

HB1167_L.001
HOUSE COMMITTEE OF REFERENCE AMENDMENT
Committee on State, Veterans, & Military Affairs.
HB19-1167 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **amend** 24-21-501
4 as follows:

5 **24-21-501. Short title.** The short title of this part 5 is the "Revised
6 Uniform Law on Notarial Acts ACTS (2018)".

7 **SECTION 2.** In Colorado Revised Statutes, 24-21-504, **add** (4)
8 as follows:

9 **24-21-504. Authority to perform notarial act.** (4) A NOTARIAL
10 OFFICER MAY CERTIFY THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD
11 IS AN ACCURATE COPY OF THE ELECTRONIC RECORD.

12 **SECTION 3.** In Colorado Revised Statutes, **add** 24-21-514.5 as
13 follows:

14 **24-21-514.5. Notarial act performed by remotely located**
15 **individual - definitions - rules.** (1) AS USED IN THIS SECTION, UNLESS
16 THE CONTEXT OTHERWISE REQUIRES:

17 (a) "COMMUNICATION TECHNOLOGY" MEANS AN ELECTRONIC
18 DEVICE OR PROCESS THAT:

19 (I) ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED
20 INDIVIDUAL TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY
21 SIGHT AND SOUND; AND

22 (II) WHEN NECESSARY AND CONSISTENT WITH OTHER APPLICABLE
23 LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED
24 INDIVIDUAL WHO HAS A VISION, HEARING, OR SPEECH IMPAIRMENT.

25 (b) "FOREIGN STATE" MEANS A JURISDICTION OTHER THAN THE
26 UNITED STATES, A STATE, OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

27 (c) "IDENTITY PROOFING" MEANS A PROCESS OR SERVICE BY WHICH
28 A THIRD PERSON PROVIDES A NOTARY PUBLIC WITH A MEANS TO VERIFY
29 THE IDENTITY OF A REMOTELY LOCATED INDIVIDUAL BY A REVIEW OF
30 PERSONAL INFORMATION FROM PUBLIC OR PRIVATE DATA SOURCES.

31 (d) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE
32 THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE
33 UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY, INSULAR
34 POSSESSION, OR OTHER LOCATION SUBJECT TO THE JURISDICTION OF THE
35 UNITED STATES.

36 (e) "REMOTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL
37 WHO IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO
38 PERFORMS A NOTARIAL ACT UNDER SUBSECTION (3) OF THIS SECTION.

39 (2) A REMOTELY LOCATED INDIVIDUAL MAY COMPLY WITH

1 SECTION 24-21-506 BY USING COMMUNICATION TECHNOLOGY TO APPEAR
2 BEFORE A NOTARY PUBLIC.

3 (3) A NOTARY PUBLIC LOCATED IN THIS STATE MAY PERFORM A
4 NOTARIAL ACT USING COMMUNICATION TECHNOLOGY FOR A REMOTELY
5 LOCATED INDIVIDUAL IF:

6 (a) THE NOTARY PUBLIC:

7 (I) HAS PERSONAL KNOWLEDGE UNDER SECTION 24-21-507 (1) OF
8 THE IDENTITY OF THE INDIVIDUAL;

9 (II) HAS SATISFACTORY EVIDENCE OF THE IDENTITY OF THE
10 REMOTELY LOCATED INDIVIDUAL BY OATH OR AFFIRMATION FROM A
11 CREDIBLE WITNESS APPEARING BEFORE THE NOTARY PUBLIC UNDER
12 SECTION 24-21-507 (2) OR UNDER THIS SECTION; OR

13 (III) HAS OBTAINED SATISFACTORY EVIDENCE OF THE IDENTITY OF
14 THE REMOTELY LOCATED INDIVIDUAL BY USING AT LEAST TWO DIFFERENT
15 TYPES OF IDENTITY PROOFING;

16 (b) THE NOTARY PUBLIC IS ABLE REASONABLY TO CONFIRM THAT
17 A RECORD BEFORE THE NOTARY PUBLIC IS THE SAME RECORD IN WHICH THE
18 REMOTELY LOCATED INDIVIDUAL MADE A STATEMENT OR ON WHICH THE
19 REMOTELY LOCATED INDIVIDUAL EXECUTED A SIGNATURE;

20 (c) THE NOTARY PUBLIC, OR A PERSON ACTING ON BEHALF OF THE
21 NOTARY PUBLIC, CREATES AN AUDIO-VISUAL RECORDING OF THE
22 PERFORMANCE OF THE NOTARIAL ACT; AND

23 (d) FOR A REMOTELY LOCATED INDIVIDUAL WHO IS LOCATED
24 OUTSIDE THE UNITED STATES:

25 (I) THE RECORD:

26 (A) IS TO BE FILED WITH OR RELATES TO A MATTER BEFORE A
27 PUBLIC OFFICIAL OR COURT, GOVERNMENTAL ENTITY, OR OTHER ENTITY
28 SUBJECT TO THE JURISDICTION OF THE UNITED STATES; OR

29 (B) INVOLVES PROPERTY LOCATED IN THE TERRITORIAL
30 JURISDICTION OF THE UNITED STATES OR INVOLVES A TRANSACTION
31 SUBSTANTIALLY CONNECTED WITH THE UNITED STATES; AND

32 (II) THE ACT OF MAKING THE STATEMENT OR SIGNING THE RECORD
33 IS NOT PROHIBITED BY THE FOREIGN STATE IN WHICH THE REMOTELY
34 LOCATED INDIVIDUAL IS LOCATED.

