

Overview of the Law

Federal (E-Sign): Requires consumer electronic consent and applies to consumer transactions, which typically involve individuals buying or selling residential properties because they will be using the property or the proceeds for personal, family or household purposes. The law does not apply strictly to commercial transactions or one involving two businesses as parties.

Generally, the federal E-Sign law requires that a consumer provide consent electronically when the consumer will be provided with an electronic statement when a law, regulation or rule requires the information be available or disclosed in writing.

Wisconsin (E-commerce): The Wisconsin law addresses electronic commerce

The agent must take two steps to meet the law's requirements: 1. Achieve electronic consent. 2. Include email delivery language in the contract.

Step 1: Achieve Electronic Consent

The easiest way: electronic consent

Electronic consent is included in many electronic signature platforms, such as Digital Ink, DocuSign or Dotloop. These electronic signature platforms prohibit a consumer from taking any action within the system until electronic consent is provided.

The easy way: electronic consent

- A. Send an email, as the party must provide consent electronically.
- B. Go to www.wra.org/ecommerce.
- C. Select and open "Consent for Use of Electronic Documents and Signatures in Consumer Real Estate Transactions."
- D. Save this document to your computer.
- E. When you're ready to send the document to the consumer, take the following steps:
 1. Compose an email, then copy and paste the contents of the saved Word document into the email.
 2. Send the email to the party.
 3. The WRA-created consent automatically attaches a generic Word and PDF document that do not relate to the transaction. The consumer needs to make sure he or she can open up and save each document.
 4. To authorize electronic documents and email delivery for the transaction, the party clicks "Reply."
 5. The consumer types in his or her name, as the party's electronic signature, and email address.
 6. The consumer clicks "Send" to return the email to the agent. You have electronic consent.

Step 2: Include Email Delivery Language in the Contract

- A. Check the Email Delivery box in the WB form.
- B. If the WB form does not already offer email delivery, such as listing contracts and buyer agency agreements, add it in one of two ways:
 1. Execute the WRA Addendum D, attach and incorporate into the appropriate contract.
 2. Insert delivery language in the additional provisions. Provided below is sample language:

In addition to the methods of delivery authorized on lines XXX-XXX of this [Offer, Listing, Buyer Agency], delivery of documents and written notices to a party shall be also effective when accomplished by: Email: electronically transmitting the document or written notice to the party's email address given below. If this is a consumer transaction where the property being sold is used primarily for personal, family or household purposes, each consumer stating an email address below has first consented electronically to the use of electronic documents, email delivery and electronic signatures in the transaction, as required by federal law.

Electronic Consent Cheat Sheet

Delivery is being made between	Agent and Consumer	Agent and Agent Party cannot or does not want to provide e-consent
Electronic consent	<p>Electronic consent is required if the agent and client will be using email delivery in the listing or buyer agency agreement. Electronic consent is also required if the agent and customer will be using email delivery.</p> <p>Reminder: If the agent and the client will not be using email delivery in the listing or buyer agency agreement but the agent will provide documents and notices relating to the offer or transaction by email, then electronic consent will be needed.</p>	<p>Since the consumer will not be providing electronic consent, the agent may obtain authorization from the consumer to use the email address of the agent instead of the consumer.</p> <p>The agent should discuss company policy with his or her supervising broker. Don't forget electronic consent is needed if the agent forwards those documents to the consumer electronically.</p> <p>Best practice: Obtain authorization in writing.</p>