
A BILL FOR AN ACT

RELATING TO NOTARIAL ACTS.

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;

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

16 (3) The notary public has proof of the signer's signature
17 and identity or, if the person is a remotely located



1 individual, satisfactory evidence of the identity
2 under section 456-B.

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

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

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

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



1 before the remote online notary public under this
2 chapter; or
3 (C) Has obtained satisfactory evidence of the
4 identity of the remotely located individual by
5 using at least two different types of identity
6 proofing;
7 (2) The remote online notary public is reasonably able to
8 confirm that a document before the remote online
9 notary public is the same document in which the
10 remotely located individual made a statement or on
11 which the remotely located individual executed a
12 signature;
13 (3) The remote online notary public, or a person acting on
14 behalf of the remote online notary public, creates an
15 audiovisual recording of the performance of the
16 notarial act; and
17 (4) For a remotely located individual located outside the
18 United States:
19 (A) The document:
20 (i) Is to be filed with or relates to a matter
21 before a public official or court,



1 governmental entity, or other entity subject
2 to the jurisdiction of the United States;

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

7 (iii) Involves a transaction with a bank whose
8 deposits are insured by the Federal Deposit
9 Insurance Corporation, including such banks
10 located in the Federated States of
11 Micronesia, Republic of the Marshall
12 Islands, or Republic of Palau; and

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

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

20 (d) A form of certificate of notarial act subject to this
21 section and authorized by the laws of this State, including a



1 certificate of acknowledgment provided in section 502-41, is
2 sufficient if it:

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

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

6 "This notarial act involved the use of communication
7 technology".

8 (e) A remote online notary public, guardian, conservator,
9 or agent of a remote online notary public, or a personal
10 representative of a deceased notary public shall retain the
11 audiovisual recording created under this section or cause the
12 recording to be retained by a repository designated by or on
13 behalf of the person required to retain the recording. Unless a
14 different period is required by rule adopted under this section,
15 the recording shall be retained for a period of at least ten
16 years after the recording is made.

17 (f) Before a remote online notary public performs the
18 remote online notary public's initial notarial act under this
19 section, the remote online notary public shall notify the
20 attorney general that the remote online notary public will be
21 performing notarial acts with respect to remotely located



1 individuals and identify the technologies that the remote online
2 notary public intends to use. The technology selected by a
3 remote online notary public to perform notarial acts for
4 remotely located individuals shall conform to the attorney
5 general's standards developed for this chapter.

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

- 10 (1) Prescribing the means of performing a notarial act
11 involving a remotely located individual using
12 communication technology;
- 13 (2) Establishing standards for communication technology
14 and identity proofing;
- 15 (3) Establishing requirements and procedures to approve
16 providers of communication technology and the process
17 of identity proofing; and
- 18 (4) Establishing standards and a period of retention of an
19 audiovisual recording created under this section.
- 20 (h) Before adopting, amending, or repealing a rule
21 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 (i) For purposes of this section:

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

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

19 (2) When necessary and consistent with other applicable
20 laws, facilitates communication with a remotely



1 located individual who has a vision, hearing, or
2 speech 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 remote online notary public with a means
10 to verify the identity of a remotely located individual by a
11 review of personal information from public or private data
12 sources.

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

18 "Remote online notary public" means an individual
19 commissioned by the attorney general to perform notarial acts
20 for remotely located individuals.



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

4 §456-C Application; qualifications. (a) A notary public
5 or an applicant for commission as a notary public may apply to
6 the attorney general to be commissioned as a remote online
7 notary public in the manner provided by this section.

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

- 10 (1) Satisfying the qualification requirements for
11 commission as a notary public under this chapter;
- 12 (2) Paying the application fee; and
- 13 (3) Submitting to the attorney general an application in
14 the form prescribed by the attorney general that
15 satisfies to the attorney general that the applicant
16 is qualified.

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



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

4 (e) An individual commissioned as a remote online notary
5 public under this section shall forthwith file a literal or
6 photostatic copy of their commission with the clerk of the
7 circuit court of the circuit in which the remote online notary
8 public resides.

