

Electronic Signature Legality

Electronic Signatures Are Legal for Real Estate

Federal and state laws provide that electronic signatures - like those used by dotloop - are uniformly enforceable to the same extent as traditional written signatures. Although some state electronic signature acts have exceptions for real estate purchase documents, all of these exceptions are preempted by the federal E-SIGN Act which was passed in 2000 (15 USC 7001 et seq.).

Federal Electronic Signature Act

The Electronic Signatures in Global and National Commerce (E-SIGN) Act provides that “notwithstanding any statute, regulation, or other rule of law ... , (1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and (2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation” (15 USC 7001 (a)). The E-SIGN Act further defines “transaction” as “an action or set of actions relating to the conduct of business, consumer, or commercial affairs between two or more persons, including ... the sale, lease, exchange, or other disposition of any interest in real property” (15 USC 7006(13)(B)). The E-SIGN Act thus establishes the enforceability of electronically-signed documents, including real estate purchase contracts.

State Electronic Signature Act

The Uniform Electronic Transactions Act (UETA), which is a uniform law recommended for adoption in each state, has essentially the same effect as E-SIGN in that it makes electronic signatures generally enforceable. The E-Sign Act provides that if a state adopts the standard version of UETA, then UETA (and not E-sign becomes the applicable law in that state. However, if a state enacts UETA with modifications that conflict with the E-sign Act (or if a state enacts any other sort of electronic signature law that conflicts with E-sign), the conflicting state provisions are pre-empted. For example, if a state enacted UETA but modified its language to make it inapplicable to real estate purchase contracts, the modification would be pre-empted and electronic real estate purchase contracts would be enforceable in that state because of the E-SIGN Act. This interplay of federal and state law ensures that electronically signed real estate purchases are enforceable in every state.

FHA Accepts Electronic Signatures

As of April 8th, 2010, the Federal Housing Administration (FHA) also accepts electronic signatures on third party documents originated and signed outside of the lender’s control, such as real estate contracts. This policy is in accordance with Electronic Signatures in Global and National Commerce Act (E-SIGN) and the Uniform Electronic Transactions Act (UETA), as applicable. A Mortgagee Letter detailing FHA’s new streamlined process is posted on the HUD website.

For further questions about dotloop’s Secure Electronic Signature Solution, please visit www.dotloop.com/verify call the support team at 888-dot-loop

Sample Electronic Signatures:

