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# 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 law requiring the individual to appear personally before, or  
9 be in the presence of, a notary public at the time of the  
10 performance of a notarial act by using communication technology  
11 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 for a remotely located individual  
14 using communication technology if:

15           (1) The remote online notary public has:

16           (A) Personal knowledge of the identity of the  
17           individual;

18           (B) 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) Obtained satisfactory evidence of the identity of  
4           the remotely located individual by using at least  
5           two different types of identity proofing;

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

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

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

18           (A) The document to be notarized:

19                   (i) Is to be filed with or relates to a matter  
20                   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, the  
8 deposits of which are insured by the Federal  
9 Deposit Insurance Corporation, including a  
10 bank so insured and that is located in the  
11 Federated States of Micronesia, Republic of  
12 the Marshall Islands, or Republic of Palau;  
13 and

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

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



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

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

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

8       "This notarial act involved the use of communication  
9 technology".

10       (e) A remote online notary public; guardian, conservator,  
11 or agent of a remote online notary public; or personal  
12 representative of a deceased remote online notary public shall  
13 retain any audiovisual recording created under this section or  
14 cause the recording to be retained by a repository designated by  
15 or on behalf of the person required to retain the recording.  
16 Unless a different period is required by a rule adopted under  
17 this section, the recording shall be retained for a period of no  
18 less than ten years after the recording is made.

19       (f) Prior to performing any initial notarial act under  
20 this section, the remote online notary public shall notify the  
21 attorney general that the remote online notary public will be



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

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

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



1        (h) Prior to adopting, amending, or repealing a rule  
2 governing the performance of a notarial act with respect to a  
3 remotely located individual, the attorney general shall  
4 consider:

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

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

13       (3) The views of governmental officials and entities and  
14 other interested persons.

15       (i) For purposes of this section:

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

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



1       (2) When necessary and consistent with other applicable  
2       laws, facilitates communication between a remote  
3       online notary public and a remotely located individual  
4       who has a vision, hearing, or speech impairment.

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

10       "Identity proofing" means a process or service by which a  
11       third person provides a remote online notary public with a means  
12       to verify the identity of a remotely located individual by a  
13       review of the remotely located individual's personal information  
14       from public or private data sources.

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





1 "Remote online notary public" means an individual  
2 commissioned by the attorney general to perform notarial acts  
3 for remotely located individuals.

4 "Remotely located individual" means an individual who is  
5 not in the physical presence of the remote online notary public  
6 performing a notarial act for that individual under this  
7 section.

8 **§456-C Remote online notaries public; application;**  
9 **qualifications.** (a) A notary public or an applicant for  
10 commission as a notary public may apply to the attorney general  
11 to be commissioned as a remote online notary public in the  
12 manner provided by this section.

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

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

17 (2) Paying any application fee established pursuant to  
18 subsection (c); and

19 (3) Submitting to the attorney general an application in  
20 the form prescribed by the attorney general that  
21 establishes the applicant's qualifications.



1       (c) The attorney general may charge a fee for an  
2 application submitted under this section in an amount necessary  
3 to administer this section.

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

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

14       **§456-D Notification regarding performance of notarial act**  
15 **on electronic record; selection of technology; acceptance of**  
16 **tangible copy of electronic record.** (a) A notary public may  
17 select one or more tamper-evident technologies to perform  
18 notarial acts with respect to electronic documents. No person  
19 shall require a notary public to perform a notarial act with  
20 respect to an electronic document using a technology that the  
21 notary public has not selected.



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

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

16       **§456-E Validity of notarial acts.** Except as otherwise  
17 provided in section 456-14(b), the failure of a notary public to  
18 perform a duty or meet a requirement specified in this chapter  
19 does not validate or invalidate a notarial act performed by the  
20 notary public. The validity of a notarial act under this  
21 chapter does not prevent an aggrieved person from seeking to



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

7 **§456-F Relation to the federal Electronic Signatures in**  
 8 **Global and National Commerce Act.** This chapter modifies,  
 9 limits, and supersedes the federal Electronic Signatures in  
 10 Global and National Commerce Act, title 15 United States Code  
 11 section 7001, et seq., but does not modify, limit, or supersede  
 12 section 101(c) of that Act, title 15 United States Code section  
 13 7001(c), or authorize electronic delivery of any of the notices  
 14 described in section 103(b) of that Act, title 15 United States  
 15 Code section 7003(b)."

