

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0051.01 Thomas Morris x4218

SENATE BILL 20-096

SENATE SPONSORSHIP

Rodriguez and Holbert, Bridges, Fields, Ginal, Lee, Marble, Smallwood, Sonnenberg, Story, Tate, Todd, Williams A.

HOUSE SPONSORSHIP

Duran and Carver,

Senate Committees

Judiciary
Appropriations

House Committees

Business Affairs & Labor
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AN AUTHORIZATION FOR NOTARIES PUBLIC TO PERFORM**
102 **NOTARIAL ACTS USING AUDIO-VIDEO COMMUNICATION, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires an individual who wishes to have a document notarized to appear personally before a notary public. The bill authorizes a notary public to perform a notarial act on behalf of an individual who is not in the notary's physical presence, but only with respect to an electronic document.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
March 11, 2020

SENATE
Amended 2nd Reading
March 10, 2020

To perform a "remote notarization", a notary must use an electronic system that conforms to standards established by rules of the secretary of state, including using real-time audio-video communication. The bill establishes the standards that a notary must comply with to have satisfactory evidence of the identity of the individual seeking the remote notarization.

The bill also prohibits the use or sale of personal information of a remotely located individual by a remote notary and the provider of a remote notarization system except in specific, limited circumstances.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** The general assembly
3 recognizes the importance of protecting personal information that is
4 disclosed and recorded, including both audio and video, during the remote
5 notarization process. Data privacy is an essential part of Colorado's
6 authorization of remote notarization and the security of personal data
7 from unauthorized use or theft is of critical importance in the
8 implementation of remote notarization requirements in Colorado.

9 **SECTION 2.** In Colorado Revised Statutes, 24-21-502, **add** (1.3),
10 (1.7), (10.5), (11.3), (11.5), (11.7), and (15.5) as follows:

11 **24-21-502. Definitions.** In this part 5:

12 (1.3) "AUDIO-VIDEO COMMUNICATION" MEANS COMMUNICATION
13 BY WHICH AN INDIVIDUAL IS ABLE TO SEE, HEAR, AND COMMUNICATE WITH
14 A REMOTELY LOCATED INDIVIDUAL IN REAL TIME USING ELECTRONIC
15 MEANS.

16 (1.7) "CREDENTIAL" MEANS A TANGIBLE RECORD EVIDENCING THE
17 IDENTITY OF AN INDIVIDUAL.

18 (10.5) "REAL-TIME" OR "IN REAL TIME" MEANS, WITH RESPECT TO
19 AN INTERACTION BETWEEN INDIVIDUALS BY MEANS OF AUDIO-VIDEO
20 COMMUNICATION, THAT THE INDIVIDUALS CAN SEE AND HEAR EACH OTHER

1 SUBSTANTIALLY SIMULTANEOUSLY AND WITHOUT INTERRUPTION OR
2 DISCONNECTION. DELAYS OF A FEW SECONDS THAT ARE INHERENT IN THE
3 METHOD OF COMMUNICATION DO NOT PREVENT THE INTERACTION FROM
4 BEING CONSIDERED TO HAVE OCCURRED IN REAL TIME.

5 (11.3) "REMOTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL
6 WHO IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO
7 PERFORMS A NOTARIAL ACT UNDER THIS SECTION.

8 (11.5) "REMOTE NOTARIZATION" MEANS AN ELECTRONIC
9 NOTARIAL ACT PERFORMED WITH RESPECT ONLY TO AN ELECTRONIC
10 RECORD BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION IN
11 ACCORDANCE WITH SECTION 24-21-514.5 AND RULES ADOPTED BY THE
12 SECRETARY OF STATE.

13 (11.7) "REMOTE NOTARIZATION SYSTEM" MEANS AN ELECTRONIC
14 DEVICE OR PROCESS THAT:

15 (a) ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED
16 INDIVIDUAL TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY
17 SIGHT AND SOUND; AND

18 (b) WHEN NECESSARY AND CONSISTENT WITH OTHER APPLICABLE
19 LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED
20 INDIVIDUAL WHO HAS A VISION, HEARING, OR SPEECH IMPAIRMENT.

21 (15.5) "TAMPER-EVIDENT" MEANS THE USE OF A SET OF
22 APPLICATIONS, PROGRAMS, HARDWARE, SOFTWARE, OR OTHER
23 TECHNOLOGIES THAT WILL DISPLAY EVIDENCE OF ANY CHANGES MADE TO
24 AN ELECTRONIC RECORD.

