

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

March 8, 2000

LE 929

electronic method. But, if you choose to use an electronic method, these would be the rules that apply, with a couple of exceptions. One of those exceptions is the rule on tests...wills and testamentary trusts, and another one is the application of Article II of the UCC, which has its own section on electronic transfers. But it doesn't require that any record or signature be done by electronic means. However, if it is chosen, if you use electronic means, these then would be the rules, and essentially a signature could be a beep, a sign, a symbol, an icon that was used for the purpose of authentication and the intent was for authentication. And frankly, that's the common law rule, which is why the old X, in the west, was in fact effective as a signature, if you could establish that it was a legitimate statement of intent by somebody who happened, in that case, to be illiterate but who wanted to sign and acknowledge a document. The law requires that if a person is to send, deliver or provide information according to another law, why that can be provided, sent or delivered in an electronic record, unless another law requires differently and will not permit the use of electronic means. Now what would that be? Well, if you were doing a piece of banking by mail, by electronic mail, and you were to be given a disclosure form, that disclosure form could be transmitted by e-mail, just as if you were sitting in the bank it would be handed to you in a hard copy form. In the event there's to be a notary under either the way that the form is written, or because the law requires a notary, that requirement stays in effect. It doesn't alter the notary requirement, it just allows for an electronic signature of a notary as a way of achieving the same ends. In the event the law requires you to retain records, and that occurs, a number of businesses are told, you must retain records for X period of time, this says if you choose to retain that in an electronic form, that would be satisfactory, particularly since the original transaction itself is in electronic form, this way of keeping those records would be appropriate. The bill also says that it is to be construed in a manner that makes the use of electronic means more likely, not less likely. In other words, it has a rule for interpretation that says construe this to assist in electronic transactions rather than creating gateways, or burdens, or obstacles to those. Let me remind you it does not require that any act or transaction be done by electronic means and it does not permit somebody to force a