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

18 "**§456-1 [Appointment;] Commission; renewal.** (a) The  
 19 attorney general may, in the attorney general's discretion,  
 20 [~~appoint and~~] commission [~~such~~] the number of notaries public  
 21 for the State [~~as~~] that the attorney general deems necessary for



1 the public good and convenience. The term of [~~office~~]  
2 commission of a notary public shall be four years from the date  
3 of the [~~notary's~~] notary public's commission, unless sooner  
4 removed by the attorney general for cause after [~~due~~] the  
5 opportunity for hearing; provided that after [~~due~~] the  
6 opportunity for hearing, the commission of a notary public may  
7 be revoked or the notary public may be otherwise disciplined by  
8 the attorney general in any case where any change occurs in the  
9 [~~notary's office,~~] notary public's commission, occupation,  
10 residence, or employment [~~which~~] that, in the attorney general's  
11 judgment, renders the holding of [~~such~~] the commission by the  
12 notary public no longer necessary for the public good and  
13 convenience. Each notary public shall, upon any change in the  
14 [~~notary's office,~~] notary public's commission, occupation,  
15 residence, or employment, forthwith report the [~~same~~] change to  
16 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 an  
11 applicable 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 change to an electronic document  
17 that displays 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 identity 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           prior to 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 prior to 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           prior to 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],~~ prior to being commissioned  
12 as 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 shall not  
13 be 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~~] each bond, or bond  
13 continuation certificate, shall be a surety company authorized  
14 to do business in the State. After approval, the bond[~~r~~] or  
15 bond continuation certificate shall be deposited and kept on  
16 file in the office of the clerk of the circuit court of the  
17 judicial circuit in which the notary public resides. The clerk  
18 shall keep a book to be called the "bond record", in which the  
19 clerk shall record [~~such~~] data [~~in respect~~] relating to each of  
20 the bonds or bond continuation certificates deposited and filed  
21 in the clerk's office as the attorney general may direct."



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

3 "**§456-6 Liabilities; limitations on; official bond.** (a)

4 In the performance of a notarial act, a [~~notary's~~] notary  
5 public's liability shall be limited to a failure by the notary  
6 public to perform properly the actions required for the jurat,  
7 acknowledgment, or other notarial [~~act.~~] acts. The [~~notary's~~]  
8 notary public's liability shall not be based on statements in a  
9 notarized document apart from the notarial certificate.

10 (b) For the official misconduct or neglect of a notary  
11 public or breach of any of the conditions of the [~~notary's~~]  
12 notary public's official bond, the notary public and the surety  
13 on the [~~notary's~~] notary public's official bond shall be liable  
14 to the party injured thereby for all the damages sustained. The  
15 party shall have a right of action in the party's [~~own~~] name  
16 upon the bond and may prosecute the action to final judgment and  
17 execution."

18 SECTION 10. Section 456-7, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) A person commits the offense of unauthorized practice  
21 as a notary public if the person knowingly engages in or offers





1 to engage in any duties of [~~the office of~~] a notary public  
2 without first complying with all of the following:

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

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

10 (3) Executing an official surety bond pursuant to section  
11 456-5."

12 SECTION 11. Section 456-8, Hawaii Revised Statutes, is  
13 amended to read as follows:

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



1 SECTION 12. Section 456-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§456-9 Fees and administrative fines.** (a) The attorney  
4 general shall charge and collect the following fees for:

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

9 These fees may be adjusted, and any other fees may be  
10 established and adjusted, by adopting rules pursuant to chapter  
11 91.

12 (b) The court fees for filing a copy of a commission and  
13 for each certificate of authentication shall be specified by the  
14 supreme court.

