

115TH CONGRESS
2D SESSION

H. R. 7002

To amend the Electronic Signatures in Global and National Commerce Act to clarify the applicability of such Act to electronic records, electronic signatures, and smart contracts created, stored, or secured on or through a blockchain, to provide uniform national standards regarding the legal effect, validity, and enforceability of such records, signatures, and contracts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2018

Mr. SCHWEIKERT introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Electronic Signatures in Global and National Commerce Act to clarify the applicability of such Act to electronic records, electronic signatures, and smart contracts created, stored, or secured on or through a blockchain, to provide uniform national standards regarding the legal effect, validity, and enforceability of such records, signatures, and contracts, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Blockchain Records
3 and Transactions Act of 2018”.

4 **SEC. 2. AMENDMENTS TO ELECTRONIC SIGNATURES IN**
5 **GLOBAL AND NATIONAL COMMERCE ACT.**

6 (a) EXCEPTION TO EXEMPTION FROM PREEMPTION
7 FOR BLOCKCHAIN RECOGNITION.—Section 102 of the
8 Electronic Signatures in Global and National Commerce
9 Act (15 U.S.C. 7002) is amended—

10 (1) by redesignating subsections (b) and (c) as
11 subsections (c) and (d), respectively; and

12 (2) by inserting after subsection (a) the fol-
13 lowing:

14 “(b) EXCEPTION FOR BLOCKCHAIN RECOGNITION.—
15 Subsection (a) shall not apply to a State statute, regula-
16 tion, or other rule of law that modifies, limits, or super-
17 sedes the provisions of section 101, unless such statute,
18 regulation, or rule of law gives electronic records, elec-
19 tronic signatures, and smart contracts created, stored, or
20 secured on or through a blockchain legal effect, validity,
21 and enforceability, whether express or implied, that is
22 equivalent to the legal effect, validity, and enforceability
23 granted by this title and title II.”.

24 (b) DEFINITIONS.—

25 (1) ELECTRONIC.—Paragraph (2) of section
26 106 of the Electronic Signatures in Global and Na-

1 tional Commerce Act (15 U.S.C. 7006) is amended
2 by inserting “, including a blockchain” before the
3 period at the end.

4 (2) ELECTRONIC AGENT.—Paragraph (3) of
5 such section is amended by adding at the end the
6 following: “Such term includes a smart contract.”.

7 (3) ELECTRONIC RECORD.—Paragraph (4) of
8 such section is amended by adding at the end the
9 following: “Such term includes a blockchain and a
10 smart contract or other record created, stored, or se-
11 cured on or through a blockchain.”.

12 (4) ELECTRONIC SIGNATURE.—Paragraph (5)
13 of such section is amended by adding at the end the
14 following: “Such term includes a signature created,
15 stored, or secured on or through a blockchain.”.

16 (5) BLOCKCHAIN; SMART CONTRACT.—Such
17 section is further amended—

18 (A) by redesignating paragraphs (12) and
19 (13) as paragraphs (14) and (15), respectively;

20 (B) by redesignating paragraphs (1)
21 through (11) as paragraphs (2) through (12),
22 respectively;

23 (C) by inserting before paragraph (2) (as
24 so redesignated) the following:

1 “(1) BLOCKCHAIN.—The term ‘blockchain’
2 means software that uses a distributed digital ledger
3 of cryptographically signed transactions that are
4 grouped into blocks, each of which—

5 “(A) is cryptographically linked to the pre-
6 vious block after validation and undergoing a
7 consensus decision; and

8 “(B) when added as a new block, makes
9 any older blocks more difficult to modify and is
10 replicated across all copies of the ledger within
11 the relevant network, with any conflicts in such
12 blocks resolved automatically using established
13 rules.”; and

14 (D) by inserting after paragraph (12) (as
15 so redesignated) the following:

16 “(13) SMART CONTRACT.—The term ‘smart
17 contract’ means a computer program that reflects an
18 agreement, in whole or in part, between two or more
19 parties to execute transactions automatically based
20 on the occurrence of agreed-upon events.”.

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