

FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (EXCERPT)
Act 59 of 2016

700.1016 Digital custodian; compliance; liability; immunity.

Sec. 16. (1) Not later than 56 days after receipt of the information required under sections 7 to 14, a digital custodian shall comply with a request under this act from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the digital custodian fails to comply, the fiduciary or designated recipient may petition or otherwise apply to the court for an order directing compliance.

(2) An order under subsection (1) directing compliance must contain a finding that compliance is not in violation of 18 USC 2702.

(3) A digital custodian that receives a certificate of trust under section 12 or 13 may require the trustee to provide copies of excerpts from the original trust instrument and later amendments that designate the trustee and, if the trustee is requesting content of electronic communications, that includes consent to disclosure of the contents of electronic communications to the trustee.

(4) A digital custodian or other person that demands the trust instrument in addition to a certificate of trust under section 12 or 13 or demands excerpts under subsection (3) is liable for damages to the same extent the digital custodian or other person would be liable under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913.

(5) This act does not limit the right of a person to obtain a copy of a trust instrument in a judicial proceeding concerning the trust.

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

(7) A digital custodian may deny a request under this act from a fiduciary or designated recipient for disclosure or to terminate an account if the digital custodian is aware of any lawful access to the account following the receipt of the request.

(8) This act does not limit the digital custodian's ability to obtain or to require a fiduciary or designated recipient requesting disclosure or termination of an account under this act to obtain a court order that does any of the following:

(a) Specifies that an account belongs to the protected person or principal.

(b) Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure.

(c) Contains a finding required by law other than this act.

(9) A digital custodian and its officers, employees, and agents are immune from liability for an action done in good faith in compliance with this act.

History: 2016, Act 59, Eff. June 27, 2016.