



General Assembly

January Session, 2001

Raised Bill No. 5925

LCO No. 2880

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING THE CONNECTICUT UNIFORM ELECTRONIC TRANSACTIONS ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) This act shall be known and may be cited as the
2 Connecticut Uniform Electronic Transactions Act.

3 Sec. 2. (NEW) As used in this act:

4 (1) "Agreement" means the bargain of the parties in fact, as found in
5 their language or inferred from other circumstances and from rules,
6 regulations, and procedures given the effect of agreements under laws
7 otherwise applicable to a particular transaction.

8 (2) "Automated transaction" means a transaction conducted or
9 performed, in whole or in part, by electronic means or electronic
10 records, in which the acts or records of one or both parties are not
11 reviewed by an individual in the ordinary course in forming a
12 contract, performing under an existing contract or fulfilling an
13 obligation required by the transaction.

14 (3) "Computer program" means a set of statements or instructions to
15 be used directly or indirectly in an information processing system in
16 order to bring about a certain result.

17 (4) "Contract" means the total legal obligation resulting from the
18 parties' agreement as affected by this act and other applicable law.

19 (5) "Electronic" means relating to technology having electrical,
20 digital, magnetic, wireless, optical, electromagnetic or similar
21 capabilities.

22 (6) "Electronic agent" means a computer program or an electronic or
23 other automated means used independently to initiate an action or
24 respond to electronic records or performances in whole or in part,
25 without review or action by an individual.

26 (7) "Electronic record" means a record created, generated, sent,
27 communicated, received or stored by electronic means. Examples of
28 such electronic records include, without limitation, facsimiles,
29 electronic mail, telexes and internet messaging.

30 (8) "Electronic signature" means an electronic sound, symbol, or
31 process attached to or logically associated with a record and executed
32 or adopted by a person with the intent to sign the record.

33 (9) "Information" means data, text, images, sounds, codes, computer
34 programs, software, databases or the like.

35 (10) "Information processing system" means an electronic system for
36 creating, generating, sending, receiving, storing, displaying or
37 processing information.

38 (11) "Person" has the meaning as "person" as defined in subsection
39 (k) of section 1-1 of the general statutes.

40 (12) "Record" means information that is inscribed on a tangible
41 medium or that is stored in an electronic or other medium and is

42 retrievable in perceivable form.

43 (13) "Security procedure" means a procedure employed for the
44 purpose of verifying that an electronic signature, record or
45 performance is that of a specific person or for detecting changes or
46 errors in the information in an electronic record. The term includes a
47 procedure that requires the use of algorithms or other codes,
48 identifying words or numbers, encryption, or callback or other
49 acknowledgment procedures.

50 (14) "State" means a state of the United States, the District of
51 Columbia, Puerto Rico, the United States Virgin Islands, or any
52 territory or insular possession subject to the jurisdiction of the United
53 States. The term includes an Indian tribe or band, or Alaskan native
54 village, which is recognized by federal law or formally acknowledged
55 by a state.

56 (15) "Transaction" means an action or set of actions occurring
57 between two or more persons relating to the conduct of business,
58 consumer, commercial, charitable or governmental affairs.

59 Sec. 3. (NEW) (a) Except as otherwise provided in subsection (b) of
60 this section, this act applies to electronic records and electronic
61 signatures relating to a transaction.

62 (b) This act does not apply to a transaction to the extent it is
63 governed by:

64 (1) A law governing the creation and execution of wills, codicils, or
65 testamentary trusts;

66 (2) Except to the extent provided in section 17 of this act, the
67 Uniform Commercial Code, other than Sections 1-107 and 1-206, and
68 Article 2;

69 (3) Sections 47-10, 47-12, 47-12a, 47-14g, 47-14j, 47-14k, 47-15, 47-16,
70 47-17, 47-18a, and 47-19 of the general statutes;

71 (c) This act does not apply to any of the following:

72 (1) Rules of court practice and procedure under the Connecticut
73 Practice Book;

74 (2) Any notice of:

75 (A) The cancellation or termination of utility services, including
76 water, heat, and power;

77 (B) Default, acceleration, repossession, foreclosure, or eviction, or
78 the right to cure, under a credit agreement secured by, or a rental
79 agreement for, a primary residence of an individual;

80 (C) The cancellation or termination of health insurance or benefits or
81 life insurance benefits, excluding annuities; or

82 (D) Recall of a product, or material failure of a product, that risks
83 endangering health or safety.