9 (f) An individual commissioned as a remote online notary
10 public under this section is a notary public for purposes of
11 this chapter and is subject to the requirements, powers, and
12 duties of a notary public under this chapter.

13 **§456-D Notification regarding performance of notarial act**
14 **on electronic record; selection of technology; acceptance of**
15 **tangible copy of electronic record.** (a) A notary public may

16 select one or more tamper-evident technologies to perform
17 notarial acts with respect to electronic documents. A person
18 shall not require a notary public to perform a notarial act with
19 respect to an electronic document with a technology that the
20 notary public has not selected.



1 (b) Before a notary public performs the notary public's
2 initial notarial act with respect to an electronic document, the
3 notary public shall notify the attorney general that the notary
4 public will be performing notarial acts with respect to
5 electronic documents and identify the technology the notary
6 public intends to use. The technology selected by a remote
7 online notary public for remote online notarizations shall
8 conform to the attorney general's standards developed for this
9 chapter.

10 (c) The registrar of conveyances may accept for recording
11 under chapter 502 a tangible copy of an electronic document
12 containing a notarial certificate as satisfying any requirement
13 that a document accepted for recording be an original, if the
14 notary public executing the notarial certificate certifies that
15 the tangible copy is an accurate copy of the electronic
16 document.

17 §456-E Validity of notarial acts. Except as otherwise
18 provided in section 456-14(b), the failure of a notary public to
19 perform a duty or meet a requirement specified in this chapter
20 does not validate or invalidate a notarial act performed by the
21 notary public. The validity of a notarial act under this



1 chapter does not prevent an aggrieved person from seeking to
2 invalidate the document or transaction that is the subject of
3 the notarial act or from seeking other remedies based on the
4 laws of this State other than this chapter or based on the laws
5 of the United States. This section does not validate a
6 purported notarial act performed by a person who does not have
7 the authority to perform notarial acts.

8 §456-F Relation to federal Electronic Signatures in Global
9 and National Commerce Act. This chapter modifies, limits, and
10 supersedes the federal Electronic Signatures in Global and
11 National Commerce Act, title 15 United States Code section 7001,
12 et seq., but does not modify, limit, or supersede section 101(c)
13 of that Act, title 15 United States Code section 7001(c), or
14 authorize electronic delivery of any of the notices described in
15 section 103(b) of that Act, title 15 United States Code section
16 7003(b)."

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

19 "§456-1 [~~Appointment;~~] Commission; renewal. (a) The
20 attorney general may, in the attorney general's discretion,
21 [~~appoint and~~] commission such number of notaries public for the



1 State as the attorney general deems necessary for the public
2 good and convenience. The term of [~~office~~] commission of a
3 notary public shall be four years from the date of the
4 [~~notary's~~] notary public's commission, unless sooner removed by
5 the attorney general for cause after [~~due~~] the opportunity for
6 hearing; provided that after [~~due~~] the opportunity for hearing
7 the commission of a notary public may be revoked or the notary
8 public may be otherwise disciplined by the attorney general in
9 any case where any change occurs in the [~~notary's office,~~]
10 notary public's commission, occupation, residence, or employment
11 [~~which~~] that in the attorney general's judgment renders the
12 holding of such commission by the notary public no longer
13 necessary for the public good and convenience. Each notary
14 public shall, upon any change in the [~~notary's office,~~] notary
15 public's commission, occupation, residence, or employment,
16 forthwith report the same to the attorney general.

17 (b) Each notary public shall be responsible for renewing
18 the notary public's commission on a timely basis and satisfying
19 the renewal requirements provided by law. The failure to renew
20 a commission in a timely manner [~~may~~] shall cause the commission
21 to be forfeited[, ~~if the attorney general finds that the failure~~



1 ~~was done knowingly~~]; provided that a forfeited commission may be
2 restored by the attorney general within one year after the date
3 of forfeiture upon compliance with the commission renewal
4 requirements provided by law and upon written application and
5 payment of all applicable fees."

