

Joint Statement in Response to State “Smart Contracts” Legislation

In 1999, the Uniform Law Commission completed the Uniform Electronic Transactions Act (UETA), which has been enacted in 47 states, the U.S. Virgin Islands and District of Columbia. In 2000, Congress enacted the Federal Electronic Signatures in Global and National Commerce Act (ESIGN, 15 U.S.C. 7001, et seq.). These statutes, operating cooperatively, assure that electronic records, electronic signatures, and contracts made or memorialized in electronic formats enjoy the same legal status as pen and ink records, signatures, or contracts. The statutes are technology-neutral, meaning that they validate records, signatures or contracts without regard to the specific electronic technologies employed. The federal law, ESIGN, explicitly states that any state law according a legal status or enforceability to a specific technology is preempted.

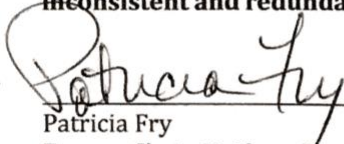
UETA and ESIGN already ensure:

- If a law requires a signature, an electronic signature satisfies the law.
- If a law requires a record to be in writing, an electronic record satisfies the law.
- A contract, signature, or related record may not be denied legal effect or enforceability solely because it is in electronic form.
- A contract may not be denied legal effect solely because an electronic record was used in forming the contract.

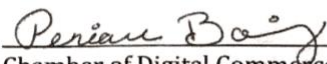
Cryptographic signatures fall squarely within the definition of “electronic signature” set forth in UETA and ESIGN. Thus, if blockchain technology or smart contract code is used to create or effect an electronic signature, electronic record, or electronic contract, UETA and ESIGN ensure it is valid. Therefore, legislation seeking to define blockchain technology or smart contracts or to ensure smart contracts are legally enforceable, while well-intentioned, is harmful for the following reasons:

1. **Redundancy.** Redundancy is confusing, unnecessary, and potentially harmful if courts determine the legislature intended a different effect.
2. **Inconsistency.** Bills introduced in California, New York, Illinois, Nebraska, and Tennessee this year contain definitions of blockchain and smart contract inconsistent with each other (in some cases) and the definition published by the Chamber of Digital Commerce. The potential for a network of conflicting state laws is obvious.
3. **Federal Preemption.** ESIGN provides that any state law giving special effect to a specific technology is preempted. Moreover, conflicting state laws provide additional incentive for Congress to preempt those laws to remove barriers to interstate commerce.


Because existent laws already provide a sufficient legal foundation for the enforcement of these types of agreements, we believe additional state legislation will only serve to create inconsistent and redundant state laws, hindering innovation, and are opposed to such efforts.



Patricia Fry
Former Chair, Uniform Electronic
Transactions Act Drafting Committee