84 (3) Any document required to accompany any transportation or
85 handling of hazardous materials, pesticides or other toxic or
86 dangerous materials.

87 (d) This act applies to an electronic record or electronic signature
88 otherwise excluded from the application of this act under subsection
89 (b) or (c) of this section to the extent it is governed by a law other than
90 those specified in said subsection (b) or (c).

91 (e) A transaction subject to this act is also subject to other applicable
92 substantive law.

93 Sec. 4. (NEW) This act applies to any electronic record or electronic
94 signature created, generated, sent, communicated, received, or stored
95 on or after the effective date of this act.

96 Sec. 5. (NEW) (a) This act does not require a record or signature to
97 be created, generated, sent, communicated, received, stored, or

98 otherwise processed or used by electronic means or in electronic form.

99 (b) This act applies only to transactions between parties each of
100 which has agreed to conduct transactions by electronic means.
101 Whether the parties agree to conduct a transaction by electronic means
102 is determined from the context and surrounding circumstances,
103 including the parties' conduct.

104 (c) A party that agrees to conduct a transaction by electronic means
105 may refuse to conduct other transactions by electronic means. The
106 right granted by this subsection may not be waived by agreement.

107 (d) Except as otherwise provided in this act, the effect of any of its
108 provisions may be varied by agreement. The presence in certain
109 provisions of this act of the words "unless otherwise agreed", or words
110 of similar import, does not imply that the effect of other provisions
111 may not be varied by agreement.

112 (e) Whether an electronic record or electronic signature has legal
113 consequences is determined by this act and other applicable law.

114 Sec. 6. (NEW) This act shall be construed and applied:

115 (1) To facilitate electronic transactions consistent with other
116 applicable law;

117 (2) To be consistent with reasonable practices concerning electronic
118 transactions and with the continued expansion of those practices; and

119 (3) To effectuate its general purpose to make uniform the law with
120 respect to the subject of this act among states enacting it.

121 Sec. 7. (NEW) (a) A record or signature may not be denied legal
122 effect or enforceability solely because it is in electronic form.

123 (b) A contract may not be denied legal effect or enforceability solely
124 because an electronic record was used in its formation.

125 (c) If a law requires a record to be in writing, an electronic record
126 satisfies the law.

127 (d) If a law requires a signature, an electronic signature satisfies the
128 law.

129 Sec. 8. (NEW) (a) Notwithstanding the provisions of section 7 of this
130 act, if a statute, regulation, or other rule of law requires that
131 information relating to a transaction or transactions be provided or
132 made available to a consumer in writing, the use of an electronic
133 record to provide or make available, whichever is required, such
134 information satisfies the requirement that such information be in
135 writing if the requirements of subdivisions (1) through (6), inclusive,
136 of subsection (c) of section 101 of the Electronic Signatures in Global
137 and National Commerce Act, Pub. L. No. 106-226, 114 Stat. 464 (2000),
138 as amended, are met. This section may not be varied by agreement.

139 Sec. 9. (NEW) (a) If parties have agreed to conduct a transaction by
140 electronic means and a law requires a person to provide, send or
141 deliver information in writing to another person, the requirement is
142 satisfied if the information is provided, sent or delivered, as the case
143 may be, in an electronic record capable of retention by the recipient at
144 the time of receipt. An electronic record is not capable of retention by
145 the recipient if the sender or its information processing system inhibits
146 the ability of the recipient to print or store the electronic record.

