

---

---

# A BILL FOR AN ACT

RELATING TO NOTARIES PUBLIC.

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

1           SECTION 1. The purpose of this Act is to update the laws  
2 regarding notaries public to conform to the Revised Uniform Law  
3 on Notarial Acts (2018), the Hawaii Uniform Electronic  
4 Transactions Act, other state notary laws, and current notary  
5 practices.

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

9           "§456-A Authority to refuse to perform notarial act. (a)  
10 A notary public may refuse to perform a notarial act if the  
11 notary public is not satisfied that:

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

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



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

4        **§456-B Notarial act performed for remotely located**  
5 **individual.** (a) A remotely located individual may comply with  
6 any requirement of the laws of this State to appear personally  
7 before or be in the presence of a notary public at the time of  
8 the performance of a notarial act by using communication  
9 technology to appear before a remote online notary public.

10        (b) A remote online notary public located in this State  
11 may perform a notarial act using communication technology for a  
12 remotely located individual if:

- 13        (1) The remote online notary public:
  - 14            (A) Has personal knowledge of the identity of the
  - 15                    individual;
  - 16            (B) Has satisfactory evidence of the identity of the
  - 17                    remotely located individual by oath or
  - 18                    affirmation from a credible witness appearing
  - 19                    before the remote online notary public under this
  - 20                    chapter; or



1           (C) Has obtained satisfactory evidence of the  
2                   identity of the remotely located individual by  
3                   using at least two different types of identity  
4                   proofing;

5       (2) The remote online notary public is reasonably able to  
6       confirm that a document before the remote online  
7       notary public is the same document in which the  
8       remotely located individual made a statement or on  
9       which the remotely located individual executed a  
10       signature;

11       (3) The remote online notary public, or a person acting on  
12       behalf of the remote online notary public, creates an  
13       audiovisual recording of the performance of the  
14       notarial act; and

15       (4) For a remotely located individual located outside the  
16       United States:

17       (A) The document:

18           (i) Is to be filed with or relates to a matter  
19                   before a public official or court,  
20                   governmental entity, or other entity subject  
21                   to the jurisdiction of the United States; or



1                   (ii) Involves property located in the territorial  
2                               jurisdiction of the United States or  
3                               involves a transaction substantially  
4                               connected with the United States; and

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

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

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

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

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

19                       "This notarial act involved the use of communication  
20                       technology".



1       (e) A remote online notary public, guardian, conservator,  
2 or agent of a remote online notary public, or a personal  
3 representative of a deceased remote online notary public shall  
4 retain the audiovisual recording created under this section or  
5 cause the recording to be retained by a repository designated by  
6 or on behalf of the person required to retain the recording.  
7 Unless a different period is required by rule adopted under this  
8 section, the recording shall be retained for a period of at  
9 least ten years after the recording is made.

10       (f) Before a remote online notary public performs the  
11 remote online notary public's initial notarial act under this  
12 section, the remote online notary public shall notify the  
13 attorney general that the remote online notary public will be  
14 performing notarial acts with respect to remotely located  
15 individuals and identify the technologies that the remote online  
16 notary public intends to use. The technology selected by a  
17 remote online notary public to perform notarial acts for  
18 remotely located individuals shall conform to the attorney  
19 general's standards developed for this chapter.

20       (g) In addition to adopting, amending, or repealing rules  
21 under sections 456-1.5 and 456-8, the attorney general may



1 adopt, amend, or repeal rules pursuant to chapter 91 regarding  
2 the performance of notarial acts under this section, including:

3 (1) Prescribing the means of performing a notarial act  
4 involving a remotely located individual using  
5 communication technology;

6 (2) Establishing standards for communication technology  
7 and identity proofing;

8 (3) Establishing requirements and procedures to approve  
9 providers of communication technology and the process  
10 of identity proofing; and

11 (4) Establishing standards and a period of retention of an  
12 audiovisual recording created under this section.