25 **SECTION 3.** In Colorado Revised Statutes, **amend** 24-21-506 as
26 follows:

27 **24-21-506. Personal appearance required - definition.** (1) If

1 a notarial act relates to a statement made in or a signature executed on a
2 record, the individual making the statement or executing the signature
3 shall appear personally before the notarial officer.

4 (2) FOR PURPOSES OF THIS SECTION, "APPEAR PERSONALLY"
5 MEANS:

6 (a) BEING IN THE SAME PHYSICAL LOCATION AS ANOTHER
7 INDIVIDUAL AND CLOSE ENOUGH TO SEE, HEAR, COMMUNICATE WITH, AND
8 EXCHANGE TANGIBLE IDENTIFICATION CREDENTIALS WITH THAT
9 INDIVIDUAL; OR

10 (b) INTERACTING WITH A REMOTELY LOCATED INDIVIDUAL BY
11 MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION IN COMPLIANCE
12 WITH SECTION 24-21-514.5 AND RULES ADOPTED BY THE SECRETARY OF
13 STATE.

14 **SECTION 4.** In Colorado Revised Statutes, **add** 24-21-514.5 as
15 follows:

16 **24-21-514.5. Audio-video communication - definitions.** (1) AS
17 USED IN THIS SECTION:

18 (a) "CREDENTIAL ANALYSIS" MEANS A PROCESS OR SERVICE THAT
19 COMPLIES WITH ANY RULES ADOPTED BY THE SECRETARY OF STATE
20 THROUGH WHICH A THIRD PARTY AFFIRMS THE VALIDITY OF A
21 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THROUGH THE REVIEW
22 OF PUBLIC OR PROPRIETARY DATA SOURCES.

23 (b) "DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION
24 ASSESSMENT" MEANS AN IDENTITY ASSESSMENT THAT IS BASED ON A SET
25 OF QUESTIONS FORMULATED FROM PUBLIC OR PRIVATE DATA SOURCES FOR
26 WHICH THE REMOTELY LOCATED INDIVIDUAL TAKING THE ASSESSMENT
27 HAS NOT PREVIOUSLY PROVIDED AN ANSWER AND THAT MEETS ANY RULES

1 ADOPTED BY THE SECRETARY OF STATE.

2 (c) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE
3 THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE
4 UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY OR INSULAR
5 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

6 (d) "PUBLIC KEY CERTIFICATE" MEANS AN ELECTRONIC
7 CREDENTIAL THAT IS USED TO IDENTIFY A REMOTELY LOCATED
8 INDIVIDUAL WHO SIGNED AN ELECTRONIC RECORD WITH THE CREDENTIAL.

9 (e) "REMOTE PRESENTATION" MEANS TRANSMISSION TO THE
10 NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE
11 OF A GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT IS OF
12 SUFFICIENT QUALITY TO ENABLE THE NOTARY PUBLIC TO:

13 (I) IDENTIFY THE REMOTELY LOCATED INDIVIDUAL SEEKING THE
14 NOTARY PUBLIC'S SERVICES; AND

15 (II) PERFORM CREDENTIAL ANALYSIS.

16 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS
17 SECTION, A NOTARY PUBLIC MAY PERFORM A REMOTE NOTARIZATION ONLY
18 WITH RESPECT TO AN ELECTRONIC RECORD AND IN COMPLIANCE WITH THIS
19 SECTION AND ANY RULES ADOPTED BY THE SECRETARY OF STATE FOR A
20 REMOTELY LOCATED INDIVIDUAL WHO IS LOCATED:

21 (I) IN THIS STATE;

22 (II) OUTSIDE OF THIS STATE BUT WITHIN THE UNITED STATES; OR

23 (III) OUTSIDE THE UNITED STATES IF:

24 (A) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE
25 NOTARIAL ACT IS PROHIBITED IN THE JURISDICTION IN WHICH THE
26 REMOTELY LOCATED INDIVIDUAL IS PHYSICALLY LOCATED AT THE TIME OF
27 THE ACT; AND

1 (B) THE REMOTELY LOCATED INDIVIDUAL CONFIRMS TO THE
2 NOTARY PUBLIC THAT THE REQUESTED NOTARIAL ACT AND THE RECORD
3 RELATE TO: A MATTER THAT WILL BE FILED WITH OR IS CURRENTLY
4 BEFORE A COURT, GOVERNMENTAL ENTITY, OR OTHER ENTITY IN THE
5 UNITED STATES; PROPERTY LOCATED IN THE UNITED STATES; OR A
6 TRANSACTION SUBSTANTIALLY CONNECTED TO THE UNITED STATES.