147 (b) If a law other than this act requires a record (1) to be posted or
148 displayed in a certain manner, (2) to be sent, communicated or
149 transmitted by a specified method, or (3) to contain information that is
150 formatted in a certain manner, the following rules apply:

151 (A) The record shall be posted or displayed in the manner specified
152 in the other law.

153 (B) Except as otherwise provided in subdivision (2) of subsection (d)
154 of this section, the record shall be sent, communicated or transmitted

155 by the method specified in the other law.

156 (C) The record shall contain the information formatted in the
157 manner specified in the other law.

158 (c) If a sender inhibits the ability of a recipient to store or print an
159 electronic record, the electronic record is not enforceable against the
160 recipient.

161 (d) The requirements of this section may not be varied by
162 agreement, provided:

163 (1) To the extent a law other than this act requires information to be
164 provided, sent or delivered in writing but permits said requirement to
165 be varied by agreement, the requirement under subsection (a) of this
166 section that the information be in the form of an electronic record
167 capable of retention may also be varied by agreement; and

168 (2) A requirement under a law other than this act to send,
169 communicate or transmit a record by a specified means of delivery
170 may be varied by agreement to the extent permitted by the other law.

171 Sec. 10. (NEW) (a) An electronic record or electronic signature is
172 attributable to a person if it was the act of the person. The act of the
173 person may be shown in any manner, including a showing of the
174 efficacy of any security procedure applied to determine the person to
175 which the electronic record or electronic signature was attributable.

176 (b) The effect of an electronic record or electronic signature
177 attributed to a person under subsection (a) of this section is
178 determined from the context and surrounding circumstances at the
179 time of its creation, execution or adoption, including the parties'
180 agreement, if any, and otherwise as provided by law.

181 Sec. 11. (NEW) If a change or error in an electronic record occurs in
182 a transmission between parties to a transaction, the following rules
183 apply:

184 (1) If the parties have agreed to use a security procedure to detect
185 changes or errors and one party has conformed to the procedure, but
186 the other party has not, and the nonconforming party would have
187 detected the change or error had that party also conformed, the
188 conforming party may avoid the effect of the changed or erroneous
189 electronic record.

190 (2) In an automated transaction involving an individual, the
191 individual may avoid the effect of an electronic record that resulted
192 from an error made by the individual in dealing with the electronic
193 agent of another person if the electronic agent did not provide an
194 opportunity for the prevention or correction of the error and, at the
195 time the individual learns of the error, the individual:

196 (A) Promptly notifies the other person of the error and that the
197 individual did not intend to be bound by the electronic record received
198 by the other person;

199 (B) Takes reasonable steps, including steps that conform to the other
200 person's reasonable instructions, to return to the other person or, if
201 instructed by the other person, to destroy the consideration received, if
202 any, as a result of the erroneous electronic record; and

203 (C) Has not used or received any benefit or value from the
204 consideration, if any, received from the other person.

205 (3) If neither subdivision (1) nor (2) of this subsection applies, the
206 change or error has the effect provided by other law, including the law
207 of mistake, and the parties' contract, if any.

208 (4) Subdivisions (2) and (3) of this subsection may not be varied by
209 agreement.

210 Sec. 12. (NEW) If a law requires a signature or record to be
211 notarized, acknowledged, verified or made under oath, the
212 requirement is satisfied if the electronic signature of the person
213 authorized to perform said acts, together with all other information

214 required to be included by other applicable law, is attached to or
215 logically associated with the signature or record.

216 Sec. 13. (NEW) (a) If a law requires that a record be retained, the
217 requirement is satisfied by retaining an electronic record of the
218 information in the record which:

219 (1) Accurately reflects the information set forth in the record after it
220 was first generated in its final form as an electronic record or
221 otherwise; and

222 (2) Remains accessible for later reference.

223 (b) A requirement to retain a record in accordance with subsection
224 (a) of this section does not apply to any information the sole purpose
225 of which is to enable the record to be sent, communicated or received.

