

Part 1 Title, Interpretation, and Definitions

46-4-101 Title.

This chapter is known as the "Uniform Electronic Transactions Act."

Enacted by Chapter 74, 2000 General Session

46-4-102 Definitions.

As used in this chapter:

- (1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.
- (2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.
- (3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
- (4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.
- (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
- (7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- (8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.
- (10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.
- (11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.
- (12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.
- (13) "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.
- (14)
 - (a) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record.

- (b) "Security procedure" includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.
- (15)
- (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
 - (b) "State" includes an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by a state.
- (16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

Enacted by Chapter 74, 2000 General Session

46-4-103 Scope.

- (1) Except as otherwise provided in Subsection (2), this chapter applies to electronic records and electronic signatures relating to a transaction.
- (2) This chapter does not apply to:
 - (a) a transaction to the extent it is governed by a law governing the creation and execution of wills, codicils, or testamentary trusts;
 - (b) Title 70A, Uniform Commercial Code, other than:
 - (i) Section 70A-1a-306; and
 - (ii) Title 70A, Chapter 2, Uniform Commercial Code - Sales, and Title 70A, Chapter 2a, Uniform Commercial Code - Leases.
- (3) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under Subsection (2) to the extent it is governed by a law other than those specified in Subsection (2).
- (4) A transaction subject to this chapter is also subject to other applicable substantive law.
- (5) Nothing in this chapter requires any county recorder to accept for recording any instrument in electronic form.

Amended by Chapter 272, 2007 General Session

46-4-104 Prospective application.

This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after May 1, 2000.

Enacted by Chapter 74, 2000 General Session

46-4-105 Use of electronic records and electronic signatures -- Variation by agreement.

- (1) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.
- (2)
 - (a) This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means.
 - (b) Whether or not the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.
- (3)

- (a) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means.
 - (b) The right granted by Subsection (3)(a) may not be waived by agreement.
- (4)
- (a) Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement.
 - (b) The presence in certain provisions of this chapter of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.
- (5) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

Amended by Chapter 9, 2001 General Session

46-4-106 Construction and application.

This chapter must be construed and applied:

- (1) to facilitate electronic transactions consistent with other applicable law;
- (2) to be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among the states enacting it.

Enacted by Chapter 74, 2000 General Session