6 SECTION 4. Section 456-1.6, Hawaii Revised Statutes, is
7 amended as follows:

8 1. Adding twelve new definitions to be appropriately
9 inserted and to read:

10 "Acknowledgment" means a declaration by a person before a
11 notary public that the person has signed a document for the
12 purpose stated in the document and, if the document is signed in
13 a representative capacity, that the person signed the document
14 with proper authority and signed it as the act of the person or
15 entity identified in the document.

16 "Document" means information that is inscribed on a
17 tangible medium or that is stored in an electronic or other
18 medium and is retrievable in perceivable form.

19 "Electronic" means relating to technology having
20 electrical, digital, magnetic, wireless, optical,
21 electromagnetic, or similar capabilities.



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

5 "In a representative capacity" means acting as:

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

9 (2) A public officer, personal representative, guardian,
10 or other representative, in the capacity stated in a
11 document;

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

13 (4) An authorized representative of another in any other
14 capacity.

15 "Notarial act" means an act, whether performed with respect
16 to a tangible or electronic document, that a notary public may
17 perform under the laws of this State. "Notarial act" includes
18 taking an acknowledgment, administering an oath or affirmation,
19 taking a verification upon oath or affirmation, witnessing or
20 attesting a signature, certifying or attesting a copy, and
21 noting a protest of a negotiable instrument.



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

3 "Sign" means, with present intent to authenticate or adopt
4 a document:

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

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

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

10 "Stamping device" means:

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

13 (2) An electronic device or process capable of attaching
14 to or logically associating with an electronic
15 document a notary seal.

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

18 "Verification on oath or affirmation" means a declaration,
19 made by a person on oath or affirmation before a notary public,
20 that a statement in a document is true."



1 2. By amending the definition of "proof of the signer's
2 signature and identity" to read:

3 ""Proof of the signer's signature and identity" means
4 ~~[proof evidenced by production of a current identification card~~
5 ~~or 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) Having personal knowledge of the identify of an
12 individual before the officer if the individual
13 is personally known to the notary public through
14 dealings sufficient to provide reasonable
15 certainty that the individual has the identity
16 claimed;

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



1 contains the signature and photograph of the
2 individual;

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

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

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

21 3. By repealing the definition of "personally knowing".



1 ~~["Personally knowing" means having an acquaintance, derived~~
2 ~~from association with the individual, which establishes the~~
3 ~~individual's identity with at least a reasonable certainty."]~~

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

6 "**§456-2 Qualifications; oath.** Every person [appointed]
7 commissioned as a notary public shall, at the time of the
8 person's [appointment,] commission, be a resident of the State,
9 possess the other qualifications required of [public officers] a
10 notary public and be at least eighteen years of age. Every
11 person [appointed to that office], before being commissioned as
12 a notary public, shall [~~before entering thereon,~~] take and
13 subscribe an oath for the faithful discharge of the person's
14 duties, which oath shall be filed in the department of the
15 attorney general."

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

18 "**§456-3 Seal.** Every notary public shall constantly keep
19 [an engraved seal of office or] a rubber stamp [facsimile]
20 notary seal which shall clearly show, when [embossed,]
21 stamped[~~]~~ or impressed upon a tangible document [~~]~~ or when



1 attached to or logically associated with an electronic document,
2 only the [notary's] notary public's name, the [notary's] notary
3 public's commission number, and the words, "notary public" and
4 "State of Hawaii". The notary seal shall be capable of being
5 copied together with the document to which it is stamped,
6 impressed, or attached, or with which it is logically
7 associated. The notary public shall authenticate all the
8 [notary's] notary public's official acts, attestations,
9 certificates, and instruments therewith, and shall always add to
10 an official signature the typed or printed name of the notary
11 public and a statement showing the date that the [notary's]
12 notary public's commission expires. Upon resignation, death,
13 expiration of term of [office] commission without
14 [~~reappointment,~~] renewal, or [~~removal from~~] revocation or
15 abandonment of [office,] commission, the notary public, or in
16 the case of the death of the notary public, the notary public's
17 personal representative, shall immediately deliver the
18 [notary's] notary public's seal to the attorney general who
19 shall deface or destroy the same. [~~If any notary fails to~~
20 ~~comply with this section within ninety days of the date of the~~
21 ~~notary's resignation, expiration of term of office without~~



