

Signatures – Original and Electronic Signatures

Original signature – the word executed means signed. Black’s Law Dictionary ‘Execute. To complete; to make; to sign; to perform... To perform all necessary formalities, as to make and sign a contract.’ Handwritten or electronic signature executed by an individual.

Electronic signature (SB 114): ‘an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.’

KRS 369.103 – Effective January 1, 2020

The statute previously exempted ‘..the conveyance of any interest in real property;’ and ‘..the creation and execution of wills, codicils, or testamentary trusts’ from allowable electronic signatures. As of January 1, 2020, conveyances of an interest in real property may have electronic signatures. Wills, codicils or testamentary trusts remain exempt from allowable electronic signatures, so must have original signatures.

ALL recorded instruments require an ‘original’ signature. If presented on paper, the signature should either be an original ‘wet’ ink signature, electronic signature acknowledged by a notary public, or in a papered-out electronically executed document acknowledged to be a true and correct copy by a notary public (some exceptions for bankruptcy court documents).

A document presented by electronic delivery requires same as above, though the instrument will appear as an electronic version.

KRS 382.075: Uniform Real Property Electronic Recording Act – Recording of electronic document – Electronic Signature – Powers and Duties of County Clerk (Excerpt)

1. If a law requires, as a condition for recording by the county clerk upon the records relating to real property, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement shall be satisfied by an electronic document that complies with the requirements of KRS 423.300 to 423.455 of this section.
2. If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.
3. A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression or seal need not accompany an electronic signature.