

2016 Regular Session

HOUSE BILL NO. 876

BY REPRESENTATIVE LEGER

SECRETARY OF STATE: Provides for certain commercial filings to be submitted electronically

1 AN ACT

2 To amend and reenact R.S. 9:3402(B), R.S. 12:1-120(D) and (J) and 1701(A), (C), and (D)
3 and to enact R.S. 9:3402(D), R.S. 12:1-120(M), R.S. 45:1364.1, and R.S. 51:195,
4 relative to commercial filings submitted to the secretary of state; to provide with
5 respect to definitions; to provide for online filings and related requirements; to
6 provide for the applicability of online filing provisions to certain required
7 commercial filings as provided in certain areas of the law; to remove provisions
8 relative to digital signatures and in-person filing requirements; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 9:3402(B) is hereby amended and reenacted and R.S. 9:3402(D) is
12 hereby enacted to read as follows:

13 §3402. Filing

14 * * *

15 B.(1) The secretary of state may accept any filing authorized by this Title by
16 electronic, online, or facsimile transmission. All ~~electronic~~ online filings authorized
17 by this Title shall include an electronic ~~or digital~~ signature.

18 (2) ~~"Digital signature" means a type of electronic signature that transforms~~
19 ~~a message using an asymmetric crypt system such that a person having the initial~~
20 ~~message and the signer's public key can accurately determine:~~

1 (a) ~~Whether the transformation was created using the private key that~~
 2 ~~corresponds to the signer's public key.~~

3 (b) ~~Whether the initial message has been altered since the transformation was~~
 4 ~~made.~~

5 (3) "Electronic signature" means an electronic sound, symbol, or process
 6 attached to or logically associated with a record and executed or adopted by a person
 7 with the intent to sign the record.

8 (3) "Online" means through the secretary of state's commercial online
 9 computer system.

10 * * *

11 D.(1) Notwithstanding the provisions of this Section, any filing that the
 12 secretary of state has the capability to accept online shall be filed only online. If a
 13 document is required by law to be filed or recorded with an entity or official other
 14 than the secretary of state, the filing of the document with the secretary of state shall
 15 not satisfy any provision of law requiring the filing or recordation of the document
 16 with the other entity or official.

17 (2) Notwithstanding any contrary provision of this Title, until the secretary
 18 of state has the capability to accept filings online, any filing with the secretary of
 19 state pursuant to this Title which has the effect of changing the name of a designated
 20 or registered agent or changing the name of a principal officer of the corporation
 21 shall be accompanied by a resolution signed by each member of the corporation's
 22 board of directors in order for the change to be deemed validly filed.

23 Section 2. R.S. 12:1-120(D) and (J) and 1701(A), (C), and (D) are hereby amended
 24 and reenacted and R.S. 12:1-120(M) is hereby enacted to read as follows:

25 §1-120. Requirements for documents; extrinsic facts

26 * * *

27 D. The document must be typewritten or printed or, if ~~electronically~~
 28 transmitted electronically or online, it must be in a format that can be retrieved or
 29 reproduced in typewritten or printed form. The inclusion of handwritten notations

1 or entries on a typewritten or printed document does not affect the eligibility of the
2 document for filing.

3 * * *

4 J. The document must be delivered to the office of the secretary of state for
5 filing. Delivery may be made by electronic or online transmission if and to the
6 extent permitted by the secretary of state. If it is filed in typewritten or printed form
7 and not transmitted electronically or online, the secretary of state may require one
8 exact or conformed copy to be delivered with the document, except as provided in
9 R.S. 12:1-503.

10 * * *

11 M. As used in this Section, "online" means through the secretary of state's
12 commercial online computer system.

13 * * *

14 §1701. Filing Methods

15 A.(1) The secretary of state may accept any filing authorized by this Title by
16 electronic, online, or facsimile transmission. All ~~electronic~~ online filings authorized
17 by this Title shall include an electronic ~~or digital~~ signature.

