

Georgia's Take on Electronic Signatures

Law and technology have finally met to make Electronic Signatures both easy and useful. How and when can they be used in your practice?

Federal Formalizing of E-Signatures

In the early 1990's, with fax machine use at its peak, and with the introduction of email in business, states began enacting laws to address E-Signatures. These laws were often inconsistent. In order to promote uniformity among the states, the National Conference of Commissioners on Uniform State Laws drafted the Uniform Electronic Transactions Act (UETA) in the late 1990's, and presented it to the states for incorporation into their own state codes.

The Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et. seq), or E-SIGN, was passed into Federal Law in 2000. States were given the option to adopt UETA substantially as written or face preemption by the Federal Law. If a state does not adopt UETA, then E-SIGN would preempt state provisions. Currently, 47 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands have adopted a compliant form of UETA. Georgia's own version of the UETA can be found at O.C.G.A. § 10-12-1 et. seq (the Georgia Uniform Electronic Transactions Act).

Under Georgia law, contracts, documents, and other records signed and stored electronically are admissible in court. O.C.G.A. § 10-12-13 states, "[i]n a proceeding, evidence of a record or signature shall not be excluded solely because it is in electronic form." Reputable third party providers can help by supplying an audit trail that can be used to authenticate an electronic record.

Georgia's Uniform Electronic Transactions Act

Georgia's UETA guarantees electronic records and signatures the same force and legal-effect as their hardcopy and wet-ink counterparts. O.C.G.A. § 10-12-7 states:

(A) A record or signature shall not be denied legal effect or enforceability solely because it is in electronic form.

(B) A contract shall not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(C) If a law requires a record to be in writing, an electronic record shall satisfy the law.

(D) If a law requires a signature, an electronic signature shall satisfy the law.

UETA allows parties to agree to the use of electronic signatures and records, but does not require it. Georgia's UETA carves out exceptions concerning: wills, trusts & estates; the Uniform Commercial Code (except for Articles 2 and 2A); consumers' rights (generally notice to a consumer); matters pertaining to family law; cancellation of utility services; foreclosure or eviction; cancellation or termination of health or life insurance; product recalls; and court orders or notices or official court documents (including briefs, pleadings, etc.).



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