CHAPTER 554D

ELECTRONIC TRANSACTIONS — COMPUTER AGREEMENTS

Referred to in §22.7, §75.14, §97B.17, §159.34, §331.506, §459.302, §459A.201, §484C.9, §505B.1, §505B.2, §554.7103, §715C.2

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SUBCHAPTER 2

COMPUTER AGREEMENTS

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SUBCHAPTER 1

UNIFORM ELECTRONIC TRANSACTIONS ACT

554D.101 Short title.
This subchapter may be cited as the *"Uniform Electronic Transactions Act"*.
2000 Acts, ch 1189, §1; 2004 Acts, ch 1067, §1; 2005 Acts, ch 3, §95

554D.102 Legislative intent. Repealed by 2004 Acts, ch 1067, §10.

554D.103 Definitions.
As used in this chapter, unless the context otherwise requires:

1. *"Agreement"* means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

2. *"Automated transaction"* means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course of forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

3. *"Computer program"* means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

4. *"Contract"* means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

5. *"Electronic"* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

6. *"Electronic agent"* means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

7. *"Electronic record"* means a record created, generated, sent, communicated, received, or stored by electronic means.

8. *"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.

9. *"Governmental agency"* means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

10. *"Information"* means data, text, images, sounds, codes, computer programs, software, databases, or the like.

11. *"Information processing system"* means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

12. *"Person"* means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

13. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

14. *"Security procedure"* means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. *"Security procedure"* includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures, and includes digital signature technology.

15. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. *"State"* includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

16. *"Transaction"* means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

2000 Acts, ch 1189, §3; 2004 Acts, ch 1067, §2, 3
Referred to in **§4.1**, **§633A.5107**

554D.104 Scope.

1. Except as provided in subsection 2, this chapter applies to electronic records and electronic signatures relating to a transaction.

2. This chapter does not apply to a transaction to the extent it is governed by any of the following:

a. A law governing the creation or execution of wills, codicils, or testamentary trusts.

b. Chapter 554 other than chapter 554, articles 2 and 13, and section 554.1306.

3. A transaction subject to this chapter is also subject to other applicable substantive law.

2000 Acts, ch 1189, §4; 2000 Acts, ch 1232, §29; 2004 Acts, ch 1067, §4, 11; 2007 Acts, ch 41, §42; 2013 Acts, ch 30, §158

554D.105 Prospective application. Repealed by 2004 Acts, ch 1067, §10.

554D.106 Use of electronic records and electronic signatures — variation by agreement.

1. This chapter 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.

2. This chapter 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.

3. A party who 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.

4. Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this chapter 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.

5. Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

2000 Acts, ch 1189, §6

554D.107 Construction and application.

This chapter shall be construed and applied as follows:

1. To facilitate electronic transactions consistent with other applicable law.

2. To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices.

3. To effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting the uniform law.

2000 Acts, ch 1189, §7

554D.108 Legal recognition of electronic records, electronic signatures, and electronic contracts.

1. A record or signature shall not be denied legal effect or enforceability solely because it is in electronic form.

2. A contract shall not be denied legal effect or enforceability solely because an electronic record was used in its formation.

3. If a law requires a record to be in writing, an electronic record satisfies the law.

4. If a law requires a signature, an electronic signature satisfies the law.

2000 Acts, ch 1189, §8

554D.109 Legal recognition of electronic records affecting interests in real property. Repealed by 2004 Acts, ch 1067, §10.

554D.110 Provision of information in writing — presentation of records.

1. If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

2. If a law other than this chapter requires a record to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner, all of the following apply:

a. The record must be posted or displayed in the manner specified in the other law.

b. Except as otherwise provided in subsection 4, paragraph "*b*", the record must be sent, communicated, or transmitted by the method specified in the other law.

c. The record must contain the information formatted in the manner specified in the other law.

