

ASSEMBLY BILL

No. 1743

Introduced by Assembly Member Dababneh

February 1, 2016

An act to amend Section 1633.3 of the Civil Code, relating to electronic transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1743, as introduced, Dababneh. Electronic transactions: motor vehicle finance.

Existing law, the Uniform Electronic Transactions Act (UETA), generally allows parties to contract to conduct transactions by electronic means, imposes specified requirements on electronic transactions in order to comply with the act, and provides specified protections for electronic transactions conducted pursuant to the act. UETA does not apply to certain transactions, including, among others, those related to conditional sale contracts, as defined, and lease contracts, as defined, for motor vehicles.

This bill would delete that exemption from the UETA for conditional sale and lease contracts for motor vehicles.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1633.3 of the Civil Code, as amended
- 2 by Chapter 638 of the Statutes of 2015, is amended to read:

1 1633.3. (a) Except as otherwise provided in subdivisions (b)
2 and (c), this title applies to electronic records and electronic
3 signatures relating to a transaction.

4 (b) This title does not apply to transactions subject to the
5 following laws:

6 (1) A law governing the creation and execution of wills, codicils,
7 or testamentary trusts.

8 (2) Division 1 (commencing with Section 1101) of the Uniform
9 Commercial Code, except Sections 1206 and 1306.

10 (3) Divisions 3 (commencing with Section 3101), 4
11 (commencing with Section 4101), 5 (commencing with Section
12 5101), 8 (commencing with Section 8101), 9 (commencing with
13 Section 9101), and 11 (commencing with Section 11101) of the
14 Uniform Commercial Code.

15 (4) A law that requires that specifically identifiable text or
16 disclosures in a record or a portion of a record be separately signed,
17 including initialed, from the record. However, this paragraph does
18 not apply to Section 1677 or 1678 of this code or Section 1298 of
19 the Code of Civil Procedure.

20 (c) This title does not apply to any specific transaction described
21 in Section 17511.5 of the Business and Professions Code, Section
22 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
23 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
24 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
25 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
26 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
27 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
28 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
29 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
30 2954.5 or 2963 of, ~~Chapter 2b (commencing with Section 2981)~~
31 ~~or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of~~
32 ~~Division 3 of~~, Section 3071.5 of, Part 5 (commencing with Section
33 4000) of Division 4 of, or Part 5.3 (commencing with Section
34 6500) of Division 4 of this code, subdivision (b) of Section 18608
35 or Section 22328 of the Financial Code, Section 1358.15, 1365,
36 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
37 Section 662, paragraph (2) of subdivision (a) of Section 663, 664,
38 667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678,
39 subdivisions (a) and (b) of Section 678.1, Section 786 as it applies
40 to individual and group disability policies, Section 10192.18,

1 10199.44, 10199.46, 10235.16, 10235.40, 11624.09, or 11624.1
2 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the
3 Public Utilities Code, or Section 9975 or 11738 of the Vehicle
4 Code. An electronic record may not be substituted for any notice
5 that is required to be sent pursuant to Section 1162 of the Code of
6 Civil Procedure. Nothing in this subdivision shall be construed to
7 prohibit the recordation of any document with a county recorder
8 by electronic means.

9 (d) This title applies to an electronic record or electronic
10 signature otherwise excluded from the application of this title under
11 subdivision (b) when used for a transaction subject to a law other
12 than those specified in subdivision (b).

13 (e) A transaction subject to this title is also subject to other
14 applicable substantive law.

15 (f) The exclusion of a transaction from the application of this
16 title under subdivision (b) or (c) shall be construed only to exclude
17 the transaction from the application of this title, but shall not be
18 construed to prohibit the transaction from being conducted by
19 electronic means if the transaction may be conducted by electronic
20 means under any other applicable law.

21 (g) Notwithstanding subdivisions (b) and (c), this title shall
22 apply to electronic records and electronic signatures relating to
23 transactions conducted by a person licensed, certified, or registered
24 pursuant to the Alarm Company Act (Chapter 11.6 (commencing
25 with Section 7590) of Division 3 of the Business and Professions
26 Code) for purposes of activities authorized by Section 7599.54 of
27 the Business and Professions Code.

28 (h) This section shall remain in effect only until January 1, 2019,
29 and as of that date is repealed, unless a later enacted statute, that
30 is enacted before January 1, 2019, deletes or extends that date.

31 SEC. 2. Section 1633.3 of the Civil Code, as amended by
32 Chapter 638 of the Statutes of 2015, is amended to read:

33 1633.3. (a) Except as otherwise provided in subdivisions (b)
34 and (c), this title applies to electronic records and electronic
35 signatures relating to a transaction.

36 (b) This title does not apply to transactions subject to the
37 following laws:

38 (1) A law governing the creation and execution of wills, codicils,
39 or testamentary trusts.

(2) Division 1 (commencing with Section 1101) of the Uniform Commercial Code, except Sections 1206 and 1306.

