

D R A F T

SUMMARY

Prescribes formalities for remote attestation of writing.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to remote attestation; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) **As used in this section:**

(a) **“Electronic presence” means the relationship of two or more individuals in different locations communicating in real time to the same extent as if the individuals were physically present in the same location.**

(b) **“Law” means statutes, administrative rules and any other form of regulation imposed by this state or a political subdivision of this state.**

(2) **A witness is in the presence of a person for purposes of witnessing the execution or acknowledgment of a writing if the witness is in the physical presence or the electronic presence of the person.**

(3) **A writing that a person executes or acknowledges in the electronic presence of a witness is validly witnessed if, in addition to any other execution formalities required by law, all of the following requirements are met:**

(a) **The witness has satisfactory evidence of the identity of the person.**

(b) **While in the electronic presence of the witness, the person exe-**

1 cutes or acknowledges the writing and delivers or causes to be deliv-
2 ered by facsimile or electronic mail to the witness a copy of the
3 executed signature page.

4 (c) While in the electronic presence of the person, the witness:

5 (A) Is located inside the boundaries of the United States;

6 (B) Attests to the execution or acknowledgement of the writing by
7 signing the transmitted copy of the signature page; and

8 (C) Delivers or causes to be delivered by facsimile or electronic mail
9 to the person the copy of the executed signature page, signed by the
10 witness.

11 (d) The person signing the writing completes a declaration of elec-
12 tronic presence under penalty of perjury.

13 (e) The witness completes a declaration of remote attestation under
14 penalty of perjury.

15 (4) A witness has satisfactory evidence of a person's identity for the
16 purposes of subsection (3)(a) of this section if the person is personally
17 known to the witness or if the witness can identify the person by
18 means of one of the following forms of identification, presented by the
19 person to the witness while the person is in the electronic presence
20 of the witness:

21 (a) A United States passport or an officially recognized passport of
22 a foreign country, or a driver license or identification card issued un-
23 der ORS 807.400 or a comparable provision in another state, that is
24 current or that expired not more than three years before the date the
25 person executes or acknowledges the writing; or

26 (b) A military identification card, an identity card issued by a
27 federally recognized Indian tribe or other document issued by the fed-
28 eral government or a state, county or local government that is current
29 or that expired no more than three years before the date the person
30 executes or acknowledges the writing.

31 (5)(a) The declarations under subsection (3)(d) and (e) may be com-

pleted contemporaneously with the execution or acknowledgement of the writing or at any time thereafter.

(b) The declaration of electronic presence under subsection (3)(d) of this section must be substantially in the following form:

DECLARATION

(Electronic presence)

• “Electronic presence” means the relationship of two or more individuals in different locations communicating in real time to the same extent as if the individuals were physically present in the same location.

I, _____, signed the foregoing _____ (title of document) at _____ (city), _____ (state), on _____ (date) and in the electronic presence of _____ (witness name), whom I requested to become attesting witness.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is subject to penalty for perjury.

Signature

(print name, address, telephone number and e-mail address)

(c) The declaration of remote attestation under subsection (3)(e) of this section must be substantially in the following form:

DECLARATION

(Remote attestation)

• “Electronic presence” means the relationship of two or more individuals in different locations communicating in real time to the same extent as if the individuals were physically present in the same location.

I, _____ (witness name), was electronically present on ____ (date) when _____ (signer name) in my electronic presence signed the attached signature page to _____ (title of document) and, at the request of the foregoing signer, I signed my name as witness at the foregoing date.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is subject to penalty for perjury.

Witness signature

(print name, address, telephone number and e-mail address)

(6) A writing witnessed in compliance with subsection (3) of this section may be executed, acknowledged or witnessed in counterparts, which together shall be considered a single writing.

(7)(a) Subsection (3) of this section applies to the witnessing of any writing that is required by law to be executed or acknowledged in the presence of a witness.

(b) Notwithstanding paragraph (a) of this subsection, this section does not apply to:

(A) A notarial act performed by a notarial officer, as those terms are defined in ORS 194.215;

1 **(B) The witnessing of the execution of a will under ORS 112.232 or**
2 **112.235; or**

3 **(C) The witnessing of signatures by the circulator of a petition**
4 **pursuant to ORS chapter 198, 221, 248, 249, 250, 255, 261 or 545.**

5 **(8) Nothing in this section is intended to affect provisions of law**
6 **regarding the execution of wills, including the application of ORS**
7 **112.238 to writings not executed in compliance with ORS 112.235.**

8 **SECTION 2.** **This 2021 Act being necessary for the immediate pres-**
9 **ervation of the public peace, health and safety, an emergency is de-**
10 **clared to exist, and this 2021 Act takes effect on its passage.**