

Official Interpretation

By Order of the North Carolina Home Inspector Licensure Board

Subject: Electronic Signatures

Interpretation: The North Carolina General Assembly, in Session Law 2000-152, Senate Bill 1266, adopted the Uniform Electronic Transactions ACT (UETA). The UETA is codified at N.C.G.S. §66-311 et seq. N.C.G.S. § 66-312(9) includes the following definition of “electronic signature”:

The term “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.

N.C.G.S. § 66-319 provides as follows:

- (a) An electronic record or electronic signature is attributable to a person if it was the act of the person. 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 sections is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties’ agreement, if any, and otherwise as provided by law.

The UETA is applicable to certain transactions. A transaction, for purposes of the act is defined to mean “an action or set of actions occurring between two or more persons relating to the conduct of consumer, business, commercial, or governmental affairs.” N.C.G.S. § 66- 312(17).

Significantly, N.C.G.S. § 66-317, captioned “Legal recognition of electronic records, electronic signatures, and electronic contracts,” provides in pertinent part as follows:

- (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- (d) If a law requires a signature, an electronic signature satisfies the law provided it complies with the provisions of this Article.

It should be noted, however, that pursuant to the UETA, a party is not required to accept

an electronic signature. N.C.G.S. § 66-315 provides in pertinent part as follows:

- (a) This Article 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 Article applies only to transactions between parties *each of which has agreed to conduct transactions by electronic means* (Emphasis added.)

Theoretically, the party for whom an inspection report has been prepared could elect not to receive the report, including the home inspector's signature, by electronic means. If the party is willing to receive the inspection report electronically, however, it seems to follow that the party would accept the inspector's electronic signature as well.

Date Approved:

Effective Date: Immediately

A handwritten signature in cursive script, appearing to read "H. John Gainey", is written over a horizontal line.

H. John Gainey, Chairman
North Carolina Home Inspector Licensure Board