

Short Title: Electronic Signatures

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Description of Practice/Procedure: A broker may use an electronic signature to indicate the broker's approval of contracts and agreements as required by statute. The following elements or requirements must be met and will be the basis for any Broker Audit of that aspect of the broker's practice:

- A. The system must meet the criteria under A.R.S. § 44-7031:
A signature is a secure electronic signature if, through the application of a security procedure, it can be demonstrated that the electronic signature at the time the signature was made was all of the following:
1. Unique to the person using it.
 2. Capable of verification.
 3. Under the sole control of the person using it.
 4. Linked to the electronic record to which it relates in such a manner that if the record were changed the electronic signature would be invalidated.
- B. The brokerage must have and enforce a written internal policy regarding personal computer security and, at a minimum, require that any person with electronic signature authority and capability locks or signs off his/her computer every time they walk away from their computer.
- C. The brokerage must have a back-up system defined for when the computers are down for an extended period of time. (*i.e.* how and when contracts and agreements will be manually reviewed)
- D. The system must have the ability to create a secure history log of all activity for electronic signatures which can be reviewed by Department auditors and investigators.
- E. If a web based Transaction Management (TM) program and/or document storage program maintains this log or list electronically, it should be made easily accessible upon request by the Commissioner or the Commissioner's representatives. If the web based TM and/or document storage program is not capable of maintaining this log or list electronically, the broker shall maintain a separate list or log in either written or electronic form and shall make it available to the Commissioner or the Commissioner's representative upon request.

Authority: A.R.S. § 32-2151.01 identifies Arizona Licensed Broker requirements for record keeping. Subsection G requires the designated broker to review each listing agreement, purchase or lease agreement or similar instrument within 10 days of the date the parties executed the document, and to place the broker's initials and date of review on the same page as the parties' signatures. Commissioner's Rule R4-28-1103 describes a broker's professional

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duties and requirement for written policy manual.

Policy Program: Enforcement / Auditing

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