
A BILL FOR AN ACT

RELATING TO NOTARIAL ACTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that electronic
2 communications make it possible to perform notarial acts by new
3 means. Some of the earliest transactions governed by law are
4 notarial acts performed by words inscribed on paper with manual
5 signatures and physical impressions of notarial seals. However,
6 technology has advanced and audio and visual communications
7 between individuals performed by electronic means are
8 increasingly replacing in-person communications, just as
9 electronic records are increasingly replacing paper documents.
10 Twenty-two states have enacted legislation for remote online
11 notaries. The legislature further finds that the public will
12 benefit from the use of modern technology to obtain notarial
13 services, with consumer protections in place to protect against
14 incidents of fraud.

15 The purpose of this Act is to codify the relevant portions
16 of the Revised Uniform Law on Notarial Acts (2018) including
17 provisions that permit notaries public to perform notarial acts



1 utilizing electronic documents with electronic signatures and
2 seals, without the necessity of the notary public and the
3 individual requesting the notarial services being in the same
4 physical location; provided that the notary and individual can
5 communicate with each other simultaneously by sight and sound by
6 means of communication technology.

7 SECTION 2. Chapter 456, Hawaii Revised Statutes, is
8 amended by adding six new sections to be appropriately
9 designated and to read as follows:

10 "§456-A Authority to refuse to perform notarial act. (a)

11 A notary public may refuse to perform a notarial act if the
12 notary public is not satisfied that:

13 (1) The person executing the document is competent or has
14 the capacity to execute the document; or

15 (2) The person's signature is knowingly and voluntarily
16 made.

17 (b) A notary public may refuse to perform a notarial act
18 unless the refusal is prohibited by any provision of law other than
19 this chapter.

20 §456-B Notarial act performed for remotely located

21 individual. (a) A remotely located individual may comply with



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1 any requirement of the laws of this State to appear personally
2 before or be in the presence of a notary public at the time of
3 the performance of a notarial act by using communication
4 technology to appear before a notary public.

5 (b) A notary public located in this State may perform a
6 notarial act using communication technology for a remotely
7 located individual if:

8 (1) The notary public has received from the attorney
9 general an endorsement to the notary public's
10 commission under section 456-C and:

11 (A) Has personal knowledge of the identity of the
12 individual;

13 (B) Has satisfactory evidence of the identity of the
14 remotely located individual by oath or
15 affirmation from a credible witness appearing
16 before the notary public under this chapter or
17 this section; or

18 (C) Has satisfactory evidence of the identity of the
19 remotely located individual by using at least two
20 different types of identity proofing;



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- 1 (2) The notary public is reasonably able to confirm that a
2 document before the notary public is the same document
3 in which the remotely located individual made a
4 statement or on which the individual executed a
5 signature;
- 6 (3) The notary public, or a person acting on behalf of the
7 notary public, creates an audio-visual recording of
8 the performance of the notarial act;
- 9 (4) For a remotely located individual located outside the
10 United States:
- 11 (A) The document:
- 12 (i) Is to be filed with or relates to a matter
13 before a public official or court,
14 governmental entity, or other entity subject
15 to the jurisdiction of the United States; or
- 16 (ii) Involves property located in the territorial
17 jurisdiction of the United States or
18 involves a transaction substantially
19 connected with the United States; and



1 (B) The act of making the statement or signing the
 2 record is not prohibited by the foreign state in
 3 which the remotely located individual is located.

4 (c) If a notarial act is performed under this section, any
 5 certificate of notarial act required by this chapter or other
 6 laws of this State shall indicate that the notarial act was
 7 performed using communication technology.

8 (d) A form of certificate of notarial act subject to this
 9 section and authorized by the laws of this State, including a
 10 certificate of acknowledgment provided in section 502-41, is
 11 sufficient if it:

12 (1) Complies with rules adopted under this section; or

13 (2) Is in the form authorized by the laws of this State
 14 and contains a statement substantially as follows:

15 "This notarial act involved the use of communication
 16 technology."

