

IC 32-39

**ARTICLE 39. REVISED UNIFORM FIDUCIARY
ACCESS TO DIGITAL ASSETS ACT**

IC 32-39-1

Chapter 1. Application and Definitions

IC 32-39-1-1

Applicability of article

Sec. 1. (a) This article applies to the following:

- (1) A fiduciary acting under a will or power of attorney, regardless of when the will or power of attorney was executed.
- (2) A personal representative acting for a decedent, regardless of the date of death of the decedent.
- (3) A guardianship proceeding, regardless of when the guardianship proceeding commenced or whether the guardianship proceeding is pending.
- (4) A trustee acting under a trust, regardless of when the trust was created.

(b) This article applies to a custodian that carries, maintains, processes, receives, or stores a digital asset of a user if the user:

- (1) resides in Indiana; or
- (2) resided in Indiana at the time of the user's death.

(c) This article does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-2

"Account"

Sec. 2. As used in this article, "account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-3

"Attorney in fact"

Sec. 3. As used in this article, "attorney in fact" includes an attorney in fact granted authority under a durable power of attorney or a nondurable power of attorney.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-4

"Carries"

Sec. 4. As used in this article, "carries" means engages in the transmission of an electronic communication.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-5**"Catalogue of electronic communications"**

Sec. 5. As used in this article, "catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-6**"Content of an electronic communication"**

Sec. 6. As used in this article, "content of an electronic communication" means information concerning the substance or meaning of the communication that:

- (1) has been sent or received by a user;
- (2) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and
- (3) is not readily accessible to the public.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-7**"Court"**

Sec. 7. As used in this article, "court" means:

- (1) a circuit court;
- (2) a superior court;
- (3) a probate court; or
- (4) a juvenile court.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-8**"Custodian"**

Sec. 8. As used in this article, "custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-9**"Designated recipient"**

Sec. 9. As used in this article, "designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-10**"Digital asset"**

Sec. 10. As used in this article, "digital asset" means an electronic record in which an individual has a right or interest. The term does

not include an underlying asset or liability unless the asset or liability is itself an electronic record.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-11

"Electronic"

Sec. 11. As used in this article, "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-12

"Electronic communication"

Sec. 12. As used in this article, "electronic communication" has the meaning set forth in 18 U.S.C. 2510(12).

As added by P.L.137-2016, SEC.14.

IC 32-39-1-13

"Electronic communication service"

Sec. 13. As used in this article, "electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-14

"Fiduciary"

Sec. 14. As used in this article, "fiduciary" means:

- (1) an attorney in fact;
- (2) a guardian;
- (3) a personal representative; or
- (4) a trustee.

The term includes an additional or successor attorney in fact, guardian, personal representative, or trustee as well as an original attorney in fact, guardian, personal representative, or trustee.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-15

"Guardian"

Sec. 15. As used in this article, "guardian" means a person appointed by a court to manage the estate of a living individual. The term includes a limited guardian.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-16

"Information"

Sec. 16. As used in this article, "information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-17

"Online tool"

Sec. 17. As used in this article, "online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-18

"Person"

Sec. 18. As used in this article, "person" means:

- (1) an individual;
- (2) an estate;
- (3) a business or nonprofit entity;
- (4) a public corporation;
- (5) a government or subdivision, agency, or instrumentality of a government; or
- (6) another legal entity.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-19

"Personal representative"

Sec. 19. As used in this article, "personal representative" means an executor, an administrator, a special administrator, or a person that performs substantially the same function as an executor, administrator, or special administrator under the law of Indiana other than this article.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-20

"Power of attorney"

Sec. 20. As used in this article, "power of attorney" means a record that grants an attorney in fact authority to act in the place of a principal.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-21

"Principal"

Sec. 21. As used in this article, "principal" means an individual who grants authority to an attorney in fact in a power of attorney.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-22

"Protected person"

Sec. 22. As used in this article, "protected person" means an

individual for whom a guardian has been appointed. The term includes an individual for whom an application for the appointment of a guardian is pending.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-23

"Record"

Sec. 23. As used in this article, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-24

"Remote computing service"

Sec. 24. As used in this article, "remote computing service" means a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. 2510(14).

As added by P.L.137-2016, SEC.14.

IC 32-39-1-25

"Terms-of-service agreement"

Sec. 25. As used in this article, "terms-of-service agreement" means an agreement that controls the relationship between a user and a custodian.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-26

"Trustee"

Sec. 26. As used in this article, "trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-27

"User"

Sec. 27. As used in this article, "user" means a person that has an account with a custodian.

As added by P.L.137-2016, SEC.14.

IC 32-39-1-28

"Will"

Sec. 28. As used in this article, "will" includes a codicil, a testamentary instrument that only appoints an executor, and an instrument that revokes or revises a testamentary instrument.

As added by P.L.137-2016, SEC.14.