226 (c) A person may satisfy subsection (a) of this section by using the
227 services of another person if the requirements of that subsection are
228 satisfied.

229 (d) If a law requires a record to be presented or retained in its
230 original form, or provides consequences if the record is not presented
231 or retained in its original form, that law is satisfied by an electronic
232 record retained in accordance with subsection (a) of this section.

233 (e) If a law requires retention of a check, that requirement is
234 satisfied by retention of an electronic record of the information on the
235 front and back of the check in accordance with subsection (a) of this
236 section.

237 (f) A record retained as an electronic record in accordance with
238 subsection (a) of this section satisfies a law requiring a person to retain
239 a record for evidentiary, audit or like purposes, unless a law enacted
240 after the effective date of this section specifically prohibits the use of an
241 electronic record for the specified purpose.

242 (g) This section does not preclude a public agency, as defined in
243 section 1-200 of the general statutes, from specifying additional
244 requirements for the retention of a record subject to the agency's
245 jurisdiction.

246 Sec. 14. (NEW) In a proceeding, evidence of a record or signature
247 may not be excluded solely because it is in electronic form.

248 Sec. 15. (NEW) In an automated transaction, the following rules
249 apply:

250 (1) A contract may be formed by the interaction of electronic agents
251 of the parties, even if no individual was aware of or reviewed the
252 electronic agents' actions or the resulting terms and agreements.

253 (2) A contract may be formed by the interaction of an electronic
254 agent and an individual, acting on the individual's own behalf or for
255 another person, including by an interaction in which the individual
256 performs actions that the individual is free to refuse to perform and
257 which the individual knows or has reason to know will cause the
258 electronic agent to complete the transaction or performance.

259 (3) The terms of the contract are determined by the substantive law
260 applicable to it.

261 Sec. 16. (NEW) (a) Unless otherwise agreed between the sender and
262 the recipient, an electronic record is sent when it:

263 (1) Is addressed properly or otherwise directed properly to an
264 information processing system that the recipient has designated or
265 uses for the purpose of receiving electronic records or information of
266 the type sent and from which the recipient is able to retrieve the
267 electronic record;

268 (2) Is in a form capable of being processed by that system; and

269 (3) Enters an information processing system outside the control of

270 the sender or of a person that sent the electronic record on behalf of the
271 sender or enters a region of the information processing system
272 designated or used by the recipient which is under the control of the
273 recipient.

274 (b) Unless otherwise agreed between a sender and the recipient, an
275 electronic record is received when:

276 (1) It enters an information processing system that the recipient has
277 designated or uses for the purpose of receiving electronic records or
278 information of the type sent and from which the recipient is able to
279 retrieve the electronic record; and

280 (2) It is in a form capable of being processed by that system.

281 (c) Subsection (b) of this section applies even if the place the
282 information processing system is located is different from the place the
283 electronic record is deemed to be received under subsection (d) of this
284 section.

285 (d) Unless otherwise expressly provided in the electronic record or
286 agreed between the sender and the recipient, an electronic record is
287 deemed to be sent from the sender's place of business and to be
288 received at the recipient's place of business. For purposes of this
289 subsection, the following rules apply:

290 (1) If the sender or recipient has more than one place of business, the
291 place of business of that person is the place having the closest
292 relationship to the underlying transaction.

293 (2) If the sender or the recipient does not have a place of business,
294 the place of business is the sender's or recipient's residence, as the case
295 may be.

296 (e) An electronic record is received under subsection (b) of this
297 section even if no individual is aware of its receipt.

298 (f) Receipt of an electronic acknowledgment from an information
299 processing system described in subsection (b) of this section
300 establishes that a record was received but, by itself, does not establish
301 that the content sent corresponds to the content received.

302 (g) If a person is aware that an electronic record purportedly sent
303 under subsection (a) of this section, or purportedly received under
304 subsection (b) of this section, was not actually sent or received, the
305 legal effect of the sending or receipt is determined by other applicable
306 law. Except to the extent permitted by the other law, the requirements
307 of this subsection may not be varied by agreement.

