

(LIMITED RUN SHOWING ALL ADDITIONAL SPONSORSHIPS)

**CS FOR HOUSE BILL NO. 108(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 3/31/17**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVES CLAMAN, Kawasaki, Grenn, Westlake, Parish, Josephson, Drummond**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act adopting and relating to the Revised Uniform Fiduciary Access to Digital**  
2 **Assets Act; and relating to a specific electronic communications power that a principal**  
3 **may select for an agent under the statutory form power of attorney."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** AS 13.26.645 is amended to read:

6 **Sec. 13.26.645. Statutory form power of attorney.** A person who wishes to  
7 designate another as agent by a power of attorney may execute a statutory power of  
8 attorney set out in substantially the following form:

9 **GENERAL POWER OF ATTORNEY**

10 **THE POWERS GRANTED FROM THE PRINCIPAL TO THE**  
11 **AGENT OR AGENTS IN THE FOLLOWING DOCUMENT ARE**  
12 **VERY BROAD. THEY MAY INCLUDE THE POWER TO**  
13 **DISPOSE, SELL, CONVEY, AND ENCUMBER YOUR REAL AND**  
14 **PERSONAL PROPERTY. ACCORDINGLY, THE FOLLOWING**

DOCUMENT SHOULD ONLY BE USED AFTER CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT THIS DOCUMENT, YOU SHOULD SEEK COMPETENT ADVICE.

YOU MAY REVOKE THIS POWER OF ATTORNEY AT ANY TIME.

Pursuant to AS 13.26.600, 13.26.625 - 13.26.640, and 13.26.655 - 13.26.695, I, (Name of principal), of (Address of principal), do hereby appoint (Name and address of agent or agents), my agent(s) to act as indicated below in my name, place, and stead in any way which I myself could do, if I were personally present, with respect to the following matters, as each of them is defined in AS 13.26.665, to the full extent that I am permitted by law to act through an agent:

MARK THE BOXES BELOW TO INDICATE THE POWERS YOU WANT TO GIVE YOUR AGENT OR AGENTS. MARK THE BOX FOR "YES" THAT IS OPPOSITE A CATEGORY BELOW TO GIVE YOUR AGENT OR AGENTS THE POWER IN THAT CATEGORY. IF YOU DO NOT MARK A BOX OPPOSITE A CATEGORY, YOUR AGENT OR AGENTS WILL NOT HAVE THE POWER IN THAT CATEGORY.

YES

- (A) real estate transactions
- (B) transactions involving tangible personal property, chattels, and goods
- (C) bonds, shares, and commodities transactions
- (D) banking transactions
- (E) business operating transactions
- (F) insurance transactions
- (G) estate transactions
- (H) retirement plans
- (I) claims and litigation
- (J) personal relationships and affairs

- 1 (K) benefits from government programs
- 2 and civil or military service ( )
- 3 (L) records, reports, and statements ( )
- 4 (M) voter registration and absentee
- 5 ballot requests ( )
- 6 (N) all other matters, including those
- 7 specified as follows: ( )

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GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

The agent or agents you have appointed WILL NOT have the power to do any of the following acts UNLESS you MARK the box opposite that category:

- ( ) create, amend, revoke, or terminate an inter vivos trust;
- ( ) make a gift, subject to the limitations of AS 13.26.665(q) and any special instructions in this power of attorney;
- ( ) create or change a beneficiary designation;
- ( ) revoke a transfer on death deed made under AS 13.48;
- ( ) create or change rights of survivorship;
- ( ) delegate authority granted under the power of attorney;
- ( ) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
- ( ) exercise fiduciary powers that the principal has authority to delegate;
- ( ) exercise authority over the content of electronic communications, as that term is defined in 18 U.S.C. 2510(12) sent or received by the principal.**

IF YOU HAVE APPOINTED MORE THAN ONE AGENT, MARK ONE OF THE FOLLOWING:

- ( ) Each agent may exercise the powers conferred separately, without

1 the consent of any other agent.

2 ( ) All agents shall exercise the powers conferred jointly, with the  
3 consent of all other agents.