13 (h) Before adopting, amending, or repealing a rule  
14 governing the performance of a notarial act with respect to a  
15 remotely located individual, the attorney general shall  
16 consider:

17 (1) The most recent standards regarding the performance of  
18 a notarial act with respect to a remotely located  
19 individual promulgated by national standard-setting  
20 organizations and the recommendations of the National  
21 Association of Secretaries of State;



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

4       (3) The views of governmental officials and entities and  
5            other interested persons.

6       (i) For purposes of this section:

7       "Communication technology" means an electronic device or  
8 process that:

9       (1) Allows a remote online notary public and a remotely  
10            located individual to communicate with each other  
11            simultaneously by sight and sound; and

12       (2) When necessary and consistent with other applicable  
13            laws, facilitates communication with a remotely  
14            located individual who has a vision, hearing, or  
15            speech impairment.

16       "Foreign state" means a jurisdiction other than the United  
17 States, a state of the United States, the District of Columbia,  
18 Puerto Rico, the United States Virgin Islands, any territory or  
19 insular possession subject to the jurisdiction of the United  
20 States, or a federally recognized Indian tribe.



1       "Identity proofing" means a process or service by which a  
2 third person provides a remote online notary public with a means  
3 to verify the identity of a remotely located individual by a  
4 review of personal information from public or private data  
5 sources.

6       "Outside the United States" means a location outside the  
7 geographic boundaries of the United States, Puerto Rico, the  
8 United States Virgin Islands, and any territory, insular  
9 possession, or other location subject to the jurisdiction of the  
10 United States.

11       "Remote online notary public" means an individual  
12 commissioned by the attorney general to perform notarial acts  
13 for remotely located individuals.

14       "Remotely located individual" means an individual who is  
15 not in the physical presence of the remote online notary public  
16 who performs a notarial act under this section.

17       §456-C Application; qualifications. (a) A notary public  
18 or an applicant for commission as a notary public may apply to  
19 the attorney general to be commissioned as a remote online  
20 notary public in the manner provided by this section.





1        (b) A person qualifies to be commissioned as a remote  
2 online notary public by:

3        (1) Satisfying the qualification requirements for  
4 commission as a notary public under this chapter;

5        (2) Paying the application fee; and

6        (3) Submitting to the attorney general an application in  
7 the form prescribed by the attorney general that  
8 satisfies to the attorney general that the applicant  
9 is qualified.

10       (c) The attorney general may charge a fee for an  
11 application submitted under this section in an amount necessary  
12 to administer this section.

13       (d) The communication technology selected by a remote  
14 online notary public to perform notarial acts shall conform to  
15 the attorney general's standards developed under this section.

16       (e) The remote online notary public under this chapter  
17 shall forthwith file a literal or photostatic copy of the  
18 person's commission with the clerk of the circuit court of the  
19 circuit in which the remote online notary public resides.

20       (f) An individual commissioned as a remote online notary  
21 public by the attorney general under this section is a notary



1 public for purposes of this chapter and is subject to the  
2 requirements, powers, and duties of a notary public under this  
3 chapter.

4 §456-D Notification regarding performance of notarial act  
5 on electronic record; selection of technology; acceptance of  
6 tangible copy of electronic record. (a) A notary public may  
7 select one or more tamper-evident technologies to perform  
8 notarial acts with respect to electronic documents. A person  
9 shall not require a notary public to perform a notarial act with  
10 respect to an electronic document with a technology that the  
11 notary public has not selected.

12 (b) Before a notary public performs the notary public's  
13 initial notarial act with respect to an electronic document, a  
14 notary public shall notify the attorney general that the notary  
15 public will be performing notarial acts with respect to  
16 electronic documents and identify the technology the notary  
17 public intends to use. The technology selected by a remote  
18 online notary public for remote online notarizations shall  
19 conform to the attorney general's standards developed for this  
20 chapter.



1        (c) The registrar of conveyances may accept for recording  
2 under chapter 502 a tangible copy of an electronic document  
3 containing a notarial certificate as satisfying any requirement  
4 that a document accepted for recording be an original, if the  
5 notary public executing the notarial certificate certifies that  
6 the tangible copy is an accurate copy of the electronic  
7 document.

