

§7-1106. Control of electronic document of title
(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)
(WHOLE SECTION TEXT EFFECTIVE 7/01/25)

(1). A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

[PL 2009, c. 324, Pt. A, §2 (NEW); PL 2009, c. 324, Pt. A, §4 (AFF).]

(2). A system satisfies subsection (1), and a person has control of an electronic document of title, if the document is created, stored and transferred in a manner that:

(a). A single authoritative copy of the document exists that is unique, identifiable and, except as otherwise provided in paragraphs (d), (e) and (f), unalterable; [PL 2009, c. 324, Pt. A, §2 (NEW); PL 2009, c. 324, Pt. A, §4 (AFF).]

(b). The authoritative copy identifies the person asserting control as:

(i) The person to which the document was issued; or

(ii) If the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred; [PL 2009, c. 324, Pt. A, §2 (NEW); PL 2009, c. 324, Pt. A, §4 (AFF).]

(c). The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian; [PL 2009, c. 324, Pt. A, §2 (NEW); PL 2009, c. 324, Pt. A, §4 (AFF).]

(d). Copies or amendments that add or change an identified transferee of the authoritative copy can be made only with the consent of the person asserting control; [PL 2023, c. 669, Pt. A, §56 (AMD); PL 2023, c. 669, Pt. E, §1 (AFF).]

(e). Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and [PL 2009, c. 324, Pt. A, §2 (NEW); PL 2009, c. 324, Pt. A, §4 (AFF).]

(f). Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized. [PL 2009, c. 324, Pt. A, §2 (NEW); PL 2009, c. 324, Pt. A, §4 (AFF).]

[PL 2023, c. 669, Pt. A, §56 (AMD); PL 2023, c. 669, Pt. E, §1 (AFF).]

(3). A system satisfies subsection (1), and a person has control of an electronic document of title, if an authoritative electronic copy of the document, a record attached to or logically associated with the electronic copy or a system in which the electronic copy is recorded:

(a). Enables the person readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy; [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(b). Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as the person to which each authoritative electronic copy was issued or transferred; and [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(c). Gives the person exclusive power, subject to subsection (4), to:

(i) Prevent others from adding or changing the person to which each authoritative electronic copy has been issued or transferred; and

(ii) Transfer control of each authoritative electronic copy. [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

[PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(4). Subject to subsection (5), a power is exclusive under subsection (3), paragraph (c), subparagraphs (i) and (ii) even if:

(a). The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy or a system in which the authoritative electronic copy is recorded limits the use of the document of title or has a protocol that is programmed to cause a change, including a transfer or loss of control; or [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(b). The power is shared with another person. [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

[PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(5). A power of a person is not shared with another person under subsection (4), paragraph (b) and the person's power is not exclusive if:

(a). The person can exercise the power only if the power also is exercised by the other person; and [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(b). The other person:

(i) Can exercise the power without exercise of the power by the person; or

(ii) Is the transferor to the person of an interest in the document of title. [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

[PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(6). If a person has the powers specified in subsection (3), paragraph (c), subparagraphs (i) and (ii), the powers are presumed to be exclusive.

[PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(7). A person has control of an electronic document of title if another person, other than the transferor to the person of an interest in the document:

(a). Has control of the document and acknowledges that it has control on behalf of the person; or [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(b). Obtains control of the document after having acknowledged that it will obtain control of the document on behalf of the person. [PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

[PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(8). A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

[PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(9). If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this Article or Article 9-A otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

[PL 2023, c. 669, Pt. A, §56 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

SECTION HISTORY

PL 2009, c. 324, Pt. A, §2 (NEW). PL 2009, c. 324, Pt. A, §4 (AFF). PL 2023, c. 669, Pt. A, §56 (AMD). PL 2023, c. 669, Pt. E, §1 (AFF).

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