(3) Divisions 3 (commencing with Section 3101), 4 (commencing with Section 4101), 5 (commencing with Section 5101), 8 (commencing with Section 8101), 9 (commencing with Section 9101), and 11 (commencing with Section 11101) of the Uniform Commercial Code.

(4) A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately signed, including initialed, from the record. However, this paragraph does not apply to Section 1677 or 1678 of this code or Section 1298 of the Code of Civil Procedure.

(c) This title does not apply to any specific transaction described in Section 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, or 1793.23 of, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or 2963 of, ~~Chapter 2b (commencing with Section 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of,~~ Section 3071.5 of Part 5 (commencing with Section 4000) of Division 4 of, or Part 5.3 (commencing with Section 6500) of Division 4 of this code, subdivision (b) of Section 18608 or Section 22328 of the Financial Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code, Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786 as it applies to individual and group disability policies, 10192.18, 10199.44, 10199.46, 10235.16, 10235.40, 11624.09, or 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An electronic record may not be substituted for any notice that is required to be sent pursuant to Section 1162 of the Code of Civil Procedure. Nothing in this subdivision shall be construed to prohibit the recordation of any document with a county recorder by electronic means.

1 (d) This title applies to an electronic record or electronic
2 signature otherwise excluded from the application of this title under
3 subdivision (b) when used for a transaction subject to a law other
4 than those specified in subdivision (b).

5 (e) A transaction subject to this title is also subject to other
6 applicable substantive law.

7 (f) The exclusion of a transaction from the application of this
8 title under subdivision (b) or (c) shall be construed only to exclude
9 the transaction from the application of this title, but shall not be
10 construed to prohibit the transaction from being conducted by
11 electronic means if the transaction may be conducted by electronic
12 means under any other applicable law.

13 (g) Notwithstanding subdivisions (b) and (c), this title shall
14 apply to electronic records and electronic signatures relating to
15 transactions conducted by a person licensed, certified, or registered
16 pursuant to the Alarm Company Act (Chapter 11.6 (commencing
17 with Section 7590) of Division 3 of the Business and Professions
18 Code) for purposes of activities authorized by Section 7599.54 of
19 the Business and Professions Code.

20 (h) This section shall become operative on January 1, 2019.

21 (i) This section shall remain in effect only until January 1, 2021,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2021, deletes or extends that date.

24 SEC. 3. Section 1633.3 of the Civil Code, as added by Chapter
25 638 of the Statutes of 2015, is amended to read:

26 1633.3. (a) Except as otherwise provided in subdivisions (b)
27 and (c), this title applies to electronic records and electronic
28 signatures relating to a transaction.

29 (b) This title does not apply to transactions subject to the
30 following laws:

31 (1) A law governing the creation and execution of wills, codicils,
32 or testamentary trusts.

33 (2) Division 1 (commencing with Section 1101) of the Uniform
34 Commercial Code, except Sections 1206 and 1306.

35 (3) Divisions 3 (commencing with Section 3101), 4
36 (commencing with Section 4101), 5 (commencing with Section
37 5101), 8 (commencing with Section 8101), 9 (commencing with
38 Section 9101), and 11 (commencing with Section 11101) of the
39 Uniform Commercial Code.

(4) A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately signed, including initialed, from the record. However, this paragraph does not apply to Section 1677 or 1678 of this code or Section 1298 of the Code of Civil Procedure.

(c) This title does not apply to any specific transaction described in Section 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, or 1793.23 of, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or 2963 of, ~~Chapter 2b (commencing with Section 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of~~, Section 3071.5 of Part 5 (commencing with Section 4000) of Division 4 of, or Part 5.3 (commencing with Section 6500) of Division 4 of this code, subdivision (b) of Section 18608 or Section 22328 of the Financial Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code, Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786, 10086, 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44, 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An electronic record may not be substituted for any notice that is required to be sent pursuant to Section 1162 of the Code of Civil Procedure. Nothing in this subdivision shall be construed to prohibit the recordation of any document with a county recorder by electronic means.

(d) This title applies to an electronic record or electronic signature otherwise excluded from the application of this title under subdivision (b) when used for a transaction subject to a law other than those specified in subdivision (b).

(e) A transaction subject to this title is also subject to other applicable substantive law.

(f) The exclusion of a transaction from the application of this title under subdivision (b) or (c) shall be construed only to exclude

1 the transaction from the application of this title, but shall not be
2 construed to prohibit the transaction from being conducted by
3 electronic means if the transaction may be conducted by electronic
4 means under any other applicable law.

5 (g) Notwithstanding subdivisions (b) and (c), this title shall
6 apply to electronic records and electronic signatures relating to
7 transactions conducted by a person licensed, certified, or registered
8 pursuant to the Alarm Company Act (Chapter 11.6 (commencing
9 with Section 7590) of Division 3 of the Business and Professions
10 Code) for purposes of activities authorized by Section 7599.54 of
11 the Business and Professions Code.

12 (h) This section shall become operative on January 1, 2021.