1 ~~reappointment, or removal from or abandonment of office or if~~
2 ~~the notary's personal representative fails to comply with this~~
3 ~~section within ninety days of the notary's death, then the~~
4 ~~notary public or the notary's personal representative shall~~
5 ~~forfeit to the State not more than \$200, in the discretion of~~
6 ~~the court, to be recovered in an action to be brought by the~~
7 ~~attorney general on behalf of the State.] If a notary public has
8 used an electronic stamping device, upon resignation, death,
9 expiration of term of commission without renewal, or revocation
10 or abandonment of commission, the notary public, or in the case
11 of the death of the notary public, the notary public's personal
12 representative, shall disable the electronic stamping device by
13 destroying, defacing, damaging, erasing, or securing it against
14 use in a manner that renders it unusable and shall submit a
15 declaration to the attorney general that the electronic stamping
16 device was disabled and indicate the date and manner in which
17 the device was disabled."~~

18 SECTION 7. Section 456-4, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§456-4 Filing copy of commission; authentication of acts.

21 (a) Each person [~~appointed and~~] commissioned as a notary public



1 under this chapter shall forthwith file a literal or photostatic
2 copy of the person's commission, an impression of the person's
3 tangible seal, and a specimen of the person's official signature
4 with the clerk of the circuit court of the circuit in which the
5 notary public resides. Each person [~~appointed and~~] commissioned
6 as a notary public under this chapter may also, at the person's
7 option, file the above-named documents with the clerk of any
8 other circuit court. Thereafter any clerk, when [~~thereunto~~]
9 requested, shall certify to the official character and acts of
10 any such notary public whose commission, impression of tangible
11 seal, and specimen of official signature [~~is~~] are so filed in
12 the clerk's office. A notary public's electronic seal is not
13 subject to the requirements of this section.

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

16 SECTION 8. Section 456-5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§456-5 Official bond.** Each notary public forthwith and
19 before entering upon the duties of the [~~notary's office~~] notary
20 public's commission shall execute, at the [~~notary's~~] notary
21 public's own expense, an official surety bond which shall be in



1 the sum of \$1,000. Each bond shall be approved by a judge of
2 the circuit court.

3 The obligee of each bond, or bond continuation certificate,
4 shall be the State and the condition contained therein shall be
5 that the notary public will well, truly, and faithfully perform
6 all the duties of the [~~notary's office~~] notary public's
7 commission which are then or may thereafter be required,
8 prescribed, or defined by law or by any rule made under the
9 express or implied authority of any statute, and all duties and
10 acts undertaken, assumed, or performed by the notary public by
11 virtue or color of the [~~notary's office.~~] notary public's
12 commission. The surety on any such bond, or bond continuation
13 certificate, shall be a surety company authorized to do business
14 in the State. After approval the bond, or bond continuation
15 certificate, shall be deposited and kept on file in the office
16 of the clerk of the circuit court of the judicial circuit in
17 which the notary public resides. The clerk shall keep a book to
18 be called the "bond record", in which the clerk shall record
19 such data in respect to each of the bonds or bond continuation
20 certificates deposited and filed in the clerk's office as the
21 attorney general may direct."



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

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

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

9 (2) Filing a copy of the person's commission, an
10 impression of the person's seal, and a specimen of the
11 person's official signature with the clerk of the
12 circuit court of the circuit in which the person
13 resides; and

14 (3) Executing an official surety bond pursuant to section
15 456-5."

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

18 "~~§456-8~~ **Rules.** The attorney general, subject to chapter
19 91, may prescribe such rules as the attorney general deems
20 advisable concerning the administration of this chapter, the
21 [~~appointment~~] commission and duties of notaries public, [~~the~~



1 ~~duties of other officers thereunder,~~] and such measures as may
2 be necessary to prevent the fraudulent use of a notarized
3 document after placement of the [~~notary's~~] notary public's seal.
4 The rules shall have the force and effect of law."

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

7 "**§456-9 Fees and administrative fines.** (a) The attorney
8 general shall charge and collect the following fees for:

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

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

16 (b) The court fees for filing a copy of a commission and
17 for each certificate of authentication shall be specified by the
18 supreme court.