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

- 17 (1) Maintain an official seal of ~~[one type, either a~~  
18 ~~single engraved seal or]~~ a single rubber stamp  
19 ~~[facsimile]~~ notary seal, on which shall be inscribed  
20 the name of the notary public, the commission number



1 of the notary public, and the words "notary public"  
2 and "State of Hawaii" only, \$20;

3 (2) Surrender the notary public's ~~[seal]~~ physical stamping  
4 device and certificate to the attorney general within  
5 ninety days of resignation, ~~[removal from office,~~  
6 revocation of commission, or the expiration of a term  
7 without renewal, \$200;

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

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



1        [~~(4) Record~~]        (5) Chronicle all of the notary public's  
2                    [~~transactions~~] notarial acts as prescribed by section  
3                    456-15 and applicable rules, §200; and

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

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

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



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

3       SECTION 13. Section 456-9.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

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

7       (1) All fees, administrative fines, charges, or other  
8 payments received pursuant to section 456-9;

9       (2) Penalties and fines for violations of section 456-3[~~r~~]  
10 or 456-7[~~, or 456-16~~];

11       (3) Appropriations made for deposit into the notaries  
12 public revolving fund; and

13       (4) Interest earned on money in the notaries public  
14 revolving fund."

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

17       "~~§456-14~~ **[Notary] Authority to perform notarial act;**  
18 **notary public connected with a corporation or trust company[~~r~~**  
19 **authority to act].** (a) Except as otherwise provided in

20 subsection (b):



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

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

19       (b) A notary public shall not perform a notarial act with  
20       respect to a document to which the notary public or the notary  
21       public's spouse or civil partner is a party or in which either



1 of them has a direct beneficial interest. A notarial act  
2 performed in violation of this section is voidable.

3 (c) A notary public may certify that a tangible copy of an  
4 electronic document is an accurate copy of the electronic  
5 document."

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

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

18 (b) A journal may be created on a tangible medium or in an  
19 electronic format. A notary public shall maintain only one  
20 tangible journal at a time to chronicle all notarial acts  
21 performed regarding tangible documents and one electronic



1 journal at a time to chronicle all notarial acts performed  
2 regarding electronic documents. If the journal is maintained on  
3 a tangible medium, it shall be a permanent, bound register with  
4 numbered pages. If the journal is maintained in an electronic  
5 format, it shall be in a permanent, tamper-evident electronic  
6 format complying with all rules adopted by the attorney general  
7 pursuant to this chapter.

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

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





1        (e) An entry in a journal shall be made contemporaneously  
2 with performance of the notarial act and contain the following  
3 information:

4        (1) The type, date, and time of day of the notarial act;

5        (2) The title or type and date of the document or  
6        proceeding and the nature of the act, transaction, or  
7        thing to which the document relates;

8        (3) The ~~[signature,]~~ full printed name~~[,]~~ and address of  
9        each person whose signature is notarized and of each  
10       witness~~[,]~~ and, if the journal is maintained in a  
11       tangible medium, the signature of that person;

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

15       (5) ~~[The manner in which the signer was identified.]~~ If  
16       the identity of the person is based on satisfactory  
17       evidence, a brief description of the method of  
18       identification and the identification credential  
19       presented, if any, including the identification number  
20       and date of expiration of any identification  
21       credentials; and



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

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

5       (g) On resignation from, or the expiration, revocation, or  
6 suspension of, a notary public's commission, the notary public  
7 shall retain the notary public's journal in accordance with this  
8 section and provide to the attorney general the location of the  
9 journal.

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

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

20       (j) The journals are subject to any reasonable periodic,  
21 special, or other audits or inspections by the department of the



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

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

14 "**§456-17 Fees.** Subject to section 456-18, every notary  
 15 public is entitled to demand and receive the following fees:

- 16 For noting the protest of mercantile paper, \$5;
- 17 For each notice and certified copy of protest, \$5;
- 18 For noting any other protest, \$5;
- 19 For every notice thereof, and certified copy of protest,
- 20 \$5;
- 21 For every deposition, or official certificate, \$5;



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

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

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

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

15 "~~[ ]~~**\$456-19**~~[ ]~~ **Notary public signing for disabled person.**

16 A notary public may sign the name of a person physically unable  
17 to sign or to make a mark on a document presented for  
18 notarization; provided that the notary public is satisfied that  
19 the person has voluntarily given consent for the notary public  
20 to sign on the person's behalf, if the notary public writes, in  
21 the presence of the person: "Signature affixed by notary public



1 pursuant to section 456-19, Hawaii Revised Statutes." beneath  
2 the signature, and if a doctor's written certificate is provided  
3 to the notary public certifying that the person is unable to  
4 physically sign or make a mark because of the disability, and  
5 that the person is capable of communicating the person's  
6 intentions. The certificate shall be attached to the document."

