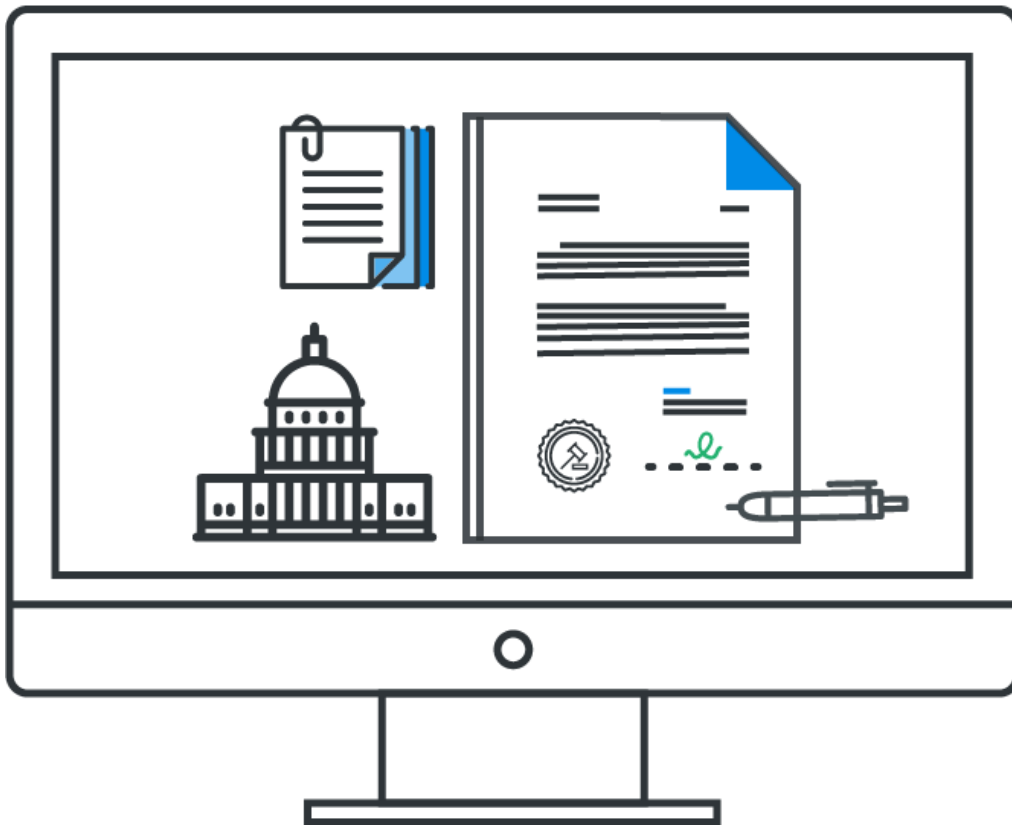


Legality of Electronic Signatures in the United States

Compliance under the UETA and the ESIGN Act



The UETA and the ESIGN Act

In the United States, the [Uniform Electronic Transactions Act](#) (UETA) 1999 and the [Electronic Signatures in Global and National Commerce Act](#) (ESIGN) 2000 admits the validity and enforceability of electronic signatures.

The UETA and the ESIGN Act cover commercial transactions, and therefore do not pertain to records used unilaterally, or which do not relate to business, commercial (including consumer), or governmental affairs. They also specify exemptions to the use of electronic signatures in certain kinds of documents, such as those relating to the creation and execution of wills, adoption, divorce, or other matters of family law. *Please review the list of exemptions under section 103 of the ESIGN act, and consult with legal counsel to identify relevant categories of exclusion.*

All 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands have enacted state laws validating electronic signatures, with all but 3 adopting the Uniform Electronic Transactions Act (UETA). Illinois, New York, and Washington have not adopted the UETA but have similar statutes validating electronic transactions.

This white paper answers two important questions concerning the ESIGN Act:

1. Are electronic signatures legally binding and enforceable?
2. How do you ensure that electronic signatures are valid and enforceable under the ESIGN Act?

Are electronic signatures legally binding and enforceable?

Both the UETA and E-SIGN ACT laws explicitly provide that “a signature, contract, or other record relating to such [commercial] transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form.”

An electronic signature is defined as “an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.”

The acts establish the general rule that electronic signatures are valid and enforceable, provided certain requirements are established.

The legal admissibility of electronic signatures is well established in the United States. To ensure that the electronic document can be authenticated and admitted as evidence, it is important to maintain an audit trail that logs the actions taken by the parties electronically signing documents.

How do you ensure that your electronic signatures are compliant with the ESIGN Act?

When determining whether an electronic signature is compliant under the ESIGN Act, the law looks into some essential requirements. Make sure that your electronic signature provider has covered these points and you can ensure that your eSignatures are valid and enforceable in the United States.

