

Department of Finance

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Finance

RULE NO. & TITLE: 355-20-1 Electronic Signatures and Records

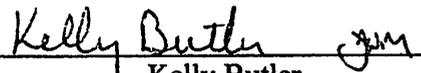
INTENDED ACTION: The Department of Finance proposes a new rule.

SUBSTANCE OF PROPOSED ACTION: In accordance with the Alabama Uniform Electronic Transactions Act ("UETA"), Section 8-1A-1 et seq., the Department of Finance proposes a rule to determine whether, and the extent to which, it will send and accept electronic signatures and electronic records.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held only if requested by an interested party. A written request for a hearing shall be submitted to the agency contact person listed below. Interested persons may present their view in writing to the Department of Finance 600 Dexter Avenue, Suite E-309, Montgomery, AL 36130.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: The Department of Finance will accept comments no later than November 4, 2020 at 5 p.m.

CONTACT PERSON AT AGENCY: Jacob Harper, Department of Finance, 600 Dexter Avenue, Suite E-309, Montgomery, AL 36130, Phone 334-242-4520 or Jacob.Harper@finance.alabama.gov.



Kelly Butler

STATE OF ALABAMA
ALABAMA DEPARTMENT OF FINANCE
ADMINISTRATIVE CODE

CHAPTER 355-20-1
Electronic Signatures and Records

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355-20-1.01 Legal Basis. The Alabama Uniform Electronic Transactions Act ("UETA"), Section 8-1A-1 et seq. of the Code of Alabama 1975, enacted in 2002, is intended to facilitate the use of electronic documents in business, commercial, and governmental transactions. The Act promotes but not require the use of electronic signatures and creation of electronic documents. Section 8-1A-18(a) provides that "each government agency of this state with rule-making authority . . . may determine by rule whether, and the extent to which, it 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." Section 8-1A-12(a) provides that an electronic record meets other state law requirements for record retention if the electronic record both accurately reflects the original document and is accessible for later reference. Section 8-1A-13 provides that an electronic record may not be excluded from evidence in court solely because it is in electronic form. Section 8-1A-12(g) provides that the State Records Commission is not precluded by the Act from placing additional requirements for record retention on agencies.

Author: Jacob Harper

Statutory Authority: Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-13, 8-1A-18, 41-4-35.

History: New Rule: Filed September 21, 2020; effective _____.

355-20-1.02 Definitions. Except as otherwise specified in this rule, undefined terms have the respective meanings set forth in the Act. Notwithstanding the forgoing, the following words where used in this rule shall have the following meanings:

(1) Act or UETA. Alabama Uniform Electronic Transaction Act, Code of Alabama 1975, Section 8-1A-1 et seq.

(2) Department. The Department of Finance of the State of Alabama, as established in Code of Alabama 1975, Section 41-4-2, and all divisions, offices, or other subdivisions thereof.

(3) Records Disposition Authority or RDA. An agency-level records retention schedule issued by the State Records Commission under the authority granted by the Code of Alabama 1975, Sections 41-13-5 and 41-13-20 through 21.

(4) State Records Commission. The State Records Commission, as established in Code of Alabama 1975, Section 41-13-20.

Author: Jacob Harper

Statutory Authority: Code of Ala. 1975, §8-1A-18, 41-4-35.

History: New Rule: Filed September 21, 2020; effective _____.

355-20-1.03 Use of Electronic Signatures and Electronic Records.

In accordance with Section 8-1A-18(a) of the Code of Alabama 1975, the Department hereby establishes that to the fullest extent permitted by the Act and except as otherwise provided in this administrative rule, the Department may 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. In accordance with Section 8-1A-18(b), use of electronic records and electronic signatures will comply with the following requirements:

(1) Provide an identical copy of the original signed and executed document to the signer.

(2) Ensure non-repudiation; that the signer cannot deny the fact that he or she electronically signed the document.

(3) Capture information about the process used to capture signatures (i.e. create an audit trail), including but not limited to

a. IP address

b. Date and time stamp of all events

c. All web pages, documents, disclosures, and other information presented

d. What each party acknowledged, agreed to, and signed

(4) Encrypt, end-to-end, all communication within the signature process. Encryption technologies shall comply with state encryption standards, including the requirements that cryptographic modules be validated to the current Federal Information Processing Standards (FIPS).

The information contained in this subsection constitutes the minimum that is required for a valid electronic signature. Any authorized person within the Department may require additional reasonable information from a signer to establish the identity and signature authority of the signer. The Department may provide additional requirements subject to a State of Alabama information technology policy as promulgated by the Alabama Office of Information Technology.

Author: Jacob Harper

Statutory Authority: Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-18, 41-4-35.

History: New Rule: Filed September 21, 2020; effective _____.

355-20-1.04 **Creation and Retention of Electronic Records.** In accordance with Section 8-1A-20 of the Code of Alabama 1975, the Department hereby establishes that to the fullest extent permitted by the Act and except as otherwise provided in this administrative rule, the Department may create and retain electronic records and convert written records to electronic records. Any such electronic records will be retained in compliance with State Records Commission requirements, including any records retention schedules previously agreed to by the Department. The Department may create a retrievable electronic record or copy, by optical scan or otherwise, of paper original documents or make other images or paper copies which accurately reproduce the originals and may destroy original paper documents so copied as specified in the RDA. Electronic copies of original documents, when certified by an authorized Department record custodian, are admissible in Department administrative proceedings as authorized by the Act as though they were the original document. The electronic document retains the confidential or public document characteristics of the original document.

Author: Jacob Harper

Statutory Authority: Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-13, 8-1A-18, 41-4-35.

History: New Rule: Filed September 21, 2020; effective _____.