7 (b) A NOTARY PUBLIC SHALL NOT USE A REMOTE NOTARIZATION
8 SYSTEM TO NOTARIZE:

9 (I) A RECORD RELATING TO THE ELECTORAL PROCESS; OR

10 (II) A WILL, CODICIL, DOCUMENT PURPORTING TO BE A WILL OR
11 CODICIL, OR ANY ACKNOWLEDGMENT REQUIRED UNDER SECTION
12 15-11-502 OR 15-11-504.

13 (3) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S
14 INITIAL NOTARIZATION USING A REMOTE NOTARIZATION SYSTEM, THE
15 NOTARY PUBLIC SHALL NOTIFY THE SECRETARY OF STATE THAT THE
16 NOTARY PUBLIC WILL BE PERFORMING REMOTE NOTARIZATIONS AND
17 SHALL IDENTIFY EACH REMOTE NOTARIZATION SYSTEM THAT THE NOTARY
18 PUBLIC INTENDS TO USE. THE REMOTE NOTARIZATION SYSTEM MUST
19 CONFORM TO THIS PART 5 AND ANY RULES ADOPTED BY THE SECRETARY
20 OF STATE. THE NOTICE MUST BE SUBMITTED IN THE FORMAT REQUIRED BY
21 THE SECRETARY OF STATE AND MUST:

22 (a) INCLUDE AN AFFIRMATION THAT THE NOTARY PUBLIC HAS READ
23 AND WILL COMPLY WITH THIS SECTION AND ALL RULES ADOPTED BY THE
24 SECRETARY OF STATE; AND

25 (b) BE ACCOMPANIED BY PROOF THAT THE NOTARY PUBLIC HAS
26 SUCCESSFULLY COMPLETED ANY TRAINING AND EXAMINATION REQUIRED
27 BY THE SECRETARY OF STATE.

1 (4) A NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT FOR A
2 REMOTELY LOCATED INDIVIDUAL BY MEANS OF AUDIO-VIDEO
3 COMMUNICATION MUST:

4 (a) BE LOCATED WITHIN THIS STATE AT THE TIME THE NOTARIAL
5 ACT IS PERFORMED;

6 (b) EXECUTE THE NOTARIAL ACT IN A SINGLE, REAL-TIME SESSION;

7 (c) CONFIRM THAT ANY RECORD THAT IS SIGNED, ACKNOWLEDGED,
8 OR OTHERWISE PRESENTED FOR NOTARIZATION BY THE REMOTELY
9 LOCATED INDIVIDUAL IS THE SAME RECORD SIGNED BY THE NOTARY
10 PUBLIC;

11 (d) CONFIRM THAT THE QUALITY OF THE AUDIO-VIDEO
12 COMMUNICATION IS SUFFICIENT TO MAKE THE DETERMINATIONS REQUIRED
13 FOR THE NOTARIAL ACT UNDER THIS PART 5 AND ANY OTHER LAW OF THIS
14 STATE; AND

15 (e) IDENTIFY THE VENUE FOR THE NOTARIAL ACT AS THE
16 JURISDICTION WITHIN THE STATE OF COLORADO WHERE THE NOTARY
17 PUBLIC IS PHYSICALLY LOCATED WHILE PERFORMING THE ACT.

18 (5) A REMOTE NOTARIZATION SYSTEM USED TO PERFORM REMOTE
19 NOTARIZATIONS MUST:

20 (a) REQUIRE THE NOTARY PUBLIC, THE REMOTELY LOCATED
21 INDIVIDUAL, AND ANY REQUIRED WITNESS TO ACCESS THE SYSTEM
22 THROUGH AN AUTHENTICATION PROCEDURE THAT COMPLIES WITH RULES
23 ADOPTED BY THE SECRETARY OF STATE REGARDING SECURITY AND
24 ACCESS;

25 (b) ENABLE THE NOTARY PUBLIC TO VERIFY THE IDENTITY OF THE
26 REMOTELY LOCATED INDIVIDUAL AND ANY REQUIRED WITNESS BY MEANS
27 OF PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF IDENTITY IN

1 COMPLIANCE WITH SUBSECTION (6) OF THIS SECTION; AND

2 (c) CONFIRM THAT THE NOTARY PUBLIC, THE REMOTELY LOCATED
3 INDIVIDUAL, AND ANY REQUIRED WITNESS ARE VIEWING THE SAME
4 RECORD AND THAT ALL SIGNATURES, CHANGES, AND ATTACHMENTS TO
5 THE RECORD ARE MADE IN REAL TIME.

