
A BILL FOR AN ACT

RELATING TO NOTARIES PUBLIC.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to update the laws
2 regarding notaries public to conform to the Revised Uniform Law
3 on Notarial Acts (2018), the Hawaii Uniform Electronic
4 Transactions Act, other state notary laws, and current notary
5 practices.

6 SECTION 2. Chapter 456, Hawaii Revised Statutes, is
7 amended by adding six new sections to be appropriately
8 designated and to read as follows:

9 "§456-A Authority to refuse to perform notarial act. (a)
10 A notary public may refuse to perform a notarial act if the
11 notary public is not satisfied that:

12 (1) The person executing the document is competent or has
13 the capacity to execute the document; or
14 (2) The person's signature is knowingly and voluntarily
15 made.



1 (b) A notary public may refuse to perform a notarial act
2 unless the refusal is prohibited by any provision of law other
3 than this chapter.

4 §456-B Notarial act performed for remotely located
5 individual. (a) A remotely located individual may comply with
6 any requirement of the laws of this State to appear personally
7 before or be in the presence of a notary public at the time of
8 the performance of a notarial act by using communication
9 technology to appear before a remote online notary public.

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

- 13 (1) The remote online notary public:
- 14 (A) Has personal knowledge of the identity of the
15 individual;
 - 16 (B) Has satisfactory evidence of the identity of the
17 remotely located individual by oath or
18 affirmation from a credible witness appearing
19 before the remote online notary public under this
20 chapter; 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 remotely located individual executed a
- 10 signature;
- 11 (3) The remote online notary public, or a person acting on
- 12 behalf of the remote online notary public, creates an
- 13 audiovisual recording of the performance of the
- 14 notarial act; and
- 15 (4) For a remotely located individual located outside the
- 16 United States:
- 17 (A) The document:
- 18 (i) Is to be filed with or relates to a matter
- 19 before a public official or court,
- 20 governmental entity, or other entity subject
- 21 to the jurisdiction of the United States;



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; or
5 (iii) Involves a transaction with a bank whose
6 deposits are insured by the Federal Deposit
7 Insurance Corporation, including such banks
8 located in the Federated States of
9 Micronesia, Republic of the Marshall
10 Islands, and Republic of Palau; and
11 (B) The act of making the statement or signing the
12 record is not prohibited by the foreign state in
13 which the remotely located individual is located.
14 (c) If a notarial act is performed under this section, any
15 certificate of notarial act required by this chapter or other
16 laws of this State shall indicate that the notarial act was
17 performed using communication technology.
18 (d) A form of certificate of notarial act subject to this
19 section and authorized by the laws of this State, including a
20 certificate of acknowledgment provided in section 502-41, is
21 sufficient if it:



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

2 (2) Is in the form authorized by the laws of this State

3 and contains a statement substantially as follows:

4 "This notarial act involved the use of communication
5 technology".

6 (e) A remote online notary public, guardian, conservator,

7 or agent of a remote online notary public, or a personal

8 representative of a deceased remote online notary public shall

9 retain the audiovisual recording created under this section or

10 cause the recording to be retained by a repository designated by

11 or on behalf of the person required to retain the recording.

12 Unless a different period is required by rule adopted under this

13 section, the recording shall be retained for a period of at

14 least ten years after the recording is made.

15 (f) Before a remote online notary public performs the

16 remote online notary public's initial notarial act under this

17 section, the remote online notary public shall notify the

18 attorney general that the remote online notary public will be

19 performing notarial acts with respect to remotely located

20 individuals and identify the technologies that the remote online

21 notary public intends to use. The technology selected by a



1 remote online notary public to perform notarial acts for
2 remotely located individuals shall conform to the attorney
3 general's standards developed for this chapter.

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

8 (1) Prescribing the means of performing a notarial act
9 involving a remotely located individual using
10 communication technology;

11 (2) Establishing standards for communication technology
12 and identity proofing;

13 (3) Establishing requirements and procedures to approve
14 providers of communication technology and the process
15 of identity proofing; and

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

18 (h) Before adopting, amending, or repealing a rule
19 governing the performance of a notarial act with respect to a
20 remotely located individual, the attorney general shall
21 consider:



- 1 (1) The most recent standards regarding the performance of
2 a notarial act with respect to a remotely located
3 individual promulgated by national standard-setting
4 organizations and the recommendations of the National
5 Association of Secretaries of State;
- 6 (2) The standards, practices, and customs of other
7 jurisdictions that have laws substantially similar to
8 this section; and
- 9 (3) The views of governmental officials and entities and
10 other interested persons.
- 11 (i) For purposes of this section:
12 "Communication technology" means an electronic device or
13 process that:
- 14 (1) Allows a remote online notary public and a remotely
15 located individual to communicate with each other
16 simultaneously by sight and sound; and
- 17 (2) When necessary and consistent with other applicable
18 laws, facilitates communication with a remotely
19 located individual who has a vision, hearing, or
20 speech impairment.



