

§2601. Short title

This Chapter may be cited as the "Louisiana Uniform Electronic Transactions Act".

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2602. Definitions

As used in this Chapter, unless the context otherwise requires:

(1) "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.

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

(3) "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.

(4) "Contract" means the total legal obligation resulting from the agreement of the parties as affected by this Chapter and other applicable law.

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

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

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

(8) "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.

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

(10) "Information" includes data, text, images, sounds, codes, computer programs, software, and databases, or the like.

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

(12) "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.

(13) "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.

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

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

(16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs. Acts 2001, No. 244, §1, eff. July 1, 2001.

§2603. Scope

A. Except as otherwise provided in Subsection B of this Section, this Chapter applies to electronic records and electronic signatures relating to a transaction.

B. This Chapter shall not apply to:

(1) A transaction to the extent it is governed by a law governing the creation and execution of wills, codicils, or testamentary trusts.

(2) A transaction to the extent it is governed by the provisions of Title 10 of the Louisiana Revised Statutes of 1950.

(3) (Reserved).

(4)(a) Repealed by Acts 2021, No. 68, §3, eff. Jan. 1, 2022.

(b) Any notice of any of the following:

(i) The cancellation or termination of utility services, including water, heat, and power.

(ii) Default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual.

(iii) The cancellation or termination of health insurance or benefits or life insurance benefits, excluding annuities.

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

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

(d) Publications required by law to be published in the official journals provided for in Chapter 2, 4, or 5 of Title 43 of the Louisiana Revised Statutes of 1950.

C. This Chapter applies to an electronic record or electronic signature otherwise excluded from the application of this Chapter under Subsection B of this Section to the extent it is governed by a law other than those specified by Subsection B of this Section.

D. A transaction subject to this Chapter is also subject to other applicable substantive law.

Acts 2001, No. 244, §1, eff. July 1, 2001; Acts 2014, No. 606, §2; Acts 2016, No. 409, §1; Acts 2021, No. 68, §§2,3, eff. Jan. 1, 2022.

§2603.1. Electronic applications for all warrants; signatures; electronic judicial records

A. An application for any warrant or signature utilized by the judicial branch of state government shall not be denied legal effect or enforceability solely because it is in electronic form. Any such application, signature or record in electronic form shall have the full effect of law.

B. If a law requires the application for any warrant to be in writing, an electronic record shall satisfy the law.

C. If a law requires a signature, an electronic signature satisfies the law.

D. Any application used to attach a digital signature to any warrant or affidavit must have security procedures in place that insure the authenticity of the digital signature. The application must also be able to keep an electronic record of the warrant or affidavit, including the time and date of when the signature was attached. The application must also include encryption measures to ensure secure access of the application.

E. Unless otherwise agreed to by a sender of a warrant application and the judiciary, an electronic record is received when:

(1) The record enters an information-processing system that the local court rules have designated and approved for the purpose of receiving electronic applications for warrants and from which the recipient is able to retrieve the electronic record.

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

F. In any instance where an affidavit is submitted to a judge or magistrate electronically, the electronic signature of the affiant shall satisfy the constitutional requirement that the testimony of the affiant be made under oath, provided that such signature is made under penalty of perjury and in compliance with Subsection D of this Section. If the requirements of Subsection D of this Section are met, it shall not be necessary for the oath to be made orally for the affidavit to have legal effect.

Acts 2009, No. 401, §1; Acts 2010, No. 58, §1.

§2604. Prospective application; exemption from preemption

A. This Chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after July 1, 2001.

B. This Chapter is intended and shall be construed to constitute an enactment or adoption of the Uniform Electronic Transactions Act as approved and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws in 1999. If a court of competent jurisdiction finds that any provision of this Chapter is inconsistent with 15 U.S.C. 7002(a)(1) (the Electronic Signatures in Global and National Commerce Act), then any inconsistent provision is intended to comply with 15 U.S.C. 7002(a)(2)(A) and (B).

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2605. Use of electronic records and electronic signatures; variation by agreement

A. This Chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

B.(1) This Chapter applies only to transactions between parties, each of which has agreed to conduct transactions by electronic means.

(2) The context and surrounding circumstances, including the conduct of the parties, shall determine whether the parties have agreed to conduct a transaction by electronic means.

C.(1) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means.

(2) The right granted by this Subsection may not be waived by agreement.

D.(1) Except as otherwise provided in this Chapter, the effect of any of its provisions may be varied by agreement.

(2) The presence in provisions of this Chapter of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

E. Whether an electronic record or electronic signature has legal consequences is determined by this Chapter and other applicable law.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2606. Construction and application

This Chapter shall be construed and applied as follows:

(1) To facilitate electronic transactions consistent with other applicable law.

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

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

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2607. Legal recognition of electronic records, electronic signatures, and electronic contracts

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

B. A contract may 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 satisfies the law.

D. If a law requires a signature, an electronic signature satisfies the law.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2608. Provision of information in writing; presentation of records

A.(1) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered in an electronic record capable of retention by the recipient at the time of receipt.

(2) An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

B. If a law, other than this Chapter, requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, the following rules apply:

(1) The record must be posted or displayed in the manner specified in the other law.

(2) Except as otherwise provided in Paragraph (D)(2) of this Section, the record must be sent, communicated, or transmitted by the method specified in the other law.

(3) The record must contain the information formatted in the manner specified in the other law.

C. If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

D. The requirements of this Section may not be varied by agreement, but:

(1) To the extent a law other than this Chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under Subsection A of this Section that the information be in the form of an electronic record capable of retention may also be varied by agreement.

