

# House Research Act Summary

**CHAPTER:** 371

**SESSION:** 2000 Regular Session

**TOPIC:** Uniform Electronic Transactions Act

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## Overview

This law generally addresses the effects and handling of electronic records and signatures. It provides for legal recognition of electronic records and signatures, outlines the effects of errors in electronic records, provides for the method of determining when electronic records are received and sent, and generally makes electronic documents legally similar to written documents. It also provides that electronic records may be used as transferable notes under the Uniform Commercial Code, and requires state agencies to determine what their policies will be about electronic records and signatures.

- 1 **Short title.** Provides that the act may be cited as the Uniform Electronic Transactions Act.
- 2 **Definitions.** Defines terms including "agreement," "automated transaction," "computer program," "electronic record," "electronic signature," "governmental agency," "information," "person," "record," and "transaction."
- 3 **Scope.** Provides that this chapter applies to electronic records and electronic signatures relating to a transaction. Exempts transactions that involve wills and trusts and transactions covered by most provisions of the Uniform Commercial Code. Clarifies that transactions that are covered by the act are still subject to whatever other substantive law applies.
- 4 **Prospective application.** Provides that the chapter applies to any electronic record or electronic signature created, sent, received, or stored on or after the effective date of the act.
- 5 **Use of electronic records and electronic signatures; variation by agreement.** Provides that parties to an agreement are not required to use electronic methods unless they agree to do so, and that the act only applies to agreements in which both parties have agreed to use electronic signatures or records. Provides that most provisions may be varied by agreement between the parties.
- 6 **Construction and application.** Provides that the act must be construed to facilitate electronic transactions, to be consistent with reasonable practices related to electronic transactions, and to

make the law on electronic transactions uniform among states.

7 **Legal recognition of electronic records, electronic signatures, and electronic contracts.**

Provides that an electronic signature or record may not be deemed ineffective or unenforceable merely because it is in electronic form. Provides that where law requires a record to be in writing, an electronic record is satisfactory. Provides that an electronic signature is sufficient where the law requires a signature.

8 **Provision of information in writing; presentation of records.**

Provides that where a party is legally required to send a record to another party and both parties have agreed to conduct transactions by electronic means, it is adequate to send the record electronically so long as the record is capable of being retained by the person who receives it.

Provides that where a law requires a record to be posted, displayed, or sent in a certain manner, the provisions of that law must be followed with respect to the format or method of sending the record.

Provides that where law specifically requires first-class mailing of a record, the parties to an agreement may vary that requirement and send the records electronically.

Provides that if a sender inhibits a recipient's ability to store or print a record, the record cannot be enforced against the recipient.

Provides that most parts of this section are not variable by agreement.

9 **Attribution and effect of electronic record and electronic signature.** Provides that an electronic record or electronic signature can be attributed to a person if it was the act of the person. Allows the use of security measures to show that a record or signature was in fact the act of the person. Provides that the effect of an electronic record or signature is determined from the context, including the circumstances, the agreement, and existing law.

10 **Effect of change or error.** Provides for rules to apply in the event of an error in a record in a transaction. Rules include:

If the parties agree to use security measures to detect errors, then a party not following the security measures assumes the risk of errors.

If an electronic agent of a party (which could be, for instance, a computer system of some kind) does not allow the other party to prevent or correct errors, then that other party may avoid the effects of the error.

Other parts of contract law otherwise apply, including the law of mistake.

11 **Notarization and acknowledgment.** Provides that an electronic signature may be used in place of notarization or making a statement under oath.

12 **Retention of electronic records; originals.** Generally provides that in most cases in which the retention of an original document is required, retention of an electronic version of the information is acceptable if it meets certain standards.

13 **Admissibility in evidence.** Provides that records or signatures are not inadmissible merely because they are electronic.

14 **Automated transactions.** Permits electronic agents to form contracts without the involvement of any individual, and permits a person to form a contract with the electronic agent of another person.

15 **Time and place of sending and receipt.** Provides that an electronic record is sent when it is properly addressed, is in a form capable of being processed by the receiving system, and enters a system outside the sender's control. An electronic record is received when it enters the recipient's system in a form capable of being processed. The record is considered sent from the sender's

place of business and received at the recipient's place of business.

- 16 **Transferable record.** Defines a transferable record as one that would be a note under article 3 or a document under article 7 of the Uniform Commercial Code if it were in writing, one that the issuer has agreed is a transferable record. Generally provides that a person having control of a transferable record is a holder in due course of the record. Similarly, an obligor under a transferable record is treated like an obligor under the UCC.
- 17 **Creation and retention of electronic records and conversion of written records by governmental agencies.** Requires every governmental agency to determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records.
- 18 **Acceptance and distribution of electronic records by governmental agencies.** Provides for governmental agencies to set guidelines for their use of electronic records and signatures.
- 19 **Interoperability.** Permits a government agency that adopts standards under section 18 to encourage and promote consistency and interoperability with other federal and state agencies.