

Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS

RULE REPORT TO THE LEGISLATURE
Clearinghouse Rule 22-009

Creating ch. DFI-CCS 25 of the Wisconsin Administrative Code, relating to notaries public and notarial acts.

Attached: Proposed rule, fiscal estimate and economic impact analysis, and Clearinghouse report to agency.

Governor's approval: The governor approved this rule May 26, 2022.

Basis and purpose of the proposed rule: The Department of Financial Institutions, Division of Corporate and Consumer Services, proposes an order to create ch. DFI-CCS 25.

The proposed rule order seeks to help the state to implement 2019 Wisconsin Act 125, which revised state law governing notaries and notarial acts and authorized notaries public to perform notarial acts for remotely located individuals using approved technologies.

The proposed rule would implement the following provisions and have the following effects:

- 1) Provide additional clarity to notaries public regarding remote online notarization, while ensuring the integrity of the notarial process and flexibility to adjust to technological developments.
- 2) Take advantage of the expertise of the state Remote Notary Council, a new body created by Act 125, to evaluate remote online notarization platforms and providers and to help ensure that Wisconsin notaries are using providers that implement proper safeguards to minimize the risk of fraud or mistake.
- 3) Codify the Remote Notary's Council's role in reviewing and approving technology providers, and codify the procedures jointly developed and implemented to date by the Department and the Council, such as the application procedure for remote online notarization technology providers.
- 4) Codify certain processes relating to notary commissions, such as authorizing the Department to use email as the primary means of providing notices to notaries and notary applicants.
- 5) Codify the grounds for restricting or revoking a notary commission.

Summary of comments, agency's response, and explanation of any modifications as a result of comments or testimony:

The Department received one submission of written comments related to the proposed rule. The comments were submitted by Kathleen Butler, the Executive Director of the American Society of Notaries, on March 1, 2022.

None of the comments were substantive. The comments were largely stylistic suggestions, or suggestions that were already addressed by operation of statute or other provisions of the proposed rule itself. None of the suggestions were incorporated into the proposed rule draft.

Persons appearing or registering for or against the rule at hearing:

No persons, other than agency personnel, appeared at the hearing and no persons registered for or against the rule at the hearing.

Changes to analysis or fiscal estimate: None.

Response to legislative council recommendations: The applicable recommendations were adopted with a few stylistic modifications.

Final regulatory flexibility analysis, changes to energy impact report, housing impact analysis, and response to any report prepared by the SBRRB: Not applicable