17 (e) A notary public, guardian, conservator, or agent of a
 18 notary public, or a personal representative of a deceased notary
 19 public shall retain the audio-visual recording created under
 20 this section or cause the recording to be retained by a
 21 repository designated by or on behalf of the person required to



1 retain the recording. Unless a different period is required by
2 rules adopted under this section, the recording shall be
3 retained for a period of at least ten years after the recording
4 is made.

5 (f) In addition to adopting, amending, or repealing rules
6 under sections 456-1.5 and 456-8, the attorney general may
7 adopt, amend, or repeal rules pursuant to chapter 91 regarding
8 the performance of notarial acts under this section, including:

9 (1) Prescribing the means of performing a notarial act
10 involving a remotely located individual using
11 communication technology;

12 (2) Establishing standards for communication technology
13 and identity proofing;

14 (3) Establishing requirements and procedures to approve
15 providers of communication technology and the process
16 of identity proofing; and

17 (4) Establishing standards and a period of retention of an
18 audio-visual recording created under this section.

19 (g) Before adopting, amending, or repealing a rule
20 governing the performance of a notarial act with respect to a



1 remotely located individual, the attorney general shall
2 consider:

3 (1) The most recent standards regarding the performance of
4 a notarial act with respect to a remotely located
5 individual promulgated by national standard-setting
6 organizations and the recommendations of the National
7 Association of Secretaries of State;

8 (2) The standards, practices, and customs of other
9 jurisdictions that have laws substantially similar to
10 this section; and

11 (3) The views of governmental officials and entities and
12 other interested persons.

13 (h) For purposes of this section, the following
14 definitions shall apply:

15 "Communication technology" means an electronic device or
16 process that:

17 (1) Allows a notary public and a remotely located
18 individual to communicate with each other
19 simultaneously by sight and sound; and

20 (2) When necessary and consistent with other applicable
21 law, facilitates communication with a remotely located



1 individual who has a vision, hearing, or speech
2 impairment.

3 "Foreign state" means a jurisdiction other than the United
4 States, a state of the United States, the District of Columbia,
5 Puerto Rico, the United States Virgin Islands, any territory or
6 insular possession subject to the jurisdiction of the United
7 States, or a federally recognized Indian tribe.

8 "Identity proofing" means a process or service by which a
9 third person provides a notary public with a means to verify the
10 identity of a remotely located individual by a review of
11 personal information from public or private data sources.

12 "Outside the United States" means a location outside the
13 geographic boundaries of the United States, Puerto Rico, the
14 United States Virgin Islands, and any territory, insular
15 possession, or other location subject to the jurisdiction of the
16 United States.

17 "Remotely located individual" means an individual who is
18 not in the physical presence of the notary public who performs a
19 notarial act under this section.

20 §456-C Application; qualifications. (a) A notary public
21 or an applicant for appointment as a notary public may apply to



1 the attorney general in the manner provided by this section for
2 an endorsement to the notary public's commission authorizing the
3 notary public to perform notarial acts for remotely located
4 individuals under section 456-B.

5 (b) A person shall qualify for an endorsement under this
6 section by:

7 (1) Satisfying the qualification requirements for
8 appointment as a notary public under this chapter and
9 having or receiving an active commission as a notary
10 public;

11 (2) Paying the application fee; and

12 (3) Submitting to the attorney general an application in
13 the form prescribed by the attorney general that
14 satisfies the attorney general that the applicant is
15 qualified.

16 (c) The attorney general may charge a fee for an
17 application submitted under this section in an amount necessary
18 to administer this section.

19 (d) The technology selected by a notary public for
20 notarial acts performed for remotely located individuals under



1 section 456-B shall conform to the attorney general's standards
2 developed under this section and section 456-B(f).

3 (e) The notary public shall forthwith file a literal or
4 photostatic copy of the endorsement to the person's commission
5 with the clerk of the circuit court of the circuit in which the
6 notary public resides.

7 §456-D Notification regarding performance of notarial act
8 on electronic record; selection of technology; acceptance of
9 tangible copy of electronic record. (a) A notary public may
10 select one or more tamper-evident technologies to perform
11 notarial acts with respect to electronic documents. A person
12 shall not require a notary public to perform a notarial act with
13 respect to an electronic document with a technology that the
14 notary public has not selected.

