116TH CONGRESS
2D SESSION **H. R. 8524**

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

OCTOBER 2, 2020

Mr. SCHWEIKERT (for himself and Mr. SOTO) introduced the following bill; which was referred to the Committee on Energy and Commerce

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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,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Blockchain Records and Transactions Act of 2020".

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

(a) VALIDITY OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND SMART CONTRACTS USING BLOCKCHAIN.—Section 101(a) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001(a)) is amended—

(1) in paragraph (1), by striking "; and" and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) an electronic record, electronic signature, or smart contract may not be denied legal effect, validity, or enforceability solely because it is created, stored, or secured on or through a blockchain.".

(b) EXEMPTION TO PREEMPTION.—Section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7002) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "IN GENERAL" and inserting "ELECTRONIC RECORDS

1 AND ELECTRONIC SIGNATURES GENERALLY";

2 and

3   (B) in the matter preceding paragraph (1),

4   by inserting ", except for paragraph (3) of sec-

5   tion 101(a)," after "the provisions of section

6   101";

7   (2) by redesignating subsections (b) and (c) as

8 subsections (c) and (d), respectively; and

9   (3) by inserting after subsection (a) the fol-

10 lowing:

11 "(b) ELECTRONIC RECORDS, ELECTRONIC SIGNA-

12 TURES, AND SMART CONTRACTS USING BLOCKCHAIN.—

13 A State statute, regulation, or other rule of law may mod-

14 ify, limit, or supersede paragraph (3) of section 101(a)

15 with respect to State law only if such statute, regulation,

16 or rule of law is substantially similar to such paragraph.".

17   (c) DEFINITIONS.—Section 106 of the Electronic Sig-

18 natures in Global and National Commerce Act (15 U.S.C.

19 7006) is amended—

20   (1) by redesignating paragraphs (12) and (13)

21   as paragraphs (14) and (15), respectively;

22   (2) by redesignating paragraphs (1) through

23   (11) as paragraphs (2) through (12), respectively;

24   (3) by inserting before paragraph (2) (as so re-

25   designated) 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 (4) by inserting after paragraph (12) (as so re-

15 designated) 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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