3. If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

4. The requirements of this section shall not be varied by agreement, except as follows:

a. To the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement

under subsection 1 that the information be in the form of an electronic record capable of retention may also be varied by agreement.

b. A requirement under a law other than this chapter to send, communicate, or transmit a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law.

2000 Acts, ch 1189, §10; 2004 Acts, ch 1067, §5

554D.111 Attribution and effect of electronic record and electronic signature.

1. 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.

2. The effect of an electronic record or electronic signature attributed to a person under subsection 1 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.

2000 Acts, ch 1189, §11; 2004 Acts, ch 1067, §6

554D.112 Effect of change or error.

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

1. If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

2. In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, all of the following apply:

a. The individual promptly notifies the other person of the error and that the individual does not intend to be bound by the electronic record received by the other person.

b. The individual takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record.

c. The individual has not used or received any benefit or value from the consideration, if any, received from the other person.

3. If subsection 1 or 2 does not apply, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

4. In a consumer transaction, any substantive law limiting a consumer's liability shall apply to an electronic transaction.

5. Subsections 2, 3, and 4 shall not be varied by agreement of the parties.

2000 Acts, ch 1189, §12

554D.113 Notarization and acknowledgment.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

2000 Acts, ch 1189, §13

Referred to in **§331.506**, **§331.554**

554D.114 Retention of electronic records — originals.

1. If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which does both of the following:

a. Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise.

b. Remains accessible for later reference.

2. A requirement to retain a record in accordance with subsection 1 does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

3. A person may satisfy subsection 1 by using the services of another person if the requirements of that subsection are satisfied.

4. If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection 1.

5. If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection 1.

6. A record retained as an electronic record in accordance with subsection 1 satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after July 1, 2000, specifically prohibits the use of an electronic record for the specified purpose.

7. This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

2000 Acts, ch 1189, §14; 2004 Acts, ch 1067, §7

Referred to in **§554D.120**

554D.115 Admissibility in evidence.

In a proceeding, evidence of a record or signature shall not be excluded solely because it is in electronic form.

2000 Acts, ch 1189, §15

554D.116 Automated transaction.

In an automated transaction, the following rules apply:

1. A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

2. A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

3. The terms of the contract are determined by the substantive law applicable to it.

2000 Acts, ch 1189, §16

554D.117 Time and place of sending and receipt.

1. Unless otherwise agreed between the sender and the recipient, an electronic record is sent when all of the following occur:

a. The electronic record is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.

b. The electronic record is in a form capable of being processed by that information processing system.

c. The electronic record enters an information processing system outside the control of the sender or of a person who sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

2. Unless otherwise agreed between a sender and the recipient, an electronic record is received when both of the following occur:

a. The electronic record enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.

b. The electronic record is in a form capable of being processed by that information processing system.

3. Subsection 2 applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection 4.

4. Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, both of the following apply:

a. If the sender or recipient has more than one place of business, the place of business of such person is the place having the closest relationship to the underlying transaction.

b. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

5. An electronic record is received under subsection 2 even if no individual is aware of its receipt.

6. Receipt of an electronic acknowledgment from an information processing system described in subsection 2 establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

7. If a person is aware that an electronic record purportedly sent under subsection 1, or purportedly received under subsection 2, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted or required by the other law, the requirements of this subsection shall not be varied by agreement.

2000 Acts, ch 1189, §17

Referred to in **§505B.1**

554D.118 Transferable records.

1. For purposes of this section, "*transferable record*" means an electronic record that satisfies both of the following:

a. The electronic record would be a note under chapter 554, article 3, or a document under chapter 554, article 7, if the electronic record were in writing.

b. The issuer of the electronic record expressly has agreed such electronic record is a transferable record.

2. A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

3. A system satisfies subsection 2, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that satisfies all of the following:

a. A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs "*d*", "*e*", and "*f*", unalterable.

b. The authoritative copy identifies the person asserting control as one of the following:

(1) The person to which the transferable record was issued.