15 (b) Before a notary public performs the notary public's
16 initial notarial act with respect to an electronic document, a
17 notary public shall notify the attorney general that the notary
18 public will be performing notarial acts with respect to
19 electronic documents and identify the technology the notary
20 public intends to use. If the attorney general has established



1 standards for technology pursuant to section 456-1.5 or 456-8,
2 the technology shall conform to the standards.

3 (c) The registrar of conveyances shall accept for
4 recording under chapter 502 a tangible copy of an electronic
5 document containing a notarial certificate, which shall be
6 deemed to satisfy any requirement that a document accepted for
7 recording shall be an original; provided that the notary public
8 executing the notarial certificate shall certify that the
9 tangible copy is an accurate copy of the electronic document.

10 §456-E Validity of notarial acts. Except as otherwise
11 provided in section 456-14(b), the failure of a notary public to
12 perform a duty or meet a requirement specified in this chapter
13 does not invalidate a notarial act performed by the notary
14 public. The validity of a notarial act under this chapter shall
15 not prevent an aggrieved person from seeking to invalidate the
16 document or transaction that is the subject of the notarial act
17 or from seeking other remedies based on the laws of this State
18 other than this chapter or based on the laws of the United
19 States. This section shall not validate a purported notarial
20 act performed by a person who does not have the authority to
21 perform notarial acts.



1 §456-F Relation to federal Electronic Signatures in Global
2 and National Commerce Act. This chapter modifies, limits, and
3 supersedes the federal Electronic Signatures in Global and
4 National Commerce Act, title 15 United States Code section 7001,
5 et seq., but does not modify, limit, or supersede section 101(c)
6 of that Act, or authorize electronic delivery of any of the
7 notices described in section 103(b) of that Act."

8 SECTION 3. Section 456-1, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§456-1 Appointment; renewal.** (a) The attorney general
11 may, in the attorney general's discretion, appoint and
12 commission such number of notaries public for the State as the
13 attorney general deems necessary for the public good and
14 convenience. The term of office of a notary public shall be
15 four years from the date of the [~~notary's~~] notary public's
16 commission, unless sooner removed by the attorney general for
17 cause after [~~due~~] the opportunity for hearing; provided that
18 after [~~due~~] the opportunity for hearing the commission of a
19 notary public may be revoked or the notary public may be
20 otherwise disciplined by the attorney general in any case where
21 any change occurs in the [~~notary's~~] notary public's office,



1 occupation, residence, or employment ~~[which]~~ that in the
2 attorney general's judgment renders the holding of such
3 commission by the notary public no longer necessary for the
4 public good and convenience. Each notary public shall, upon any
5 change in the ~~[notary's]~~ notary public's office, occupation,
6 residence, or employment, forthwith report the same to the
7 attorney general.

8 (b) Each notary public shall be responsible for renewing
9 the notary public's commission on a timely basis and satisfying
10 the renewal requirements provided by law. The failure to renew
11 a commission in a timely manner ~~[may]~~ shall cause the commission
12 to be forfeited~~[, if the attorney general finds that the failure~~
13 ~~was done knowingly]~~; provided that a forfeited commission may be
14 restored by the attorney general within one year after the date
15 of forfeiture upon compliance with the commission renewal
16 requirements provided by law and upon written application and
17 payment of all applicable fees."

18 SECTION 4. Section 456-1.6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§456-1.6 Definitions. As used in this chapter, unless
21 the context requires otherwise:



1 "Acknowledgment" means a declaration by a person before a
2 notary public that the person has signed a document for the
3 purpose stated in the document and, if the document is signed in
4 a representative capacity, that the person signed the document
5 with proper authority and signed it as the act of the person or
6 entity identified in the document.

7 "Alter" means to change by means of erasure, obliteration,
8 deletion, insertion of new content, or transposition of content.

9 "Document" means information that is inscribed on a
10 tangible medium or that is stored in an electronic or other
11 medium and is retrievable in perceivable form.

12 "Electronic" means relating to technology having
13 electrical, digital, magnetic, wireless, optical,
14 electromagnetic, or similar capabilities.