8        §456-E Validity of notarial acts. Except as otherwise  
9 provided in section 456-14(b), the failure of a notary public to  
10 perform a duty or meet a requirement specified in this chapter  
11 does not validate or invalidate a notarial act performed by the  
12 notary public. The validity of a notarial act under this  
13 chapter does not prevent an aggrieved person from seeking to  
14 invalidate the document or transaction that is the subject of  
15 the notarial act or from seeking other remedies based on the  
16 laws of this State other than this chapter or based on the laws  
17 of the United States. This section does not validate a  
18 purported notarial act performed by a person who does not have  
19 the authority to perform notarial acts.

20        §456-F Relation to federal Electronic Signatures in Global  
21 and National Commerce Act. This chapter modifies, limits, and



1 supersedes the federal Electronic Signatures in Global and  
2 National Commerce Act, title 15 United States Code section 7001,  
3 et seq., but does not modify, limit, or supersede section 101(c)  
4 of that Act, title 15 United States Code section 7001(c), or  
5 authorize electronic delivery of any of the notices described in  
6 section 103(b) of that Act, title 15 United States Code section  
7 7003(b)."

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

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



1 notary public's commission, occupation, residence, or employment  
2 [~~which~~] that in the attorney general's judgment renders the  
3 holding of such commission by the notary public no longer  
4 necessary for the public good and convenience. Each notary  
5 public shall, upon any change in the [~~notary's office,~~] notary  
6 public's commission, occupation, residence, or employment,  
7 forthwith report the same to the 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,  
21 unless 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 upon oath or affirmation, witnessing or attesting  
15 a signature, certifying or attesting a copy, and noting a  
16 protest 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" means having an acquaintance, derived~~  
20 ~~from association with the individual, which establishes the~~  
21 ~~individual's identity with at least a reasonable certainty.]~~



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

8 (1) By means of:

9 (A) Having personal knowledge of the identify of an  
10 individual before the officer if the individual  
11 is personally known to the notary public through  
12 dealings sufficient to provide reasonable  
13 certainty that the individual has the identity  
14 claimed;

15 (B) A passport, driver's license, or  
16 government-issued non-driver identification card  
17 that is valid or expired no more than three years  
18 before the performance of the notarial act and  
19 contains the signature and photograph of the  
20 individual;





1           (C) Another form of government identification issued  
 2           to an individual that is valid or expired no more  
 3           than three years before performance of the  
 4           notarial act, contains the signature and  
 5           photograph of the individual, and is satisfactory  
 6           to the notary public; or

7           (D) By verification on oath or affirmation of a  
 8           credible witness personally appearing before the  
 9           notary public and known to the notary public or  
 10          whom the notary public can identify on the basis  
 11          of a passport, driver's license, or  
 12          government-issued non-driver identification card  
 13          that is valid or expired no more than three years  
 14          before performance of the notarial act; or

15          (2) By requiring an individual to provide additional  
 16          information or identification credentials necessary to  
 17          assure the notary public of the identity of the  
 18          individual.

19          "Sign" means, with present intent to authenticate or adopt  
 20          a document:

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

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

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

5        "Stamping device" means:

6        (1) A physical device capable of stamping or impressing  
7                    upon a tangible document a notary seal; or

8        (2) An electronic device or process capable of attaching  
9                    to or logically associating with an electronic  
10                   document a notary seal.

11       "Tamper-evident" means any changes to an electronic  
12 document that display evidence of the change.

13       "Verification on oath or affirmation" means a declaration,  
14 made by a person on oath or affirmation before a notary public,  
15 that a statement in a document is true."

16       SECTION 5. Section 456-2, Hawaii Revised Statutes, is  
17 amended to read as follows:

18       **"§456-2 Qualifications; oath.** Every person [~~appointed~~]  
19 commissioned as a notary public shall, at the time of the  
20 person's [~~appointment,~~] commission, be a resident of the State,  
21 possess the other qualifications required of [~~public officers~~] a



1 notary public and be at least eighteen years of age. Every  
2 person [~~appointed to that office~~], before being commissioned as  
3 a notary public, shall [~~, before entering thereon,~~] take and  
4 subscribe an oath for the faithful discharge of the person's  
5 duties, which oath shall be filed in the department of the  
6 attorney general."