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



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



1 ~~acknowledgment or jurat the document being notarized,~~
2 ~~and state the number of pages and date of the~~
3 ~~document,~~] \$500;

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

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

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

18 (d) The [~~foregoing~~] moneys collected by the attorney
19 general pursuant to this section shall be deposited into the
20 notaries public revolving fund established by section 456-9.5,
21 except that if that fund is terminated, the [~~foregoing~~] moneys



1 shall thereafter be deposited with the director of finance to
2 the credit of the general fund.

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

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

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

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

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

19 "\$456-14 [~~Notary~~] Authority to perform notarial act;
20 notary public connected with a corporation or trust company[7



1 ~~authority to act~~]. (a) Except as otherwise provided in
2 subsection (b):

3 (1) A notary public may perform a notarial act authorized
4 by this chapter or by the laws of this State; and

5 (2) It shall be lawful for any notary public, although an
6 officer, employee, shareholder, or director of a
7 corporation or trust company to take the
8 acknowledgment of any party to any written instrument
9 executed to or by the corporation or trust company, or
10 to administer an oath to any shareholder, director,
11 officer, employee, or agent of the corporation or
12 trust company, or to protest for nonacceptance or
13 nonpayment of bills of exchange, drafts, checks,
14 notes, and other negotiable instruments [~~which~~] that
15 may be owned or held for collection by the corporation
16 or trust company[~~;~~ ~~provided it shall be unlawful for~~
17 ~~any notary public to take the acknowledgment of any~~
18 ~~party to an instrument, or to protest any negotiable~~
19 ~~instrument, where the notary is individually a party~~
20 ~~to the instrument)].~~



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

6 (c) A notary public may certify that a tangible copy of an
7 electronic document is an accurate copy of the electronic
8 document."

9 SECTION 14. Section 456-15, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~§456-15 [Record,] Journal; copies as evidence. [Every~~
12 ~~notary public shall record at length in a book of records all~~
13 ~~acts, protests, depositions, and other things, by the notary~~
14 ~~noted or done in the notary's official capacity. For each~~
15 ~~official act, the notary shall enter in the book:]~~ (a) A notary
16 public shall maintain a journal in which the notary public
17 chronicles all notarial acts that the notary public performs.
18 The notary public shall retain the journal for ten years after
19 the performance of the last notarial act chronicled in the
20 journal.



1 (b) A journal may be created on a tangible medium or in an
2 electronic format. A notary public shall maintain only one
3 tangible journal at a time to chronicle all notarial acts
4 performed regarding tangible documents and one electronic
5 journal at a time to chronicle all notarial acts performed
6 regarding electronic documents. If the journal is maintained on
7 a tangible medium, it shall be a permanent, bound register with
8 numbered pages. If the journal is maintained in an electronic
9 format, it shall be in a permanent, tamper-evident electronic
10 format complying with the rules of the attorney general.

11 (c) A notary public having the care and custody of the
12 journal may cause the same to be photographed,
13 microphotographed, reproduced on film, or copied to an
14 electronic format. Any device or electronic storage system used
15 to copy or reproduce the journal shall accurately reflect the
16 information in the original thereof in all details.

17 (d) A photograph, microphotograph, reproduction on film,
18 or electronic copy of a journal shall be deemed to be an
19 original record for all purposes, including introduction in
20 evidence in all courts or administrative agencies. A
21 transcript, exemplification, facsimile, or certified copy



1 thereof, for all purposes recited in this section, shall be
2 deemed to be a transcript, exemplification, facsimile, or
3 certified copy of the original record.

