
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 including the following: to conform to
3 the Revised Uniform Law on Notarial Acts (2018) (RULONA), the
4 Hawaii Uniform Electronic Transactions Act, other state notary
5 laws, and current notary 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 refusal is prohibited by law other than this chapter.

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

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

14 (1) The remote online notary public:

15 (A) Has personal knowledge of the identity of the
16 individual;

17 (B) Has satisfactory evidence of the identity of the
18 remotely located individual by oath or
19 affirmation from a credible witness appearing
20 before the remote online notary public under this
21 chapter or this section; or



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

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

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

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

16 (A) The document:

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



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

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

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

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

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

17 (2) Is in the form authorized by law of the State and
18 contains a statement substantially as follows: "This
19 notarial act involved the use of communication
20 technology."



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

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

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



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

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

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

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

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

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

18 (1) The most recent standards regarding the performance of
19 a notarial act with respect to a remotely located
20 individual promulgated by national standard-setting



1 organizations and the recommendations of the National
2 Association of Secretaries of State;

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

6 (3) The views of governmental officials and entities and
7 other interested persons.

8 (i) For purposes of this section, the following
9 definitions shall apply:

10 "Communication technology" means an electronic device or
11 process that:

12 (1) Allows a remote online notary public and a remotely
13 located individual to communicate with each other
14 simultaneously by sight and sound; and

15 (2) When necessary and consistent with other applicable
16 law, facilitates communication with a remotely located
17 individual who has a vision, hearing, or speech
18 impairment.

19 "Foreign state" means a jurisdiction other than the United
20 States, a state of the United States, the District of Columbia,
21 Puerto Rico, the United States Virgin Islands, any territory or



1 insular possession subject to the jurisdiction of the United
2 States, or a federally recognized Indian tribe.

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

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

13 "Remote online notary public" means an individual
14 commissioned by the department of the attorney general to
15 perform notarial acts for remotely located individuals.

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

19 §456-C Application; qualifications. (a) A notary public
20 or an applicant for commission as a notary public may apply to



1 the attorney general to be commissioned as a remote online
2 notary public in the manner provided by this section.

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

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

7 (2) Paying the application fee; and

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

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

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

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



1 (f) An individual commissioned as a remote online notary
2 public by the attorney general under this section is a notary
3 public for purposes of this chapter and is subject to the
4 requirements, powers, and duties of a notary public under this
5 chapter.

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

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



1 conform to the attorney general's standards developed for this
2 chapter.

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

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



1 §456-F Relation to federal Electronic Signatures in Global
2 and National Commerce Act. This chapter modifies, limits, and
3 supersedes the federal Electronic Signatures in Global and
4 National Commerce Act, Title 15 United States Code section 7001,
5 et seq., but does not modify, limit, or supersede section 101(c)
6 of that Act, Title 15 United States Code section 7001(c), or
7 authorize electronic delivery of any of the notices described in
8 section 103(b) of that Act, Title 15 United States Code section
9 7003(b)."

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

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



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

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

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



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

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

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

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

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

19 "In a representative capacity" means acting as:



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

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

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

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

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

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

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

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



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

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

5 "Stamping device" means:

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

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

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

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

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

18 ""Proof of the signer's signature and identity" means
19 ~~[proof evidenced by production of a current identification card~~
20 ~~or document issued by the United States, this State, any other~~
21 ~~state, or a national government that contains the bearer's~~



1 ~~photograph and signature.]~~ satisfactory evidence of the identity
2 of an individual appearing before the notary public if the
3 notary public can identify the individual:

4 (1) By means of:

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

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

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



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

9 (2) By requiring an individual to provide additional
 10 information or identification credentials necessary to
 11 assure the notary public of the identity of the
 12 individual."

13 3. By repealing the definition of "personally knowing".
 14 ~~["Personally knowing" or "personal knowledge" means having~~
 15 ~~an acquaintance, derived from association with the individual,~~
 16 ~~which establishes the individual's identity with at least a~~
 17 ~~reasonable certainty."]~~

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

20 "**§456-2 Qualifications; oath.** Every person ~~[appointed]~~
 21 commissioned as a notary public shall, at the time of the



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

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

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



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



1 destroying, defacing, damaging, erasing, or securing it against
2 use in a manner that renders it unusable and shall submit a
3 declaration to the attorney general that the electronic stamping
4 device was disabled and state the date and manner in which the
5 device was disabled."

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

8 **"§456-4 Filing copy of commission; authentication of acts.**

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



1 the clerk's office. A notary public's electronic seal is not
2 subject to the requirements of this section.

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

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

7 "§456-5 Official bond. Each notary public forthwith and
8 before entering upon the duties of the notary's [~~office~~]
9 commission shall execute, at the notary's own expense, an
10 official surety bond which shall be in the sum of \$1,000. Each
11 bond shall be approved by a judge of the circuit court.