4 TO INDICATE WHEN THIS DOCUMENT SHALL  
5 BECOME EFFECTIVE, MARK ONE OF THE FOLLOWING:

6 ( ) This document shall become effective upon the date of my signature.

7 ( ) This document shall become effective upon the date of my  
8 incapacity and shall not otherwise be affected by my incapacity.

9 IF YOU HAVE INDICATED THAT THIS DOCUMENT  
10 SHALL BECOME EFFECTIVE ON THE DATE OF YOUR  
11 SIGNATURE, MARK ONE OF THE FOLLOWING:

12 ( ) This document shall not be affected by my subsequent incapacity.

13 ( ) This document shall be revoked by my subsequent incapacity.

14 IF YOU HAVE INDICATED THAT THIS DOCUMENT  
15 SHALL BECOME EFFECTIVE UPON THE DATE OF YOUR  
16 SIGNATURE AND WANT TO LIMIT THE TERM OF THIS  
17 DOCUMENT, COMPLETE THE FOLLOWING:

18 This document shall only continue in effect for \_\_\_\_\_ ( ) years from  
19 the date of my signature.

20 NOTICE OF REVOCATION OF THE POWERS GRANTED  
21 IN THIS DOCUMENT

22 You may revoke one or more of the powers granted in this document.  
23 Unless otherwise provided in this document, you may revoke a specific  
24 power granted in this power of attorney by completing a special power  
25 of attorney that includes the specific power in this document that you  
26 want to revoke. Unless otherwise provided in this document, you may  
27 revoke all the powers granted in this power of attorney by completing a  
28 subsequent power of attorney.

29 NOTICE TO THIRD PARTIES

30 A third party who relies on the reasonable representations of an agent  
31 as to a matter relating to a power granted by a properly executed

1 statutory form power of attorney does not incur any liability to the  
2 principal or to the principal's heirs, assigns, or estate as a result of  
3 permitting the agent to exercise the authority granted by the power of  
4 attorney. A third party who fails to honor a properly executed statutory  
5 form power of attorney may be liable to the principal, the agent, the  
6 principal's heirs, assigns, or estate for a civil penalty, plus damages,  
7 costs, and fees associated with the failure to comply with the statutory  
8 form power of attorney. If the power of attorney is one which becomes  
9 effective upon the incapacity of the principal, the incapacity of the  
10 principal is established by an affidavit, as required by law.

11 IN WITNESS WHEREOF, I have hereunto signed my name  
12 this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

13 \_\_\_\_\_

14 Signature of Principal

15 Acknowledged before me at \_\_\_\_\_

16 \_\_\_\_\_ on \_\_\_\_\_.

17 Signature of Officer or Notary

18 If a person other than the principal executes the signature for the  
19 principal, the person may not be a person who is appointed an agent in  
20 the power of attorney, and the following signature line and notary  
21 verification must also be completed:

22 IN WITNESS WHEREOF, I have hereunto signed my name  
23 this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

24 \_\_\_\_\_

25 Signature of person signing at the request of \_\_\_\_\_

26 Name of Principal

27 Printed name of person signing \_\_\_\_\_

28 Form of identification of person signing \_\_\_\_\_

29 Acknowledged before me at \_\_\_\_\_

30 \_\_\_\_\_ on \_\_\_\_\_

31 \_\_\_\_\_

1 Signature of Officer or Notary

2 \* **Sec. 2.** AS 13 is amended by adding a new chapter to read:

3 **Chapter 63. Revised Uniform Fiduciary Access to Digital Assets Act.**

4 **Sec. 13.63.010. User direction for disclosure of digital assets.** (a) A user may  
5 use an online tool to direct the custodian to disclose to a designated recipient, or not to  
6 disclose, some or all of the user's digital assets, including the content of electronic  
7 communications. If the online tool allows the user to modify or delete a direction at all  
8 times, a direction regarding disclosure using an online tool overrides a contrary  
9 direction by the user in a will, trust, power of attorney, or other record.

10 (b) If a user has not used an online tool to give direction under (a) of this  
11 section or if the custodian has not provided an online tool, the user may allow or  
12 prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of  
13 some or all of the user's digital assets, including the content of electronic  
14 communications sent or received by the user.