35 (4) IF A NOTARIAL ACT IS PERFORMED UNDER THIS SECTION, THE
36 CERTIFICATE OF NOTARIAL ACT REQUIRED BY SECTION 24-21-515 AND THE
37 SHORT-FORM CERTIFICATE PROVIDED IN SECTION 24-21-516 MUST
38 INDICATE THAT THE NOTARIAL ACT WAS PERFORMED USING
39 COMMUNICATION TECHNOLOGY.

40 (5) A SHORT-FORM CERTIFICATE PROVIDED IN SECTION 24-21-516
41 FOR A NOTARIAL ACT SUBJECT TO THIS SECTION IS SUFFICIENT IF IT:

42 (a) COMPLIES WITH RULES ADOPTED UNDER SUBSECTION (8)(a) OF
43 THIS SECTION; OR

44 (b) IS IN THE FORM PROVIDED BY SECTION 24-21-516 AND
45 CONTAINS A STATEMENT SUBSTANTIALLY AS FOLLOWS: "THIS NOTARIAL

1 ACT INVOLVED THE USE OF COMMUNICATION TECHNOLOGY."
2 (6) A NOTARY PUBLIC, A GUARDIAN, CONSERVATOR, OR AGENT OF
3 A NOTARY PUBLIC, OR A PERSONAL REPRESENTATIVE OF A DECEASED
4 NOTARY PUBLIC SHALL RETAIN THE AUDIO-VISUAL RECORDING CREATED
5 UNDER SUBSECTION (3)(c) OF THIS SECTION OR CAUSE THE RECORDING TO
6 BE RETAINED BY A REPOSITORY DESIGNATED BY OR ON BEHALF OF THE
7 PERSON REQUIRED TO RETAIN THE RECORDING. UNLESS A DIFFERENT
8 PERIOD IS REQUIRED BY RULE ADOPTED UNDER SUBSECTION (8)(d) OF THIS
9 SECTION, THE RECORDING MUST BE RETAINED FOR A PERIOD OF AT LEAST
10 TEN YEARS AFTER THE RECORDING IS MADE.
11 (7) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S
12 INITIAL NOTARIAL ACT UNDER THIS SECTION, THE NOTARY PUBLIC MUST
13 NOTIFY THE SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE
14 PERFORMING NOTARIAL ACTS WITH RESPECT TO REMOTELY LOCATED
15 INDIVIDUALS AND IDENTIFY THE TECHNOLOGIES THE NOTARY PUBLIC
16 INTENDS TO USE. IF THE SECRETARY OF STATE HAS ESTABLISHED
17 STANDARDS UNDER SUBSECTION (8) OF THIS SECTION AND SECTION
18 24-21-527 FOR APPROVAL OF COMMUNICATION TECHNOLOGY OR IDENTITY
19 PROOFING, THE COMMUNICATION TECHNOLOGY AND IDENTITY PROOFING
20 MUST CONFORM TO THE STANDARDS.
21 (8) IN ADDITION TO ADOPTING RULES UNDER SECTION 24-21-527,
22 THE SECRETARY OF STATE MAY ADOPT RULES UNDER THIS SECTION
23 REGARDING PERFORMANCE OF A NOTARIAL ACT. THE RULES MAY:
24 (a) PRESCRIBE THE MEANS OF PERFORMING A NOTARIAL ACT
25 INVOLVING A REMOTELY LOCATED INDIVIDUAL USING COMMUNICATION
26 TECHNOLOGY;
27 (b) ESTABLISH STANDARDS FOR COMMUNICATION TECHNOLOGY
28 AND IDENTITY PROOFING;
29 (c) ESTABLISH REQUIREMENTS OR PROCEDURES TO APPROVE
30 PROVIDERS OF COMMUNICATION TECHNOLOGY AND THE PROCESS OF
31 IDENTITY PROOFING; AND
32 (d) ESTABLISH STANDARDS AND A PERIOD FOR THE RETENTION OF
33 AN AUDIO-VISUAL RECORDING CREATED UNDER SUBSECTION (3)(c) OF THIS
34 SECTION.
35 (9) BEFORE ADOPTING, AMENDING, OR REPEALING A RULE
36 GOVERNING PERFORMANCE OF A NOTARIAL ACT WITH RESPECT TO A
37 REMOTELY LOCATED INDIVIDUAL, THE SECRETARY OF STATE MUST
38 CONSIDER:
39 (a) THE MOST RECENT STANDARDS REGARDING THE PERFORMANCE
40 OF A NOTARIAL ACT WITH RESPECT TO A REMOTELY LOCATED INDIVIDUAL
41 PROMULGATED BY NATIONAL STANDARD-SETTING ORGANIZATIONS AND
42 THE RECOMMENDATIONS OF THE NATIONAL ASSOCIATION OF SECRETARIES
43 OF STATE;
44 (b) STANDARDS, PRACTICES, AND CUSTOMS OF OTHER
45 JURISDICTIONS THAT HAVE LAWS SUBSTANTIALLY SIMILAR TO THIS

