

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE  
TO H.R. 1714**

**OFFERED BY MR. INSLEE, MS. ESHOO, MR.  
SMITH OF WASHINGTON, MR. DOOLEY OF  
CALIFORNIA, MR. MORAN OF VIRGINIA, OR  
MRS. ROUKEMA**

**(En Bloc Amendments)**

In section 101(b), strike paragraph (2) and insert the following:

1           (2) CONSENT TO ELECTRONIC RECORDS.—Not-  
2           withstanding subsection (a) and paragraph (1) of  
3           this subsection—

4                   (A) if a statute, regulation, or other rule of  
5           law requires that a record be provided or made  
6           available to a consumer in writing, that require-  
7           ment shall be satisfied by an electronic record  
8           if—

9                           (i) the consumer has affirmatively  
10           consented, by means of a consent that is  
11           conspicuous and visually separate from  
12           other terms, to the provision or availability  
13           (whichever is required) of such record (or  
14           identified groups of records that include

1           such record) as an electronic record, and  
2           has not withdrawn such consent;

3           (ii) prior to consenting, the consumer  
4           is provided with a statement of the hard-  
5           ware and software requirements for access  
6           to and retention of electronic records; and

7           (iii) the consumer affirmatively ac-  
8           knowledges, by means of an acknowledge-  
9           ment that is conspicuous and visually sepa-  
10          rate from other terms, that—

11           (I) the consumer has an obliga-  
12          tion to notify the provider of elec-  
13          tronic records of any change in the  
14          consumer's electronic mail address or  
15          other location to which the electronic  
16          records may be provided; and

17           (II) if the consumer withdraws  
18          consent, the consumer has the obliga-  
19          tion to notify the provider to notify  
20          the provider of electronic records of  
21          the electronic mail address or other  
22          location to which the records may be  
23          provided; and

24           (B) the record is capable of review, reten-  
25          tion, and printing by the recipient if accessed

1 using the hardware and software specified in  
2 the statement under subparagraph (A)(ii) at  
3 the time of the consumer's consent; and

4 (C) if such statute, regulation, or other  
5 rule of law requires that a record be retained,  
6 that requirement shall be satisfied if such  
7 record complies with the requirements of sub-  
8 paragraphs (A) and (B) of subsection (e)(1).

At the end of section 101, add the following new  
subsections:

9 (d) ABILITY TO CONTEST SIGNATURES AND  
10 CHARGES.—Nothing in this section shall be construed to  
11 limit or otherwise affect the rights of any person to assert  
12 that an electronic signature is a forgery, is used without  
13 authority, or otherwise is invalid for reasons that would  
14 invalidate the effect of a signature in written form. The  
15 use or acceptance of an electronic record or electronic sig-  
16 nature by a consumer shall not constitute a waiver of any  
17 substantive protections afforded consumers under the  
18 Consumer Credit Protection Act.

19 (e) SCOPE.—This Act is intended to clarify the legal  
20 status of electronic records and electronic signatures in  
21 the context of writing and signing requirements imposed  
22 by law. Nothing in this Act affects the content or timing

1 of any disclosure required to be provided to any consumer  
2 under any statute, regulation, or other rule of law.

In section 102(e), strike “safety or health of an individual consumer” and insert “public health or safety of consumers”.

In section 104, add at the end the following new subsection:

3 (c) ADDITIONAL STUDY OF DELIVERY.—Within 18  
4 months after the date of enactment of this Act, the Sec-  
5 retary of Commerce shall conduct an inquiry regarding the  
6 effectiveness of the delivery of electronic records to con-  
7 sumers using electronic mail as compared with delivery of  
8 written records via the United States Postal Service and  
9 private express mail services. The Secretary shall submit  
10 a report to the Congress regarding the results of such in-  
11 quiry by the conclusion of such 18-month period.