

1999 ASSEMBLY BILL 267

April 9, 1999 – Introduced by Representatives HUTCHISON, JENSEN, HUEBSCH, F. LASEE, MEYER, SYKORA, KELSO, OWENS, MUSSER, ALBERS, KAUFERT, OLSEN, MONTGOMERY and VRAKAS, cosponsored by Senator RUDE. Referred to Committee on Information Policy.

1 **AN ACT to repeal** 137.04 (1), 137.06 (1) (a) to (e) and 224.30; **to renumber and**
2 **amend** 137.05 and 137.06 (1) (intro.); **to amend** 137.04 (2), 137.05 (title) and
3 137.06 (2); and **to create** 137.05 (2) of the statutes; **relating to:** the use and
4 regulation of electronic signatures, providing an exemption from emergency
5 rule procedures and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Currently, unless prohibited by law, any document prepared by any person that requires a signature or that is given effect with a signature may be signed and given effect with an electronic signature if certain requirements are met. Governmental units may agree to receive signed documents electronically. Notaries public may use electronic signatures to perform their functions. Currently, in order to be valid, an electronic signature must employ a combination of words, letters, symbols or characters attached to or logically associated with a document in such a manner that the identity of the person who originates the document is incontrovertible and the information contained in the document is identical to the information originated by that person. In addition, in order to be valid, an electronic signature must be unique to the person using it; must be capable of verification; must be under the sole control of the person using it; must be linked to the document to which it is attached or associated, in such a manner that, if the document is altered after the signature is created, the signature is invalidated; and, for any document submitted to the department of financial institutions, must conform to rules promulgated by that department.

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This bill deletes all of the current requirements concerning the form and validity of electronic signatures. Under the bill, an electronic signature may employ any identifier or authentication technique. This bill also deletes the requirement that the department of financial institutions promulgate rules concerning electronic signatures. Rather, under this bill, the department of administration must promulgate rules concerning the use of electronic signatures by governmental units.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 137.04 (1) of the statutes is repealed.

2 **SECTION 2.** 137.04 (2) of the statutes is amended to read:

3 137.04 (2) “Electronic signature” means any combination of words, letters,
4 symbols or characters, or any identifier or authentication technique, that is attached
5 to or logically associated with a document that is created in or transformed into an
6 electronic record format and used by a person ~~for the purpose of authenticating with~~
7 the intent to authenticate a document that ~~has been~~ is created in or transformed into
8 an electronic format.

9 **SECTION 3.** 137.05 (title) of the statutes is amended to read:

10 **137.05 (title) Submission of written documents to governmental units.**

11 **SECTION 4.** 137.05 of the statutes is renumbered 137.05 (1) and amended to
12 read:

13 137.05 (1) ~~Unless otherwise prohibited by law, any document that is required~~
14 ~~by law to be submitted in writing to a governmental unit and that requires a written~~
15 ~~signature may be submitted by transforming the document into electronic format,~~
16 ~~but~~ A document that is signed or given effect with an electronic signature may be
17 submitted to a governmental unit only with the consent of the governmental unit
18 that is to receive the document.

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1 **SECTION 5.** 137.05 (2) of the statutes is created to read:

2 137.05 **(2)** The department of administration shall promulgate rules
3 concerning the use of electronic signatures by governmental units.

4 **SECTION 6.** 137.06 (1) (intro.) of the statutes is renumbered 137.06 (1) and
5 amended to read:

6 137.06 **(1)** Unless otherwise prohibited by law, any document that requires a
7 manual, facsimile or other form of signature or that is given effect with a manual,
8 facsimile or other form of signature may be signed or given effect with an electronic
9 signature if the electronic signature meets all of the following requirements:

10 **SECTION 7.** 137.06 (1) (a) to (e) of the statutes are repealed.

11 **SECTION 8.** 137.06 (2) of the statutes is amended to read:

12 137.06 **(2)** An electronic signature ~~that satisfies all of the requirements~~
13 ~~specified in sub. (1)~~ has the same force and effect as a manual, facsimile or other form
14 of signature.

15 **SECTION 9.** 224.30 of the statutes is repealed.

16 **SECTION 10. Nonstatutory provisions.**

17 (1) Using the procedure under section 227.24 of the statutes, the department
18 of administration may promulgate emergency rules under section 137.05 (2) of the
19 statutes, as created by this act, for the period before the effective date of permanent
20 rules initially promulgated under section 137.05 (2) of the statutes, as created by this
21 act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the
22 statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes, the
23 department is not required to provide evidence that promulgating a rule under this
24 subsection as an emergency rule is necessary for the preservation of the public peace,

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SECTION 10

1 health, safety or welfare and is not required to provide a finding of emergency for a
2 rule promulgated under this subsection.

3 **SECTION 11. Effective date.**

4 (1) This act takes effect on July 1, 1999, or on the first day of the 4th month
5 beginning after publication, whichever is later.

6 (END)