(2) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred.

c. The authoritative copy is communicated to and maintained by the person asserting control or such person's designated custodian.

d. Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control.

e. Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy.

f. A revision of the authoritative copy is readily identifiable as authorized or unauthorized.

4. Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 554.1201, of the transferable record and has the same rights and

defenses as a holder of an equivalent record or writing under chapter 554, including, if the applicable statutory requirements under section 554.3302, subsection 1, section 554.7501, or section 554.9330 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

5. Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under chapter 554.

6. If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

2000 Acts, ch 1189, §18; 2003 Acts, ch 44, §97

554D.119 Creation and retention of electronic records and conversion of written records by governmental agencies.

A governmental agency of this state shall determine whether, and the extent to which, the governmental agency will create and retain electronic records and convert written records to electronic records.

2000 Acts, ch 1189, §19

554D.120 Acceptance and distribution of electronic records by governmental agencies.

1. Except as otherwise provided in section 554D.114, subsection 6, a governmental agency of this state other than a state executive branch agency, department, board, commission, authority, or institution, shall determine whether, and the extent to which, the governmental agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

2. Except as otherwise provided in section 554D.114, subsection 6, on or before July 1, 2003, a state executive branch agency, department, board, commission, authority, or institution, in consultation and cooperation with the department of administrative services, shall send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and signatures. The department of management, upon the written request of a state executive branch agency, department, board, commission, authority, or institution and for good cause shown, may grant a waiver from the July 1, 2003, deadline established in this section to the state executive branch agency, department, board, commission, authority, or institution.

3. To the extent that a governmental agency of this state uses electronic records and electronic signatures under subsection 1 or 2, the office of the secretary of state and the department of administrative services, jointly, and in consultation with the office of the attorney general, giving due consideration to security, may specify by rule all of the following:

a. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the information processing systems established for those purposes.

b. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

c. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

d. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

4. Except as otherwise provided in subsection 2 and in section 554D.114, subsection 6,

this chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

5. Notwithstanding this section, an institution governed under chapter 262 shall conform with national standards with respect to electronic records and electronic signatures, as such standards are developed.

2000 Acts, ch 1189, §20; 2002 Acts, ch 1119, §187, 188; 2003 Acts, ch 44, §98; 2003 Acts, ch 145, §286

Referred to in **§554D.121**, **§602.1614**

Electronic records policy for judicial branch, see §602.1614

554D.121 Interoperability.

The standards adopted pursuant to section 554D.120 should encourage and promote consistency and interoperability with similar requirements adopted by another governmental agency and nongovernmental persons interacting with governmental agencies of this state. If appropriate, such standards may specify differing levels of standards from which a governmental agency of this state may choose in implementing the most appropriate standard for a particular application.

2000 Acts, ch 1189, §21

554D.122 Fraudulent purpose — penalty. Repealed by 2004 Acts, ch 1067, §10.

554D.123 False or unauthorized request — penalty. Repealed by 2004 Acts, ch 1067, §10.

554D.124 Severability.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application and, to this end, the provisions of this chapter are severable.

2004 Acts, ch 1067, §9

SUBCHAPTER 2

COMPUTER AGREEMENTS

554D.125 Computer information agreements.

A choice of law provision in a computer information agreement which provides that the contract is to be interpreted pursuant to the laws of a state that has enacted the uniform computer information transactions Act, as proposed by the national conference of commissioners on uniform state laws, or any substantially similar law, is voidable and the agreement shall be interpreted pursuant to the laws of this state if the party against whom enforcement of the choice of law provision is sought is a resident of this state or has its principal place of business located in this state. For purposes of this section, a *"computer information agreement"* means an agreement that would be governed by the uniform computer information transactions Act or substantially similar law as enacted in the state specified in the choice of laws provision if that state's law were applied to the agreement.

2004 Acts, ch 1067, §11