6 (6) (a) A NOTARY PUBLIC SHALL DETERMINE FROM PERSONAL
7 KNOWLEDGE OR SATISFACTORY EVIDENCE OF IDENTITY AS DESCRIBED IN
8 SUBSECTION (6)(b) OF THIS SECTION THAT THE REMOTELY LOCATED
9 INDIVIDUAL APPEARING BEFORE THE NOTARY PUBLIC BY MEANS OF
10 AUDIO-VIDEO COMMUNICATION IS THE INDIVIDUAL THAT HE OR SHE
11 PURPORTS TO BE.

12 (b) A NOTARY PUBLIC HAS SATISFACTORY EVIDENCE OF IDENTITY
13 IF THE NOTARY PUBLIC CAN IDENTIFY THE REMOTELY LOCATED
14 INDIVIDUAL WHO PERSONALLY APPEARS BEFORE THE NOTARY PUBLIC BY
15 MEANS OF AUDIO-VIDEO COMMUNICATION BY USING AT LEAST ONE OF THE
16 FOLLOWING METHODS:

17 (I) THE OATH OR AFFIRMATION OF A CREDIBLE WITNESS WHO
18 PERSONALLY KNOWS THE REMOTELY LOCATED INDIVIDUAL, IS
19 PERSONALLY KNOWN TO THE NOTARY PUBLIC, AND IS IN THE PHYSICAL
20 PRESENCE OF THE NOTARY PUBLIC OR THE REMOTELY LOCATED
21 INDIVIDUAL DURING THE REMOTE NOTARIZATION;

22 (II) REMOTE PRESENTATION AND CREDENTIAL ANALYSIS OF A
23 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL, AND THE DATA
24 CONTAINED ON THE CREDENTIAL, THAT CONTAINS THE SIGNATURE AND A
25 PHOTOGRAPH OF THE REMOTELY LOCATED INDIVIDUAL, AND AT LEAST ONE
26 OF THE FOLLOWING:

27 (A) A DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION

1 ASSESSMENT BY A TRUSTED THIRD PARTY THAT COMPLIES WITH RULES
2 ADOPTED BY THE SECRETARY OF STATE;

3 (B) A VALID PUBLIC KEY CERTIFICATE THAT COMPLIES WITH RULES
4 ADOPTED BY THE SECRETARY OF STATE; OR

5 (C) AN IDENTITY VERIFICATION BY A TRUSTED THIRD PARTY THAT
6 COMPLIES WITH RULES ADOPTED BY THE SECRETARY OF STATE; OR

7 (III) ANY OTHER METHOD THAT COMPLIES WITH RULES ADOPTED
8 BY THE SECRETARY OF STATE.

9 (7) WITHOUT LIMITING THE AUTHORITY OF A NOTARY PUBLIC
10 UNDER SECTION 24-21-508 TO REFUSE TO PERFORM A NOTARIAL ACT, A
11 NOTARY PUBLIC MAY REFUSE TO PERFORM A NOTARIAL ACT UNDER THIS
12 SECTION IF THE NOTARY PUBLIC IS NOT SATISFIED THAT THE
13 REQUIREMENTS OF THIS SECTION ARE MET.

14 (8) THE CERTIFICATE OF NOTARIAL ACT FOR A REMOTE
15 NOTARIZATION MUST, IN ADDITION TO COMPLYING WITH THE
16 REQUIREMENTS OF SECTION 24-21-515, INDICATE THAT THE NOTARIAL ACT
17 WAS PERFORMED USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY.

18 (9) (a) A NOTARY PUBLIC SHALL CREATE AN AUDIO-VIDEO
19 RECORDING OF A REMOTE NOTARIZATION IF:

20 (I) THE NOTARY PUBLIC FIRST DISCLOSES TO THE REMOTELY
21 LOCATED INDIVIDUAL THE FACT OF THE RECORDING AND THE DETAILS OF
22 ITS INTENDED STORAGE, INCLUDING WHERE AND FOR HOW LONG IT WILL
23 BE STORED;

24 (II) THE REMOTELY LOCATED INDIVIDUAL EXPLICITLY CONSENTS
25 TO BOTH THE RECORDING AND THE STORAGE OF THE RECORDING; AND

26 (III) THE RECORDING IS STORED AND SECURED IN COMPLIANCE
27 WITH RULES ADOPTED BY THE SECRETARY OF STATE.