15 "Electronic signature" means an electronic symbol, sound,
16 or process attached to or logically associated with a document
17 and executed or adopted by a person with the intent to sign the
18 document.

19 "In a representative capacity" means acting as:



1 (1) An authorized officer, agent, partner, trustee, or
2 other representative for a person other than an
3 individual;

4 (2) A public officer, personal representative, guardian,
5 or other representative, in the capacity stated in a
6 document;

7 (3) An agent or attorney-in-fact for a principal; or

8 (4) An authorized representative of another in any other
9 capacity.

10 "Notarial act" means an act, whether performed with respect
11 to a tangible or electronic document, that a notary public may
12 perform under the laws of this State. The term includes taking
13 an acknowledgment, administering an oath or affirmation, taking
14 a verification on oath or affirmation, witnessing or attesting a
15 signature, certifying or attesting a copy, and noting a protest
16 of a negotiable instrument.

17 "Notary public" means an individual commissioned to perform
18 a notarial act by the attorney general under this chapter.

19 "Personally knowing" or "personal knowledge" means having
20 an acquaintance, derived from association with the individual,



1 which establishes the individual's identity with at least a
2 reasonable certainty.

3 "Proof of the signer's signature and identity" means [~~proof~~
4 ~~evidenced by production of a current identification card or~~
5 ~~document issued by the United States, this State, any other~~
6 ~~state, or a national government that contains the bearer's~~
7 ~~photograph and signature.~~] satisfactory evidence of the identity
8 of an individual appearing before the notary public if the
9 notary public can identify the individual:

10 (1) By means of:

11 (A) A passport, driver's license, or government
12 issued nondriver identification card that is
13 valid or expired not more than three years before
14 the performance of the notarial act and contains
15 the signature and photograph of the individual;

16 (B) Another form of government identification issued
17 to an individual that is valid or expired not
18 more than three years before performance of the
19 notarial act, contains the signature and
20 photograph of the individual, and is satisfactory
21 to the notary public; or



1 (C) Oath or affirmation of a credible witness
2 personally appearing before the notary public and
3 known to the notary public or whom the notary
4 public can identify on the basis of a passport,
5 driver's license, or government issued nondriver
6 identification card which is valid or expired not
7 more than three years before performance of the
8 notarial act; and

9 (2) At the notary public's discretion, by requiring an
10 individual to provide additional information or
11 identification credential necessary to assure the
12 notary public of the identity of the individual.

13 "Sign" means, with present intent to authenticate or adopt
14 a document:

15 (1) To execute or adopt a tangible symbol; or

16 (2) To attach or logically associate with the document an
17 electronic symbol, sound, or process.

18 "Signature" means a tangible symbol or an electronic
19 signature that evidences the signing of a document.

20 "Stamping device" means:



- 1 (1) A physical device capable of embossing, stamping, or
- 2 impressing upon a tangible document a seal of office; or
- 3 (2) An electronic device or process capable of attaching to
- 4 or logically associating with an electronic document a
- 5 seal of office.

6 "Tamper-evident" means displaying evidence of any change to an
 7 electronic document.

8 "Verification on oath or affirmation" means a declaration,
 9 made by a person on oath or affirmation before a notary public,
 10 that a statement in a document is true."

11 SECTION 5. Section 456-3, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§456-3 Seal.** Every notary public shall constantly keep
 14 an engraved seal of office or a rubber stamp or electronic
 15 facsimile seal of office which shall clearly show, when
 16 embossed, stamped, or impressed upon a tangible document ~~[7]~~ or
 17 when attached to or logically associated with an electronic
 18 document, only the ~~[notary's]~~ notary public's name, the
 19 ~~[notary's]~~ notary public's commission number, and the words,
 20 "notary public" and "State of Hawaii". The seal of office must
 21 be capable of being copied together with the document to which