15 (c) A user's direction under (a) or (b) of this section overrides a contrary  
16 provision in a terms-of-service agreement that does not require the user to act  
17 affirmatively and distinctly from the user's assent to the terms of service.

18 **Sec. 13.63.020. Terms-of-service agreement.** (a) This chapter does not  
19 change or impair a right of a custodian or a user under a terms-of-service agreement to  
20 access and use digital assets of the user.

21 (b) This chapter does not give a fiduciary or designated recipient any new or  
22 expanded rights other than those held by the user for whom, or for whose estate, the  
23 fiduciary or designated recipient acts or represents.

24 (c) A fiduciary's or designated recipient's access to digital assets may be  
25 modified or eliminated by a user, by federal law, or by a terms-of-service agreement if  
26 the user has not provided direction under AS 13.63.010.

27 **Sec. 13.63.030. Procedures for disclosing digital assets.** (a) When disclosing  
28 digital assets of a user under this chapter, the custodian may, in its sole discretion,

29 (1) grant a fiduciary or designated recipient full access to the user's  
30 account;

31 (2) grant a fiduciary or designated recipient partial access to the user's

1 account sufficient to perform the tasks with which the fiduciary or designated recipient  
2 is charged; or

3 (3) provide a fiduciary or designated recipient a copy in a record of  
4 any digital asset that, on the date the custodian received the request for disclosure, the  
5 user could have accessed if the user were alive and had full capacity and access to the  
6 account.

7 (b) A custodian may assess a reasonable administrative charge for the cost of  
8 disclosing digital assets under this chapter.

9 (c) A custodian is not required to disclose under this chapter a digital asset  
10 deleted by a user.

11 (d) If a user directs or a fiduciary requests a custodian to disclose under this  
12 chapter some, but not all, of the user's digital assets, the custodian is not required to  
13 disclose the assets if segregation of the assets would impose an undue burden on the  
14 custodian. If the custodian believes the direction or request imposes an undue burden,  
15 the custodian or fiduciary may seek an order from the superior court to disclose

16 (1) a subset limited by date of the user's digital assets;

17 (2) all of the user's digital assets to the fiduciary or designated  
18 recipient;

19 (3) none of the user's digital assets; or

20 (4) all of the user's digital assets to the superior court for review in  
21 camera.

22 **Sec. 13.63.040. Disclosure of content of electronic communications of**  
23 **deceased user.** If a deceased user consented or a superior court directs disclosure of  
24 the contents of electronic communications of the user, the custodian shall disclose to  
25 the personal representative of the estate of the user the content of an electronic  
26 communication sent or received by the user if the personal representative gives the  
27 custodian

28 (1) a written request for disclosure in physical or electronic form;

29 (2) a certified copy of the death certificate of the user;

30 (3) a certified copy of the letters testamentary of the personal  
31 representative;

1 (4) unless the user provided direction using an online tool, a copy of  
 2 the user's will, trust, power of attorney, or other record evidencing the user's consent to  
 3 disclosure of the content of electronic communications; and

4 (5) if requested by the custodian,

5 (A) a number, username, address, or other unique subscriber or  
 6 account identifier assigned by the custodian to identify the user's account;

7 (B) evidence linking the account to the user; or

8 (C) a finding by the superior court that

9 (i) the user had a specific account with the custodian,  
 10 identifiable by the information specified in (A) of this paragraph;

11 (ii) disclosure of the content of electronic  
 12 communications of the user would not violate 18 U.S.C. 2701 - 2712,  
 13 47 U.S.C. 222, or other applicable law;

14 (iii) unless the user provided direction using an online  
 15 tool, the user consented to disclosure of the content of electronic  
 16 communications; or

17 (iv) disclosure of the content of electronic  
 18 communications of the user is reasonably necessary for administration  
 19 of the estate.

