Article 11A.

Electronic Commerce in Government.

§ 66-58.1. Title; purpose.

This Article shall be known and may be cited as the Electronic Commerce Act. The purpose of this Article is to facilitate electronic commerce with public agencies and regulate the application of electronic signatures when used in commerce with public agencies. (1998-127, s. 1.)

§ 66-58.2. Definitions.

The following definitions apply in this Article:

(1) "Certification authority" means a person authorized by the Secretary to facilitate electronic commerce by vouching for the relationship between a person or public agency and that person's or public agency's electronic signature.

(2) "Electronic signature" means any identifier or authentication technique attached to or logically associated with an electronic record which is intended by the party using it to have the same force and effect as the party's manual signature.

(3) "Person" means any individual, firm, partnership, corporation, or combination thereof of whatsoever form or character.

(4) "Public agencies" means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority, or other unit of government of the State or of any county, unit, special district, or other political subdivision of government.

(5) "Secretary" means Secretary of State.

(6) "Transaction" means an electronic transmission of data between a person and a public agency, or between public agencies, including, but not limited to, contracts, filings, and legally operative documents. (1998-127, s. 1.)

§ 66-58.3. Certification authority licensing.

All persons acting as a certification authority with respect to transactions under this Article shall be licensed by the Secretary prior to representing themselves or acting as a certification authority under this Article. Certification authority licensing standards set by the Secretary may include, but are not limited to, technical, physical, procedural, and personnel security controls, repository obligations, and financial responsibility standards. Upon payment of the required fees, a certification authority meeting the standards adopted by the Secretary by rule shall be licensed for a period of one year. Licenses of certification authorities complying with the standards adopted by the Secretary may be renewed for additional one-year terms upon payment of the required renewal fee. (1998-127, s. 1.)

§ 66-58.4. Use of electronic signatures.

All public agencies may use and accept electronic signatures pursuant to this Article, pursuant to Article 40 of this Chapter (the Uniform Electronic Transactions Act), or pursuant to other law. (1998-127, s. 1; 2003-233, s. 1; 2007-119, s. 1.)

§ 66-58.5. Validity of electronic signatures.

(a) An electronic signature contained in a transaction undertaken pursuant to this Article between a person and a public agency, or between public agencies, shall have the same force and effect as a manual signature provided all of the following requirements are met:

(1) The public agency involved in the transaction requests or requires the use of electronic signatures.

(2) The electronic signature contained in the transaction embodies all of the following attributes:

a. It is unique to the person using it;

b. It is capable of certification;

c. It is under sole control of the person using it;

d. It is linked to data in such a manner that if the data are changed, the electronic signature is invalidated; and

e. It conforms to rules adopted by the Secretary pursuant to this Article.

(b) A transaction undertaken pursuant to this Article between a person and a public agency, or between public agencies, is not unenforceable, nor is it inadmissible into evidence, on the sole ground that the transaction is evidenced by an electronic record or that it has been signed with an electronic signature.

(c) This Article does not affect the validity of, presumptions relating to, or burdens of proof regarding an electronic signature that is accepted pursuant to Article 40 of this Chapter or other law. (1998-127, s. 1; 2003-233, s. 2.)

§ 66-58.6. Enforcement.

(a) The Secretary may investigate complaints or other information indicating fraudulent or unlawful conduct that violates this Article or the rules promulgated thereunder.

(b) The Superior Court Division of the General Court of Justice has jurisdiction and authority upon application of the Secretary to enjoin or restrain violations of this Article.

(c) It shall be the duty of the Attorney General, when requested, to represent the Secretary in actions or proceedings in connection with this Article.

(d) Nothing in this Article shall adversely affect any rights or the enforcement of any rights acquired by any person or public agency under any other statute or at common law with respect to matters also covered by this Article. (1998-127, s. 1.)

§ 66-58.7. Civil penalty.

The Secretary may assess a civil penalty of not more than five thousand dollars ($5,000) per violation against any certification authority that violates a provision of this Article or any rule promulgated thereunder. In determining the amount of a penalty under this section, the Secretary shall give due consideration to each of the following factors:

(1) The organizational size of the certification authority cited;

(2) The good faith of the certification authority cited;

(3) The gravity of the violation;

(4) The prior record of the violator in complying or failing to comply with this Article or a rule adopted pursuant to this Article; and

(5) The risk of harm caused by the violation.