12 The obligee of each bond, or bond continuation certificate,
13 shall be the State and the condition contained therein shall be
14 that the notary public will well, truly, and faithfully perform
15 all the duties of the notary's [~~office~~] commission which are
16 then or may thereafter be required, prescribed, or defined by
17 law or by any rule made under the express or implied authority
18 of any statute, and all duties and acts undertaken, assumed, or
19 performed by the notary public by virtue or color of the
20 notary's [~~office-~~] commission. The surety on any such bond, or
21 bond continuation certificate, shall be a surety company



1 authorized to do business in the State. After approval the
2 bond, or bond continuation certificate, shall be deposited and
3 kept on file in the office of the clerk of the circuit court of
4 the judicial circuit in which the notary public resides. The
5 clerk shall keep a book to be called the "bond record", in which
6 the clerk shall record such data in respect to each of the bonds
7 or bond continuation certificates deposited and filed in the
8 clerk's office as the attorney general may direct."

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

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

- 15 (1) Being [~~appointed and~~] commissioned as a notary public
16 by the attorney general;
- 17 (2) Filing a copy of the person's commission, an
18 impression of the person's seal, and a specimen of the
19 person's official signature with the clerk of the
20 circuit court of the circuit in which the person
21 resides; and



1 (3) Executing an official surety bond pursuant to section
2 456-5."

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

5 "**§456-8 Rules.** The attorney general, subject to chapter
6 91, may prescribe such rules as the attorney general deems
7 advisable concerning the administration of this chapter, the
8 ~~[appointment]~~ commission and duties of notaries public, ~~[the~~
9 ~~duties of other officers thereunder,]~~ and such measures as may
10 be necessary to prevent the fraudulent use of a notarized
11 document after placement of the notary's seal. The rules shall
12 have the force and effect of law."

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

15 "**§456-9 Fees and administrative fines.** (a) The attorney
16 general shall charge and collect the following fees for:

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



1 These fees may be adjusted, and any other fees may be
2 established and adjusted, by adopting rules pursuant to chapter
3 91.

4 (b) The court fees for filing a copy of a commission and
5 for each certificate of authentication shall be specified by the
6 supreme court.

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

9 (1) Maintain an official seal of [~~one type, either a~~
10 ~~single engraved seal or~~] a single rubber stamp
11 [~~faesimile~~] seal, on which shall be inscribed the name
12 of the notary public, the commission number of the
13 notary public, and the words "notary public" and
14 "State of Hawaii" only, \$20;

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

20 (3) Disable the notary public's electronic stamping device
21 within ninety days of resignation, revocation of



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

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

11 ~~[(4)]~~ (5) ~~[Record]~~ Maintain a journal of all of the notary
12 public's transactions as prescribed by section 456-15
13 and applicable rules, \$200; and

14 ~~[(5)]~~ ~~Surrender the notary public's record books to the~~
15 ~~attorney general within ninety days of the end date of~~
16 ~~the commission, resignation, or removal from office,~~
17 ~~\$500; and]~~

18 (6) Notify the attorney general within ten days after
19 loss, misplacement, or theft of the notary public's
20 ~~[seal, stamp,]~~ stamping device or any ~~[record book,]~~
21 journal, inform the appropriate law enforcement agency



1 in the case of theft, and deliver a copy of the law
2 enforcement agency's report of the theft to the
3 attorney general, \$20.

4 (d) The foregoing moneys collected by the attorney general
5 pursuant to this section shall be deposited into the notaries
6 public revolving fund established by section 456-9.5, except
7 that if that fund is terminated, the foregoing moneys shall
8 thereafter be deposited with the director of finance to the
9 credit of the general fund.

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

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

14 **"§456-9.5 Notaries public revolving fund.** (a) There is
15 established in the state treasury the notaries public revolving
16 fund into which shall be deposited:

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

19 (2) Penalties and fines for violations of section 456-3[7]
20 or 456-7[, or 456-167] ;



- 1 (3) Appropriations made for deposit into the notaries
- 2 public revolving fund; and
- 3 (4) Interest earned on money in the notaries public
- 4 revolving fund."

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

7 "§456-14 [Notary] Authority to perform notarial act;
8 notary connected with a corporation or trust company~~[; authority~~
9 ~~to act]~~. (a) Except as otherwise provided in subsection (b):

10 (1) A notary public may perform a notarial act authorized
11 by this chapter or by law of the State other than this
12 chapter; and

13 (2) It shall be lawful for any notary public, although an
14 officer, employee, shareholder, or director of a
15 corporation or trust company to take the
16 acknowledgment of any party to any written instrument
17 executed to or by the corporation or trust company, or
18 to administer an oath to any shareholder, director,
19 officer, employee, or agent of the corporation or
20 trust company, or to protest for nonacceptance or
21 nonpayment of bills of exchange, drafts, checks,



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

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

13 (c) A notary public may certify that a tangible copy of an
 14 electronic document is an accurate copy of the electronic
 15 document."