20 **Sec. 13.63.050. Disclosure of other digital assets of deceased user.** Unless  
 21 the user prohibited disclosure of digital assets or the superior court directs otherwise, a  
 22 custodian shall disclose to the personal representative of the estate of a deceased user a  
 23 catalog of electronic communications sent or received by the user and digital assets,  
 24 other than the content of electronic communications, of the user if the representative  
 25 gives the custodian

26 (1) a written request for disclosure in physical or electronic form;

27 (2) a certified copy of the death certificate of the user;

28 (3) a certified copy of the letters testamentary of the personal  
 29 representative; and

30 (4) if requested by the custodian,

31 (A) a number, username, address, or other unique subscriber or

1 account identifier assigned by the custodian to identify the user's account;

2 (B) evidence linking the account to the user;

3 (C) an affidavit stating that disclosure of the user's digital  
4 assets is reasonably necessary for administration of the estate; or

5 (D) a finding by the superior court that

6 (i) the user had a specific account with the custodian,  
7 identifiable by the information specified in (A) of this paragraph; or

8 (ii) disclosure of the user's digital assets is reasonably  
9 necessary for administration of the estate.

10 **Sec. 13.63.060. Disclosure of content of electronic communications of**  
11 **principal.** To the extent a power of attorney expressly grants an agent authority over  
12 the content of electronic communications sent or received by the principal and unless  
13 directed otherwise by the principal or the superior court, a custodian shall disclose to  
14 the agent the content if the agent gives the custodian

15 (1) a written request for disclosure in physical or electronic form;

16 (2) an original or copy of the power of attorney expressly granting the  
17 agent authority over the content of electronic communications of the principal;

18 (3) a certification by the agent, under penalty of perjury, that the power  
19 of attorney is in effect; and

20 (4) if requested by the custodian,

21 (A) a number, username, address, or other unique subscriber or  
22 account identifier assigned by the custodian to identify the principal's account;  
23 or

24 (B) evidence linking the account to the principal.

25 **Sec. 13.63.070. Disclosure of other digital assets of principal.** Unless  
26 otherwise ordered by the superior court, directed by the principal, or provided by a  
27 power of attorney, a custodian shall disclose to an agent with specific authority over  
28 digital assets or general authority to act on behalf of a principal a catalog of electronic  
29 communications sent or received by the principal and digital assets, other than the  
30 content of electronic communications, of the principal if the agent gives the custodian

31 (1) a written request for disclosure in physical or electronic form;

1 (2) an original or a copy of the power of attorney that gives the agent  
 2 specific authority over digital assets or general authority to act on behalf of the  
 3 principal;

4 (3) a certification by the agent, under penalty of perjury, that the power  
 5 of attorney is in effect; and

6 (4) if requested by the custodian,

7 (A) a number, username, address, or other unique subscriber or  
 8 account identifier assigned by the custodian to identify the principal's account;

9 or

10 (B) evidence linking the account to the principal.

11 **Sec. 13.63.080. Disclosure of digital assets held in trust when trustee is**  
 12 **original user.** Unless otherwise ordered by the superior court or provided in a trust, a  
 13 custodian shall disclose to a trustee that is an original user of an account any digital  
 14 asset of the account held in trust, including a catalog of electronic communications of  
 15 the trustee and the content of electronic communications.

16 **Sec. 13.63.090. Disclosure of contents of electronic communications held in**  
 17 **trust when trustee not original user.** Unless otherwise ordered by the superior court,  
 18 directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is  
 19 not an original user of an account the content of an electronic communication sent or  
 20 received by an original or successor user and carried, maintained, processed, received,  
 21 or stored by the custodian in the account of the trust if the trustee gives the custodian

22 (1) a written request for disclosure in physical or electronic form;

23 (2) a certified copy of the trust instrument or a certification of the trust  
 24 under AS 13.36.079 that includes consent to disclosure of the content of electronic  
 25 communications to the trustee;

26 (3) a certification by the trustee, under penalty of perjury, that the trust  
 27 exists and the trustee is a currently acting trustee of the trust; and

28 (4) if requested by the custodian,

29 (A) a number, username, address, or other unique subscriber or  
 30 account identifier assigned by the custodian to identify the trust's account; or

31 (B) evidence linking the account to the trust.

