Electronic Filing

Aligning Secretary of State offices with contemporary commerce

The registry people

Foster Moore

Move to e-commerce long overdue

The era of electronic filing has been with us now for twenty years. The world's first fully electronic online business register emerged in New Zealand back in 1996. Since then, many uniform laws have been drafted in the U.S. to encourage the use of online record submissions and searching.

It's almost 16 years since President Bill Clinton signed the Electronic Signatures in Global and National Commerce Act (E-Sign) in June 2000[1] to facilitate electronic commerce ("e-commerce"). The use of electronic records and signatures was later refined with the enactment of the Uniform Electronic Transactions Act (UETA) which addressed concerns regarding whose signatures appear on a record, the effect of the party agreement, methods of communication, the effects of changes or errors, admissibility and transferability.

To date, UETA is enacted by forty-seven (47) states, the District of Columbia and the U.S. Virgin Islands.[2] Even legal authority documents, including the acts and statutes upon which our business rules rely, are trending toward purely electronic forms of publication in some states and uniform laws have already been drafted to ensure document permanence and reliability for those publications.

These uniform acts address the legal concerns associated with contemporary e-commerce, paving the way for online business transactions. Yet the question remains; with all of this in place, why has e-commerce been so slow to gain traction for business registrations?

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The true cost of paper

For years, case studies have shown the excessive costs of paper processing. A Lawrence Berkeley Laboratory study illustrated that the cost per ton of handling paper was twenty (20) times its purchase price and two-hundred (200) times its disposal costs.[3] Incoming paper transactions not only require manual processing, but run the risk of getting lost or misplaced. They also accrue postage and storage costs.

For all these reasons, many public sector agencies now encourage online business transactions. In addition, many states have undertaken initiatives in their archives and records management divisions to reduce paper records and workgroups have been tasked with considering methods of retaining records in reliable electronic formats and shortening the retention periods for paper records, thereby reducing the volume of stored paper records.

All these initiatives recognize that the best way to promote paper reduction is to discourage its use from the start.

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[1]Norcross, Amy. "President Clinton E-Signs Digital Signature Act, June 30, 2000." EDN Network, June 30, 2015.
[2]Uniform Law Commission Electronic Transactions Act (1999), Legislative Fact Sheet.
[3]Winter, John and Anne Marie Alonso. Waste at Work: Prevention Strategies for the Bottom Line. Inform Inc. 1999, citing Nordman, Bruce. "Useful Facts for Your Paper Efficient Office," fact sheet. Lawrence Berkeley Laboratory, Energy Analysis Program. November 16, 1994.

Trends in Automated Electronic Filing

Agencies across the country continue to increase productivity and cut costs exponentially as they promote online filing of business records. The Internal Revenue Service has mandated electronic filing of income tax forms from tax preparers, submitting 11 or more returns since January 1, 2012.[4] Some Secretary of State's offices now mandate online business and Uniform Commercial Code Article 9 ("UCC") filings as the only form of submission in their state.

In Colorado, the Secretary of State operates the nation's first obligatory electronic UCC filing system with an automated verification process that is able to ensure whether certain fields are acceptably completed while a filer is completing the filing form. As a result, many of Colorado's business entity filing forms can be placed on record immediately, 24 hours a day, 7 days a week – even on Christmas Day. In fact, on December 25th, 2015, 616 business entities submitted filings to the Colorado Secretary of State and those documents immediately became part of the repository records. All of this while the Secretary of State office was closed and its employees were at home for the holiday.[5]

As a result of automated online filing, Secretary of State Wayne Williams' customer support team has largely been reassigned to more strategic tasks and no longer needs to allocate time to verifying pending files. Nearly 90 percent of Colorado's forms are now online and staffing has decreased by 20 percent since online filing began in 2004.[6]

Given the uniformity of the UCC Article 9 standards, Colorado's UCC software solution is highly transferable with minimal modifications, making it an ideal candidate for a Software-as-a-Service ("SaaS") model. In a SaaS model, the software itself and the model in which it is delivered are both licensed on a subscription basis, making for a more affordable implementation. A SaaS model is usually hosted in the cloud; it is accessible via web browser and the costs and burdens of maintaining the environment reside with the service provider. Where a Secretary of State office moves its business services online with a SaaS solution, it can eliminate the high costs of local server environments and reduce the support commitment associated with maintaining server environments.

