

OREA Communique RE: CREA’s Announcement About The “Integrated Solution For E-Signatures”

The purpose of this communication is to acknowledge CREA’s recent announcement of its delivery of an integrated solution for electronic signatures through WEBForms™ and, more importantly, to shed some light on what this means for OREA’s members.



On February 1, 2013, CREA announced that it will soon be providing, through WEBForms™, an integrated solution for electronic signatures. The announcement advised that CREA has recently concluded negotiations with Instanet Solutions and has secured special pricing for its members. In addition, CREA also advised that negotiations with a second supplier are being finalized, thereby offering CREA members a choice for those wanting the security and audit trail that comes with an e-signature package.

OREA’s Efforts to Amend the *Electronic Commerce Act, 2000*

Since 2011, as a result of extensive discussions and a lengthy consultation process, OREA has lobbied the Ontario government to repeal the existing exception of real property transactions, including agreements of purchase and sale, from the application of the *Electronic Commerce Act, 2000*, S.O. 2000, Chapter 17 (the “ECA”).

OREA maintains that the removal of the exception would allow OREA’s members to have the certainty, convenience and efficiency offered by the existing technology to support transactions for the purchase and sale of real estate in a digital medium. Since the Ontario legislature was prorogued in the fall of 2012, all law-making activity has been effectively suspended until the new legislative session. Amending the ECA will continue to be a priority for OREA heading into the new session of the Ontario legislature.

Although the ECA does not prohibit the use of electronic agreements of purchase and sale, there is a specific requirement under the *Statute of Frauds*, R.S.O. 1990, Chapter S.19, that a contract for the sale of land must be in writing to be enforceable. The exception of real property transactions, including agreements of purchase and sale, from the application of the ECA makes it uncertain whether an electronic agreement of purchase and sale meets the writing requirement under the *Statute of Frauds*. The removal of the exception to the ECA would allow for an electronic agreement of purchase and sale to meet that writing requirement.

OREA will be communicating with CREA in an effort to better understand CREA’s integrated solution for electronic signatures and what it will mean for OREA’s members.