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

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

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

16 "Remote online notary public" means an individual
17 commissioned by the attorney general to perform notarial acts
18 for remotely located individuals.

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



1 §456-C Application; qualifications. (a) A notary public
2 or an applicant for commission as a notary public may apply to
3 the attorney general to be commissioned as a remote online
4 notary public in the manner provided by this section.

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

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

9 (2) Paying the application fee; and

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

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

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

20 (e) The remote online notary public under this chapter
21 shall forthwith file a literal or photostatic copy of the



1 person's commission with the clerk of the circuit court of the
2 circuit in which the remote online notary public resides.

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

8 **§456-D Notification regarding performance of notarial act**
9 **on electronic record; selection of technology; acceptance of**
10 **tangible copy of electronic record.** (a) A notary public may

11 select one or more tamper-evident technologies to perform
12 notarial acts with respect to electronic documents. A person
13 shall not require a notary public to perform a notarial act with
14 respect to an electronic document with a technology that the
15 notary public has not selected.

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



1 online notary public for remote online notarizations shall
2 conform to the attorney general's standards developed for this
3 chapter.

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

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



1 purported notarial act performed by a person who does not have
2 the authority to perform notarial acts.

3 §456-F Relation to federal Electronic Signatures in Global
4 and National Commerce Act. This chapter modifies, limits, and
5 supersedes the federal Electronic Signatures in Global and
6 National Commerce Act, title 15 United States Code section 7001,
7 et seq., but does not modify, limit, or supersede section 101(c)
8 of that Act, title 15 United States Code section 7001(c), or
9 authorize electronic delivery of any of the notices described in
10 section 103(b) of that Act, title 15 United States Code section
11 7003(b)."

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

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



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

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



1 SECTION 4. Section 456-1.6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§456-1.6[+] **Definitions.** As used in this chapter,
4 unless the context requires otherwise:

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

11 "Alter" means to change by means of erasure, obliteration,
12 deletion, insertion of new content, or transposition of content.

13 "Document" means information that is inscribed on a
14 tangible medium or that is stored in an electronic or other
15 medium and is retrievable in perceivable form.

16 "Electronic" means relating to technology having
17 electrical, digital, magnetic, wireless, optical,
18 electromagnetic, or similar capabilities.

19 "Electronic signature" means an electronic symbol, sound,
20 or process attached to or logically associated with a document



1 and executed or adopted by a person with the intent to sign the
2 document.

3 "In a representative capacity" means acting as:

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

7 (2) A public officer, personal representative, guardian,
8 or other representative, in the capacity stated in a
9 document;

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

11 (4) An authorized representative of another in any other
12 capacity.

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

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



1 ~~["Personally knowing" means having an acquaintance, derived~~
2 ~~from association with the individual, which establishes the~~
3 ~~individual's identity with at least a reasonable certainty.]~~

4 "Proof of the signer's signature and identity" means [~~proof~~
5 ~~evidenced by production of a current identification card or~~
6 ~~document issued by the United States, this State, any other~~
7 ~~state, or a national government that contains the bearer's~~
8 ~~photograph and signature.] satisfactory evidence of the identity
9 of an individual appearing before the notary public if the
10 notary public can identify the individual:~~

11 (1) By means of:

12 (A) Having personal knowledge of the identify of an
13 individual before the officer if the individual
14 is personally known to the notary public through
15 dealings sufficient to provide reasonable
16 certainty that the individual has the identity
17 claimed;

18 (B) A passport, driver's license, or
19 government-issued non-driver identification card
20 that is valid or expired no more than three years
21 before the performance of the notarial act and



1 contains the signature and photograph of the
2 individual;

3 (C) Another form of government identification issued
4 to an individual that is valid or expired no more
5 than three years before performance of the
6 notarial act, contains the signature and
7 photograph of the individual, and is satisfactory
8 to the notary public; or

9 (D) By verification on oath or affirmation of a
10 credible witness personally appearing before the
11 notary public and known to the notary public or
12 whom the notary public can identify on the basis
13 of a passport, driver's license, or
14 government-issued non-driver identification card
15 that is valid or expired no more than three years
16 before performance of the notarial act; or

17 (2) By requiring an individual to provide additional
18 information or identification credentials necessary to
19 assure the notary public of the identity of the
20 individual.