1           **Sec. 13.63.100. Disclosure of other digital assets held in trust when trustee**  
 2 **not original user.** Unless otherwise ordered by the superior court, directed by the  
 3 user, or provided in a trust, a custodian shall disclose to a trustee that is not an original  
 4 user of an account a catalog of electronic communications sent or received by an  
 5 original or successor user and stored, carried, or maintained by the custodian in an  
 6 account of the trust and any digital assets, other than the content of electronic  
 7 communications, in which the trust has a right or interest if the trustee gives the  
 8 custodian

9                           (1) a written request for disclosure in physical or electronic form;

10                          (2) a certified copy of the trust instrument or a certification of the trust  
 11 under AS 13.36.079;

12                          (3) a certification by the trustee, under penalty of perjury, that the trust  
 13 exists and the trustee is a currently acting trustee of the trust; and

14                          (4) if requested by the custodian,

15                                   (A) a number, username, address, or other unique subscriber or  
 16 account identifier assigned by the custodian to identify the trust's account; or

17                                   (B) evidence linking the account to the trust.

18           **Sec. 13.63.110. Disclosure of digital assets to conservator of protected**  
 19 **person.** (a) After an opportunity for a hearing under AS 13.26.401 - 13.26.595, the  
 20 superior court may grant a conservator access to the digital assets of a protected  
 21 person except that, if the conservator is a guardian with the powers and duties of a  
 22 conservator under AS 13.26.316(c), the superior court may grant the conservator  
 23 access to the digital assets of a protected person after an opportunity for a hearing  
 24 under AS 13.26.201 - 13.26.316.

25                          (b) Unless otherwise ordered by the superior court or directed by the user, a  
 26 custodian shall disclose to a conservator the catalog of electronic communications sent  
 27 or received by a protected person and any digital assets, other than the content of  
 28 electronic communications, in which the protected person has a right or interest if the  
 29 conservator gives the custodian

30                           (1) a written request for disclosure in physical or electronic form;

31                           (2) a certified copy of the superior court order that gives the

1 conservator authority over the digital assets of the protected person; and

2 (3) if requested by the custodian,

3 (A) a number, username, address, or other unique subscriber or  
4 account identifier assigned by the custodian to identify the account of the  
5 protected person; or

6 (B) evidence linking the account to the protected person.

7 (c) A conservator with general authority to manage the assets of a protected  
8 person may request a custodian of the digital assets of the protected person to suspend  
9 or terminate an account of the protected person for good cause. A request made under  
10 this subsection must be accompanied by a certified copy of the superior court order  
11 giving the conservator authority over the protected person's property.

12 **Sec. 13.63.120. Fiduciary duty and authority.** (a) The legal duties imposed  
13 on a fiduciary charged with managing tangible property apply to the management of  
14 digital assets, including

15 (1) the duty of care;

16 (2) the duty of loyalty; and

17 (3) the duty of confidentiality.

18 (b) A fiduciary's or designated recipient's authority with respect to a digital  
19 asset of a user

20 (1) except as otherwise provided in AS 13.63.010, is subject to the  
21 applicable terms of service;

22 (2) is subject to other applicable law, including copyright law;

23 (3) in the case of a fiduciary, is limited by the scope of the fiduciary's  
24 duties; and

25 (4) may not be used to impersonate the user.

26 (c) A fiduciary with authority over the property of a decedent, protected  
27 person, principal, or settlor has the right to access any digital asset in which the  
28 decedent, protected person, principal, or settlor had a right or interest and that is not  
29 held by a custodian or subject to a terms-of-service agreement.

30 (d) A fiduciary acting within the scope of the fiduciary's duties is an  
31 authorized user of the property of the decedent, protected person, principal, or settlor

1 for the purpose of applicable computer-fraud and unauthorized-computer-access laws,  
2 including AS 11.46.200, 11.46.484(a)(3), and 11.46.740.

3 (e) A fiduciary with authority over the tangible personal property of a  
4 decedent, protected person, principal, or settlor

5 (1) has the right to access the property and any digital asset stored in it;  
6 and

7 (2) is an authorized user for the purpose of computer-fraud and  
8 unauthorized-computer-access laws, including AS 11.46.200, 11.46.484(a)(3), and  
9 11.46.740.

