



## **THE UNIFORM ELECTRONIC ESTATE PLANNING DOCUMENTS ACT**

### *- A Summary -*

The Uniform Electronic Estate Planning Documents Act (UEEPDA) expressly authorizes the use of electronic documents and electronic signatures for common estate planning documents. The act fills a gap in the law that created uncertainty as to whether some electronic estate planning documents were valid.

The UEEPDA is based on a successful model. The Uniform Electronic Transactions Act (UETA), which the Uniform Law Commission approved in 1999 and since adopted in 49 states, authorizes the use of electronic contracts and signatures in commerce. This uniform state law helped facilitate the growth of internet-based commerce by ensuring the enforceability of electronically executed transactions. However, UETA applies only to bilateral agreements between two parties who agree to conduct business electronically.

Estate planning documents, such as trusts and powers of attorney, are executed by a single individual for the purpose of carrying out the individual's wishes regarding property or health care at the time of the individual's death or disability. Because these unilateral documents do not fall within the scope of UETA, their validity could potentially be challenged. This uncertain legal status caused estate planners to require paper and ink documents even for clients who preferred to conduct business electronically.

The UEEPDA corrects this anomaly by providing UETA-like rules for electronic estate plans:

1. The use of electronic estate planning documents and signatures is optional.
2. An estate-planning document may not be denied legal effect solely because it is in electronic form or electronically signed.
3. An electronic signature is attributable to a person if it was created by the act of the person, which can be shown in any manner, including by showing the efficacy of a security procedure applied.

The UEEPDA applies only to non-testamentary documents. Testamentary documents, such as an individual's will, are subject to special rules covered in the Uniform Electronic Wills Act. UEEPDA was drafted to complement that act, which can be inserted as Article 3 of UEEPDA to provide states with a comprehensive set of rules for both testamentary and non-testamentary electronic estate planning documents.

For further information about the Uniform Electronic Estate Planning Documents Act, please contact ULC Chief Counsel Benjamin Orzeske at (312) 450-6621 or [borzeske@uniformlaws.org](mailto:borzeske@uniformlaws.org).