

§12-105. Control of controllable electronic record
(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)
(WHOLE SECTION TEXT EFFECTIVE 7/01/25)

(1). A person has control of a controllable electronic record if the electronic record, a record attached to or logically associated with the electronic record or a system in which the electronic record is recorded:

(a). Gives the person:

(i) Power to avail itself of substantially all the benefit from the electronic record; and

(ii) Exclusive power, subject to subsection (2), to:

(A) Prevent others from availing themselves of substantially all the benefit from the electronic record; and

(B) Transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and [PL 2023, c. 669, Pt. B, §1 (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 having the powers specified in paragraph (a). [PL 2023, c. 669, Pt. B, §1 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]
[PL 2023, c. 669, Pt. B, §1 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(2). Subject to subsection (3), a power is exclusive under subsection (1), paragraph (a), subparagraph (ii), divisions (A) and (B) even if:

(a). The controllable electronic record, a record attached to or logically associated with the electronic record or a system in which the electronic record is recorded limits the use of the electronic record or has a protocol that is programmed to cause a change, including a transfer or loss of control or a modification of benefits afforded by the electronic record; or [PL 2023, c. 669, Pt. B, §1 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

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

(3). A power of a person is not shared with another person under subsection (2), 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. B, §1 (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 controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record. [PL 2023, c. 669, Pt. B, §1 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

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

(4). If a person has the powers specified in subsection (1), paragraph (a), subparagraph (ii), divisions (A) and (B), the powers are presumed to be exclusive.
[PL 2023, c. 669, Pt. B, §1 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(5). A person has control of a controllable electronic record if another person, other than the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record:

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

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

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

(6). 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. B, §1 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

(7). 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. B, §1 (NEW); PL 2023, c. 669, Pt. E, §1 (AFF).]

SECTION HISTORY

PL 2023, c. 669, Pt. B, §1 (NEW). PL 2023, c. 669, Pt. E, §1 (AFF).

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