

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 23-0324.01 Jason Gelender x4330

SENATE BILL 23-153

SENATE SPONSORSHIP

Rodriguez and Rich,

HOUSE SPONSORSHIP

Duran and Pugliese,

Senate Committees

Business, Labor, & Technology
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF NOTARIES**
102 **BY THE SECRETARY OF STATE IN THE DEPARTMENT OF STATE,**
103 **AND, IN CONNECTION THEREWITH, IMPLEMENTING THE**
104 **RECOMMENDATIONS IN THE 2022 SUNSET REPORT BY THE**
105 **DEPARTMENT OF REGULATORY AGENCIES.**

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/>.)

Sunset Process - Senate Business, Labor, and Technology Committee. The bill implements the recommendations of the department

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

of regulatory agencies, as specified in the department's sunset review of the "Revised Uniform Law on Notarial Acts" (act), as follows:

- Continues the act for 9 years, until September 1, 2032;
- Repeals the requirement that a certificate evidencing a notarial act performed by a notary public indicate the date of expiration of the notary public's commission;
- Repeals statutory fees for notarial acts performed by a notary public and requires the secretary of state to adopt rules that prescribe or establish caps for fees that a notary public may charge for notarial acts; and
- Requires the secretary of state to adopt rules that establish minimum requirements for the use of interpreters and translators in the performance of notarial acts.

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

2 **SECTION 1. In Colorado Revised Statutes, 24-21-502, add (5.5)**
3 **as follows:**

4 **24-21-502. Definitions. In this part 5:**

5 **(5.5) "INTERPRETER" MEANS AN INDIVIDUAL WHO PROVIDES**
6 **INTERPRETER SERVICES WHEN A NOTARIAL OFFICER AND AN INDIVIDUAL**
7 **EXECUTING A RECORD DO NOT COMMUNICATE IN THE SAME LANGUAGE.**

8 **SECTION 2. In Colorado Revised Statutes, add 24-21-514.7 as**
9 **follows:**

10 **24-21-514.7. Interpreters - use in facilitation of notarial acts**
11 **- limitations. (1) IF A NOTARIAL OFFICER AND AN INDIVIDUAL FOR WHOM**
12 **A NOTARIAL ACT IS TO BE PERFORMED DO NOT COMMUNICATE IN THE SAME**
13 **LANGUAGE, AN INTERPRETER WHO COMMUNICATES IN A LANGUAGE IN**
14 **COMMON WITH BOTH THE NOTARIAL OFFICER AND THE INDIVIDUAL MAY BE**
15 **USED TO FACILITATE THE NOTARIAL ACT. A NOTARIAL OFFICER MAY RELY**
16 **ON REPRESENTATIONS MADE BY THE INTERPRETER ON BEHALF OF THE**
17 **INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED AS FACTUAL.**
18 **ANY ERRORS IN INTERPRETATION ARE NOT ATTRIBUTABLE TO THE**

1 NOTARIAL OFFICER, AND THE NOTARIAL OFFICER IS NOT BE LIABLE IN ANY
2 DISPUTES ARISING FROM SUCH ERRORS.

3 (2) AN INTERPRETER SHALL APPEAR PERSONALLY, AS DEFINED IN
4 SECTION 24-21-506(2), BEFORE THE NOTARIAL OFFICER. AN INTERPRETER
5 APPEARING PERSONALLY BEFORE THE NOTARIAL OFFICER SHALL BE
6 IDENTIFIED PURSUANT TO SECTION 24-21-507 OR, IF APPEARING
7 PERSONALLY BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION,
8 PURSUANT TO SECTION 24-21-514.5.

9 (3) (a) AN INTERPRETER SHALL NOT PROVIDE INTERPRETER
10 SERVICES WHEN THE INTERPRETER HAS A DISQUALIFYING INTEREST IN THE
11 TRANSACTION. FOR THE PURPOSES OF THIS SUBSECTION (3), AN
12 INTERPRETER HAS A DISQUALIFYING INTEREST IN A TRANSACTION IF:

13 (I) THE INTERPRETER OR THE INTERPRETER'S SPOUSE, PARTNER IN
14 A CIVIL UNION, ANCESTOR, DESCENDENT, OR SIBLING IS A PARTY TO OR IS
15 NAMED IN THE RECORD THAT IS TO BE NOTARIZED; OR

16 (II) THE INTERPRETER OR THE INTERPRETER'S SPOUSE OR PARTNER
17 IN A CIVIL UNION MAY RECEIVE DIRECTLY, AND AS A PROXIMATE RESULT
18 OF THE NOTARIZATION ANY ADVANTAGE, RIGHT, TITLE, INTEREST, CASH,
19 OR PROPERTY. THIS SUBSECTION (3)(a)(II) DOES NOT APPLY TO A
20 REASONABLE FEE RECEIVED BY THE INTERPRETER FOR PROVIDING
21 INTERPRETER SERVICES.