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

18 "~~§456-15 [Record,] Journal; copies as evidence. [Every~~
 19 ~~notary public shall record at length in a book of records all~~
 20 ~~acts, protests, depositions, and other things, by the notary~~
 21 ~~noted or done in the notary's official capacity. For each~~



1 ~~official act, the notary shall enter in the book:]~~ (a) A notary
2 public shall maintain a journal in which the notary public
3 chronicles all notarial acts that the notary public performs.
4 The notary public shall retain the journal for ten years after
5 the performance of the last notarial act chronicled in the
6 journal.

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

17 (c) A notary public having the care and custody of the
18 journal may cause the same to be photographed,
19 microphotographed, reproduced on film, or copied to an
20 electronic format. Any device or electronic storage system used



1 to copy or reproduce the journal shall accurately reflect the
2 information in the original thereof in all details.

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

11 (e) An entry in a journal shall be made contemporaneously
12 with performance of the notarial act and contain the following
13 information:

- 14 (1) The type, date, and time of day of the notarial act;
- 15 (2) The title or type and date of the document or
16 proceeding and the nature of the act, transaction, or
17 thing to which the document relates;
- 18 (3) The [~~signature,~~] full printed name[~~,~~] and address of
19 each person whose signature is notarized and of each
20 witness[~~,~~] and, if the journal is maintained in a
21 tangible medium, the signature of each such person;



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

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

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

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

15 (g) On resignation from, or the expiration, revocation, or
16 suspension of, a notary public's commission, the notary public
17 shall retain the notary public's journal in accordance with this
18 section and inform the attorney general where the journal is
19 located.

20 (h) On the death or adjudication of incompetency of a
21 current or former notary public, the notary public's personal



1 representative or guardian or any other person knowingly in
2 possession of the journal shall transmit it to the attorney
3 general or a repository approved by the attorney general.

4 (i) All copies or certificates granted by the notary shall
5 be under the notary's hand and notary seal and shall be received
6 as evidence of such transactions.

7 (j) The journals are subject to such reasonable periodic,
8 special, or other audits or inspections by the department of the
9 attorney general, within or without this State, as the attorney
10 general considers necessary or appropriate. An audit or
11 inspection may be made at any time and without prior notice.
12 The department of the attorney general may copy, and remove for
13 audit or inspection copies of, all records the department of the
14 attorney general reasonably considers necessary or appropriate
15 to conduct the audit or inspection. If any notary fails to
16 comply with this section, then the notary shall be subject to an
17 administrative fine of not less than \$50 nor more than \$500.
18 All unpaid fees, fines, and forfeitures shall constitute a debt
19 due and owing to the State."

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



1 "§456-17 Fees. Subject to section 456-18, every notary
2 public is entitled to demand and receive the following fees:

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

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

5 For noting any other protest, \$5;

6 For every notice thereof, and certified copy of protest,
7 \$5;

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

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

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

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

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



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

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

17 "~~§~~456-20~~§~~ Failure to verify identity and signature.
18 (a) A person commits the offense of failure to verify identity
19 [~~and signature~~] if the person is a commissioned notary public
20 and knowingly notarizes a document and[-



1 ~~(1)~~ ~~If]~~ if 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]~~ proof of the
 6 signer's signature and identity, or by obtaining
 7 satisfactory evidence of identity under section 456-B
 8 of a remotely located individual.

9 ~~[-2)~~ ~~If not a witness to the signing of the instrument,~~
 10 ~~fails to verify the identity of the signer by~~
 11 ~~personally knowing the signer or by comparing the~~
 12 ~~personal appearance of the signer with satisfactory~~
 13 ~~proof of the signer's identity; or fails to verify the~~
 14 ~~signature of the signer by recognizing the signature~~
 15 ~~of the signer by personal familiarity with the~~
 16 ~~signature, or by comparing the signature with~~
 17 ~~satisfactory proof of the signer's signature.] "~~

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

20 " ~~[+]~~ §456-21 ~~[+]~~ **Failure to authenticate with a**
 21 **certification statement.** (a) A person commits the offense of



1 failure to authenticate with a certification statement if the
2 person is a commissioned notary public and knowingly notarizes a
3 document and fails to include any of the following in the notary
4 certification:

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

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



1 notarial act regarding an electronic record is performed by a
2 notarial public and the certificate contains the information
3 specified in this section, an official stamp shall be attached
4 to or logically associated with the certificate.

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

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

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

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



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

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

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



1 thereto, or is proved to be such by the oath or affirmation of a
2 credible witness known to the [~~officer~~] notary public, or by
3 production of a [~~current~~] valid identification card or document
4 issued by the United States, this State, any other state, or a
5 national government that contains the bearer's photograph and
6 signature[-], or by obtaining satisfactory evidence of identity
7 of a remotely located individual under section 456-B."

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

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

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

19 [~~§456-16 Disposition of records; penalty. The records of~~
20 ~~each notary public shall be deposited with the office of the~~
21 ~~attorney general upon the resignation, death, expiration of each~~



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

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

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

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

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



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

Report Title:

Notaries Public; Remote Notarization; Electronic Documents

Description:

Updates laws concerning 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. (SD2)

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

