



General Assembly

Substitute Bill No. 5925

January Session, 2001

**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) Sections 1 to 22, inclusive, of this act shall be
2 known and may be cited as the Connecticut Uniform Electronic
3 Transactions Act.

4 Sec. 2. (NEW) As used in sections 1 to 22, inclusive, of this act:

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

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

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

18 (4) "Contract" means the total legal obligation resulting from the
19 parties' agreement as affected by sections 1 to 22, inclusive, of this act
20 and other applicable law.

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

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

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

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

35 (9) "Governmental agency" means an executive, legislative, or
36 judicial agency, department, board, commission, authority, institution,
37 or instrumentality of the federal government or of a state or of a
38 county, municipality, or other political subdivision of a state.

39 (10) "Information" means data, text, images, sounds, codes,
40 computer programs, software, databases or the like.

41 (11) "Information processing system" means an electronic system for
42 creating, generating, sending, receiving, storing, displaying or
43 processing information.

44 (12) "Person" has the same meaning as "person", as defined in
45 subsection (k) of section 1-1 of the general statutes.

46 (13) "Record" means information that is inscribed on a tangible

47 medium or that is stored in an electronic or other medium and is
48 retrievable in perceivable form.

49 (14) "Security procedure" means a procedure employed for the
50 purpose of verifying that an electronic signature, record or
51 performance is that of a specific person or for detecting changes or
52 errors in the information in an electronic record. The term includes a
53 procedure that requires the use of algorithms or other codes,
54 identifying words or numbers, encryption, or callback or other
55 acknowledgment procedures.

56 (15) "State" means a state of the United States, the District of
57 Columbia, Puerto Rico, the United States Virgin Islands, or any
58 territory or insular possession subject to the jurisdiction of the United
59 States. The term includes an Indian tribe or band, or Alaskan native
60 village, which is recognized by federal law or formally acknowledged
61 by a state.

62 (16) "Transaction" means an action or set of actions occurring
63 between two or more persons relating to the conduct of business,
64 consumer, commercial, charitable or governmental affairs.

65 Sec. 3. (NEW) (a) Except as otherwise provided in subsection (b) or
66 (c) of this section, sections 1 to 22, inclusive, of this act apply to
67 electronic records and electronic signatures relating to a transaction.

68 (b) Sections 1 to 22, inclusive, of this act do not apply to a
69 transaction to the extent it is governed by:

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

72 (2) Except to the extent provided in section 16 of this act, the
73 Uniform Commercial Code, other than Sections 1-107 and 1-206, and
74 Article 2;

75 (3) Sections 47-10, 47-12, 47-12a, 47-14g, 47-14j, 47-14k, 47-15, 47-16,
76 47-17, 47-18a and 47-19 of the general statutes;

77 (c) Sections 1 to 22, inclusive, of this act do not apply to any of the
78 following:

79 (1) Rules of court practice and procedure under the Connecticut
80 Practice Book;

81 (2) Any notice of:

82 (A) The cancellation or termination of utility services, including
83 water, heat, gas, cable, oil, telephone and electric power;

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

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

89 (D) Recall of a product, or material failure of a product, that risks
90 endangering health or safety;

91 (3) Any document required to accompany any transportation or
92 handling of hazardous materials, pesticides or other toxic or
93 dangerous materials.

94 (d) Sections 1 to 22, inclusive, of this act apply to an electronic
95 record or electronic signature otherwise excluded from the application
96 of sections 1 to 22, inclusive, of this act under subsection (b) or (c) of
97 this section to the extent it is governed by a law other than those
98 specified in said subsection (b) or (c).

99 (e) A transaction subject to sections 1 to 22, inclusive, of this act is
100 also subject to other applicable substantive law.

101 Sec. 4. (NEW) Sections 1 to 22, inclusive, of this act apply to any
102 electronic record or electronic signature created, generated, sent,
103 communicated, received or stored on or after the effective date of this
104 act.

105 Sec. 5. (NEW) (a) Sections 1 to 22, inclusive, of this act do not require
106 a record or signature to be created, generated, sent, communicated,
107 received, stored or otherwise processed or used by electronic means or
108 in electronic form.

109 (b) Sections 1 to 22, inclusive, of this act apply only to transactions
110 between parties each of which has agreed to conduct transactions by
111 electronic means. Whether the parties agree to conduct a transaction
112 by electronic means is determined from the context and surrounding
113 circumstances, including the parties' conduct.

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

117 (d) Except as otherwise provided in sections 1 to 22, inclusive, of
118 this act, the effect of any of its provisions may be varied by agreement.
119 The presence in certain provisions of sections 1 to 22, inclusive, of this
120 act of the words "unless otherwise agreed", or words of similar import,
121 does not imply that the effect of other provisions may not be varied by
122 agreement.