1 (b) THE AUDIO-VIDEO RECORDING REQUIRED BY THIS SUBSECTION
2 (9) MUST BE IN ADDITION TO THE JOURNAL ENTRY FOR THE NOTARIAL ACT
3 WHERE REQUIRED BY SECTION 24-21-519. THE RECORDING MUST INCLUDE
4 THE INFORMATION DESCRIBED IN THIS SUBSECTION (9)(b). A NOTARY
5 PUBLIC SHALL MAKE A GOOD-FAITH EFFORT TO NOT INCLUDE ANY OTHER
6 INFORMATION ON THE RECORDING. ANY OTHER INFORMATION INCLUDED
7 ON THE RECORDING IS NOT ADMISSIBLE IN ANY ___ COURT OF LAW, LEGAL
8 PROCEEDING, OR ADMINISTRATIVE HEARING FOR ANY PURPOSE, NOR IS THE
9 INFORMATION ADMISSIBLE IN ANY PROCEEDING IN ANY OTHER COURT OF
10 LAW, LEGAL PROCEEDING, OR ADMINISTRATIVE HEARING IF COLORADO
11 LAW APPLIES WITH RESPECT TO REMOTE NOTARIZATION. THE RECORDING
12 MUST INCLUDE:

13 (I) AT THE COMMENCEMENT OF THE RECORDING, A RECITATION BY
14 THE NOTARY PUBLIC OF INFORMATION SUFFICIENT TO IDENTIFY THE
15 NOTARIAL ACT, INCLUDING THE NAME OF THE NOTARY PUBLIC, THE DATE
16 AND TIME OF THE NOTARIAL ACT, A DESCRIPTION OF THE NATURE OF THE
17 DOCUMENT OR DOCUMENTS TO WHICH THE NOTARIAL ACT IS TO RELATE,
18 THE IDENTITY OF THE REMOTELY LOCATED INDIVIDUAL WHOSE SIGNATURE
19 IS TO BE THE SUBJECT OF THE NOTARIAL ACT AND OF ANY PERSON WHO
20 WILL ACT AS A CREDIBLE WITNESS TO IDENTIFY THE INDIVIDUAL SIGNER,
21 AND THE METHOD OR METHODS BY WHICH THE REMOTELY LOCATED
22 INDIVIDUAL AND ANY CREDIBLE WITNESS WILL BE IDENTIFIED TO THE
23 NOTARY PUBLIC;

24 (II) A DECLARATION BY THE REMOTELY LOCATED INDIVIDUAL
25 THAT THE INDIVIDUAL'S SIGNATURE ON THE RECORD IS KNOWINGLY AND
26 VOLUNTARILY MADE;

27 (III) IF THE REMOTELY LOCATED INDIVIDUAL FOR WHOM THE

1 NOTARIAL ACT IS BEING PERFORMED IS IDENTIFIED BY PERSONAL
2 KNOWLEDGE, AN EXPLANATION BY THE NOTARY PUBLIC AS TO HOW THE
3 NOTARY PUBLIC KNOWS THE REMOTELY LOCATED INDIVIDUAL AND HOW
4 LONG THE NOTARY PUBLIC HAS KNOWN THE REMOTELY LOCATED
5 INDIVIDUAL; ==

6 (IV) IF THE REMOTELY LOCATED INDIVIDUAL FOR WHOM THE
7 NOTARIAL ACT IS BEING PERFORMED IS IDENTIFIED BY A CREDIBLE
8 WITNESS:

9 (A) A STATEMENT BY THE NOTARY PUBLIC AS TO HOW THE
10 NOTARY PUBLIC KNOWS THE CREDIBLE WITNESS AND HOW LONG THE
11 NOTARY PUBLIC HAS KNOWN THE CREDIBLE WITNESS; AND

12 (B) AN EXPLANATION BY THE CREDIBLE WITNESS AS TO HOW THE
13 CREDIBLE WITNESS KNOWS THE REMOTELY LOCATED INDIVIDUAL AND
14 HOW LONG THE CREDIBLE WITNESS HAS KNOWN THE REMOTELY LOCATED
15 INDIVIDUAL; AND

16 (V) THE STATEMENTS, ACTS, AND CONDUCT NECESSARY TO
17 PERFORM THE REQUESTED NOTARIAL ACT OR SUPERVISION OF SIGNING OR
18 WITNESSING OF THE SUBJECT RECORD.

