

(II) CAN BE POSSESSED BY ONLY ONE PERSON; AND

(III) CANNOT BE COPIED EXCEPT IN A FORM THAT IS READILY IDENTIFIABLE AS A COPY.

(D) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A GOVERNMENTAL AGENCY MAY ADOPT REGULATIONS THAT REQUIRE SPECIFIC NOTICES WITHIN THE REGULATORY AUTHORITY OF THE AGENCY TO BE PROVIDED OR MADE AVAILABLE IN WRITING UPON THE AGENCY'S DETERMINATION THAT IT IS NECESSARY FOR THE PROTECTION, PUBLIC HEALTH, OR SAFETY OF CONSUMERS.

(E) THIS TITLE APPLIES TO AN ELECTRONIC RECORD OR ELECTRONIC SIGNATURE OTHERWISE EXCLUDED FROM THE APPLICATION OF THIS TITLE UNDER SUBSECTION (B) OF THIS SECTION TO THE EXTENT IT IS GOVERNED BY A LAW OTHER THAN THOSE SPECIFIED IN SUBSECTION (B) OF THIS SECTION.

(F) A TRANSACTION SUBJECT TO THIS TITLE IS ALSO SUBJECT TO OTHER APPLICABLE SUBSTANTIVE LAW.

21-103. PROSPECTIVE APPLICATION.

THIS TITLE APPLIES TO ANY ELECTRONIC RECORD OR ELECTRONIC SIGNATURE CREATED, GENERATED, SENT, COMMUNICATED, RECEIVED, OR STORED ON OR AFTER THE EFFECTIVE DATE OF THIS TITLE.

21-104. USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES; VARIATION BY AGREEMENT.

(A) THIS TITLE DOES NOT REQUIRE A RECORD OR SIGNATURE TO BE CREATED, GENERATED, SENT, COMMUNICATED, RECEIVED, STORED, OR OTHERWISE PROCESSED OR USED BY ELECTRONIC MEANS OR IN ELECTRONIC FORM.

(B) (1) THIS TITLE APPLIES ONLY TO TRANSACTIONS BETWEEN PARTIES, EACH OF WHICH HAS AGREED TO CONDUCT TRANSACTIONS BY ELECTRONIC MEANS.

(2) WHETHER THE PARTIES HAVE AGREED TO CONDUCT A TRANSACTION BY ELECTRONIC MEANS IS DETERMINED FROM THE CONTEXT AND SURROUNDING CIRCUMSTANCES, INCLUDING THE PARTIES' CONDUCT.

(3) EXCEPT FOR A SEPARATE AND OPTIONAL AGREEMENT THE PRIMARY PURPOSE OF WHICH IS TO AUTHORIZE A TRANSACTION TO BE CONDUCTED BY ELECTRONIC MEANS, A PROVISION TO CONDUCT A TRANSACTION ELECTRONICALLY MAY NOT BE CONTAINED IN A STANDARD FORM CONTRACT UNLESS THAT PROVISION IS CONSPICUOUSLY DISPLAYED AND SEPARATELY CONSENTED TO.

(4) AN AGREEMENT TO CONDUCT A TRANSACTION ELECTRONICALLY MAY NOT BE INFERRED SOLELY FROM THE FACT THAT A PARTY HAS USED ELECTRONIC MEANS TO PAY AN ACCOUNT OR REGISTER A PURCHASE WARRANTY.

(5) THIS SUBSECTION MAY NOT BE VARIED BY AGREEMENT.