22 (b) A NOTARIAL ACT IS VOIDABLE IF INTERPRETER SERVICES ARE
23 PROVIDED IN VIOLATION OF THIS SUBSECTION (3) IN RELATION TO THE
24 NOTARIAL ACT.

25 (4) (a) IF A NOTARIAL OFFICER DOES NOT COMMUNICATE IN THE
26 SAME LANGUAGE AS THE INDIVIDUAL EXECUTING THE RECORD WITH
27 RESPECT TO WHICH THE NOTARIAL OFFICER IS PERFORMING A NOTARIAL

1 ACT, THE NOTARIAL OFFICER IS NOT LIABLE IN ANY LEGAL ACTION
2 REGARDING A DISPUTE THAT DIRECTLY RESULTS FROM AN ERROR IN
3 INTERPRETATION.

4 (b) A PARTY WHO FILES AN ACTION FOR DAMAGES BASED ON A
5 VIOLATION OF THIS PART 5 RELATED TO A NOTARIAL ACT THAT A
6 NOTARIAL OFFICER PERFORMED IN ACCORDANCE WITH THIS SECTION HAS
7 THE BURDEN OF PROOF IN ESTABLISHING THAT THE DISPUTE IS RELATED TO
8 A CAUSE OTHER THAN THE INTERPRETATION.

9 (5) NOTHING IN THIS SECTION LIMITS A NOTARIAL OFFICER'S
10 AUTHORITY TO REFUSE TO PERFORM A NOTARIAL ACT AS SET FORTH IN
11 SECTION 24-21-508.

12 (6) IN ADDITION TO COMPLYING WITH THE REQUIREMENTS OF
13 SECTION 24-21-515, THE CERTIFICATE OF NOTARIAL ACT FOR A REMOTE
14 NOTARIZATION THAT WAS PERFORMED USING AN INTERPRETER MUST
15 INDICATE THAT THE NOTARIAL ACT WAS PERFORMED USING AN
16 INTERPRETER AND INCLUDE THE NAME AND CREDENTIAL OR
17 CERTIFICATION NUMBER, IF ANY, OF THE INTERPRETER.

18 **SECTION 3.** In Colorado Revised Statutes, 24-21-515, **amend**
19 (1)(c) and (1)(d); and **repeal** (1)(e) as follows:

20 **24-21-515. Certificate of notarial act.** (1) A notarial act must be
21 evidenced by a certificate. The certificate must:

22 (c) Identify the county and state in which the notarial act is
23 performed; AND

24 (d) Contain the title of office of the notarial officer. ~~and~~

25 (e) ~~If the notarial officer is a notary public, indicate the date of~~
26 ~~expiration of the officer's commission.~~

27 **SECTION 4.** In Colorado Revised Statutes, 24-21-519, **amend**

1 (3) introductory portion, (3)(f), (3)(g), and (5); and add (3)(h) and (3)(i)
2 as follows:

3 **24-21-519. Journal. (3) An entry in a journal must be made**
4 **contemporaneously with performance of the A notarial act and contain the**
5 **following information:**

6 (f) If identity of the individual is based on satisfactory evidence,
7 a brief description of the method of identification and the type of
8 identification credential presented, if any; and

9 (g) The fee, if any, charged by the notary public FULL NAME AND
10 ADDRESS OF ANY INTERPRETER WHO PROVIDED INTERPRETER SERVICES TO
11 FACILITATE THE NOTARIAL ACT;

12 (h) THE CERTIFICATION OR CREDENTIAL NUMBER OF ANY
13 INTERPRETER WHO PROVIDED INTERPRETER SERVICES TO FACILITATE THE
14 NOTARIAL ACT; AND

15 (i) THE FEE, IF ANY, CHARGED BY THE NOTARY PUBLIC.

16 (5) Upon written request of any member of the public, which
17 request must include the name of the parties, the type of document, and
18 the month and year in which a record was notarized, a notary public may
19 supply a certified copy of the line item representing the requested
20 transaction. A notary public may charge ~~the fee allowed in section~~
21 ~~24-21-529~~ A FEE AS AUTHORIZED BY THE SECRETARY OF STATE BY RULE
22 for each certified copy of a line item, and shall record the transaction in
23 the notary's journal.

