

Emergency Rules

Title 15—ELECTED OFFICIALS Division 30—Secretary of State Chapter 110—Electronic Notarization

EMERGENCY RULE

15 CSR 30-110.050 Remote Online Notarization (RON) Credentials

PURPOSE: This emergency rule sets out the credentials that remote online notary (RON) must meet for use by electronic notaries in Missouri.

EMERGENCY STATEMENT: The secretary of state determined this emergency rule is necessary to preserve a compelling governmental interest. This emergency rule is necessary to address changes made by the legislatures, which took effect on August 28, 2020, to electronic notarization. The secretary of state needs this emergency rule since the Executive Order issued by the governor expired on August 28, 2020. The secretary of state finds there is a compelling governmental interest, which requires this emergency action since due to the pandemic of COVID-19, in person notarization is unable to be performed for wills, powers of attorney, and durable power of attorney in health care decisions. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. 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. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 31, 2020, becomes effective September 15, 2020, and expires March 13, 2021.

(1) Remote Online Notarization (RON) providers must use automated software processes to aid the notary in verifying each principal's identity.

(2) The credential must pass an authenticity test, consistent with sound commercial practices that—

(A) Uses appropriate technology to confirm the integrity of visual, physical, or cryptographic security features;

(B) Uses appropriate technology to confirm that the credential is not fraudulent or inappropriately modified;

(C) Uses information held or published by the issuing source or authenticity source(s), as available, to confirm the validity of credential details; and

(D) Provides the output of the authenticity to the notary.

(3) The credentials analysis procedure must enable the notary to visually compare both of the following for consistency:

(A) The information and photo on the presented credential image; and

(B) The principal as viewed by the notary in real time through the audio/video system.

(4) Credentials must be a government issued document meeting the requirements of the state that issued the document, may be imaged, photographed, and video recorded under state and federal law, and can be subject to credential analysis.

(5) The credential image capture procedure must confirm that—

(A) The principal is in possession of that credential at the time of the notarial act;

(B) That the credential image submitted for analysis has not been manipulated; and

(C) The credential image matches the credential in the principal's

possession.

(6) The following general principles should be considered in the context of image resolution:

(A) The captured image resolution should be sufficient for the service provider to perform credential analysis per the requirements above;

(B) The image resolution should be sufficient to enable visual inspection by the notary, including legible text and clarity of photographs, barcodes, and other credential features;

(C) All images necessary to perform visual inspection and credential analysis must be captured - e.g. U.S. Passport requires identity page; state driver's license requires front and back.

(7) A Dynamic Knowledge-Based Authentication (KBA) procedure must meet the following requirements:

(A) Each principal must answer questions and achieve a passing score from:

1. At least five (5) questions drawn from public or private data sources;

2. A minimum of five (5) possible answer choices per question;

3. At least four (4) of the five (5) questions answered correctly to pass (a passing score of 80%); and

4. All five (5) questions answered within two (2) minutes;

(B) Each principal must be provided a reasonable number of attempts per signing session:

1. If a principal fails their first quiz, they may attempt up to two (2) additional quizzes within forty-eight (48) hours from the first failure; and

2. During any quiz retake, a minimum of forty percent (40%), or two (2), of the prior questions must be replaced;

(C) The RON system provider must not include the KBA procedure as part of the video recording or as part of the system provided person-to-person video interaction between the notary and the signatory; and must not store the data or information presented in the KBA questions and answers. However, the output of the KBA assessment procedure must be provided to the notary; and

(D) Biometric sensing technology include, but are not limited to, facial, voice, and fingerprint recognition.

AUTHORITY: section 486.1110, RSMo Supp. 2020. Emergency rule filed Aug. 31, 2020, effective Sept. 15, 2020, expires March 13, 2021. A proposed rule and emergency rule covering this same material will be published in the Oct. 1, 2020, issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.