

HCS HB 2506 -- ELECTRONIC CERTIFICATION DOCUMENTS

SPONSOR: Grier

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Innovation and Technology by a vote of 9 to 0. Voted "Do Pass" by the Rules- Administrative Oversight Committee by a vote of 10 to 0 with 2 present.

This bill provides processes for the recorder of deeds to record electronic documents and procedures for remote online notarization.

The bill provides that, if the law requires a document to be the original for the purposes of recording, the document may be an electronic record as long as it satisfies all other recording requirements. This bill requires that an electronic signature of a witness or notary meets the signature requirements for the recording of a document. A document may be a paper copy of an electronic document with an electronic signature that a notary public has certified. The bill provides the requirements for such certification. The notary must personally print or supervise the printing of the electronic document onto paper. A document conveying real property, recorded by a clerk, and not certified by a notary according to the bill still puts third persons on notice of the conveyance and is still effective. The bill does not apply to the recording of certain plat, map, or survey of real property.

The bill provides that for the purposes of having a written instrument affecting real estate proved or acknowledged by an officer, a person may appear before the officer by means of communication technology. Communication technology is defined as an electronic device or process that allows a notary public located in Missouri to communicate with an individual remotely located by sight and sound.

Within 12 months after the enactment of this bill, the Secretary of State shall promulgate rules developing and maintaining standards for remote online notarization. Such rules shall include credential analysis and identity proofing.

In order to perform remote online notarizations, the notary public must register with the Secretary of State and identify the technology that the notary uses. The notary must keep a secure electronic journal of remote online notarial acts and create an audio and video recording of the performance of the notarial act. Both the journal and recording must be backed-up, protected from unauthorized use, and retained for at least 10 years. The Secretary of State must establish standards for the retention of the video and audio recordings, procedures for preservation of the

recording and electronic journal in case the notary public's commission or authority to perform notarial acts is terminated, and standards for third party repositories for the retention of the recording.

The notary public can only perform remote online notarizations while he or she is physically located within the state. The notary public must verify the identity of a person creating an electronic signature at the time the signature is taken by using communication technology. The electronic notarial certificate for the remote online notarization must state that the notarization is a remote online notarization. The notary may charge a fee of up to \$25 for the remote online notarization.

A person who knowingly obtains, conceals, damages, or destroys the certificate, program, or hardware enabling a notary public to affix an official electronic signature or seal shall be guilty of a class D misdemeanor.

The effective date of these provisions is July 1, 2019.

This bill is similar to SB 1002 (2018).

PROPOSERS: Supporters say that this bill enables the notarizing industry to embrace 21st century technological advances without favoring any particular company. This legislation is also vendor and technology neutral.

Testifying for the bill were Representative Grier; Missouri Society of Professional Land Surveyors; and Michael Chodos, Notarize, Inc.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say they have not yet taken a position on the bill.

Testifying on the bill were Missouri Bankers Association and the Mortgage Bankers Association of Missouri.