308 Sec. 17. (NEW) (a) As used in this section, "transferable record"
309 means an electronic record that:

310 (1) Would be a note under Article 3 of the Uniform Commercial
311 Code, or other similar law, or a document under Article 7 of the
312 Uniform Commercial Code, or other similar law, if the electronic
313 record were in writing; and

314 (2) The issuer of the electronic record expressly has agreed is a
315 transferable record.

316 (b) A person has control of a transferable record if a system
317 employed for evidencing the transfer of interests in the transferable
318 record reliably establishes that person as the person to which the
319 transferable record was issued or transferred.

320 (c) A system satisfies subsection (b) of this section, and a person is
321 deemed to have control of a transferable record, if the transferable
322 record is created, stored and assigned in such a manner that:

323 (1) A single authoritative copy of the transferable record exists
324 which is unique, identifiable, and, except as otherwise provided in
325 subdivisions (4), (5) and (6) of this subsection, unalterable;

326 (2) The authoritative copy identifies the person asserting control as:

- 327 (A) The person to which the transferable record was issued; or
- 328 (B) If the authoritative copy indicates that the transferable record
329 has been transferred, the person to which the transferable record was
330 most recently transferred;
- 331 (3) The authoritative copy is communicated to and maintained by
332 the person asserting control or its designated custodian;
- 333 (4) Copies or revisions that add or change an identified assignee of
334 the authoritative copy can be made only with the consent of the person
335 asserting control;
- 336 (5) Each copy of the authoritative copy and any copy of a copy is
337 readily identifiable as a copy that is not the authoritative copy; and
- 338 (6) Any revision of the authoritative copy is readily identifiable as
339 authorized or unauthorized.
- 340 (d) Except as otherwise agreed, a person having control of a
341 transferable record is the holder, as defined in Section 1-201(20) of the
342 Uniform Commercial Code, or other similar law, of the transferable
343 record and has the same rights and defenses as a holder of an
344 equivalent record or writing under the Uniform Commercial Code, or
345 other similar law, including, if the applicable statutory requirements
346 under Section 3-302(a), 7-501, or 9-308 of the Uniform Commercial
347 Code, or other similar law, are satisfied, the rights and defenses of a
348 holder in due course, a holder to which a negotiable document of title
349 has been duly negotiated, or a purchaser, respectively. Delivery,
350 possession, and indorsement are not required to obtain or exercise any
351 of the rights under this subsection.
- 352 (e) Except as otherwise agreed, an obligor under a transferable
353 record has the same rights and defenses as an equivalent obligor under
354 equivalent records or writings under the Uniform Commercial Code,
355 or other similar law.

356 (f) If requested by a person against which enforcement is sought, the
357 person seeking to enforce the transferable record shall provide
358 reasonable proof that the person is in control of the transferable record.
359 Proof may include access to the authoritative copy of the transferable
360 record and related business records sufficient to review the terms of
361 the transferable record and to establish the identity of the person
362 having control of the transferable record.

363 Sec. 18. (NEW) If any provision of this act or its application to any
364 person or circumstance is held invalid, the invalidity does not affect
365 other provisions or applications of this act which can be given effect
366 without the invalid provision or application, and to this end the
367 provisions of this act are severable.

368 Sec. 19. (NEW) The provisions of this act governing the legal effect,
369 validity, or enforceability of electronic records or signatures, and of
370 contracts formed or performed with the use of such records or
371 signatures conforms to the requirements of section 102 of the
372 Electronic Signatures in Global and National Commerce Act, Pub. L.
373 No. 106-229, 114 Stat. 464 (2000), and supersede, modify and limit said
374 federal act.

375 Sec. 20. This act shall take effect July 1, 2002.

Statement of Purpose:

To implement recommendations of the Connecticut Law Revision Commission concerning the adoption of the Uniform Electronic Transactions Act in Connecticut.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]