10 (f) A custodian may disclose information in an account to a fiduciary of the  
11 user when the information is required to terminate an account used to access digital  
12 assets licensed to the user.

13 (g) A fiduciary of a user may request a custodian to terminate the user's  
14 account. A request for termination must be in writing, in either physical or electronic  
15 form, and accompanied by

16 (1) if the user is deceased, a certified copy of the death certificate of  
17 the user;

18 (2) a certified copy of the letters testamentary of the personal  
19 representative, the superior court order, the power of attorney, or the trust instrument  
20 giving the fiduciary authority over the account; and

21 (3) if requested by the custodian,

22 (A) a number, username, address, or other unique subscriber or  
23 account identifier assigned by the custodian to identify the user's account;

24 (B) evidence linking the account to the user; or

25 (C) a finding by the superior court that the user had a specific  
26 account with the custodian, identifiable by the information specified in (A) of  
27 this paragraph.

28 **Sec. 13.63.130. Custodian compliance and immunity.** (a) Not later than 60  
29 days after receipt of the information required under AS 13.63.040 - 13.63.120, a  
30 custodian shall comply with a request under this chapter from a fiduciary or  
31 designated recipient to disclose digital assets or terminate an account. If the custodian

1 fails to comply, the fiduciary or designated recipient may apply to the superior court  
2 for an order directing compliance.

3 (b) An order under (a) of this section directing compliance must contain a  
4 finding that compliance is not in violation of 18 U.S.C. 2702.

5 (c) A custodian may notify the user that a request for disclosure or to  
6 terminate an account was made under this chapter.

7 (d) A custodian may deny a request under this chapter from a fiduciary or  
8 designated recipient for disclosure of digital assets or to terminate an account if the  
9 custodian is aware of any lawful access to the account following the receipt of the  
10 fiduciary's request.

11 (e) This chapter does not limit a custodian's ability to obtain or to require a  
12 fiduciary or designated recipient requesting disclosure or termination under this  
13 chapter to obtain a superior court order that

14 (1) specifies that an account belongs to the protected person or  
15 principal;

16 (2) specifies that there is sufficient consent from the protected person  
17 or principal to support the requested disclosure; and

18 (3) contains a finding required by law other than this chapter.

19 (f) A custodian and its officers, employees, and agents are immune from  
20 liability for an act or omission done in good faith in compliance with this chapter.

21 **Sec. 13.63.140. Uniformity of application and construction.** In applying and  
22 construing this chapter, consideration shall be given to the need to promote uniformity  
23 of the law with respect to its subject matter among states that enact it.

24 **Sec. 13.63.150. Relation to Electronic Signatures in Global and National**  
25 **Commerce Act.** This chapter modifies, limits, or supersedes 15 U.S.C. 7001 - 7031  
26 (Electronic Signatures in Global and National Commerce Act), but does not modify,  
27 limit, or supersede 15 U.S.C. 7001(c), or authorize electronic delivery of any of the  
28 notices described in 15 U.S.C. 7003(b).

29 **Sec. 13.63.160. Digital assets coverage.** In this chapter, a digital asset does  
30 not apply to an underlying asset or liability unless the asset or liability is itself an  
31 electronic record. This chapter does not apply to a digital asset of an employer used by

1 an employee in the ordinary course of the employer's business.

2 **Sec. 13.63.170. Application to custodians.** This chapter applies to a custodian  
3 if the user resides in this state or resided in this state at the time of the user's death.

4 **Sec. 13.63.190. Definitions.** In this chapter,

5 (1) "account" means an arrangement under a terms-of-service  
6 agreement in which a custodian carries, maintains, processes, receives, or stores a  
7 digital asset of the user or provides goods or services to the user;

8 (2) "agent" means an attorney-in-fact granted authority under a durable  
9 or nondurable power of attorney;

10 (3) "carries" means engages in the transmission of an electronic  
11 communication;

12 (4) "catalog of electronic communications" means information that  
13 identifies each person with which a user has had an electronic communication, the  
14 time and date of the communication, and the electronic address of the person;

15 (5) "conservator" means a person appointed by a superior court to  
16 manage all or part of the estate of a living individual;

