
Emergency Rules

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 110—Notary Use of Electronic Signatures
and Seals

EMERGENCY RULE

15 CSR 30-110.010 Electronic Notary Definitions

PURPOSE: This rule provides definitions pertaining to the use of electronic signatures and seals by notaries.

EMERGENCY STATEMENT: This emergency rule is necessary to address statutory sections enacted in SB 932 (2016), specifically section 486.275.2, which became law on August 28, 2016. This legislation provides that electronic signatures may now be used to satisfy certain acts currently performed by notaries in Missouri using original signatures. Section 486.275.2, RSMo states that “if a signature or record is required to be notarized, acknowledged, verified, or made under oath, notwithstanding the provisions of section 486.285 to the contrary, the requirement is satisfied if the electronic signature of the person authorized to perform such acts, together with all other information required to be included, is attached to or logically associated with the signature or record.” Unfortunately, this section provides no further guidance or direction to any Missouri notary public who may wish to utilize electronic signatures or electronic seals in the performance of notarial acts. To provide such direction to Missouri notaries, extensive research into e-notarization was completed in developing this rule. From August 2016 to October of 2016, all current Missouri notary regulations were reviewed as well as other e-notarization laws and administrative rules throughout the United States. State administrators of e-notary systems in three (3) different states, the National Notary Association, and American Society of Notaries were consulted. After these consultations, conference calls with stakeholders active in the passage of SB 932 took place. These stakeholders were then provided with draft rules to be reviewed. Throughout October through December of 2016, the feedback from stakeholders regarding the draft rules was collected and was taken into account in producing updated language. Without this emergency rule in place, notaries wanting to use an electronic signature will be forced to proceed without any direction from the State of Missouri. Providing guidance will be beneficial to notaries who wish to complete important transactions in Missouri with electronic signatures. As such, the Office of the Secretary of State finds a compelling governmental interest to provide notaries public with guidance in the form of minimum standards and procedures as soon as possible utilizing an emergency rule. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. After reviewing laws and regulations pertaining to this subject matter in other states and after communicating with numerous stakeholders within Missouri, the Office of the Secretary of State believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed December 21, 2016, becomes effective December 31, 2016, and expires February 23, 2017.

(1) The following definitions, except where inconsistent with Chapter 486, RSMo, shall mean:

(A) “Capable of independent verification” means that any interested person may confirm the validity of a notary public’s identity and authority through a publicly accessible system;

(B) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(C) “Electronic signature” means a symbol that is executed with technology having electrical, digital, magnetic, wireless, optical,

electromagnetic, or similar capabilities and is attached to or logically associated with an electronic record and is executed or adopted by a person with the intent to sign the record;

(D) “Electronic seal” means an electronic representation of a notary’s seal;

(E) “Electronic notarial certificate” means the portion of a notarized electronic document that is completed by the notary public, bears the notary public’s electronic signature and electronic seal, and meets all other statutory requirements of this state regarding notarial certificates;

(F) “Principal” means an individual whose signature is notarized, or an individual, other than a witness required for the electronic notarization, taking an oath or affirmation from the notary public;

(G) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(H) “Sole control” means at all times being in the direct physical custody of the notary public or safeguarded by the notary with a password or other secure means of authentication.

AUTHORITY: section 486.275, RSMo 2016. Emergency rule filed Dec. 21, 2016, effective Dec. 31, 2016, expires Feb. 23, 2017. An emergency rule and a proposed rule covering this same material will be published in the February 1, 2017, issue of the Missouri Register.