Penina Bozy
Chamber of Digital Commerce



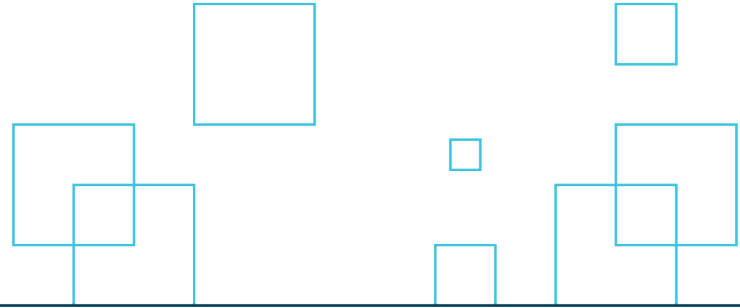
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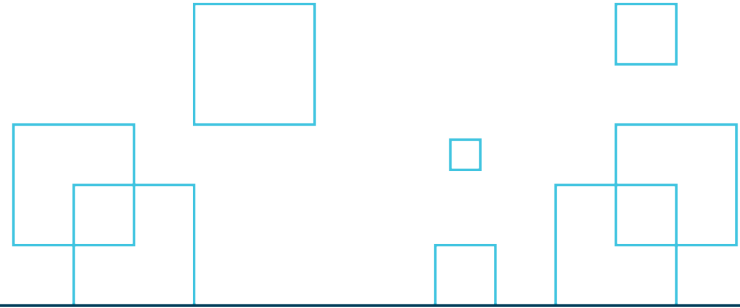
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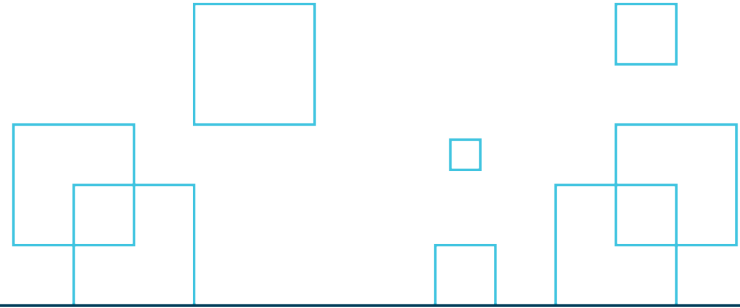
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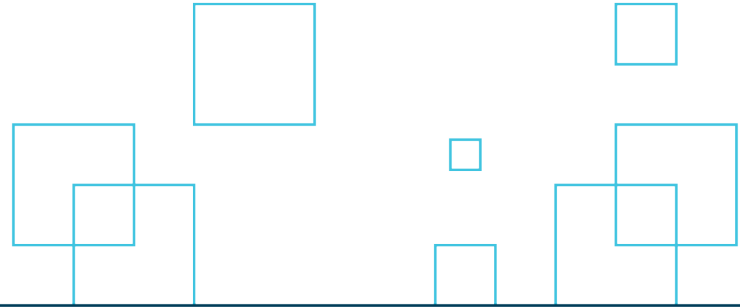
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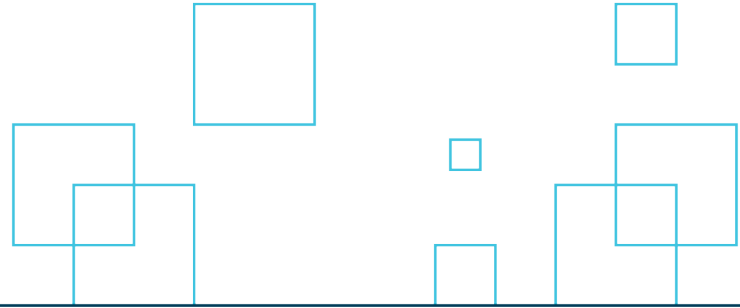
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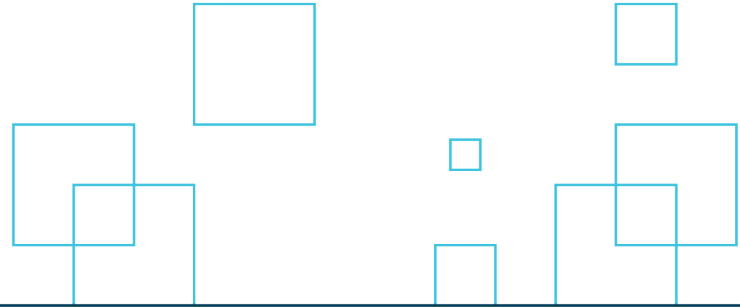
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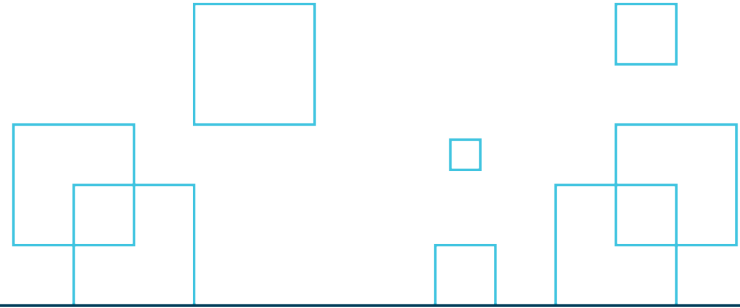


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