

TITLE 14: COMMERCE
CHAPTER V: DEPARTMENT OF INNOVATION AND TECHNOLOGY
PART 2000
UNIFORM ELECTRONIC TRANSACTIONS ACT

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AUTHORITY: Implementing and authorized by Section 1-15 of the Department of Innovation and Technology Act [20 ILCS 1370], and Section 18 of the Uniform Electronic Transactions Act [815 ILCS 333].

SOURCE: Adopted at 48 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 2000.10 Definitions

"Act" means the Illinois Uniform Electronic Transactions Act [815 ILCS 333].

"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.

"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.

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"Contract" means the total legal obligation resulting from the parties' agreement as affected by this Act and other applicable law.

"Covered agency" means all officers, boards, commissions, and agencies under the authority of the Governor. "Covered agency" does not include public institutions of higher education.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"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.

"Governmental agency" means and includes all officers, boards, commissions, courts, and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State other than the Office of the Secretary of State; and administrative units or corporate outgrowths of the State government which are created by or pursuant to statute, other than units of local government and their officers, school districts and boards of election commissioners; all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor.

"Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

"Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

"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.

"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.

86 *"Security procedure" means a procedure employed for the purpose of verifying*
87 *that an electronic signature, record, or performance is that of a specific person or*
88 *for detecting changes or errors in the information in an electronic record. The*
89 *term includes a procedure that requires the use of algorithms or other codes,*
90 *identifying words or numbers, encryption, or callback or other acknowledgment*
91 *procedures.*

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93 "State" means the State of Illinois.

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95 *"Transaction" means an action or set of actions occurring between two or more*
96 *persons relating to the conduct of business, commercial, or governmental affairs.*
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98 **Section 2000.20 Scope**

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100 a) Each covered agency shall determine whether to utilize and accept electronic
101 signatures and electronic records. Covered agencies are not obligated to accept
102 electronic records or electronic signatures unless required to do so by other law,
103 rule, or policy.
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105 b) These rules apply to covered agencies that utilize and accept electronic records
106 and electronic signatures to and from other persons and otherwise create,
107 generate, communicate, store, process, use, and rely upon electronic records and
108 electronic signatures.
109
110 c) These rules do not apply if a covered agency determines that it will not accept or
111 utilize electronic signatures or electronic records except to the extent that the
112 acceptance of electronic signatures or electronic records is required by other
113 applicable law, rule, or regulation.
114

115 **Section 2000.30 Applicability**

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117 a) The Act applies to *electronic records and electronic signatures relating to a*
118 *transaction*, unless a transaction is governed by:
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120 1) *a law governing the creation and execution of wills, codicils, or*
121 *testamentary trusts, or*
122 2) *The Uniform Commercial Code other than Sections 1-107 and 1-206,*
123 *Article 2, and Article 2A.*
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126 b) A transaction subject to these rules is also subject to other applicable substantive
127 law.
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- 129 c) If a covered agency utilizes or accepts electronic signatures or electronic records,
130 the covered agency must have a written policy in place that complies with these
131 rules.
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133 **SUBPART B: PROCEDURES FOR ELECTRONIC SIGNATURES AND RECORDS**
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135 **Section 2000.40 Acceptable Methods**
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137 A covered agency may utilize any methods capable of creating electronic records and electronic
138 signatures, so long as the methods comply with the written policy adopted by the covered
139 agency. The policy should address when and for which transactions each method authorized by
140 the covered agency may be used, how such records will be stored, and the manner in which they
141 may be sent and received.
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143 **Section 2000.50 Electronic Signature Requirements**
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145 A covered agency may use and accept any type of electronic signature that complies with its
146 written policy. The written policy must specify the manner and format in which the electronic
147 signature must be entered on the electronic record and any criteria that must be met by a third
148 party in order to accept an electronic signature.
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150 **Section 2000.60 Security Procedures**
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152 Covered agencies must ensure that the methods used for creating, maintaining, and accepting
153 electronic signatures include a security procedure. The security procedure should, at a minimum,
154 include a requirement that the method used to create electronic signatures be capable of creating
155 an electronic signature that can be used to objectively identify the person signing the electronic
156 record. The security procedure must be described in the covered agency's written policy.
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158 **Section 2000.70 Accessibility Requirements**
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160 Covered agencies must ensure that any methods used to generate, transmit, and store electronic
161 records, including electronic records with electronic signatures, are capable of complying with
162 applicable laws regarding accessibility such as the Illinois Information Technology Accessibility
163 Act [30 ILCS 587].
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165 **Section 2000.80 Retention of Electronic Records**
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167 State records shall be retained in accordance with Section 5-13 of the Act and the State Records
168 Act [5 ILCS 160], when applicable. Covered agencies must retain all records subject to these
169 rules in accordance with their respective record retention policies and schedules. If a covered
170 agency's record retention policies and schedules do not cover electronic records, the covered
171 agency must implement a record retention policy addressing retention measures for such records.

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Section 2000.90 Security and Confidentiality of Records

Covered agencies' policies regarding the acceptance of electronic records and electronic signatures must comply with all applicable laws, rules, and policies regarding confidentiality and data privacy.