[4]Internal Revenue Service, Rev. Proc. 2011-25.
[5]Chuang, Tamara, "On Holidays, Colorado's Secretary of State Still Open for Business," The Denver Post (Jan. 1, 2016).
[6]Chuang B1.

Growing interest in Managed Services Solutions and cloud computing

In the past few years, the National Association of State Chief Information Officers ("NASCIO") has carried out extensive research on SaaS models, publishing several key studies that show support for moving state governments to hosted, cloud-based platforms:

- In the **"2014 State CIO Top 10 Survey,"** migration to cloud computing and SaaS ranked highest, at Number 1.
- Today, **68% of states** maintain several applications in the cloud or have imminent plans to move applications to the cloud.
- **22% of remaining states** are currently investigating cloud services.
- **47% of states** have already procured cloud services in some manner.
- **31% of states** are more inclined to go with a cloud software solution if it is multi-jurisdictional.
- **39% of states** are interested in developing templates for multiple online requirements in the cloud.

In the 2013 Survey of State Chief Information Officers, the CIOs were asked to strategize on delivery of information technology ("IT") services over the next 3 years (2014 – 2016). Most common responses were predominantly in support of managed services or a SaaS model:

- **59%** of CIOs planned to expand an existing managed services model.
- **49%** would grow an existing IT shared services model.
- **49%** of State CIOs intended to increase outsourcing.
- **49%** strategized the outsourcing of business applications through use of a SaaS model.

Today's overall strategic direction of state CIOs overwhelmingly suggests that movement to SaaS and cloud computing models is top priority. According to the International Data Corporation ("IDC"), an American market research and analysis firm that specializes in IT, telecommunications, consumer technology and software development – money spent on global public cloud services will reach more than $141 billion by 2019. Within that anticipated growth, 20.3 percent will be attributed to SaaS models as the trend toward licensed software in the cloud continues to grow at an exponential rate.[7]

[7]Burt, Jeffrey. "Public Cloud Services Spending to Grow Rapidly, Gartner and IDC Say," EWeek, January 25, 2016.

Minimal implementation disruption and cost

A UCC SaaS model can be planned and executed with minimal effort and roll-out activities, creating one of the shortest time-to-value intervals possible for a major IT investment. In 2010, the U.S. Territory of Puerto Rico, implemented a SaaS transaction model with a minimal upfront payment, allowing for the continuing service costs to be covered by a percentage of the online transaction fees. In a SaaS model, the burden of application deployment and daily operational service is handled by the service provider. By transferring the responsibility for these "overhead" activities to a third party, state IT departments can shift their focus to more high-value activities that align with their enterprise business goals and contribute to their overall success.

Customers are ready... and waiting

Businesses are booming in their online environment. E-commerce analysis of online retailers in the United States shows growth upwards of fifteen (15) percent each year for the past 5 years. According to the U.S. Commerce Department, internet sales surpassed the $300 billion mark in 2014.[8]

Uniform laws have paved the way for electronic recording in many ways, e-commerce and electronic recording solutions are widely available, and the constraints of implementation and operation are now surmountable.

All that remains is for Offices of the Secretary of State to implement online filing solutions. These filers need little motivation. The vast majority are ready and willing to use a contemporary online filing model similar to the ones they are accustomed to using in other industries.

The time has come for states to streamline multifunctional online business services for filers, in line with contemporary commerce.

[8]Enright, Allison. "U.S. Annual E-Retail Sales Surpass $300 Billion for the First Time," Internet Retailer, (Feb. 17, 2015).

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