1 it is embossed, stamped, impressed, or attached, or with which
2 it is logically associated. The notary public shall
3 authenticate all the [~~notary's~~] notary public's official acts,
4 attestations, certificates, and instruments therewith, and shall
5 always add to an official signature the typed or printed name of
6 the notary public and a statement showing the date that the
7 [~~notary's~~] notary public's commission expires. Upon
8 resignation, death, expiration of term of office without
9 reappointment, or removal from or abandonment of office, the
10 notary public shall immediately deliver the [~~notary's seal~~]
11 notary public's physical stamping device to the attorney general
12 who shall deface or destroy the same. [~~If any notary fails to~~
13 ~~comply with this section within ninety days of the date of the~~
14 ~~notary's resignation, expiration of term of office without~~
15 ~~reappointment, or removal from or abandonment of office or if~~
16 ~~the notary's personal representative fails to comply with this~~
17 ~~section within ninety days of the notary's death, then the~~
18 ~~notary public or the notary's personal representative shall~~
19 ~~forfeit to the State not more than \$200, in the discretion of~~
20 ~~the court, to be recovered in an action to be brought by the~~
21 ~~attorney general on behalf of the State.] If a notary public~~



1 has used an electronic stamping device, upon resignation, death,
 2 expiration of term of office without reappointment, or removal
 3 or abandonment of office, the notary public shall disable the
 4 electronic stamping device by destroying, defacing, damaging,
 5 erasing, or securing it against use in a manner that renders it
 6 unusable and shall submit a declaration to the attorney general
 7 that the electronic stamping device was disabled and state the
 8 date and manner in which the device was disabled."

9 SECTION 6. Section 456-4, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 **"§456-4 Filing copy of commission; authentication of acts.**

12 (a) Each person appointed and commissioned a notary public
 13 under this chapter shall forthwith file a literal or photostatic
 14 copy of the person's commission, an impression of the person's
 15 tangible seal, and a specimen of the person's official signature
 16 with the clerk of the circuit court of the circuit in which the
 17 notary public resides. Each person appointed and commissioned a
 18 notary public under this chapter may also, at the person's
 19 option, file the above-named documents with the clerk of any
 20 other circuit court. Thereafter any clerk, when [~~thereunto~~]
 21 requested, shall certify to the official character and acts of



1 any such notary public whose commission, impression of tangible
2 seal, and specimen of official signature [~~is~~] are so filed in
3 the clerk's office. A notary public's electronic seal shall not
4 be subject to the requirements of this section.

5 (b) All documents filed under this section may be
6 maintained in tangible or electronic format."

7 SECTION 7. Section 456-9, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§456-9 Fees and administrative fines.** (a) The attorney
10 general shall charge and collect the following fees for:

- 11 (1) Issuing the original commission, \$40; [~~and~~]
12 (2) Renewing the commission, \$40 [~~-~~]; and
13 (3) Electronic processing service fees of up to ten per
14 cent of the amount of the transaction.

15 These fees may be adjusted, and any other fees may be
16 established and adjusted, by adopting rules pursuant to chapter
17 91.

18 (b) The court fees for filing a copy of a commission or
19 endorsement to a commission and for each certificate of
20 authentication shall be specified by the supreme court.



- 1 (c) The attorney general may impose and collect the
2 following administrative fines for a notary public's failure to:
- 3 (1) Maintain an official seal of one type, either a single
4 engraved seal or a single rubber stamp facsimile seal,
5 on which shall be inscribed the name of the notary
6 public, the commission number of the notary public,
7 and the words "notary public" and "State of Hawaii"
8 only, \$20;
- 9 (2) Surrender the notary public's [~~seal~~] physical stamping
10 device and certificate to the attorney general within
11 ninety days of resignation, removal from office, or
12 the expiration of a term without renewal, \$200;
- 13 (3) Disabling the notary public's electronic stamping
14 device within ninety days of resignation, removal from
15 office, or the expiration of a term without renewal,
16 \$200;
- 17 [~~3~~] (4) Authenticate every acknowledgment or jurat with a
18 certificate that shall be signed and dated by the
19 notary[~~7~~] public, include the printed name and
20 official stamp or seal of the notary[~~7~~] public,
21 identify the jurisdiction in which the notarial act is



1 performed, and, if the notarial act is performed on a
2 paper or tangible document, describe in close
3 proximity to the acknowledgment or jurat the document
4 being notarized~~[,]~~ and state the number of pages and
5 date of the document, \$500;

