



Electronic  
Signature &  
Records  
Association

PRIA 2015 Winter Symposium  
February 19, 2015

# Things You Should Know About ESRA

Stephen F. Bisbee  
President and CEO  
eOriginal, Inc.

Information  
Session

eOriginal

BOARD OF COUNTY COMMISSIONERS

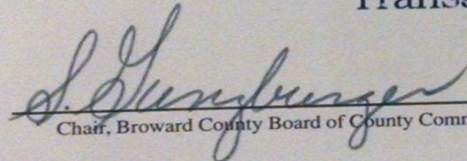
**CERTIFICATE**  
*of*  
**APPRECIATION**

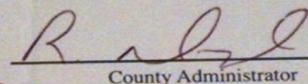
In recognition of your devotion to our community and your untiring efforts to promote a more prosperous and vital environment for all the people of Broward County.

Presented to

**eOriginal**

The Nation's First Completely Paperless End-to-End Real Estate Transaction on July 24, 2000.

  
\_\_\_\_\_  
Chair, Broward County Board of County Commissioners

 8-15-00  
\_\_\_\_\_  
County Administrator                      Date



# ESRA

## Electronic Signature and Records Association

ESRA is the premier global trade association focused on the advancement of electronic signatures and records

- Technology-neutral forum comprised of both users and providers
- Advocates public policy that promotes the inherent compliance, efficiency and transparency benefits of electronic processes
- Develops thought leadership, events and education around the most pressing legal, regulatory and operational issues associated with e-signed records

**ESRA Vision:** Positively impact consumers, businesses and government through the promotion of electronic signatures and records

**ESRA Mission:** Globally, lead endeavors to advocate the use of electronic signatures and records, promote process efficiencies and provide educational resources to the public, businesses and government

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and records

## ESRA Mission

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# U.S. Legality of e-Signed Records

- The **Uniform Electronic Transactions Act (UETA)** and the companion federal law, **Electronic Signatures in Global and National Commerce Act (ESIGN)**, provide assurance that electronic signatures will be granted the same legal authority as traditional ink signatures on paper.
  - If an electronic transaction meets the requirements of the electronic signature laws, the transaction cannot be repudiated based on the fact that the transaction was conducted electronically, rather than on paper.
  - ESIGN does not give guidance on how to identify and authenticate signatories.

## UETA

Establishes the legal equivalence of electronic records and signatures with paper writings and manually-signed signatures, removing barriers to electronic commerce

## ESIGN

Confirms that states must allow the use of electronic signatures if the two parties involved agree to this method of signing.  
ESIGN applies to interstate commerce, foreign commerce, and business transactions with the Federal Government.

## GPEA

Requires Federal agencies, by October 21, 2003, to allow individuals or entities that deal with the agencies the option to submit information or transact with the agency electronically, when practicable, and to maintain records electronically, when practicable.

# ESIGN Act Champions

- Electronic Financial Services Council (EFSC)
  - National trade association established in the late 1990s by a group of professionals from various industries who realized the need for public policy initiatives and the promotion of electronic signature and records technology
    - Promoted legislation and regulation designed to ensure that electronic commerce continued to revolutionize the availability and delivery of financial services
    - Advocated positions on public policies affecting the offering of financial products and services, including mortgage loans, insurance products, investment products, consumer loans and online banking, in e-commerce
    - Led the charge to make electronic signatures a legally binding way to sign documents
  - Instrumental in the passage of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), which became a law on June 30, 2000

