

Part 4
Automated Transactions, Sending and Receiving
Electronic Records, and Transferable Records

46-4-401 Automated transaction.

In an automated transaction, the following rules apply:

- (1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.
- (2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.
- (3) The terms of the contract are determined by the substantive law applicable to it.

Enacted by Chapter 74, 2000 General Session

46-4-402 Time and place of sending and receipt.

- (1) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:
 - (a) is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;
 - (b) is in a form capable of being processed by that system; and
 - (c) enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient that is under the control of the recipient.
- (2) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:
 - (a) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and
 - (b) it is in a form capable of being processed by that system.
- (3) Subsection (2) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under Subsection (4).
- (4)
 - (a) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business.
 - (b) For purposes of this Subsection (4), the following rules apply:
 - (i) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.
 - (ii) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

- (5) An electronic record is received under Subsection (2) even if no individual is aware of its receipt.
- (6) Receipt of an electronic acknowledgment from an information processing system described in Subsection (2) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.
- (7)
 - (a) If a person is aware that an electronic record purportedly sent under Subsection (1), or purportedly received under Subsection (2), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law.
 - (b) Except to the extent permitted by the other law, the requirements of this Subsection (7) may not be varied by agreement.

Enacted by Chapter 74, 2000 General Session

46-4-403 Transferable records.

- (1) As used in this section, "transferable record" means an electronic record that:
 - (a) would be a note under Title 70A, Chapter 3, Uniform Commercial Code - Negotiable Instruments, or a document under Title 70A, Chapter 7a, Uniform Commercial Code - Documents of Title, if the electronic record were in writing; and
 - (b) the issuer of the electronic record expressly has agreed is a transferable record.
- (2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.
- (3) A system satisfies Subsection (2), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:
 - (a) a single authoritative copy of the transferable record exists that is unique, identifiable, and, except as otherwise provided in Subsections (3)(d), (e), and (f), unalterable;
 - (b) the authoritative copy identifies the person asserting control as:
 - (i) the person to which the transferable record was issued; or
 - (ii) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;
 - (c) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;
 - (d) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;
 - (e) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and
 - (f) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.
- (4)
 - (a) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Subsection 70A-1a-201(2)(u), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under Title 70A, Uniform Commercial Code, including, if the applicable statutory requirements under Subsection 70A-3-302(1), Section 70A-7a-501, or Section 70A-9a-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively.
 - (b) Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under Subsection (4)(a).

- (5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under Title 70A, Uniform Commercial Code.
- (6)
 - (a) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record.
 - (b) Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

Amended by Chapter 272, 2007 General Session