6 ~~[-(4)]~~ (5) Record all of the notary public's transactions as
7 prescribed by section 456-15 and applicable rules,
8 \$200;

9 ~~[-(5)]~~ (6) Surrender the notary public's record books to the
10 attorney general within ninety days of the end date of
11 the commission, resignation, or removal from office,
12 \$500; and

13 ~~[-(6)]~~ (7) Notify the attorney general within ten days after
14 loss, misplacement, or theft of the notary public's
15 ~~[seal, stamp,]~~ stamping device or any ~~[record book,]~~
16 journal, inform the appropriate law enforcement agency
17 in the case of theft, and deliver a copy of the law
18 enforcement agency's report of the theft to the
19 attorney general, \$20.

20 (d) The foregoing moneys collected by the attorney general
21 pursuant to this section shall be deposited into the notaries



1 public revolving fund established by section 456-9.5, except
2 that if that fund is terminated, the foregoing moneys shall
3 thereafter be deposited with the director of finance to the
4 credit of the general fund.

5 (e) All unpaid fees, fines, and forfeitures shall
6 constitute a debt due and owing to the State."

7 SECTION 8. Section 456-14, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§456-14 [Notary] Authority to perform notarial act;
10 notary public connected with a corporation or trust company[+
11 authority to act]. (a) Except as otherwise provided in
12 subsection (b):

13 (1) A notary public may perform a notarial act authorized
14 by this chapter or by the laws of this State other
15 than this chapter; and

16 (2) It shall be lawful for any notary public, although an
17 officer, employee, shareholder, or director of a
18 corporation or trust company to take the
19 acknowledgment of any party to any written instrument
20 executed to or by the corporation or trust company, or
21 to administer an oath to any shareholder, director,



1 officer, employee, or agent of the corporation or
2 trust company, or to protest for nonacceptance or
3 nonpayment of bills of exchange, drafts, checks,
4 notes, and other negotiable instruments [~~which~~] that
5 may be owned or held for collection by the corporation
6 or trust company [~~;~~ ~~provided it shall be unlawful for~~
7 ~~any notary public to take the acknowledgment of any~~
8 ~~party to an instrument, or to protest any negotiable~~
9 ~~instrument, where the notary is individually a party~~
10 ~~to the instrument]~~.

11 (b) A notary public shall not perform a notarial act with
12 respect to a document to which the notary public or the notary
13 public's spouse or civil partner is a party or in which either of
14 them has a direct beneficial interest. A notarial act performed in
15 violation of this subsection shall be voidable.

16 (c) A notary public may certify that a tangible copy of an
17 electronic document is an accurate copy of the electronic
18 document."

19 SECTION 9. Section 456-15, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~§456-15 [Record,]~~ Journal; copies as evidence. ~~[Every~~
2 ~~notary public shall record at length in a book of records all~~
3 ~~acts, protests, depositions, and other things, by the notary~~
4 ~~noted or done in the notary's official capacity. For each~~
5 ~~official act, the notary shall enter in the book:]~~ (a) A
6 notary public shall maintain a journal in which the notary
7 public chronicles all notarial acts that the notary public
8 performs. The notary public shall retain the journal for ten
9 years after the performance of the last notarial act chronicled
10 in the journal.

11 (b) A journal may be created on a tangible medium or in an
12 electronic format. A notary public shall maintain only one
13 tangible journal to chronicle all notarial acts performed
14 regarding tangible documents and one or more electronic journals
15 to chronicle all notarial acts performed regarding electronic
16 documents. If the journal is maintained on a tangible medium,
17 it shall be a permanent, bound register with numbered pages. If
18 the journal is maintained in an electronic format, it shall be
19 in a permanent, tamper-evident electronic format in compliance
20 with the rules of the attorney general.