7 SECTION 6. Section 456-3, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§456-3 Seal. Every notary public shall constantly keep  
10 [~~an engraved seal of office or~~] a rubber stamp [~~facsimile~~]  
11 notary seal which shall clearly show, when [~~embossed,~~]  
12 stamped[~~]~~ or impressed upon a tangible document [~~]~~ or when  
13 attached to or logically associated with an electronic document,  
14 only the [~~notary's~~] notary public's name, the [~~notary's~~] notary  
15 public's commission number, and the words, "notary public" and  
16 "State of Hawaii". The notary seal shall be capable of being  
17 copied together with the document to which it is stamped,  
18 impressed, or attached, or with which it is logically  
19 associated. The notary public shall authenticate all the  
20 [~~notary's~~] notary public's official acts, attestations,  
21 certificates, and instruments therewith, and shall always add to



1 an official signature the typed or printed name of the notary  
2 public and a statement showing the date that the [~~notary's~~]  
3 notary public's commission expires. Upon resignation, death,  
4 expiration of term of [~~office~~] commission without  
5 [~~reappointment,~~] renewal, or [~~removal from~~] revocation or  
6 abandonment of [~~office,~~] commission, the notary public, or in  
7 the case of the death of the notary public, the notary public's  
8 personal representative, shall immediately deliver the  
9 [~~notary's~~] notary public's seal to the attorney general who  
10 shall deface or destroy the same. [~~If any notary fails to~~  
11 ~~comply with this section within ninety days of the date of the~~  
12 ~~notary's resignation, expiration of term of office without~~  
13 ~~reappointment, or removal from or abandonment of office or if~~  
14 ~~the notary's personal representative fails to comply with this~~  
15 ~~section within ninety days of the notary's death, then the~~  
16 ~~notary public or the notary's personal representative shall~~  
17 ~~forfeit to the State not more than \$200, in the discretion of~~  
18 ~~the court, to be recovered in an action to be brought by the~~  
19 ~~attorney general on behalf of the State.] If a notary public  
20 has used an electronic stamping device, upon resignation, death,  
21 expiration of term of commission without renewal, or revocation~~



1 or abandonment of commission, the notary public, or in the case  
 2 of the death of the notary public, the notary public's personal  
 3 representative, shall disable the electronic stamping device by  
 4 destroying, defacing, damaging, erasing, or securing it against  
 5 use in a manner that renders it unusable and shall submit a  
 6 declaration to the attorney general that the electronic stamping  
 7 device was disabled and indicate the date and manner in which  
 8 the device was disabled."

9 SECTION 7. 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 as 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  
 18 as a 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 is not  
4 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 8. Section 456-5, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§456-5 Official bond. Each notary public forthwith and  
10 before entering upon the duties of the [~~notary's office~~] notary  
11 public's commission shall execute, at the [~~notary's~~] notary  
12 public's own expense, an official surety bond which shall be in  
13 the sum of \$1,000. Each bond shall be approved by a judge of  
14 the circuit court.

15 The obligee of each bond, or bond continuation certificate,  
16 shall be the State and the condition contained therein shall be  
17 that the notary public will well, truly, and faithfully perform  
18 all the duties of the [~~notary's office~~] notary public's  
19 commission which are then or may thereafter be required,  
20 prescribed, or defined by law or by any rule made under the  
21 express or implied authority of any statute, and all duties and



1 acts undertaken, assumed, or performed by the notary public by  
2 virtue or color of the [~~notary's office.~~] notary public's  
3 commission. The surety on any such bond, or bond continuation  
4 certificate, shall be a surety company authorized to do business  
5 in the State. After approval the bond, or bond continuation  
6 certificate, shall be deposited and kept on file in the office  
7 of the clerk of the circuit court of the judicial circuit in  
8 which the notary public resides. The clerk shall keep a book to  
9 be called the "bond record", in which the clerk shall record  
10 such data in respect to each of the bonds or bond continuation  
11 certificates deposited and filed in the clerk's office as the  
12 attorney general may direct."