123 (e) Whether an electronic record or electronic signature has legal
124 consequences is determined by sections 1 to 22, inclusive, of this act
125 and other applicable law.

126 Sec. 6. (NEW) Sections 1 to 22, inclusive, of this act shall be
127 construed and applied:

128 (1) To facilitate electronic transactions consistent with other
129 applicable law;

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

132 (3) To effectuate their general purpose to make uniform the law
133 with respect to the subject of sections 1 to 22, inclusive, of this act
134 among states enacting it.

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

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

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

141 (d) If a law requires a signature, an electronic signature satisfies the
142 law.

143 Sec. 8. (NEW) (a) If parties have agreed to conduct a transaction by
144 electronic means and a law requires a person to provide, send or
145 deliver information in writing to another person, the requirement is
146 satisfied if the information is provided, sent or delivered, as the case
147 may be, in an electronic record capable of retention by the recipient at
148 the time of receipt. An electronic record is not capable of retention by
149 the recipient if the sender or its information processing system inhibits
150 the ability of the recipient to print or store the electronic record.

151 (b) If a law other than sections 1 to 22, inclusive, of this act requires
152 a record (1) to be posted or displayed in a certain manner, (2) to be
153 sent, communicated or transmitted by a specified method, or (3) to
154 contain information that is formatted in a certain manner, the
155 following rules apply:

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

158 (B) Except as otherwise provided in subdivision (2) of subsection (d)
159 of this section, the record shall be sent, communicated or transmitted
160 by the method specified in the other law.

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

163 (c) If a sender inhibits the ability of a recipient to store or print an

164 electronic record, the electronic record is not enforceable against the
165 recipient.

166 (d) The requirements of this section may not be varied by
167 agreement, except that:

168 (1) To the extent a law other than sections 1 to 22, inclusive, of this
169 act requires information to be provided, sent or delivered in writing
170 but permits said requirement to be varied by agreement, the
171 requirement under subsection (a) of this section that the information
172 be in the form of an electronic record capable of retention may also be
173 varied by agreement; and

174 (2) A requirement under a law other than sections 1 to 22, inclusive,
175 of this act to send, communicate or transmit a record by a specified
176 means of delivery may be varied by agreement to the extent permitted
177 by the other law.

178 Sec. 9. (NEW) (a) An electronic record or electronic signature is
179 attributable to a person if it was the act of the person. The act of the
180 person may be shown in any manner, including a showing of the
181 efficacy of any security procedure applied to determine the person to
182 which the electronic record or electronic signature was attributable.

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

188 Sec. 10. (NEW) If a change or error in an electronic record occurs in
189 a transmission between parties to a transaction, the following rules
190 apply:

191 (1) If the parties have agreed to use a security procedure to detect
192 changes or errors and one party has conformed to the procedure, but
193 the other party has not, and the nonconforming party would have

194 detected the change or error had that party also conformed, the
195 conforming party may avoid the effect of the changed or erroneous
196 electronic record.

197 (2) In an automated transaction involving an individual, the
198 individual may avoid the effect of an electronic record that resulted
199 from an error made by the individual in dealing with the electronic
200 agent of another person if the electronic agent did not provide an
201 opportunity for the prevention or correction of the error and, at the
202 time the individual learns of the error, the individual:

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

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

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

212 (3) If neither subdivision (1) nor (2) of this section applies, the
213 change or error shall have the effect provided by other law, including
214 the law of mistake, and the parties' contract, if any.

215 (4) Subdivisions (2) and (3) of this section may not be varied by
216 agreement.

217 Sec. 11. (NEW) If a law requires a signature or record to be
218 notarized, acknowledged, verified or made under oath, the
219 requirement is satisfied if the electronic signature of the person
220 authorized to perform said acts, together with all other information
221 required to be included by other applicable law, is attached to or
222 logically associated with the signature or record.

223 Sec. 12. (NEW) (a) If a law requires that a record be retained, the

224 requirement is satisfied by retaining an electronic record of the
225 information in the record which:

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

229 (2) Remains accessible for later reference.

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

233 (c) A person may satisfy subsection (a) of this section by using the
234 services of another person if the requirements of that subsection are
235 satisfied.

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

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

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

249 (g) This section does not preclude a governmental agency in this
250 state from specifying additional requirements for the retention of a
251 record subject to the agency's jurisdiction.

252 Sec. 13. (NEW) In a proceeding, evidence of a record or signature

253 may not be excluded solely because it is in electronic form.