- 1 (c) An entry in a journal shall be made contemporaneously
2 with the performance of the notarial act and contain the
3 following information:
- 4 (1) The type, date, and time of day of the notarial act;
- 5 (2) The title or type and date of the document or
6 proceeding and the nature of the act, transaction, or
7 thing to which the document relates;
- 8 (3) The ~~[signature,]~~ full printed name ~~[,]~~ and address of
9 each person whose signature is notarized and of each
10 witness~~[,]~~ and, if the journal is maintained in a
11 tangible medium, the signature of each such person;
- 12 (4) ~~[Other parties to the instrument; and]~~ If identity of
13 the person is based on personal knowledge, a statement
14 to that effect;
- 15 (5) ~~[The manner in which the signer was identified.]~~ If
16 identity of the person is based on satisfactory
17 evidence, a brief description of the method of
18 identification and the identification credential
19 presented, if any, including the date of issuance and
20 expiration of any identification credential; and
- 21 (6) The fee, if any, charged by the notary public.



1 (d) If a notary public's journal is lost or stolen, the
2 notary public shall promptly notify the attorney general on
3 discovering that the journal is lost or stolen.

4 (e) On resignation from, or the expiration, revocation, or
5 suspension of, a notary public's commission, the notary public
6 shall retain the notary public's journal in accordance with this
7 section and inform the attorney general where the journal is
8 located.

9 (f) On the death or adjudication of incompetency of a
10 current or former notary public, the notary public's personal
11 representative or guardian or any other person knowingly in
12 possession of the journal shall transmit it to the attorney
13 general or a repository approved by the attorney general.

14 (g) All copies or certificates granted by the notary
15 public shall be under the [notary's] notary public's hand and
16 notarial seal and shall be received as evidence of such
17 transactions."

18 SECTION 10. Section 456-17, Hawaii Revised Statutes, is
19 amended to read as follows:



1 "**§456-17 Fees.** Subject to section 456-18, every notary
2 public [~~is~~] shall be entitled to demand and receive the
3 following fees:

4 For noting the protest of mercantile paper, \$5;

5 For each notice and certified copy of protest, \$5;

6 For noting any other protest, \$5;

7 For every notice thereof[~~7~~] and certified copy of protest,
8 \$5;

9 For every deposition[~~7~~] or official certificate, \$5;

10 For the administration of oath, including the certificate
11 of the oath, \$5; for affixing the certificate of the oath to
12 every duplicate original instrument beyond four, \$2.50;

13 For taking any acknowledgment, \$5 for each party signing;
14 for affixing to every duplicate original beyond one of any
15 instrument acknowledged before the notary[~~7~~] public, the
16 [~~notary's~~] notary public's certificate of the acknowledgment,
17 \$2.50 for each person making the acknowledgment [~~7~~]; and

18 For any of the foregoing notarial acts performed for a
19 remotely located individual under section 456-B, other than
20 affixing a notary's certificate to a duplicate original, \$25."



1 SECTION 11. Section 456-19, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+] 456-19 [+] Notary public signing for disabled person. A
4 notary public may sign the name of a person physically unable to
5 sign or to make a mark on a document presented for notarization;
6 provided that the notary public is satisfied that the person has
7 voluntarily given consent for the notary public to sign on the
8 person's behalf, if the notary public writes, in the presence of
9 the person: "Signature affixed by notary public pursuant to
10 section 456-19, Hawaii Revised Statutes." beneath the signature,
11 and if a doctor's written certificate is provided to the notary
12 public certifying that the person is unable to physically sign
13 or make a mark because of the disability, which certificate
14 shall be attached to the document, and that the person is
15 capable of communicating the person's intentions."

16 SECTION 12. Section 456-20, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) A person commits the offense of failure to verify
19 identity and signature if the person is a commissioned notary
20 public and knowingly [~~notarizes~~] performs a notarial act with
21 respect to a document and:



- 1 (1) If a witness to the signing of the [~~instrument,~~
2 document, fails to verify the identity of the signer
3 by personally knowing the signer [~~or~~], by comparing
4 the personal appearance of the signer with
5 satisfactory proof of the signer's signature and
6 identity, or by obtaining satisfactory evidence of
7 identity under section 456-B of a remotely located
8 individual; or
- 9 (2) If not a witness to the signing of the [~~instrument,~~
10 document, fails to verify the identity of the signer
11 by personally knowing the signer [~~or~~], by comparing
12 the personal appearance of the signer with
13 [~~satisfactory~~] proof of the signer's signature and
14 identity[~~]~~, or by obtaining satisfactory evidence of
15 identity under section 456-B of a remotely located
16 individual; or fails to verify the tangible signature
17 of the signer on a tangible document by recognizing
18 the signature of the signer by personal familiarity
19 with the signature, or by comparing the tangible
20 signature with [~~satisfactory~~] proof of the signer's
21 signature[~~-~~] and identity."