13 SECTION 9. Section 456-7, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) A person commits the offense of unauthorized practice  
16 as a notary public if the person knowingly engages in or offers  
17 to engage in any duties of [~~the office of~~] a notary public  
18 without first complying with all of the following:

19 (1) Being [~~appointed and~~] commissioned as a notary public  
20 by the attorney general;



1 (2) Filing a copy of the person's commission, an  
 2 impression of the person's seal, and a specimen of the  
 3 person's official signature with the clerk of the  
 4 circuit court of the circuit in which the person  
 5 resides; and

6 (3) Executing an official surety bond pursuant to section  
 7 456-5."

8 SECTION 10. Section 456-8, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10 "§456-8 Rules. The attorney general, subject to chapter  
 11 91, may prescribe such rules as the attorney general deems  
 12 advisable concerning the administration of this chapter, the  
 13 [~~appointment~~] commission and duties of notaries public, [~~the~~  
 14 ~~duties of other officers thereunder,~~] and such measures as may  
 15 be necessary to prevent the fraudulent use of a notarized  
 16 document after placement of the [~~notary's~~] notary public's seal.  
 17 The rules shall have the force and effect of law."

18 SECTION 11. Section 456-9, Hawaii Revised Statutes, is  
 19 amended to read as follows:

20 "§456-9 Fees and administrative fines. (a) The attorney  
 21 general shall charge and collect the following fees for:





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

5 These fees may be adjusted, and any other fees may be  
6 established and adjusted, by adopting rules pursuant to chapter  
7 91.

8 (b) The court fees for filing a copy of a commission and  
9 for each certificate of authentication shall be specified by the  
10 supreme court.

11 (c) The attorney general may impose and collect the  
12 following administrative fines for a notary public's failure to:

- 13 (1) Maintain an official seal of [~~one type, either a~~  
14 ~~single engraved seal or~~] a single rubber stamp  
15 [~~faesimile~~] notary seal, on which shall be inscribed  
16 the name of the notary public, the commission number  
17 of the notary public, and the words "notary public"  
18 and "State of Hawaii" only, \$20;
- 19 (2) Surrender the notary public's [~~seal~~] physical stamping  
20 device and certificate to the attorney general within  
21 ninety days of resignation, [~~removal from office,~~]



1           revocation of commission, or the expiration of a term  
2           without renewal, \$200;

3           (3) Disable the notary public's electronic stamping device  
4           within ninety days of resignation, revocation of  
5           commission, or the expiration of a term without  
6           renewal, \$200;

7           ~~[(3)]~~ (4) Authenticate every acknowledgment or jurat with a  
8           certificate that shall be signed and dated by the  
9           notary~~[-]~~ public, include the printed name and  
10          official stamp or seal of the notary~~[-]~~ public, and  
11          identify the jurisdiction in which the notarial act is  
12          performed, ~~[describe in close proximity to the~~  
13          ~~acknowledgment or jurat the document being notarized,~~  
14          ~~and state the number of pages and date of the~~  
15          ~~document,]~~ \$500;

16          ~~[(4)]~~ (5) ~~[Reeord]~~ Chronicle all of the notary public's  
17          ~~[transaactions]~~ notarial acts as prescribed by section  
18          456-15 and applicable rules, \$200; and

19          ~~[(5)]~~ ~~Surrender the notary public's record books to the~~  
20          ~~attorney general within ninety days of the end date of~~



1           ~~the commission, resignation, or removal from office,~~  
2           ~~\$500, and]~~

3           (6) Notify the attorney general within ten days after  
4           loss, misplacement, or theft of the notary public's  
5           ~~[seal, stamp,]~~ stamping device or any ~~[record book,]~~  
6           journal, inform the appropriate law enforcement agency  
7           in the case of theft, and deliver a copy of the law  
8           enforcement agency's report of the theft to the  
9           attorney general, \$20.

10          (d) The ~~[foregoing]~~ moneys collected by the attorney  
11          general pursuant to this section shall be deposited into the  
12          notaries public revolving fund established by section 456-9.5,  
13          except that if that fund is terminated, the ~~[foregoing]~~ moneys  
14          shall thereafter be deposited with the director of finance to  
15          the credit of the general fund.