1 "Sign" means, with present intent to authenticate or adopt
2 a document:

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

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

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

8 "Stamping device" means:

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

11 (2) An electronic device or process capable of attaching
12 to or logically associating with an electronic
13 document a notary seal.

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

16 "Verification on oath or affirmation" means a declaration,
17 made by a person on oath or affirmation before a notary public,
18 that a statement in a document is true."

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



1 "**§456-2 Qualifications; oath.** Every person [~~appointed~~
2 commissioned as a notary public shall, at the time of the
3 person's [~~appointment,~~] commission, be a resident of the State,
4 possess the other qualifications required of [~~public officers~~] a
5 notary public and be at least eighteen years of age. Every
6 person [~~appointed to that office~~], before being commissioned as
7 a notary public, shall [~~, before entering thereon,~~] take and
8 subscribe an oath for the faithful discharge of the person's
9 duties, which oath shall be filed in the department of the
10 attorney general."

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

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



1 impressed, or attached, or with which it is logically
2 associated. The notary public shall authenticate all the
3 ~~[notary's]~~ notary public's official acts, attestations,
4 certificates, and instruments therewith, and shall always add to
5 an official signature the typed or printed name of the notary
6 public and a statement showing the date that the ~~[notary's]~~
7 notary public's commission expires. Upon resignation, death,
8 expiration of term of ~~[office]~~ commission without
9 ~~[reappointment,]~~ renewal, or ~~[removal from]~~ revocation or
10 abandonment of ~~[office,]~~ commission, the notary public, or in
11 the case of the death of the notary public, the notary public's
12 personal representative, shall immediately deliver the
13 ~~[notary's]~~ notary public's seal to the attorney general who
14 shall deface or destroy the same. ~~[If any notary fails to~~
15 ~~comply with this section within ninety days of the date of the~~
16 ~~notary's resignation, expiration of term of office without~~
17 ~~reappointment, or removal from or abandonment of office or if~~
18 ~~the notary's personal representative fails to comply with this~~
19 ~~section within ninety days of the notary's death, then the~~
20 ~~notary public or the notary's personal representative shall~~
21 ~~forfeit to the State not more than \$200, in the discretion of~~



1 ~~the court, to be recovered in an action to be brought by the~~
2 ~~attorney general on behalf of the State.] If a notary public~~
3 ~~has used an electronic stamping device, upon resignation, death,~~
4 ~~expiration of term of commission without renewal, or revocation~~
5 ~~or abandonment of commission, the notary public, or in the case~~
6 ~~of the death of the notary public, the notary public's personal~~
7 ~~representative, shall disable the electronic stamping device by~~
8 ~~destroying, defacing, damaging, erasing, or securing it against~~
9 ~~use in a manner that renders it unusable and shall submit a~~
10 ~~declaration to the attorney general that the electronic stamping~~
11 ~~device was disabled and indicate the date and manner in which~~
12 ~~the device was disabled."~~

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

15 **"§456-4 Filing copy of commission; authentication of acts.**
16 (a) Each person [~~appointed and~~] commissioned as a notary public
17 under this chapter shall forthwith file a literal or photostatic
18 copy of the person's commission, an impression of the person's
19 tangible seal, and a specimen of the person's official signature
20 with the clerk of the circuit court of the circuit in which the
21 notary public resides. Each person [~~appointed and~~] commissioned



1 as a notary public under this chapter may also, at the person's
2 option, file the above-named documents with the clerk of any
3 other circuit court. Thereafter any clerk, when [~~thereunto~~]
4 requested, shall certify to the official character and acts of
5 any [~~such~~] notary public whose commission, impression of
6 tangible seal, and specimen of official signature [~~is~~] are so
7 filed in the clerk's office. A notary public's electronic seal
8 is not subject to the requirements of this section.

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

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

13 "**§456-5 Official bond.** Each notary public forthwith and
14 before entering upon the duties of the [~~notary's office~~] notary
15 public's commission shall execute, at the [~~notary's~~] notary
16 public's own expense, an official surety bond which shall be in
17 the sum of \$1,000. Each bond shall be approved by a judge of
18 the circuit court.

