

16-1605. Use of electronic records and electronic signatures; state agency written standards governing use of electronic signatures; rules and regulations governing use of digital signatures by state agencies. (a) This act 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) This act applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

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

(d) Except as otherwise provided in this act, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this act 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 act and other applicable law.

(f) The uniform electronic transactions act does not require any person to use electronic signatures.

(g) Any state agency that offers or provides the option of using an electronic signature to persons doing business with that state agency shall establish written standards governing the use of those electronic signatures as follows:

(1) On or before December 31, 2002, for electronic signature applications that are in use by the state agency before July 1, 2002; or

(2) before offering or providing the option of using an electronic signature for any applications implemented on or after July 1, 2002.

(h) The uniform electronic transactions act does not require any person to use or permit the use of digital signatures.

(i) The secretary of state shall adopt rules and regulations governing the use of digital signatures by state agencies. Each state agency offering or providing the option of using a digital signature to persons doing business with that state agency shall implement digital signatures in a manner consistent with the regulations of the secretary of state, except that the state agency may adopt rules and regulations governing that agency's use of digital signatures that exceed the minimum standards established by the rules and regulations of the secretary of state.

History: L. 2000, ch. 120, § 5; L. 2002, ch. 183, § 4; July 1.