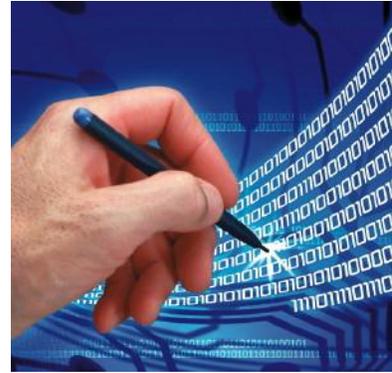


Electronic Signatures Gaining Acceptance and Popularity In Residential Real Estate Transactions

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Compliance Concerns Unwarranted

Electronic signature technology has been quickly gaining steam throughout the U.S. real estate community, and has now arrived in earnest in my home state of Massachusetts. Electronic signature software lets you send legally binding documents and get signatures anytime, anywhere from any Internet-connected device. It's mostly used with Offers and Purchase and Sale Agreements. I've been using [DocuSign](#), and with a little learning curve, it's been fantastic.

Realtors and attorneys who use electronic signature software can simply email encrypted contracts to their clients for signatures, rather than deal with travel, signing 4 original copies, and coordinating all the signatures. It's especially helpful for out of state clients.

The Massachusetts real estate industry, traditionally conservative and slower to adopt new technology, has been lagging behind more progressive states such as California when it comes to adopting electronic signature technology. Plus, it hasn't helped that technologically challenged attorneys are often involved in the drafting of the purchase and sale agreement.

In my informal survey of Realtors, the biggest questions were (1) are electronically signed contracts legal and valid, (2) how does it work: and (3) will lenders accept them?

Are Electronic Signatures Valid For Real Estate Contracts?

The answer is **yes**.

Electronic signature legislation was adopted over 10 years ago. In 2000, Congress enacted the E-SIGN law which validates certain contracts in electronic form and electronic signatures across the country. In 2004, Massachusetts adopted its UETA, codified in [Mass. General Laws Chapter 100G](#), which is essentially adopts and updates the federal E-SIGN law. Lawmakers designed UETA and E-Sign to recognize that "a signature, contract, or other record relating to a transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form." The Massachusetts UETA provides, simply, that "In a legal proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form."

Under the Massachusetts Uniform Electronic Transactions Act (UETA), real estate contracts which are electronically signed in compliance with the law are legal and valid.

As a belt and suspenders approach, I have formulated the following rider provision to ensure electronic signature validity and enforceability. Feel free to use it.

This Agreement may be executed by and through electronic signature technology which is in compliance with Massachusetts law governing electronic signatures, including but not limited to, DocuSign®. Electronic signatures shall be considered as valid and binding as original, wet signatures. Signatures, originally signed by hand, but transmitted via e-mail or fax shall also be deemed valid and binding original signatures.

How Does It Work?

There are several electronic signature systems out there, including [EchoSign](#), [eOriginal](#), and [DocuSign](#), which I use. All three providers warrant full compliance with federal E-SIGN and state UETA law and their European counterparts.

Since I've been using DocuSign, here is a [quick video overview how it works](#).

As the individual requesting that a document be DocuSigned, you control who signs by providing the signer's email address and other contact information. The document is routed to the signer's email with a request to sign. DocuSign records the signer's IP address and a time stamp of the signing activity. In addition, a signer can opt to provide geo-location information at the time of signing. If you require deeper levels of identity management, DocuSign offers additional authentication options, including: access code, knowledge-based ID check and biometric phone identification, among others.

VETSTEIN LAW GROUP, P.C.

By:  Richard D. Vetstein, Founding Partner

As you can see, in many respects, an electronically signed contract is more secure and less susceptible to fraud and forgery than a traditional "wet" signature.

Are Lenders Accepting Electronically Signed Contracts?

Most are, but I hear that some short sale lenders are still requiring wet signatures. This is always the problem with adopting new technology. It's disappointing because electronic signatures have been legal and valid for **10 years now**. The law was passed by Congress and now all the states. As more and more agents and attorneys embrace the technology, we will see objections falling by the wayside, just as we did with faxed signatures.



[Richard D. Vetstein, Esq.](#) is an experienced [Massachusetts real estate closing attorney](#) who's handled thousands of residential closings. Please [contact him](#) if you need legal assistance purchasing residential or commercial real estate.