7 SECTION 18. Section 456-20, Hawaii Revised Statutes, is  
8 amended by amending its title and subsection (a) to read as  
9 follows:

10 "[~~+~~]~~§~~456-20[~~+~~] **Failure to verify identity and signature.**

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

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

19 ~~(2) If not a witness to the signing of the instrument,~~  
20 ~~fails to verify the identity of the signer by~~  
21 ~~personally knowing the signer or by comparing the~~



1           ~~personal appearance of the signer with satisfactory~~  
2           ~~proof of the signer's identity; or fails to verify the~~  
3           ~~signature of the signer by recognizing the signature~~  
4           ~~of the signer by personal familiarity with the~~  
5           ~~signature, or by comparing the signature with~~  
6           ~~satisfactory proof of the signer's signature.]~~ proof  
7           of the signer's signature and identity, or by  
8           obtaining satisfactory evidence of identity of a  
9           remotely located individual under section 456-B."

10           SECTION 19. Section 456-21, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "~~{}~~**§456-21**~~{}~~ **Failure to authenticate with a**  
13 **certification statement.** (a) A person commits the offense of  
14 failure to authenticate with a certification statement if the  
15 person is a commissioned notary public and knowingly ~~[notarizes]~~  
16 performs a notarial act with respect to a document and fails to  
17 include any of the following in the notary certification:

- 18           (1) Date of notarization and signature of the notary  
19                 public;
- 20           (2) The printed name, date of expiration, and stamp or  
21                 seal of the notary public; and



- 1 (3) Identification of the jurisdiction in which the
- 2 notarial act is performed[+]
- 3 ~~(4) Identification or description of the document being~~
- 4 ~~notarized, placed in close proximity to the~~
- 5 ~~acknowledgment or jurat; and~~
- 6 ~~(5) A statement of the number of pages and date of the~~
- 7 ~~document].~~

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

19 ~~(b)~~ (c) Any person who violates this section shall be  
 20 guilty of a misdemeanor and shall be sentenced in accordance  
 21 with chapter 706.



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

3       SECTION 20. Section 502-42, Hawaii Revised Statutes, is  
4 amended to read as follows:

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





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

6 SECTION 21. Section 502-48, Hawaii Revised Statutes, is  
7 amended to read as follows:

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



1 SECTION 22. Section 502-72, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§502-72 Disposition of records. [Except as otherwise~~  
4 ~~provided in respect to notaries public by section 456-16, the]~~  
5 The books of record so kept shall every five years, and upon the  
6 resignation, death, or removal from office of such judge or  
7 other officer, be deposited with the clerk of the circuit court  
8 of the judicial circuit for and in which the judge or other  
9 officer was or is authorized to act."

10 SECTION 23. Section 456-16, Hawaii Revised Statutes, is  
11 repealed.

12 [~~"§456-16 Disposition of records; penalty. The records of~~  
13 ~~each notary public shall be deposited with the office of the~~  
14 ~~attorney general upon the resignation, death, expiration of each~~  
15 ~~term of office, or removal from or abandonment of office. If~~  
16 ~~any notary fails to comply with this section within ninety days~~  
17 ~~of the date of the resignation, expiration of any term of~~  
18 ~~office, or removal from or abandonment of office or if the~~  
19 ~~notary's personal representative fails to comply with this~~  
20 ~~section within ninety days of the notary's death, then the~~  
21 ~~notary or the notary's personal representative shall forfeit to~~



1 ~~the State not less than \$50 nor more than \$500, in the~~  
2 ~~discretion of the court, in an action brought by the attorney~~  
3 ~~general on behalf of the State." ]~~

4 SECTION 24. This Act does not affect rights and duties  
5 that matured, penalties that were incurred, and proceedings that  
6 were begun before its effective date.

7 SECTION 25. In codifying the new sections added by section  
8 2 and referenced in sections 16, 18, 20, and 21 of this Act, the  
9 revisor of statutes shall substitute appropriate section numbers  
10 for the letters used in designating the new sections in this  
11 Act.

12 SECTION 26. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 27. This Act shall take effect on January 1, 2021.



S.B. NO. 2275  
S.D. 2  
H.D. 2

**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 1/1/2021. (HD2)

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

SB2275 HD2 HMS 2020-2149