19 (c) THE PROVISIONS OF SECTION 24-21-519 THAT RELATE TO THE
20 SECURITY, INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF A
21 NOTARY PUBLIC'S JOURNAL APPLY EQUALLY TO THE SECURITY,
22 INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF AUDIO-VIDEO
23 RECORDINGS ALLOWED BY THIS SECTION.

24 (d) THE FAILURE OF A NOTARY PUBLIC TO PERFORM A DUTY OR
25 MEET A REQUIREMENT SPECIFIED IN THIS SUBSECTION (9) DOES NOT
26 INVALIDATE A REMOTE NOTARIZATION PERFORMED BY THE NOTARY
27 PUBLIC. A NOTARY PUBLIC IS NOT LIABLE TO ANY PERSON FOR DAMAGES

1 CLAIMED TO ARISE FROM A FAILURE TO PERFORM A DUTY OR MEET A
2 REQUIREMENT SPECIFIED IN SUBSECTION (9)(b) OF THIS SECTION.

3 (10) REGARDLESS OF THE PHYSICAL LOCATION OF THE REMOTELY
4 LOCATED INDIVIDUAL AT THE TIME OF THE NOTARIAL ACT, THE VALIDITY
5 OF A REMOTE NOTARIZATION PERFORMED BY A NOTARY IN THIS STATE IS
6 GOVERNED BY THE LAWS OF THIS STATE, INCLUDING ANY RULES ADOPTED
7 BY THE SECRETARY OF STATE PURSUANT TO THIS PART 5.

8 (11) TO BE ELIGIBLE FOR APPROVAL BY THE SECRETARY OF STATE
9 UNDER SECTION 24-21-527 (1)(h), A PROVIDER OF A REMOTE
10 NOTARIZATION SYSTEM OR STORAGE SYSTEM MUST:

11 (a) CERTIFY TO THE SECRETARY OF STATE THAT THE PROVIDER
12 AND THE SYSTEM COMPLY WITH THE REQUIREMENTS OF THIS SECTION AND
13 THE RULES ADOPTED UNDER SECTION 24-21-527;

14 (b) MAINTAIN A USUAL PLACE OF BUSINESS IN THIS STATE OR, IF A
15 FOREIGN ENTITY, APPOINT AND MAINTAIN A REGISTERED AGENT, IN
16 ACCORDANCE WITH SECTION 7-90-701 BY FILING A STATEMENT OF
17 FOREIGN ENTITY AUTHORITY IN ACCORDANCE WITH SECTION 7-90-803,
18 WITH AUTHORITY TO ACCEPT SERVICE OF PROCESS IN CONNECTION WITH
19 A CIVIL ACTION OR OTHER PROCEEDING; AND

20 (c) NOT USE, SELL, OR OFFER TO SELL TO ANOTHER PERSON OR
21 TRANSFER TO ANOTHER PERSON FOR USE OR SALE ANY PERSONAL
22 INFORMATION OBTAINED UNDER THIS SECTION THAT IDENTIFIES A
23 REMOTELY LOCATED INDIVIDUAL, A WITNESS TO A REMOTE
24 NOTARIZATION, OR A PERSON NAMED IN A RECORD PRESENTED FOR
25 REMOTE NOTARIZATION, EXCEPT:

26 (I) AS NECESSARY TO FACILITATE PERFORMANCE OF A NOTARIAL
27 ACT;

1 (II) TO EFFECT, ADMINISTER, ENFORCE, SERVICE, OR PROCESS A
2 RECORD PROVIDED BY OR ON BEHALF OF THE INDIVIDUAL OR THE
3 TRANSACTION OF WHICH THE RECORD IS A PART;

4 (III) IN ACCORDANCE WITH THIS PART 5 AND THE RULES ADOPTED
5 PURSUANT TO THIS PART 5 OR OTHER APPLICABLE FEDERAL, STATE, OR
6 LOCAL LAW, OR TO COMPLY WITH A LAWFUL SUBPOENA OR COURT ORDER;
7 OR

8 (IV) IN CONNECTION WITH A PROPOSED OR ACTUAL SALE, MERGER,
9 TRANSFER, OR EXCHANGE OF ALL OR A PORTION OF A BUSINESS OR
10 OPERATING UNIT OF THE PROVIDER, IF THE PERSONAL INFORMATION
11 CONCERNS ONLY CUSTOMERS OF THE BUSINESS OR UNIT AND THE
12 TRANSFeree AGREES TO COMPLY WITH THE RESTRICTIONS SET FORTH IN
13 THIS SUBSECTION (11).