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

18          SECTION 12. Section 456-9.5, Hawaii Revised Statutes, is  
19          amended by amending subsection (a) to read as follows:

20          "(a) There is established in the state treasury the  
21          notaries public revolving fund into which shall be deposited:



- 1 (1) All fees, administrative fines, charges, or other  
2 payments received pursuant to section 456-9;
- 3 (2) Penalties and fines for violations of section 456-3 [~~7~~]  
4 or 456-7 [~~7~~ ~~or~~ ~~456-16~~];
- 5 (3) Appropriations made for deposit into the notaries  
6 public revolving fund; and
- 7 (4) Interest earned on money in the notaries public  
8 revolving fund."

9 SECTION 13. Section 456-14, Hawaii Revised Statutes, is  
10 amended to read as follows:

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

- 15 (1) A notary public may perform a notarial act authorized  
16 by this chapter or by the laws of this State; and
- 17 (2) It shall be lawful for any notary public, although an  
18 officer, employee, shareholder, or director of a  
19 corporation or trust company to take the  
20 acknowledgment of any party to any written instrument  
21 executed to or by the corporation or trust company, or



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

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

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

20 SECTION 14. Section 456-15, Hawaii Revised Statutes, is  
21 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 notary  
6 public shall maintain a journal in which the notary public  
7 chronicles all notarial acts that the notary public performs.  
8 The notary public shall retain the journal for ten years after  
9 the performance of the last notarial act chronicled in the  
10 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 at a time to chronicle all notarial acts  
14 performed regarding tangible documents and one electronic  
15 journal at a time to chronicle all notarial acts performed  
16 regarding electronic documents. If the journal is maintained on  
17 a tangible medium, it shall be a permanent, bound register with  
18 numbered pages. If the journal is maintained in an electronic  
19 format, it shall be in a permanent, tamper-evident electronic  
20 format complying with the rules of the attorney general.



1       (c) A notary public having the care and custody of the  
2 journal may cause the same to be photographed,  
3 microphotographed, reproduced on film, or copied to an  
4 electronic format. Any device or electronic storage system used  
5 to copy or reproduce the journal shall accurately reflect the  
6 information in the original thereof in all details.

7       (d) A photograph, microphotograph, reproduction on film,  
8 or electronic copy of a journal shall be deemed to be an  
9 original record for all purposes, including introduction in  
10 evidence in all courts or administrative agencies. A  
11 transcript, exemplification, facsimile, or certified copy  
12 thereof, for all purposes recited in this section, shall be  
13 deemed to be a transcript, exemplification, facsimile, or  
14 certified copy of the original record.

15       (e) An entry in a journal shall be made contemporaneously  
16 with performance of the notarial act and contain the following  
17 information:

- 18       (1) The type, date, and time of day of the notarial act;
- 19       (2) The title or type and date of the document or
- 20             proceeding and the nature of the act, transaction, or
- 21             thing to which the document relates;



1           (3) The ~~[signature,]~~ full printed name~~[,]~~ and address of  
2           each person whose signature is notarized and of each  
3           witness~~[,]~~ and, if the journal is maintained in a  
4           tangible medium, the signature of each such person;

5           (4) ~~[Other parties to the instrument; and]~~ If the  
6           identity of the person is based on personal knowledge,  
7           a statement to that effect;

8           (5) ~~[The manner in which the signer was identified.]~~ If  
9           the identity of the person is based on satisfactory  
10          evidence, a brief description of the method of  
11          identification and the identification credential  
12          presented, if any, including the identification number  
13          and date of expiration of any identification  
14          credentials; and

15          (6) The fee, if any, charged by the notary public.

16          (f) If a notary public's journal is lost or stolen, the  
17          notary public shall promptly notify the attorney general on  
18          discovering that the journal is lost or stolen.

19          (g) On resignation from, or the expiration, revocation, or  
20          suspension of, a notary public's commission, the notary public  
21          shall retain the notary public's journal in accordance with this





1 section and inform the attorney general where the journal is  
2 located.

3 (h) On the death or adjudication of incompetency of a  
4 current or former notary public, the notary public's personal  
5 representative or guardian or any other person knowingly in  
6 possession of the journal shall transmit it to the attorney  
7 general or a repository approved by the attorney general.

