCOUNT BELONGS TO THE PROTECTED
13 PERSON OR PRINCIPAL;

14 (b) SPECIFIES THAT THERE IS SUFFICIENT CONSENT FROM THE
15 PROTECTED PERSON OR PRINCIPAL TO SUPPORT THE REQUESTED
16 DISCLOSURE; AND

17 (c) CONTAINS A FINDING REQUIRED BY LAW OTHER THAN THIS
18 PART 15.

19 (6) A CUSTODIAN AND ITS OFFICERS, EMPLOYEES, AND AGENTS ARE
20 IMMUNE FROM LIABILITY FOR AN ACT OR OMISSION DONE IN GOOD FAITH
21 IN COMPLIANCE WITH THIS PART 15.

22 **15-1-1517. Uniformity of application and construction.** IN
23 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
24 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
25 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

26 **15-1-1518. Relation to electronic signatures in global and**
27 **national commerce act.** THIS PART 15 MODIFIES, LIMITS, OR SUPERSEDES

1 THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
2 COMMERCE ACT", 15 U.S.C. SEC. 7001, ET SEQ., BUT DOES NOT MODIFY,
3 LIMIT, OR SUPERSEDE SECTION 101(c) OF THAT ACT, 15 U.S.C. SEC.
4 7001(c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
5 DESCRIBED IN SECTION 103(b) OF THAT ACT, 15 U.S.C. SEC. 7003(b).

6 **SECTION 2. Inclusion of official comments.** The revisor shall
7 include in the publication of the "Revised Uniform Fiduciary Access to
8 Digital Assets Act", as nonstatutory matter, following each section of the
9 part, the full text of the official comments to that section contained in the
10 official volume containing the 2015 official text of "Revised Uniform
11 Fiduciary Access to Digital Assets Act" issued by the Uniform Law
12 Commission, with any changes in the official comments or Colorado
13 comments to correspond to Colorado changes in the uniform act. The
14 revisor of statutes shall prepare the comments for approval by the
15 committee on legal services for publication.

16 **SECTION 3. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2016 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.