14 (12) SUBJECT TO APPLICABLE LAW OTHER THAN THIS ARTICLE 21,
15 IF A RECORD IS PRIVILEGED PURSUANT TO SECTION 13-90-107 (1)(b), THE
16 CORRESPONDING ELECTRONIC RECORD SECURED AND STORED BY THE
17 REMOTE NOTARIZATION SYSTEM AS PROVIDED IN THIS ARTICLE 21
18 REMAINS PRIVILEGED.

19 **SECTION 5.** In Colorado Revised Statutes, 24-21-515, **amend**
20 (3)(d) and (4) as follows:

21 **24-21-515. Certificate of notarial act.** (3) A certificate of a
22 notarial act is sufficient if it meets the requirements of subsections (1) and
23 (2) of this section and:

24 (d) Sets forth ~~the~~ actions of the notarial officer ~~and the actions~~
25 THAT are sufficient to meet the requirements of the notarial act as
26 provided in sections 24-21-505, 24-21-506, and 24-21-507 AND, IF
27 APPLICABLE, SECTION 24-21-514.5 or law of this state other than this part

1 5.

2 (4) By executing a certificate of a notarial act, a notarial officer
3 certifies that the officer has complied with the requirements and made the
4 determinations specified in sections 24-21-504, 24-21-505, and
5 24-21-506 AND, IF APPLICABLE, SECTION 24-21-514.5.

6 **SECTION 6.** In Colorado Revised Statutes, 24-21-519, **amend**
7 (2) as follows:

8 **24-21-519. Journal.** (2) (a) A journal may be created on a
9 tangible medium or in an electronic format. If a journal is maintained on
10 a tangible medium, it must be a permanent, bound register with numbered
11 pages. If a journal is maintained in an electronic format, it must be in a
12 permanent, tamper-evident electronic format complying with the rules of
13 the secretary of state.

14 (b) A NOTARY PUBLIC WHO PERFORMS A REMOTE NOTARIZATION
15 SHALL MAINTAIN A JOURNAL IN AN ELECTRONIC FORMAT WITH REGARD TO
16 EACH REMOTE NOTARIZATION. == ==

17 **SECTION 7.** In Colorado Revised Statutes, 24-21-527, **amend**
18 (1)(e); and **add** (1)(g), (1)(h), and (3) as follows:

19 **24-21-527. Rules - definitions - repeal.** (1) The secretary of
20 state may adopt rules to implement this part 5 in accordance with article
21 4 of this title 24. Rules adopted regarding the performance of notarial acts
22 with respect to electronic records may not require, or accord greater legal
23 status or effect to, the implementation or application of a specific
24 technology or technical specification. The rules may:

25 (e) Include provisions to prevent fraud or mistake in the
26 performance of notarial acts; ~~and~~

27 (g) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS

1 USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY, INCLUDING
2 PROVISIONS TO ENSURE THE SECURITY, INTEGRITY, AND ACCESSIBILITY OF
3 RECORDS RELATING TO THOSE ACTS; AND

4 (h) PRESCRIBE REQUIREMENTS FOR THE APPROVAL AND USE OF
5 REMOTE NOTARIZATION SYSTEMS AND STORAGE SYSTEMS.

6 (3) (a) AS USED IN THIS SUBSECTION (3):

7 (I) "INTERIM PERIOD" MEANS THE PERIOD BEGINNING ON MARCH
8 30, 2020, AND ENDING ON DECEMBER 31, 2020.

9 (II) "TEMPORARY RULE" MEANS RULE 5 OF THE NOTARY PROGRAM
10 RULES AS ADOPTED BY THE SECRETARY OF STATE EFFECTIVE MARCH 30,
11 2020, AND PUBLISHED AT 8 CCR 1505-11, AND ANY ANALOGOUS
12 SUCCESSOR EMERGENCY RULE OF THE NOTARY PROGRAM THAT
13 AUTHORIZES REMOTE NOTARIZATIONS.

14 (b) DURING THE INTERIM PERIOD:

15 (I) A NOTARY PUBLIC COMMISSIONED BY THE SECRETARY OF STATE
16 MAY PERFORM NOTARIAL ACTS WITH RESPECT TO A REMOTELY LOCATED
17 INDIVIDUAL USING AUDIO-VIDEO COMMUNICATION IN ACCORDANCE WITH,
18 AND SUBJECT TO THE LIMITATIONS AND RESTRICTIONS SET FORTH IN, THE
19 TEMPORARY RULE; AND

20 (II) IN SO FAR AS IT RELATES TO ANY NOTARIAL ACT PERMITTED BY
21 THE TEMPORARY RULE AND PERFORMED DURING THE INTERIM PERIOD, ANY
22 REQUIREMENT IN THIS PART 5 OR TITLE 38 THAT AN INDIVIDUAL MAKING
23 A STATEMENT OR EXECUTING A SIGNATURE APPEAR PERSONALLY BEFORE
24 A NOTARIAL OFFICER IS SATISFIED BY THE PROCEDURES SPECIFIED IN AND
25 PERMITTED BY THE TEMPORARY RULE.