1 SECTION; AND

2 (c) THE VIEWS OF GOVERNMENTAL OFFICIALS AND ENTITIES AND
3 OTHER INTERESTED PERSONS.

4 (10) TO BE ELIGIBLE TO DIRECTLY FACILITATE A NOTARIAL ACT
5 USING COMMUNICATION TECHNOLOGY FOR A REMOTELY LOCATED
6 INDIVIDUAL, THE PROVIDER OF THE COMMUNICATION TECHNOLOGY MUST:

7 (a) HAVE AND MAINTAIN A USUAL PLACE OF BUSINESS IN THIS
8 STATE OR, IF REQUIRED, APPOINT A REGISTERED AGENT IN THIS STATE
9 PURSUANT TO SECTION 7-90-701; OR

10 (b) FILE A STATEMENT OF FOREIGN ENTITY AUTHORITY NAMING A
11 REGISTERED AGENT IN THIS STATE PURSUANT TO SECTION 7-90-803.

12 **SECTION 4.** In Colorado Revised Statutes, 24-21-520, **add** (4)
13 as follows:

14 **24-21-520. Notification regarding performance of notarial act**
15 **on electronic record - selection of technology - acceptance of tangible**
16 **copy of electronic record.** (4) A COUNTY CLERK AND RECORDER MAY
17 ACCEPT FOR RECORDING A TANGIBLE COPY OF AN ELECTRONIC RECORD
18 CONTAINING A NOTARIAL CERTIFICATE AS SATISFYING ANY REQUIREMENT
19 THAT A RECORD ACCEPTED FOR RECORDING BE AN ORIGINAL, IF THE
20 NOTARIAL OFFICER EXECUTING THE NOTARIAL CERTIFICATE CERTIFIES
21 THAT THE TANGIBLE COPY IS AN ACCURATE COPY OF THE ELECTRONIC
22 RECORD.

23 **SECTION 5.** In Colorado Revised Statutes, 24-21-525, **add** (8)
24 as follows:

25 **24-21-525. Prohibited acts - rules.** (8) (a) A NOTARY PUBLIC AND
26 COMMUNICATION TECHNOLOGY, AS DEFINED IN SECTION 24-21-514.5,
27 USED BY THE NOTARY PUBLIC SHALL USE ALL PERSONAL INFORMATION
28 COLLECTED IN THE COURSE OF PERFORMING A NOTARIAL ACT FOR A
29 REMOTELY LOCATED INDIVIDUAL AS FOLLOWS:

30 (I) TO COMPLETE THE NOTARIAL ACT AND RELATED ACTIVITIES; OR

31 (II) IN ACCORDANCE WITH APPLICABLE LAW.

32 (b) CONSISTENT WITH THE REQUIREMENTS OF SECTION 6-1-713.5,
33 A NOTARY PUBLIC SHALL IMPLEMENT AND MAINTAIN TECHNICAL
34 CONTROLS REASONABLY DESIGNED TO PROTECT PERSONAL INFORMATION
35 COLLECTED IN THE COURSE OF PERFORMING A NOTARIAL ACT FOR A
36 REMOTELY LOCATED INDIVIDUAL FROM UNAUTHORIZED ACCESS,
37 MODIFICATION, DISCLOSURE, AND DESTRUCTION.

38 (c) THE ATTORNEY GENERAL MAY PROMULGATE RULES,
39 CONSISTENT WITH APPLICABLE LAW, CONCERNING REQUIREMENTS FOR
40 DISCLOSURE OF INTENDED USES AND FOR CONSUMER CONSENT REGARDING
41 THE USE AND SECURITY OF PERSONAL INFORMATION COLLECTED IN THE
42 COURSE OF PERFORMING A NOTARIAL ACT FOR A REMOTELY LOCATED
43 INDIVIDUAL.

44 **SECTION 6. Act subject to petition - effective date.** This act
45 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part will not take effect
6 unless approved by the people at the general election to be held in
7 November 2020 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor."

** *** ** *** **