254 Sec. 14. (NEW) In an automated transaction, the following rules
255 apply:

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

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

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

267 Sec. 15. (NEW) (a) Unless otherwise agreed between the sender and
268 the recipient, an electronic record is sent when it:

269 (1) Is addressed properly or otherwise directed properly to an
270 information processing system that the recipient has designated or
271 uses for the purpose of receiving electronic records or information of
272 the type sent and from which the recipient is able to retrieve the
273 electronic record;

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

275 (3) Enters an information processing system outside the control of
276 the sender or of a person that sent the electronic record on behalf of the
277 sender or enters a region of the information processing system
278 designated or used by the recipient which is under the control of the
279 recipient.

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

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

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

287 (c) Subsection (b) of this section applies even if the place the
288 information processing system is located is different from the place the
289 electronic record is deemed to be received under subsection (d) of this
290 section.

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

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

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

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

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

308 (g) If a person is aware that an electronic record purportedly sent
309 under subsection (a) of this section, or purportedly received under
310 subsection (b) of this section, was not actually sent or received, the
311 legal effect of the sending or receipt is determined by other applicable

312 law. Except to the extent permitted by the other law, the requirements
313 of this subsection may not be varied by agreement.

314 Sec. 16. (NEW) (a) As used in this section, "transferable record"
315 means an electronic record that:

316 (1) Would be a note under Article 3 of the Uniform Commercial
317 Code, or other similar law, or a document under Article 7 of the
318 Uniform Commercial Code, or other similar law, if the electronic
319 record were in writing; and

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

322 (b) A person has control of a transferable record if a system
323 employed for evidencing the transfer of interests in the transferable
324 record reliably establishes that person as the person to which the
325 transferable record was issued or transferred.

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

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

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

333 (A) The person to which the transferable record was issued; or

334 (B) If the authoritative copy indicates that the transferable record
335 has been transferred, the person to which the transferable record was
336 most recently transferred;

337 (3) The authoritative copy is communicated to and maintained by
338 the person asserting control or its designated custodian;

339 (4) Copies or revisions that add or change an identified assignee of

340 the authoritative copy can be made only with the consent of the person
341 asserting control;

342 (5) Each copy of the authoritative copy and any copy of a copy is
343 readily identifiable as a copy that is not the authoritative copy; and

344 (6) Any revision of the authoritative copy is readily identifiable as
345 authorized or unauthorized.

346 (d) Except as otherwise agreed, a person having control of a
347 transferable record is the holder, as defined in Section 1-201(20) of the
348 Uniform Commercial Code, or other similar law, of the transferable
349 record and has the same rights and defenses as a holder of an
350 equivalent record or writing under the Uniform Commercial Code, or
351 other similar law, including, if the applicable statutory requirements
352 under Section 3-302(a), 7-501, or 9-308 of the Uniform Commercial
353 Code, or other similar law, are satisfied, the rights and defenses of a
354 holder in due course, a holder to which a negotiable document of title
355 has been duly negotiated, or a purchaser, respectively. Delivery,
356 possession, and endorsement are not required to obtain or exercise any
357 of the rights under this subsection.

358 (e) Except as otherwise agreed, an obligor under a transferable
359 record has the same rights and defenses as an equivalent obligor under
360 equivalent records or writings under the Uniform Commercial Code,
361 or other similar law.

362 (f) If requested by a person against which enforcement is sought, the
363 person seeking to enforce the transferable record shall provide
364 reasonable proof that the person is in control of the transferable record.
365 Proof may include access to the authoritative copy of the transferable
366 record and related business records sufficient to review the terms of
367 the transferable record and to establish the identity of the person
368 having control of the transferable record.

369 Sec. 17. (NEW) Each governmental agency in this state shall
370 determine whether, and the extent to which, it will create and retain

371 electronic records and convert written records to electronic records.

372 Sec. 18. (NEW) (a) Except as otherwise provided in subsection (f) of
373 section 12 of this act, each governmental agency in this state shall
374 determine whether, and the extent to which, it will send and accept
375 electronic records and electronic signatures to and from other persons
376 and otherwise create, generate, communicate, store, process, use and
377 rely upon electronic records and electronic signatures.

378 (b) To the extent that a state of Connecticut executive branch
379 governmental agency uses electronic records and electronic signatures
380 under subsection (a) of this section, the Department of Information
381 Technology, giving due consideration to security, may adopt
382 regulations, in accordance with the provisions of chapter 54,
383 specifying:

384 (1) The manner and format in which the electronic records shall be
385 created, generated, sent, communicated, received, and stored and the
386 systems established for those purposes;

387 (2) If electronic records shall be signed by electronic means, the type
388 of electronic signature required, the manner and format in which the
389 electronic signature shall be affixed to the electronic record, and the
390 identity of, or criteria that shall be met by, any third party used by a
391 person filing a document to facilitate the process;

392 (3) Control processes and procedures as appropriate to ensure
393 adequate preservation, disposition, integrity, security, confidentiality
394 and auditability of electronic records; and

395 (4) Any other required attributes for electronic records which are
396 specified for corresponding nonelectronic records or reasonably
397 necessary under the circumstances.