17 (6) "content of an electronic communication" means information  
18 concerning the substance or meaning of the communication that

19 (A) has been sent or received by a user;

20 (B) is in electronic storage by a custodian providing an  
21 electronic-communication service to the public or is carried or maintained by a  
22 custodian providing a remote-computing service to the public; in this  
23 subparagraph,

24 (i) "electronic-communication service" means the  
25 ability to send or receive an electronic communication;

26 (ii) "remote-computing service" means computer-  
27 processing services or the storage of digital assets by means of an  
28 electronic communications system; in this subparagraph, "electronic  
29 communications system" has the meaning given in 18 U.S.C. 2510; and

30 (C) is not readily accessible to the public;

31 (7) "custodian" means a person that carries, maintains, processes,

1 receives, or stores a digital asset of a user;

2 (8) "designated recipient" means a person chosen by a user using an  
3 online tool to administer digital assets of the user;

4 (9) "digital asset" means an electronic record in which an individual  
5 has a right or interest, but does not include an underlying asset or liability unless the  
6 asset or liability is itself an electronic record;

7 (10) "electronic" means relating to technology having electrical,  
8 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

9 (11) "electronic communication" has the meaning given in 18 U.S.C.  
10 2510;

11 (12) "fiduciary" means an original, additional, or successor personal  
12 representative, conservator, agent, or trustee;

13 (13) "information" means data, text, images, videos, sounds, codes,  
14 computer programs, software, databases, or similar items;

15 (14) "online tool" means an electronic service provided by a custodian  
16 that allows the user, in an agreement distinct from the terms-of-service agreement  
17 between the custodian and user, to provide directions for disclosure or nondisclosure  
18 of digital assets to a third person;

19 (15) "person" means an individual, estate, business or nonprofit entity,  
20 public corporation, government or governmental subdivision, agency, or  
21 instrumentality, or another legal entity;

22 (16) "personal representative" means an executor, administrator,  
23 special administrator, or person that performs substantially the same function under  
24 law of this state other than this chapter;

25 (17) "power of attorney" means a record that grants an agent authority  
26 to act in the place of a principal;

27 (18) "principal" means an individual who grants authority to an agent  
28 in a power of attorney;

29 (19) "protected person" means an individual for whom a conservator  
30 has been appointed or an individual for whom an application for the appointment of a  
31 conservator is pending;

1 (20) "record" means information that is inscribed on a tangible  
 2 medium or that is stored in an electronic or other medium and is retrievable in  
 3 perceivable form;

4 (21) "terms-of-service agreement" means an agreement that controls  
 5 the relationship between a user and a custodian;

6 (22) "trustee" means a fiduciary, whether the original fiduciary or a  
 7 successor fiduciary, with legal title to property under an agreement or declaration that  
 8 creates a beneficial interest in another person;

9 (23) "user" means a person that has an account with a custodian;

10 (24) "will" includes a codicil, a testamentary instrument that only  
 11 appoints an executor, and an instrument that revokes or revises a testamentary  
 12 instrument.

13 **Sec. 13.63.195. Short title.** This chapter may be cited as the Revised Uniform  
 14 Fiduciary Access to Digital Assets Act.

15 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
 16 read:

17 **APPLICABILITY.** (a) AS 13.63, enacted by sec. 2 of this Act, applies to a

18 (1) fiduciary acting under a will or power of attorney executed before, on, or  
 19 after the effective date of this Act;

20 (2) personal representative acting for a decedent who died before, on, or after  
 21 the effective date of this Act;

22 (3) proceeding to appoint a conservator that is commenced before, on, or after  
 23 the effective date of this Act; and

24 (4) trustee acting under a trust created before, on, or after the effective date of  
 25 this Act.

26 (b) AS 13.26.645, as amended by sec. 1 of this Act, applies to a power of attorney  
 27 created under AS 13.26.645 on or after the effective date of this Act.

28 (c) In (a) of this section, "conservator," "fiduciary," "personal representative," "power  
 29 of attorney," "trustee," and "will" have the meanings given in AS 13.63.190, enacted by sec. 2  
 30 of this Act.