(2) A requirement under a law other than this Chapter to send, communicate, or transmit a record by first class mail, postage prepaid, or by regular United States mail, may be varied by agreement to the extent permitted by the other law.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2609. Attribution and effect of electronic record and electronic signature

A.(1) An electronic record or electronic signature is attributable to a person if it was the act of the person.

(2) The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

B. The effect of an electronic record or electronic signature attributed to a person under Subsection A of this Section is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the agreement of the parties, if any, and otherwise as provided by law.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2610. Effect of change or error

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

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

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

(a) Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person.

(b) Takes reasonable steps, including steps that conform to the reasonable instructions of the other person, to return to the other person or, if instructed by the other

person, to destroy the consideration received, if any, as a result of the erroneous electronic record.

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

(3) If neither Paragraph (1) nor Paragraph (2) of this Section is applicable, the change or error has the effect provided by other law, including the law of error, and the contract of the parties, if any.

(4) Paragraphs (2) and (3) of this Section may not be varied by agreement.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2611. Notarization and acknowledgment

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2612. Retention of electronic records; originals

A. If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

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

(2) Remains accessible for later reference.

B. A requirement to retain a record in accordance with Subsection A of this Section does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

C. A person may satisfy Subsection A of this Section by using the services of another person if the requirements of Subsection A of this Section are satisfied.

D. If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with Subsection A of this Section.

E. If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with Subsection A of this Section.

F. A record retained as an electronic record in accordance with Subsection A of this Section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after July 1, 2001, specifically prohibits the use of an electronic record for the specified purpose.

G. This Section shall not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the jurisdiction of the agency.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2613. Admissibility in evidence

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2614. Automated transaction

In an automated transaction, the following rules apply:

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

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

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

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2615. Time and place of sending and receipt

A. Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

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

(2) Is in a form capable of being processed by that system.

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

B. Unless otherwise agreed between the sender and the recipient, an electronic record is received when it:

(1) Enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.

(2) Is in a form capable of being processed by that system.

C. Subsection B of this Section applies even if the place where the information processing system is located is different from the place where the electronic record is deemed to be received under Subsection D of this Section.

D. Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the place of business of the sender and to be received at the place of business of the recipient. For purposes of this Subsection, the following rules apply:

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

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

E. An electronic record is received under Subsection B of this Section even if no individual is aware of its receipt.

F. Receipt of an electronic acknowledgment from an information processing system described in Subsection B of this Section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

G.(1) If a person is aware that an electronic record purportedly sent under Subsection A of this Section, or purportedly received under Subsection B of this Section, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law.

(2) Except to the extent allowed by the other law, the requirements of this Subsection may not be varied by agreement.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2616. Transferable records

A. In this Section, "transferable record" means an electronic record that:

(1) Would be a note as defined in R.S. 10:3-101 et seq., or a document under R.S. 10:7-101 et seq., if the electronic record were in writing.

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

B. A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

C. A system employed for evidencing the transfer of interests in the transferable record satisfies Subsection B of this Section, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the transferable record exists that is unique, identifiable, and, except as otherwise provided in Paragraphs (4), (5), and (6) of this Subsection, unalterable.

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

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

(b) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred.

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

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control.

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

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

D.(1) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in R.S. 10:1-201(20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under Title 10 of the Louisiana Revised Statutes of 1950, including, if the applicable statutory requirements under R.S. 10:3-302(a), 7-501, or 9-308¹ are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively.

(2) Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this Subsection.

E. Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under Title 10 of the Louisiana Revised Statutes of 1950.

F.(1) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record.

(2) Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

Acts 2001, No. 244, §1, eff. July 1, 2001.

¹See now R.S. 10:9-330, 331.

§2617. Creation and retention of electronic records and conversion of written records by governmental agencies in this state

Each governmental agency of this state shall determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2618. Acceptance and distribution of electronic records by governmental agencies in this state

A. Except as otherwise provided in R.S. 9:2612(F), each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

B. To the extent a governmental agency uses electronic records and electronic signatures under Subsection A of this Section, the governmental agency, giving due consideration to security, may specify the following:

(1) The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.

(2) The electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature

must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

(3) Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and audit ability of electronic records.

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

C. Except as otherwise provided in R.S. 9:2612(F), this Chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2619. Interoperability

A. The commissioner of administration shall encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this state, other states, the federal government, and nongovernmental persons interacting with governmental agencies of this state.

B. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2620. Severability clause

The provisions of this Chapter are severable as provided in R.S. 24:175.

Acts 2001, No. 244, §1, eff. July 1, 2001.

§2621. Certification of electronic records

A. Notwithstanding any provision of the law to the contrary, when a governmental agency offers online applications through an Internet interface for any license or permit, and the particular law for such license or permit requires a sworn application for such license or permit, the governmental agency may accept an online certification from the applicant in lieu of the sworn application.

B.(1) The online certification shall require the applicant to certify that all of the information and documentation the applicant submits via the online application through an Internet interface shall be true and correct, and that the applicant has not used a false or fictitious name in such application, and that the applicant has not knowingly made a false statement or has not knowingly concealed any material fact or otherwise committed any fraud in any such application for a license or permit.

(2) Use by a governmental agency of any online certification provisions included in a nationwide online licensing or registration system shall be permissible and deemed in compliance with Paragraph (1) of this Subsection.

C. A governmental agency that elects to accept online applications through an Internet interface, and thus accepting an online certification in lieu of a sworn application, shall promulgate such rules and regulations in accordance with R.S. 9:2619 and the Administrative Procedure Act as are necessary to implement such online certification.

D. The acceptance of an online application with the certification authorized by this Section, in lieu of the sworn application otherwise required by law, shall not result in, or create any liability on the part of the state or the governmental agency.

Acts 2013, No. 176, §1, eff. June 7, 2013.