- **Consent to do business electronically**

All parties to an agreement or transaction must agree to conduct the transaction using electronic means. Accordingly, the UETA expressly provides that the party's agreement is to be found from all circumstances, including the parties' conduct. This consent may be express or implied.

Does this happen with SignEasy?

Yes. Whenever you sign and finalize a document within SignEasy, you are prompted to confirm your consent to sign documents electronically.

- **Intent to sign**

Electronic signatures, like pen-and-paper signatures, are valid only if each party intended to sign.

Does this happen with SignEasy?

Yes. SignEasy allows signature requests to be declined, effectively allowing the parties to decide whether they would like to complete the transaction using an electronic signature.

- **Association of the signature with the record**

An electronic signature must be connected or associated to the document that is being signed by indicating a process by which the signature was created or by creating a graphical or textual statement, which gets added to the signed record.

Does this happen with SignEasy?

Yes. SignEasy does not allow electronic signatures to be transmitted to anyone except as part of a document signed and sent by the signer. You can choose to sign a document by either drawing your signature on the device touchscreen using the finger or stylus, placing an image of your signature on the document or typing it using one of the existing templates. In all these cases, the eSignature is placed on the electronic document at the time it is signed and is saved as a part of the PDF document.

- **Attribution**

The electronic signature must be attributable to the person who is signing. The attribution of an electronic signature to a person will be determined based on the context and circumstances under which the document is signed. This can be done by a variety of means, such as documenting the communications and actions of the parties, or preserving an audit trail.

Does this happen with SignEasy?

Yes. When you sign a document on SignEasy, you receive a copy of your signed document and a full audit-trail for legal evidence, including signer email ID, device IP, signature timestamp, and more.

- **Record retention**

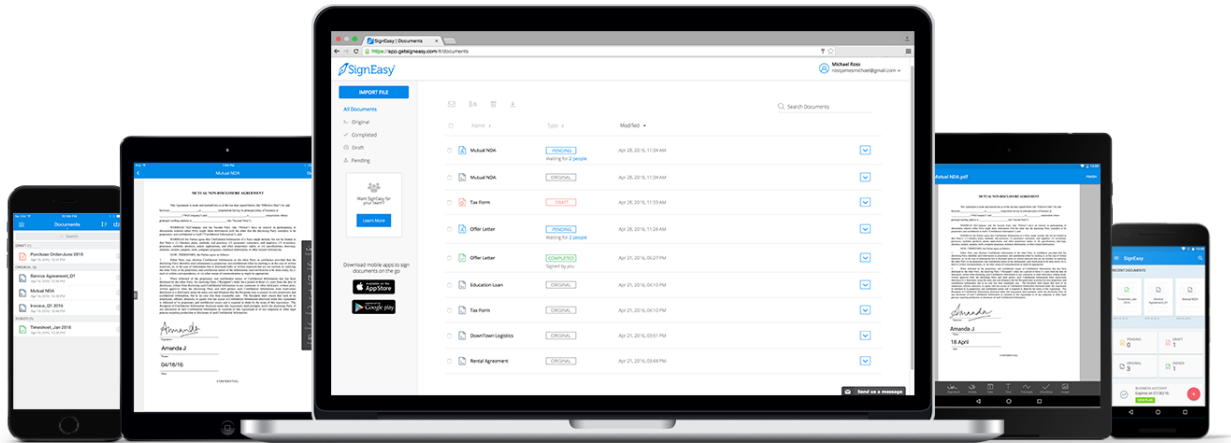
An electronically signed document must be in the form of an electronic record capable of retention by the recipient at the time of receipt. The sender or the information processing system must not inhibit the ability of the recipient to print or store the electronic record for later reference.

Does this happen with SignEasy?

Yes. SignEasy holds the original and signed documents securely for you using AES 256 encryption at rest and 256-bit SSL encryption during transit. You can download the signed document on your device or store it in your SignEasy account. SignEasy also provides you a choice to remove or delete them as you wish anytime. We also create an audit trail for later reference.

References

1. Uniform Electronic Transactions Act (1999): Drafted by the National Conference of Commissioners on Uniform State Laws. Click [here](#) for the complete act.
2. Electronic Signatures in Global and National Commerce Act: Public Law 106-229—June 30, 2000. Click [here](#) for the complete act.



Featured by Apple and Google and trusted by over 3 million users, SignEasy is the simplest and fastest way to sign or get documents signed from mobile, tablet, or web. People across industries such as real estate, legal, accounting, sales, insurance, human resources, logistics, and healthcare from over 150 countries use SignEasy to reduce business turnaround times, close deals faster, cut costs, and delight customers by eliminating the cycle of printing, scanning, and faxing of paperwork.

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