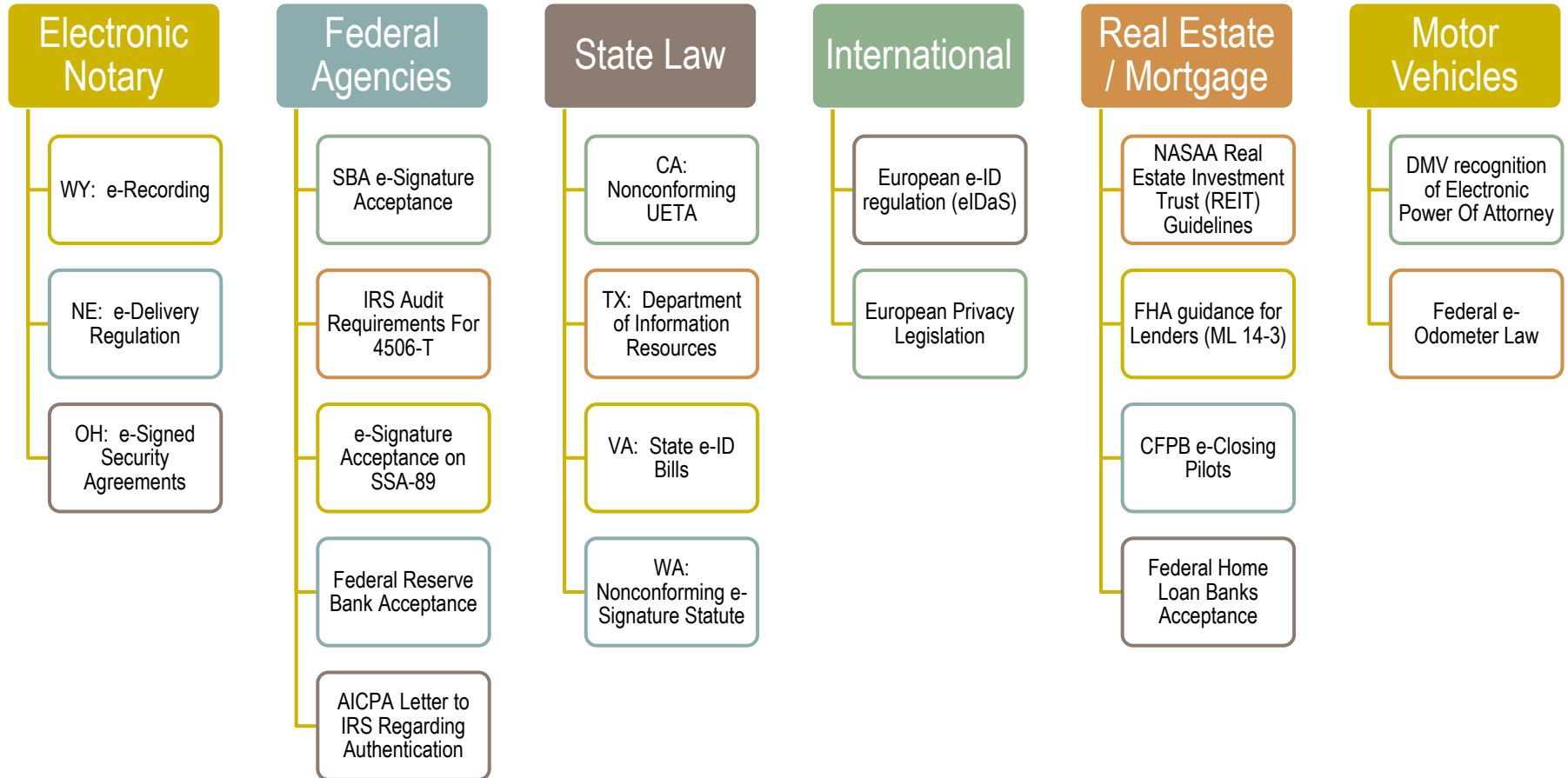
**ESRA was later established in 2006 to lead efforts that optimize the understanding and encourage further adoption of these practices**

# Trusted Resource, Notable Achievements

- FHA / eSigned Mortgage Documents
- IRS Policy Reform
  - Form 4506-T eSignature Program
  - Request For Recommendation 2013-08
  - eSigned Form 8878 & 8879
- New York State – Land Records
- Department Of Motor Vehicles
- CFPB Mortgage eClosing Pilot
- Small Business Loans
  - *Small Business Loan Simplification Act of 2014* (US House Bill / US HR 5599)
  - SBA eSignature Procedural Notice
- Letter to NAASA re: REIT
- Letter to ULC re: RULONA



# Sample Public Policy Issues – 2015





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*...promote process  
efficiencies*

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# Electronic Signature Tiers

## ■ Simple

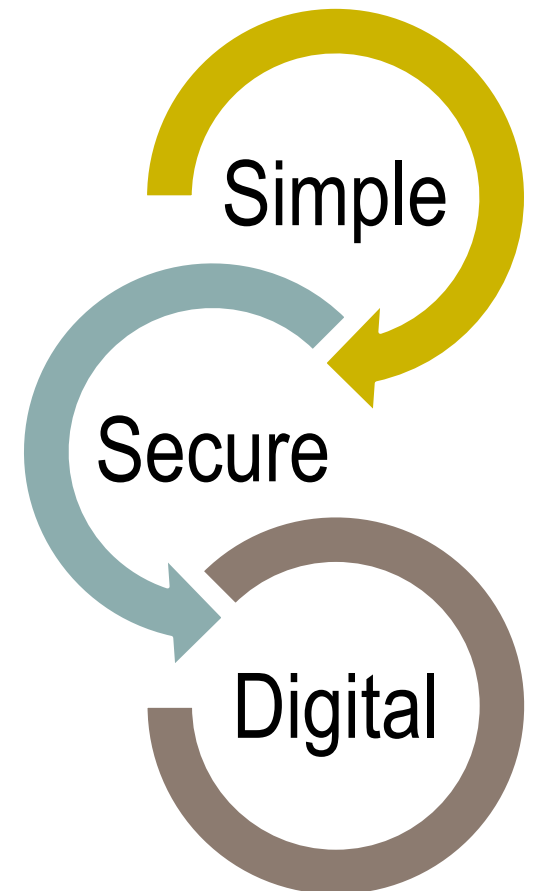
- Any e-signature method that does not employ technology to increase the security, authenticity, or evidentiary value of a signature.
- For example, a scanned image of a handwritten signature, a password or PIN, a button click or key press (such as “OK” or Enter), or a mark or symbol (such as an “X”) indicating the intent to sign.