8 (i) All copies or certificates granted by the notary  
9 public shall be under the [notary's] notary public's hand and  
10 notary seal and shall be received as evidence of such  
11 transactions.

12 (j) The journals are subject to such reasonable periodic,  
13 special, or other audits or inspections by the department of the  
14 attorney general, within or without this State, as the attorney  
15 general considers necessary or appropriate. An audit or  
16 inspection may be made at any time and without prior notice.  
17 The department of the attorney general may copy, and remove for  
18 audit or inspection copies of, all records the department of the  
19 attorney general reasonably considers necessary or appropriate  
20 to conduct the audit or inspection. If any notary public fails  
21 to comply with this section, the notary public shall be subject



1 to an administrative fine of no less than \$50 nor more than  
2 \$500. All unpaid fees, fines, and forfeitures shall constitute  
3 a debt due and owing to the State."

4 SECTION 15. Section 456-17, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§456-17 Fees. Subject to section 456-18, every notary  
7 public is entitled to demand and receive the following fees:

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

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

10 For noting any other protest, \$5;

11 For every notice thereof, and certified copy of protest,  
12 \$5;

13 For every deposition, or official certificate, \$5;

14 For the administration of oath, including the certificate  
15 of the oath, \$5; for affixing the certificate of the oath to  
16 every duplicate original instrument beyond four, \$2.50;

17 For taking any acknowledgment, \$5 for each party signing;  
18 for affixing to every duplicate original beyond one of any  
19 instrument acknowledged before the notary[-] public, the  
20 [~~notary's~~] notary public's certificate of the acknowledgment,  
21 \$2.50 for each person making the acknowledgment [-] and



1        For any of the foregoing notarial acts performed for a  
2 remotely located individual under section 456-B, other than  
3 affixing a notary public's certificate to a duplicate original,  
4 \$25."

5        SECTION 16. Section 456-19, Hawaii Revised Statutes, is  
6 amended to read as follows:

7        "[+]§456-19[+] Notary public signing for disabled person.

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

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



1           "(a) A person commits the offense of failure to verify  
2 identity [~~and signature~~] if the person is a commissioned notary  
3 public and knowingly notarizes a document and[+]

4           ~~(1) If] if a witness to the signing of the instrument,~~  
5           fails to verify the identity of the signer by  
6           ~~[personally knowing the signer or by comparing the~~  
7           ~~personal appearance of the signer with satisfactory~~  
8           ~~proof of the signer's identity; or~~

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



1 SECTION 18. Section 456-21, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[+] §456-21 [+~~ **Failure to authenticate with a**  
4 **certification statement.** (a) A person commits the offense of  
5 failure to authenticate with a certification statement if the  
6 person is a commissioned notary public and knowingly ~~[notarizes]~~  
7 performs a notarial act with respect to a document and fails to  
8 include any of the following in the notary certification:

- 9 (1) Date of notarization and signature of the notary  
10 public;
- 11 (2) The printed name, date of expiration, and stamp or  
12 seal of the notary public; and
- 13 (3) Identification of the jurisdiction in which the  
14 notarial act is performed~~[-~~
- 15 ~~(4) Identification or description of the document being~~  
16 ~~notarized, placed in close proximity to the~~  
17 ~~acknowledgment or jurat; and~~
- 18 ~~(5) A statement of the number of pages and date of the~~  
19 ~~document].~~

20 (b) If a notarial act regarding a tangible record is  
21 performed by a notary public, an official stamp shall be



1 stamped, impressed, or attached on the certificate. If a  
2 notarial act is performed regarding a tangible record by a  
3 notary public and the certificate contains the information  
4 specified in this section, an official stamp shall be affixed to  
5 the certificate. If a notarial act regarding an electronic  
6 record is performed by a notary public and the certificate  
7 contains the information specified in this section, an official  
8 stamp shall be attached to or logically associated with the  
9 certificate.

10 [~~b~~] (c) Any person who violates this section shall be  
11 guilty of a misdemeanor and shall be sentenced in accordance  
12 with chapter 706.

13 [~~e~~] (d) A conviction under this section shall result in  
14 the automatic revocation of the notary public's commission."