24 **SECTION 5. In Colorado Revised Statutes, 24-21-523, amend**
25 **(2) as follows:**

26 **24-21-523. Grounds to deny, refuse to renew, revoke, suspend,**
27 **or condition commission of notary public. (2) Whenever the secretary**

1 of state or the secretary of state's designee believes that a violation of this
2 part 5 has occurred, the secretary of state or the secretary of state's
3 designee may investigate the violation. The secretary of state or the
4 secretary of state's designee may also investigate possible violations of
5 this part 5 upon a signed complaint from any person. HOWEVER, THIS
6 SECTION DOES NOT AUTHORIZE THE SECRETARY OF STATE OR THE
7 SECRETARY OF STATE'S DESIGNEE TO INVESTIGATE A POTENTIAL
8 VIOLATION CONCERNING AN ACTION TAKEN BY AN INTERPRETER DURING
9 A NOTARIAL ACT.

10 **SECTION 6.** In Colorado Revised Statutes, 24-21-527, **add** (1.5)
11 as follows:

12 **24-21-527. Rules - definitions.** (1.5) IN ADDITION TO THE RULES
13 THAT THE SECRETARY OF STATE IS AUTHORIZED TO ADOPT PURSUANT TO
14 SUBSECTION (1) OF THIS SECTION, NO LATER THAN JANUARY 1, 2024, THE
15 SECRETARY OF STATE SHALL ADOPT RULES THAT PRESCRIBE OR ESTABLISH
16 CAPS FOR FEES THAT A NOTARY PUBLIC MAY CHARGE FOR THE
17 PERFORMANCE OF NOTARIAL ACTS AND ESTABLISH MINIMUM
18 REQUIREMENTS FOR THE USE OF INTERPRETERS AND TRANSLATORS IN THE
19 PERFORMANCE OF NOTARIAL ACTS.

20 **SECTION 7.** In Colorado Revised Statutes, **repeal** 24-21-529 as
21 follows:

22 **24-21-529. Notary's fees.** ~~(1) Except as specified in subsection~~
23 ~~(2) of this section, the fees of a notary public may be, but must not~~
24 ~~exceed, five dollars for each document attested by a person before a~~
25 ~~notary, except as otherwise provided by law. The fee for each such~~
26 ~~document must include all duties and functions required to complete the~~
27 ~~notarial act in accordance with this part 5.~~

1 ~~(2) In lieu of the fee authorized in subsection (1) of this section,~~
2 ~~a notary public may charge a fee, not to exceed ten dollars, for the~~
3 ~~notary's electronic signature.~~

4 **SECTION 8.** In Colorado Revised Statutes, **amend** 24-21-540 as
5 follows:

6 **24-21-540. Repeal of part.** This part 5 is repealed, effective
7 ~~September 1, 2023~~ SEPTEMBER 1, 2032. Before its repeal, this part 5 is
8 scheduled for review in accordance with section 24-34-104.

9 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **repeal**
10 (24)(a)(IV); and **add** (33)(a)(IV) as follows:

11 **24-34-104. General assembly review of regulatory agencies**
12 **and functions for repeal, continuation, or reestablishment - legislative**
13 **declaration - repeal.** (24) (a) The following agencies, functions, or both,
14 are scheduled for repeal on September 1, 2023:

15 ~~(IV) The appointment of notaries public through the secretary of~~
16 ~~state in accordance with part 5 of article 21 of this title 24;~~

17 (33) (a) The following agencies, functions, or both, are scheduled
18 for repeal on September 1, 2032:

19 (IV) THE APPOINTMENT OF NOTARIES PUBLIC THROUGH THE
20 SECRETARY OF STATE IN ACCORDANCE WITH PART 5 OF ARTICLE 21 OF THIS
21 TITLE 24.

22 **SECTION 10.** In Colorado Revised Statutes, **amend** 38-30-134
23 as follows:

24 **38-30-134. Fees of commissioners.** Commissioners, for like
25 services, shall be allowed the same fees as are allowed by ~~law~~ THE
26 SECRETARY OF STATE to notaries public of this state.

27 **SECTION 11. Effective date.** This act takes effect upon passage;

1 except that sections 2, 4, and 7 of this act take effect January 1, 2024.

2 **SECTION 12. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.