

Electronic Signatures & Authorizations

What is the fundamental issue?

The "Electronic Signatures in Global and National Commerce Act" became effective for transactions on October 1, 2000, and for record-keeping and filing on March 1, 2001. The law allows the use of electronic signatures, disclosures, and authorizations to replace paper versions. The law does not have any effect on the content of disclosures, or any party's rights or responsibilities. It requires no particular technology, but requires all parties to the transaction to agree on the method for electronically "authenticating" the contracts or documents. Adoption of electronic signatures in the real estate and lending industries has been slow.

I am a real estate professional. What does this mean for my business?

The replacement of paper documents with electronic ones will result in cost and time savings for consumers and REALTORS®. Anticipated savings include funds expended on paper, postage, and storage space for disclosures and authorizations. In addition, this practice will also allow for a streamlining of the real estate transaction and continue the promotion toward paperless transactions.

NAR Policy:

NAR supported the "E-SIGN Act of 2000" that makes electronic signatures the legal equivalent of handwritten signatures in order to make real estate transactions more efficient and to reduce paperwork. NAR is working to provide education to REALTORS® in the procedures for using electronic signatures and is urging regulators and lenders to facilitate and widen the acceptance of electronic signatures.

Legislative/Regulatory Status/Outlook

State legislatures have been and continue to be the venue for further legislative activity since state statutes require amendments to allow the use of electronic documents for business transactions.

On the regulatory front, the Federal Housing Administration (FHA) significantly broadened the range of signatures that will be accepted as part of FHA mortgage processing. Also, the Bureau of Consumer Financial Protection (CFPB) in August 2015 announced results of pilot projects demonstrating ways that the mortgage closing process can be improved, with special attention to making more parts of the closing process open to electronic signatures and formats.

As electronic signatures become more widely accepted, there has been a shift in focusing on electronic closings, electronic notaries, remote notaries, and electronic recordings, which are primarily regulated at the state level. NAR will continue to work closely with Federal agencies, lenders, and other industry leaders to promote more efficient and cost effective processes in real estate transactions.