1 SECTION 13. Section 456-21, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) A person commits the offense of failure to
4 authenticate with a certification statement if the person is a
5 commissioned notary public and knowingly notarizes a document
6 and fails to include any of the following in the notary
7 certification:

8 (1) Date of notarization and signature of the notary
9 public;

10 (2) The printed name, date of expiration of commission,
11 and stamp or seal of the notary public;

12 (3) Identification of the jurisdiction in which the
13 notarial act is performed;

14 (4) [~~Identification~~] If the notarial act is performed on a
15 paper or tangible document, identification or
16 description of the document being notarized, placed in
17 close proximity to the acknowledgment or jurat; and

18 (5) [A] If the notarial act is performed on a paper or
19 tangible document, a statement of the number of pages
20 and date of the document."



1 SECTION 14. Section 502-42, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§502-42 Certificate, contents. The certificate of
4 acknowledgment shall state in substance that the person who
5 executed the instrument appeared before the officer granting the
6 certificate and acknowledged or stated that the person executed
7 the same, and that such person was [~~personally~~] known to the
8 officer granting such certificate to be the person whose name is
9 subscribed to the instrument as a party thereto, or was proved
10 to be such by the oath or affirmation of a credible witness
11 known to the officer whose name shall be inserted in the
12 certificate. A person is known to the officer if the person is
13 personally known by the officer, if the officer has proof of the
14 signer's signature and identity as defined in section 456-1.6,
15 or if the officer has satisfactory evidence of identity of a
16 remotely located individual under section 456-B. If the person
17 who executed the instrument appeared before a notary public as a
18 remotely located individual under section 456-B, then the
19 certificate shall indicate that the notarial act was performed
20 using communication technology in a manner provided in section
21 456-B. It shall not be ground for the rejection of any such



1 certificate, or for refusing to accept such instrument for
2 record or in evidence, that the certificate fails to state that
3 the person making the acknowledgment stated or acknowledged that
4 the instrument was executed freely or voluntarily by the person
5 or as the person's free act and deed."

6 SECTION 15. Section 502-48, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§502-48 Identification of person making. No
9 acknowledgment of any conveyance or other instrument, except as
10 provided by this chapter, whereby any real estate is conveyed or
11 may be affected, shall be taken, unless the person offering to
12 make the acknowledgment is personally known to the officer
13 taking the acknowledgment to be the person whose name is
14 subscribed to the conveyance or instrument as a party thereto,
15 or is proved to be such by the oath or affirmation of a credible
16 witness known to the officer, or by [~~production of a current~~
17 ~~identification card or document issued by the United States, the~~
18 ~~State, any other state, or a national government that contains~~
19 ~~the bearer's photograph and signature.~~] proof of the signer's
20 signature and identity as defined in section 456-1.6, or by



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1 satisfactory evidence of identity of a remotely located
 2 individual under section 456-B."

3 SECTION 16. In codifying the new sections added by section
 4 2 of this Act, the revisor of statutes shall substitute
 5 appropriate section numbers for the letters used in designating
 6 the new sections in this Act.

7 SECTION 17. This Act does not affect rights and duties
 8 that matured, penalties that were incurred, and proceedings that
 9 were begun before its effective date.

10 SECTION 18. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 19. This Act shall take effect upon its approval.

13

INTRODUCED BY: *Stah*

JAN 16 2020



H.B. NO. 1803

Report Title:

Revised Uniform Law on Notarial Act; Relevant Provisions

Description:

Codifies into Hawaii's existing notary public law relevant portions of the Revised Uniform Law on Notarial Act, including provisions to allow notarial acts utilizing electronic documents with electronic signatures and seal, without requiring the signatory to be physically present before the notary public.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