## ■ Secure

- Uses technology to link the electronic signature to a specific individual or device.
- Examples include thumbprints or retina scans, comparison of signature characteristics with a stored sample, or a signing pad which captures and securely inserts the signature into the content of the document.

## ■ Digital

- Uses a digital certificate process, with a private key to sign and encrypt the document and a public key to unencrypt and authenticate the signature.
- A trusted third party verifies facts about the signer’s identity and issues the digital certificate to that signer.



# Attribution

- Legal sufficiency vs. attribution
  - UETA answers the question “is it a signature?”
  - Does NOT answer the question “is it your signature?”
- Attribution must be proven
  - May be proven by any means, including surrounding circumstances or efficacy of agreed-upon security procedure
  - Burden of proof is on person seeking to enforce signature
  - Non-repudiation is a legal condition, not a technology feature

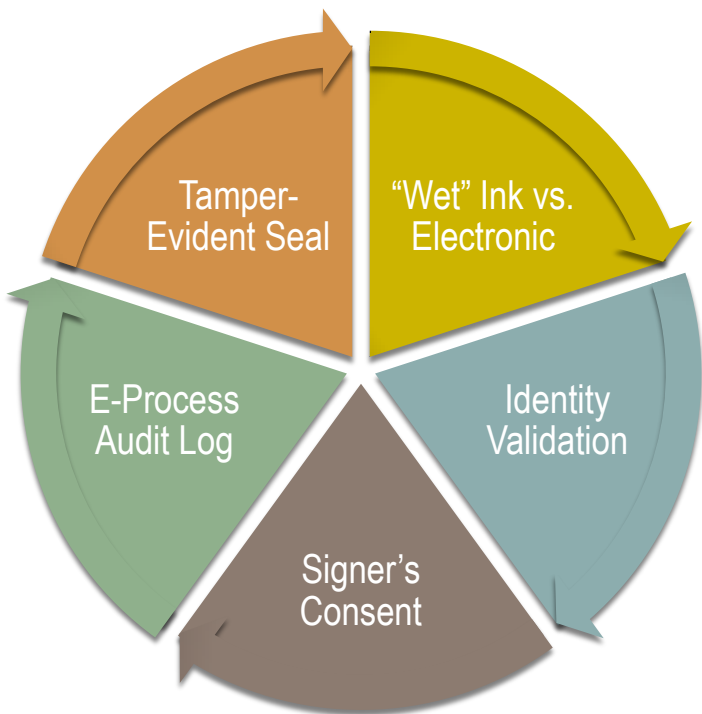
# Intent & Authentication

- Signer must intend to “authenticate” a document at time of signing
- Purpose of signature derived from surrounding circumstances

*Just as in the paper/ink world, user identification is a matter of assessing risks in light of the **facts and circumstances** surrounding the transaction*



# Best Practices for e-Signed Records



- eProcess should not be riskier or more burdensome than the traditional process of using wet ink and hard copy paper
- Validate the identity of the signatory
- The individual who will be signing the form must provide their consent to receive and sign documents electronically
- Demonstrate that the document has made it into the correct hands
- After the electronic signature is collected, the document should be made **tamper-evident** (as opposed to tamper-proof)
- Signature event audit log should remain available with the record in a secure environment; captures acknowledgement

“  
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# A Collective Voice

## Sample List of Member Organizations

|  |            |                            |                      |   |                                   |
|--|------------|----------------------------|----------------------|---|-----------------------------------|
| Adobe Systems                                | AlphaTrust | Amica Mutual Insurance Co. | AssureSign           | California Association of Realtors            | Diamond Resorts                   |
| DocMagic                                     | DocuSign   | DotLoop                    | Eastern Funding, LLC | Ellie Mae                                     | eOriginal                         |
| Equifax                                      | eLynx      | eSignSystems               | Equifax              | Fidelity National Financial (FNF)             | GoPaperless Solutions             |
| IMM  | iPipeline  | Locke Lorde LLP            | Nationwide           | Nelson, Levine, de Luca & Hamilton LLC (NLDH) | Penn. Employee State Credit Union |
| Property Records Industry Association (PRIA) | RouteOne   | Silanis                    | Simplifile           | SIGNiX  | TeleTrust (EU IT Security Assoc)  |
| Topaz Systems                                | USAA       | US Bank, NA                | Wells Fargo          | Wolters Kluwer                                | William Mills Agency              |

# Membership: Shared Knowledge & Collaboration

## Opportunities

- Reduced fees to attend, exhibit, and/or sponsor at ESRA events
- Exposure on website – Member List
- Network with peers at conferences & events
- Thought leadership: media placements and speaking engagements

## Education

- Annual Conference - *eSignRecords*
- Member Newsletters & Bulletins
- Online Resources – Premier Access
- Federal Legislative Developments, Compliance, and Regulatory Updates

## Meetings

- Bi-annual membership meeting (Winter / Summer)
- Membership Only Legislative and Regulatory Conference Calls
- Regular committee meetings
- Quarterly and special meetings of the Board of Directors

## Public Policy Advocacy

- Ad-hoc meetings with federal / state level legislators & regulators
- Coordination with other organizations on specific topics of interest





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# Thank you!

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