

The Ins and Outs of E-Signature and Authentication

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What is a signature?

X

What is an electronic signature?

- an electronic sound, symbol, or process,
- attached to *or logically associated* with a contract or other record and
- executed or adopted by a person with the intent to sign the record.

E-Signature/E-Delivery Laws

- ▶ Electronic Signatures in Global and National Commerce Act (“ESIGN”)
- ▶ Uniform Electronic Transactions Act (“UETA”)
- ▶ Texas Uniform Electronic Transaction Act (“TETA”)

ESIGN

- ▶ Federal Statute
 - Applies to a “transaction” conducted in interstate or foreign commerce
 - Contains specific consumer disclosures
 - Limited preemption to state laws for states that enacted UETA*

UETA

- ▶ Enacted in 47 states, the District of Columbia and the U.S. Virgin Islands
- ▶ Not enacted in New York, Illinois and Washington (governed by ESIGN)
- ▶ No specific consumer disclosures—parties may agree to conduct transaction electronically via explicit/implicit agreement

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