4 (e) An entry in a journal shall be made contemporaneously
5 with performance of the notarial act and contain the following
6 information:

- 7 (1) The type, date, and time of day of the notarial act;
- 8 (2) The title or type and date of the document or
9 proceeding and the nature of the act, transaction, or
10 thing to which the document relates;
- 11 (3) The [~~signature,~~] full printed name [~~,~~] and address of
12 each person whose signature is notarized and of each
13 witness [~~,~~] and, if the journal is maintained in a
14 tangible medium, the signature of each such person;
- 15 (4) [~~Other parties to the instrument; and~~] If the identity
16 of the person is based on personal knowledge, a
17 statement to that effect;
- 18 (5) [~~The manner in which the signer was identified.~~] If
19 the identity of the person is based on satisfactory
20 evidence, a brief description of the method of
21 identification and the identification credential



1 presented, if any, including the identification number
2 and date of expiration of any identification
3 credentials; and

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

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

8 (g) On resignation from, or the expiration, revocation, or
9 suspension of, a notary public's commission, the notary public
10 shall retain the notary public's journal in accordance with this
11 section and inform the attorney general where the journal is
12 located.

13 (h) On the death or adjudication of incompetency of a
14 current or former notary public, the notary public's personal
15 representative or guardian or any other person knowingly in
16 possession of the journal shall transmit it to the attorney
17 general or a repository approved by the attorney general.

18 (i) All copies or certificates granted by the notary
19 public shall be under the [~~notary's~~] notary public's hand and
20 notary seal and shall be received as evidence of such
21 transactions.



1 (j) The journals are subject to such reasonable periodic,
2 special, or other audits or inspections by the department of the
3 attorney general, within or without this State, as the attorney
4 general considers necessary or appropriate. An audit or
5 inspection may be made at any time and without prior notice.
6 The department of the attorney general may copy, and remove for
7 audit or inspection copies of, all records the department of the
8 attorney general reasonably considers necessary or appropriate
9 to conduct the audit or inspection. If any notary public fails
10 to comply with this section, the notary public shall be subject
11 to an administrative fine of no less than \$50 nor more than
12 \$500. All unpaid fees, fines, and forfeitures shall constitute
13 a debt due and owing to the State."

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

16 "**§456-17 Fees.** Subject to section 456-18, every notary
17 public is entitled to demand and receive the following fees:

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

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

20 For noting any other protest, \$5;



1 For every notice thereof, and certified copy of protest,
2 \$5;

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

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

7 For taking any acknowledgment, \$5 for each party signing;
8 for affixing to every duplicate original beyond one of any
9 instrument acknowledged before the notary~~[-]~~ public, the
10 ~~[notary's]~~ notary public's certificate of the acknowledgment,
11 \$2.50 for each person making the acknowledgment~~[-]~~; and

12 For any of the foregoing notarial acts performed for a
13 remotely located individual under section 456-B, other than
14 affixing a notary public's certificate to a duplicate original,
15 \$25."

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

18 "[~~§~~456-19~~]~~ Notary public signing for disabled person.
19 A notary public may sign the name of a person physically unable
20 to sign or to make a mark on a document presented for
21 notarization; provided that the notary public is satisfied that



1 the person has voluntarily given consent for the notary public
2 to sign on the person's behalf, if the notary public writes, in
3 the presence of the person: "Signature affixed by notary public
4 pursuant to section 456-19, Hawaii Revised Statutes." beneath
5 the signature, and if a doctor's written certificate is provided
6 to the notary public certifying that the person is unable to
7 physically sign or make a mark because of the disability, and
8 that the person is capable of communicating the person's
9 intentions. The certificate shall be attached to the document."

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

13 "[+]§456-20[+] **Failure to verify identity and signature.**

14 (a) A person commits the offense of failure to verify identity
15 [~~and signature~~] if the person is a commissioned notary public
16 and knowingly notarizes a document and[+]

17 ~~(1) If~~ if a witness to the signing of the instrument,
18 fails to verify the identity of the signer by
19 [~~personally knowing the signer or by comparing the~~
20 ~~personal appearance of the signer with satisfactory~~
21 ~~proof of the signer's identity; or~~



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

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

15 "~~{}~~§456-21~~{}~~ **Failure to authenticate with a**
16 **certification statement.** (a) A person commits the offense of
17 failure to authenticate with a certification statement if the
18 person is a commissioned notary public and knowingly ~~[notarizes]~~
19 performs a notarial act with respect to a document and fails to
20 include any of the following in the notary certification:



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

12 (b) If a notarial act regarding a tangible record is
13 performed by a notary public, an official stamp shall be
14 stamped, impressed, or attached on the certificate. If a
15 notarial act is performed regarding a tangible record by a
16 notary public and the certificate contains the information
17 specified in this section, an official stamp shall be affixed to
18 the certificate. If a notarial act regarding an electronic
19 record is performed by a notary public and the certificate
20 contains the information specified in this section, an official



1 stamp shall be attached to or logically associated with the
2 certificate.