18 (2) ~~"Digital signature" means a type of electronic signature that transforms~~
19 ~~a message using an asymmetric cryptography system such that a person having the~~
20 ~~initial message and the signer's public key can accurately determine both of the~~
21 ~~following:~~

22 (a) ~~Whether the transformation was created using the private key that~~
23 ~~corresponds to the signer's public key.~~

24 (b) ~~Whether the initial message has been altered since the transformation was~~
25 ~~made.~~

26 (3) "Electronic signature" means an electronic sound, symbol, or process
27 attached to or logically associated with a record and executed or adopted by a person
28 with the intent to sign the record.

1 (3) "Online" means through the secretary of state's commercial online
 2 computer system.

3 * * *

4 C.(1) ~~Internet~~ Online filing. The secretary of state is authorized to
 5 implement and establish procedures and systems for secure ~~Internet-form~~ online
 6 form filing for the filing of any instrument required under this Title.

7 (2) Any requirement that an instrument filed under this Title shall be
 8 subscribed or acknowledged before a notary public may be dispensed with if the
 9 instrument is filed and signed electronically as provided in Paragraph ~~(A)(3)~~ (A)(2)
 10 of this Section by a person authorized to sign the instrument.

11 D.(1) ~~In-person filing. Any provision of this Title requiring that an~~
 12 ~~instrument filed under this Title shall be subscribed or acknowledged before a notary~~
 13 ~~public may be dispensed with if the instrument is signed, by the person authorized~~
 14 ~~to sign, in the presence of the employee of the secretary of state receiving the~~
 15 ~~instrument for filing and the employee verifies the identity of the person signing the~~
 16 ~~instrument~~ Notwithstanding the provisions of this Section, any filing authorized by
 17 this Title that the secretary of state has the capability to accept online shall be filed
 18 only online.

19 (2) Notwithstanding any contrary provision of this Title, until the secretary
 20 of state has the capability to accept filings online, any filing with the secretary of
 21 state pursuant to this Title which has the effect of changing the name of a designated
 22 or registered agent or changing the name of a principal officer of the corporation
 23 shall be accompanied by a resolution signed by each member of the corporation's
 24 board of directors in order for the change to be deemed validly filed.

25 Section 3. R.S. 45:1364.1 is hereby enacted to read as follows:

26 §1364.1. Filing Methods

27 A.(1) The secretary of state may accept any filing authorized in Chapter 10
 28 of this Title by electronic, online, or facsimile transmission. All online filings

1 authorized pursuant to the provisions of this Section shall include an electronic
2 signature.

3 (2) "Electronic signature" means an electronic sound, symbol, or process
4 attached to or logically associated with a record and executed or adopted by a person
5 with the intent to sign the record.

6 (3) "Online" means through the secretary of state's commercial online
7 computer system.

8 B. Filing by facsimile. Printed documents transmitted through the process
9 of an electronic method to the secretary of state are deemed to be properly signed
10 when the document received by a facsimile machine or document image attachment
11 in email by the commercial division, office of the secretary of state, purports to be
12 a copy of the original document and contains the signatures required in this Section.

13 C.(1) Online filing. The secretary of state is authorized to implement and
14 establish procedures and systems for secure online form filing for the filing of any
15 instrument required to be filed with the secretary of state pursuant to the provisions
16 of this Chapter.

17 (2) Any provision that requires an instrument filed pursuant to the provisions
18 of this Chapter to be subscribed or acknowledged before a notary public may be
19 dispensed with if the instrument is filed and signed electronically as provided in
20 Subsection (A)(2) of this Section by a person authorized to sign the instrument.

21 D. Notwithstanding the provisions of this Section, any filing authorized by
22 Chapter 10 of this Title that the secretary of state has the capability to accept online
23 shall only be filed online.

24 Section 4. R.S. 51:195 is hereby enacted to read as follows:

25 §195. Filing Methods

26 A.(1) The secretary of state may accept any filing required in Chapters 1 and
27 7 of this Title by electronic, online, or facsimile transmission. All online filings
28 authorized pursuant to the provisions of this Section shall include an electronic
29 signature.