Chapter 150B of the General Statutes governs the imposition of a civil penalty under this section. A civil penalty owed under this section may be recovered in a civil action brought by the Secretary or the Attorney General. (1998-127, s. 1.)

§ 66-58.8. Criminal penalty.

(a) Any person who willfully violates any provision of this Article, or who willfully violates any rule or order under this Article, with intent to defraud, is guilty of a Class I felony.

(b) The Secretary shall provide such evidence as is available concerning criminal violations of this Article or of any rule or order promulgated hereunder to the proper district attorney, who may, with or without such a reference, institute appropriate criminal proceedings under this Article.

(c) Nothing in this Article limits the power of the State to punish any person for any conduct which constitutes a crime by statute or common law. (1998-127, s. 1.)

§ 66-58.9. Exemptions.

This Article shall not apply to any of the following:

(1) Electronic signatures and facsimile signatures that are otherwise allowed by law.

(2) The execution of documents filed with, issued, or entered by a court of the General Court of Justice. However, a document or transaction validly executed under this Article is not rendered invalid because it is filed with, or attached to, a document issued or entered by a court of the General Court of Justice.

(3) Transactions where a public agency is not a party. (1998-127, s. 1.)

§ 66-58.10. Rulemaking.

(a) The Secretary may promulgate rules under this Article. Such rules may include, but are not limited to:

(1) Definitions, including, but not limited to, more technical definitions of "certification authority" and "electronic signature";

(2) The creation, accreditation, bonding, licensing, operation, regulation, and sanctioning of certification authorities;

(3) The imposition of licensing and renewal fees in amounts not to exceed five thousand dollars ($5,000) per year; and

(4) The imposition of civil monetary penalties for noncompliance with this Article or the rules promulgated thereunder.

(b) Notwithstanding G.S. 150B-21.1(a), the Secretary may adopt temporary rules to implement the certification authority technology provisions of this Article using the procedure for adoption of temporary rules under G.S. 150B-21.1(a2).

(c) The Secretary shall deposit licensing and renewal fees in the General Fund. (1998-127, s. 1; 2025-25, s. 29(6).)

§ 66-58.11. Reciprocal agreements.

The Secretary is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized public agencies of other jurisdictions having a law substantially similar to this Article so as to further the purpose of this Article. (1998-127, s. 1.)

§ 66-58.12. Agencies may provide access to services through electronic and digital transactions; fees authorized.

(a) Public agencies are encouraged to maximize citizen and business access to their services through the use of electronic and digital transactions. A public agency may determine, through program and transaction analysis, which of its services may be made available to the public through electronic means, including the internet. The agency shall identify any inhibitors to electronic transactions between the agency and the public, including legal, policy, financial, or privacy concerns and specific inhibitors unique to the agency or type of transaction. An agency shall not provide a transaction through the internet that is impractical, unreasonable, or not permitted by laws pertaining to privacy or security.

(b) An agency may charge a fee to cover its costs of permitting a person to complete a transaction through the World Wide Web or other means of electronic access. The fee may be applied on a per transaction basis and may be calculated either as a flat fee or a percentage fee, as determined under an agreement between a person and a public agency. The fee may be collected by the agency or by its third party agent.

(c) The fee imposed under subsection (b) of this section must be approved by the State Chief Information Officer. The revenue derived from the fee must be credited to a nonreverting agency reserve account. The funds in the account may be expended only for e-commerce initiatives and projects approved by the State Chief Information Officer. For purposes of this subsection, the term "public agencies" does not include a county, unit, special district, or other political subdivision of government. The State Chief Information Officer shall report any fees imposed under subsection (b) of this section and expenditures for e-commerce initiatives and projects to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology.

(d) This section does not apply to the Judicial Department. (2000-109, s. 8; 2004-129, s. 27; 2005-92, s. 1; 2020-78, s. 19.1(a); 2025-25, s. 29(3).)

§§ 66-58.13 through 66-58.19. Reserved for future codification purposes.