15 SECTION 19. Section 502-42, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§502-42 Certificate, contents.** The certificate of  
18 acknowledgment shall state in substance that the person who  
19 executed the instrument appeared before the [~~officer~~] notary  
20 public granting the certificate and acknowledged or stated that  
21 the person executed the same, and that such person was



1 personally known to the [~~officer~~] notary public granting such  
2 certificate to be the person whose name is subscribed to the  
3 instrument as a party thereto, or was proved to be such by the  
4 oath or affirmation of a credible witness known to the [~~officer~~]  
5 notary public whose name shall be inserted in the certificate[~~-~~]  
6 or by other satisfactory evidence of identity under the laws of  
7 this State. If the person who executed the instrument appeared  
8 before a notary public as a remotely located individual under  
9 section 456-B, then the certificate shall indicate that the  
10 notarial act was performed using communication technology in a  
11 manner provided in section 456-B. It shall not be ground for  
12 the rejection of any such certificate, or for refusing to accept  
13 such instrument for record or in evidence, that the certificate  
14 fails to state that the person making the acknowledgment stated  
15 or acknowledged that the instrument was executed freely or  
16 voluntarily by the person or as the person's free act and deed."

17 SECTION 20. Section 502-48, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§502-48 Identification of person making. No  
20 acknowledgment of any conveyance or other instrument, except as  
21 provided by this chapter, whereby any real estate is conveyed or



1 may be affected, shall be taken, unless the person offering to  
2 make the acknowledgment is personally known to the [~~officer~~]  
3 notary public taking the acknowledgment to be the person whose  
4 name is subscribed to the conveyance or instrument as a party  
5 thereto, or is proved to be such by the oath or affirmation of a  
6 credible witness known to the [~~officer~~] notary public, or by  
7 production of a [~~current~~] valid identification card or document  
8 issued by the United States, this State, any other state, or a  
9 national government that contains the bearer's photograph and  
10 signature[-], or by obtaining satisfactory evidence of identity  
11 of a remotely located individual under section 456-B."

12 SECTION 21. Section 502-72, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§502-72 **Disposition of records.** [~~Except as otherwise~~  
15 ~~provided in respect to notaries public by section 456-16, the]~~  
16 The books of record so kept shall every five years, and upon the  
17 resignation, death, or removal from office of such judge or  
18 other officer, be deposited with the clerk of the circuit court  
19 of the judicial circuit for and in which the judge or other  
20 officer was or is authorized to act."





1 SECTION 22. Section 456-16, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§456-16 Disposition of records, penalty. The records of~~  
4 ~~each notary public shall be deposited with the office of the~~  
5 ~~attorney general upon the resignation, death, expiration of each~~  
6 ~~term of office, or removal from or abandonment of office. If~~  
7 ~~any notary fails to comply with this section within ninety days~~  
8 ~~of the date of the resignation, expiration of any term of~~  
9 ~~office, or removal from or abandonment of office or if the~~  
10 ~~notary's personal representative fails to comply with this~~  
11 ~~section within ninety days of the notary's death, then the~~  
12 ~~notary or the notary's personal representative shall forfeit to~~  
13 ~~the State not less than \$50 nor more than \$500, in the~~  
14 ~~discretion of the court, in an action brought by the attorney~~  
15 ~~general on behalf of the State."~~]

16 SECTION 23. This Act does not affect rights and duties  
17 that matured, penalties that were incurred, and proceedings that  
18 were begun before its effective date.

19 SECTION 24. In codifying the new sections added by section  
20 2 and referenced in sections 15, 17, 19, and 20 of this Act, the  
21 revisor of statutes shall substitute appropriate section numbers



1 for the letters used in designating the new sections in this  
2 Act.

3 SECTION 25. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 26. This Act shall take effect on July 1, 2050.



**Report Title:**

Notaries Public

**Description:**

Updates the laws regarding notaries public to conform to the Revised Uniform Law on Notarial Acts (2018), the Hawaii Uniform Electronic Transactions Act, other state notary laws, and current notary practices. Takes effect on 7/1/2050. (HD1)

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