26 (c) THE SECRETARY OF STATE MAY AMEND THE TEMPORARY RULE
27 IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24, BUT THE AMENDMENT

1 MUST NOT PERMIT THE PERFORMANCE OF A REMOTE NOTARIZATION WITH
2 RESPECT TO A RECORD DESCRIBED IN SECTION 5.2.2 OF THE TEMPORARY
3 RULE OTHER THAN IN ACCORDANCE WITH THE PROVISIONS OF THE
4 TEMPORARY RULE AS IT EXISTED ON THE EFFECTIVE DATE OF THIS
5 SUBSECTION (3).

6 (d) A NOTARIAL ACT PERFORMED DURING THE INTERIM PERIOD
7 WITH RESPECT TO A REMOTELY LOCATED INDIVIDUAL THAT COMPLIED
8 WITH THE TEMPORARY RULE IS NOT INVALID DUE TO THE LACK OF EXPRESS
9 STATUTORY AUTHORITY FOR THE NOTARIAL ACT.

10 (e) THE SECRETARY OF STATE SHALL UPDATE THE APPLICABLE
11 JOINT COMMITTEE OF REFERENCE DURING THE DEPARTMENT OF STATE'S
12 2020 PRESENTATION MADE PURSUANT TO SECTION 2-7-203 REGARDING
13 THE IMPLEMENTATION OF THIS SUBSECTION (3).

14 (f) SUBSECTIONS (3)(b), (3)(c), AND (3)(e) OF THIS SECTION AND
15 THIS SUBSECTION (3)(f) ARE REPEALED, EFFECTIVE DECEMBER 31, 2020.

16 **SECTION 8.** In Colorado Revised Statutes, 10-11-122, **add (4)**
17 **as follows:**

18 **10-11-122. Title commitments - rules. (4) (a) IF A TITLE**
19 **INSURANCE AGENT OR TITLE INSURANCE COMPANY IS REQUIRED TO**
20 **PROVIDE THE STATEMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION,**
21 **THE AGENT OR COMPANY SHALL ALSO PROVIDE A STATEMENT**
22 **SUBSTANTIALLY AS FOLLOWS:**

23 **COLORADO NOTARIES MAY REMOTELY**
24 **NOTARIZE REAL ESTATE DEEDS AND OTHER**
25 **DOCUMENTS USING REAL-TIME AUDIO-VIDEO**
26 **COMMUNICATION TECHNOLOGY. YOU MAY**
27 **CHOOSE NOT TO USE REMOTE NOTARIZATION**

1 **FOR ANY DOCUMENT.**

2 **(b) FAILURE OF A PERSON TO PROVIDE THE STATEMENT REQUIRED**
3 **BY THIS SUBSECTION (4) DOES NOT SUBJECT THE PERSON TO ANY LIABILITY**
4 **UNDER THIS ARTICLE 11 OR TO THE PENALTY PROVISIONS OF SECTION**
5 **10-3-111 AND DOES NOT AFFECT OR INVALIDATE ANY PROVISIONS OF THE**
6 **COMMITMENT FOR TITLE INSURANCE.**

7 **SECTION 9. Appropriation.** (1) For the 2020-21 state fiscal
8 year, \$132,795 is appropriated to the department of state. This
9 appropriation is from the department of state cash fund created in section
10 24-21-104 (3)(b), C.R.S. To implement this act, the department may use
11 this appropriation as follows:

12 (a) \$57,910 for use by the business and licensing division for
13 personal services, which amount is based on an assumption that the
14 division will require an additional 1.1 FTE;

15 (b) \$7,685 for use by the business and licensing division for
16 operating expenses; and

17 (c) \$67,200 for use by the information technology division for
18 personal services.

19 **SECTION 10. Effective date - applicability.** (1) This act:

20 (a) Takes effect upon passage; except that sections 1 through 5
21 and 7 of this act take effect December 31, 2020; and

22 (b) Applies to conduct occurring on or after March 30, 2020.

23 **SECTION 11. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, or safety.