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

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

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

10 "§502-42 Certificate, contents. The certificate of
11 acknowledgment shall state in substance that the person who
12 executed the instrument appeared before the ~~[officer]~~ notary
13 public granting the certificate and acknowledged or stated that
14 the person executed the same, and that ~~[such]~~ the person was
15 personally known to the ~~[officer]~~ notary public granting ~~[such]~~
16 the certificate to be the person whose name is subscribed to the
17 instrument as a party thereto, or was proved to be ~~[such]~~ the
18 party by the oath or affirmation of a credible witness known to
19 the ~~[officer]~~ notary public whose name shall be inserted in the
20 certificate~~[-]~~ or by other satisfactory evidence of identity
21 under the laws of this State. If the person who executed the



1 instrument appeared before a notary public as a remotely located
2 individual under section 456-B, then the certificate shall
3 indicate that the notarial act was performed using communication
4 technology in a manner provided in section 456-B. It shall not
5 be ground for the rejection of any [~~such~~] certificate, or for
6 refusing to accept [~~such~~] the instrument for record or in
7 evidence, that the certificate fails to state that the person
8 making the acknowledgment stated or acknowledged that the
9 instrument was executed freely or voluntarily by the person or
10 as the person's free act and deed."

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

13 "**§502-48 Identification of person making.** No
14 acknowledgment of any conveyance or other instrument, except as
15 provided by this chapter, whereby any real estate is conveyed or
16 may be affected, shall be taken, unless the person offering to
17 make the acknowledgment is personally known to the [~~officer~~]
18 notary public taking the acknowledgment to be the person whose
19 name is subscribed to the conveyance or instrument as a party
20 thereto, or is proved to be such by the oath or affirmation of a
21 credible witness known to the [~~officer~~] notary public, or by



1 production of a [~~current~~] valid identification card or document
2 issued by the United States, this State, any other state, or a
3 national government that contains the bearer's photograph and
4 signature[-], or by obtaining satisfactory evidence of identity
5 of a remotely located individual under section 456-B."

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

8 "§502-72 **Disposition of records.** [~~Except as otherwise~~
9 ~~provided in respect to notaries public by section 456-16, the]~~
10 The books of record so kept shall every five years, and upon the
11 resignation, death, or removal from office of such judge or
12 other officer, be deposited with the clerk of the circuit court
13 of the judicial circuit for and in which the judge or other
14 officer was or is authorized to act."

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

17 [~~"§456-16 **Disposition of records; penalty.** The records of~~
18 ~~each notary public shall be deposited with the office of the~~
19 ~~attorney general upon the resignation, death, expiration of each~~
20 ~~term of office, or removal from or abandonment of office. If~~
21 ~~any notary fails to comply with this section within ninety days~~



1 ~~of the date of the resignation, expiration of any term of~~
2 ~~office, or removal from or abandonment of office or if the~~
3 ~~notary's personal representative fails to comply with this~~
4 ~~section within ninety days of the notary's death, then the~~
5 ~~notary or the notary's personal representative shall forfeit to~~
6 ~~the State not less than \$50 nor more than \$500, in the~~
7 ~~discretion of the court, in an action brought by the attorney~~
8 ~~general on behalf of the State."]~~

9 SECTION 23. This Act does not affect rights and duties
10 that matured, penalties that were incurred, and proceedings that
11 were begun before its effective date.

12 SECTION 24. In codifying the new sections added by section
13 2 and referenced in sections 15, 17, 19, and 20 of this Act, the
14 revisor of statutes shall substitute appropriate section numbers
15 for the letters used in designating the new sections in this
16 Act.

17 SECTION 25. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 26. This Act shall take effect on July 1, 2021.



Report Title:

Notaries Public; Remote Notarization; Electronic Documents

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. Effective 7/1/2021. (HD1)

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