398 (c) The regulations which the Department of Information
399 Technology may adopt pursuant to subsection (b) of this section may
400 encourage and promote consistency and interoperability with similar

401 requirements adopted by governmental agencies of other states and
402 the federal government and nongovernmental persons interacting with
403 governmental agencies of this state. If appropriate, said regulations
404 may specify differing levels of standards from which governmental
405 agencies of this state may choose in implementing the most
406 appropriate standard for a particular application.

407 (d) The regulations which the Department of Information
408 Technology may adopt pursuant to subsection (b) of this section shall
409 not apply to the office of the State Treasurer, State Comptroller,
410 Secretary of the State or Attorney General. Each said office may adopt
411 regulations, in accordance with the provisions of chapter 54 of the
412 general statutes, to carry out the purposes of the regulations adopted
413 pursuant to said subsection (b) with regard to said office.

414 (e) Except as otherwise provided in subsection (f) of section 12 of
415 this act, sections 1 to 22, inclusive, of this act do not require a
416 governmental agency in this state to use or permit the use of electronic
417 records or electronic signatures.

418 Sec. 19. (NEW) (a) For purposes of this section and section 20 of this
419 act, "consumer" means an individual who obtains, through a
420 transaction, products or services that are used primarily for personal,
421 family or household purposes, and also means the legal representative
422 of such an individual.

423 (b) Notwithstanding the provisions of section 7 of this act, if a
424 statute, regulation, or other rule of law requires that information
425 relating to a transaction or transactions be provided or made available
426 to a consumer in writing, the use of an electronic record to provide or
427 make available, whichever is required, such information satisfies the
428 requirement that such information be in writing if the requirements of
429 subdivisions (1) to (6), inclusive, of subsection (c) of section 101 of the
430 Electronic Signatures in Global and National Commerce Act, P.L. 106-
431 226, 114 Stat. 464 (2000), as amended, are met. This section may not be
432 varied by agreement.

433 Sec. 20. (NEW) (a) When a consumer is required to provide notice to
434 exercise or preserve the consumer's rights under any law, the
435 consumer may exercise or preserve that right in the same manner in
436 which the consumer was provided with notice of that right.

437 (b) Notwithstanding the provisions of section 15 of this act, in a
438 consumer transaction, an electronic record is not sent to or received by
439 the consumer if the sender is aware that the consumer did not actually
440 receive the electronic record or did not actually receive the electronic
441 record in a manner allowing the record to be opened and read by the
442 consumer.

443 (c) A transaction entered into by a consumer electronically is
444 entered into at the consumer's place of residence.

445 (d) The provisions of this section may not be waived or varied by
446 agreement.

447 Sec. 21. (NEW) If any provision of sections 1 to 22, inclusive, of this
448 act or its application to any person or circumstance is held invalid or
449 inconsistent with the Electronic Signatures in Global and National
450 Commerce Act, P.L. 106-229, 114 Stat. 464 (2000), the invalidity or
451 inconsistency does not affect other provisions or applications of
452 sections 1 to 22, inclusive, of this act which can be given effect without
453 the invalid or inconsistent provision or application, and to this end the
454 provisions of sections 1 to 22, inclusive, of this act are severable.

455 Sec. 22. (NEW) The provisions of sections 1 to 22, inclusive, of this
456 act governing the legal effect, validity, or enforceability of electronic
457 records or signatures, and of contracts formed or performed with the
458 use of such records or signatures conform to the requirements of
459 Section 102 of the Electronic Signatures in Global and National
460 Commerce Act, P.L. 106-229, 114 Stat. 464 (2000), and supersede,
461 modify and limit said federal act as provided in said Section 102.

462 Sec. 23. Sections 1-260 to 1-265, inclusive, of the general statutes are
463 repealed.

Statement of Legislative Commissioners:

References to "sections 1 to 22, inclusive," were inserted throughout the act for statutory consistency; in section 3 (a), "or (c)" was inserted for statutory consistency; in the second sentence of section 18(c), the first reference to "standards" was changed to "regulations" for internal consistency; and in section 22, "as provided in said Section 102" was inserted for clarity.

GAE *Joint Favorable Subst.*