1 (2) "Electronic signature" means an electronic sound, symbol, or process
2 attached to or logically associated with a record and executed or adopted by a person
3 with the intent to sign the record.

4 (3) "Online" means through the secretary of state's commercial online
5 computer system.

6 B. Filing by facsimile. Printed documents transmitted through the process
7 of an electronic method to the secretary of state are deemed to be properly signed
8 when the document received by a facsimile machine or document image attachment
9 in email by the commercial division, office of the secretary of state, purports to be
10 a copy of the original document and contains the signatures required in this Section.

11 C.(1) Online filing. The secretary of state is authorized to implement and
12 establish procedures and systems for secure online form filing for the filing of any
13 instrument required to be filed with the secretary of state pursuant to the provisions
14 of Chapters 1 and 7 of this Title.

15 (2) Any provision that requires an instrument filed pursuant to the provisions
16 of Chapters 1 and 7 of this Title to be subscribed or acknowledged before a notary
17 public may be dispensed with if the instrument is filed and signed electronically as
18 provided in Subsection (A)(2) of this Section by a person authorized to sign the
19 instrument.

20 D. Notwithstanding the provisions of this Section, any filing authorized by
21 Chapters 1 and 7 of this Title that the secretary of state has the capability to accept
22 online shall be filed only online.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 876 Reengrossed

2016 Regular Session

Leger

Abstract: Provides for online filing of documents required to be filed with the secretary of state.

Present law defines "digital signature". Proposed law deletes present law.

Present law provides for certain requirements for persons making in-person filings with the secretary of state. Proposed law deletes present law.

Proposed law provides that the secretary of state may accept filings as required in present law by means of electronic, online, or facsimile transmission. Proposed law specifies relative to certain filings required pursuant to present law, if a document is required to be filed or recorded with another entity or official, the online filing with the secretary of state shall not satisfy that requirement.

Proposed law provides that all online filings are required to include an electronic signature.

Proposed law provides that "online" means a filing made through the secretary of state's commercial online computer system.

Proposed law provides for filing by facsimile. Provides that printed documents transmitted through an electronic method to the secretary of state are deemed properly signed when the document received by a facsimile machine or document image attachment in email by the commercial division, office of the secretary of state, purports to be a copy of the original document and contains the signatures required in proposed law.

Proposed law provides for online filing. The secretary of state is authorized to implement and establish procedures and systems for secure online form filing for the filing of any instrument required to be filed with the secretary of state pursuant to the provisions of present law.

Proposed law provides that any provision that requires an instrument filed with the secretary of state to be subscribed or acknowledged before a notary public may be dispensed with if the instrument is filed online and signed electronically.

Proposed law provides that for any filing provided for in present law, if the secretary of state has the capability to accept the filing online, it shall be filed online.

Proposed law further specifies, that until the secretary of state has the capability to accept filings online, any filing with the secretary of state pursuant to certain provisions of present law which has the effect of changing the name of a designated or registered agent or changing the name of a principal officer of the corporation shall be accompanied by a resolution signed by each member of the corporation's board of directors in order for the change to be deemed validly filed.

(Amends R.S. 9:3402(B), R.S. 12:1-120(D) and (J) and 1701(A), (C), and (D); Adds R.S. 9:3402(D), R.S. 12:1-120(M), R.S. 45:1364.1, and R.S. 51:195)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Specify that if a document is required by law (Title 9) to be filed with any other entity or official, the filing of the document with the secretary of state shall not satisfy that requirement.
2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Relative to filings pursuant to Titles 9 and 12 until the secretary of state has the capability to accept filings online, require any filing with the secretary of state which has the effect of changing the name of a designated or registered agent or

changing the name of a principal officer of the corporation to be accompanied by a resolution signed by each member of the corporation's board of directors in order for the change to be deemed validly filed.