19 The obligee of each bond, or bond continuation certificate,
20 shall be the State and the condition contained therein shall be
21 that the notary public will well, truly, and faithfully perform



1 all the duties of the [~~notary's office~~] notary public's
2 commission which are then or may thereafter be required,
3 prescribed, or defined by law or by any rule made under the
4 express or implied authority of any statute, and all duties and
5 acts undertaken, assumed, or performed by the notary public by
6 virtue or color of the [~~notary's office.~~] notary public's
7 commission. The surety on any [~~such~~] bond, or bond continuation
8 certificate, shall be a surety company authorized to do business
9 in the State. After approval the bond, or bond continuation
10 certificate, shall be deposited and kept on file in the office
11 of the clerk of the circuit court of the judicial circuit in
12 which the notary public resides. The clerk shall keep a book to
13 be called the "bond record", in which the clerk shall record
14 [~~such~~] data in respect to each of the bonds or bond continuation
15 certificates deposited and filed in the clerk's office as the
16 attorney general may direct."

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

19 "**§456-6 Liabilities; limitations on; official bond.** (a)

20 In the performance of a notarial act, a [~~notary's~~] notary
21 public's liability shall be limited to a failure by the notary



1 public to perform properly the actions required for the jurat,
2 acknowledgment, or other notarial act. The [~~notary's~~] notary
3 public's liability shall not be based on statements in a
4 notarized document apart from the notarial certificate.

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

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

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

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



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

6 (3) Executing an official surety bond pursuant to section
7 456-5."

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

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

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

20 **"§456-9 Fees and administrative fines.** (a) The attorney
21 general shall charge and collect the following fees for:



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

5 These fees may be adjusted, and any other fees may be
 6 established and adjusted, by adopting rules pursuant to chapter
 7 91.

8 (b) The court fees for filing a copy of a commission and
 9 for each certificate of authentication shall be specified by the
 10 supreme court.

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

- 13 (1) Maintain an official seal of [~~one type, either a~~
- 14 ~~single engraved seal or~~] a single rubber stamp
- 15 [~~facsimile~~] notary seal, on which shall be inscribed
- 16 the name of the notary public, the commission number
- 17 of the notary public, and the words "notary public"
- 18 and "State of Hawaii" only, \$20;
- 19 (2) Surrender the notary public's [~~seal~~] physical stamping
- 20 device and certificate to the attorney general within
- 21 ninety days of resignation, [~~removal from office,~~]



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

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

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

16 [~~4~~] (5) [Record] Chronicle all of the notary public's
17 [~~transactions]~~ notarial acts as prescribed by section
18 456-15 and applicable rules, \$200; and

19 [~~5~~] ~~Surrender the notary public's record books to the~~
20 ~~attorney general within ninety days of the end date of~~



1 ~~the commission, resignation, or removal from office,~~
2 ~~\$500, and]~~

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

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

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

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

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



- 1 (1) All fees, administrative fines, charges, or other
- 2 payments received pursuant to section 456-9;
- 3 (2) Penalties and fines for violations of section 456-3 [~~7~~]
- 4 or 456-7 [~~7~~, ~~or 456-16~~];
- 5 (3) Appropriations made for deposit into the notaries
- 6 public revolving fund; and
- 7 (4) Interest earned on money in the notaries public
- 8 revolving fund."

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

11 "~~§456-14~~ ~~[Notary]~~ Authority to perform notarial act;
12 notary public connected with a corporation or trust company [~~→~~
13 ~~authority to act~~]. (a) Except as otherwise provided in
14 subsection (b):

- 15 (1) A notary public may perform a notarial act authorized
- 16 by this chapter or by the laws of this State; and
- 17 (2) It shall be lawful for any notary public, although an
- 18 officer, employee, shareholder, or director of a
- 19 corporation or trust company to take the
- 20 acknowledgment of any party to any written instrument
- 21 executed to or by the corporation or trust company, or



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

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

17 (c) A notary public may certify that a tangible copy of an
 18 electronic document is an accurate copy of the electronic
 19 document."

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



1 "§456-15 [Record,] Journal; copies as evidence. [Every
2 notary public shall record at length in a book of records all
3 acts, protests, depositions, and other things, by the notary
4 noted or done in the notary's official capacity. For each
5 official act, the notary shall enter in the book:] (a) A notary
6 public shall maintain a journal in which the notary public
7 chronicles all notarial acts that the notary public performs.
8 The notary public shall retain the journal for ten years after
9 the performance of the last notarial act chronicled in the
10 journal.

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



1 (c) A notary public having the care and custody of the
2 journal may cause the same to be photographed,
3 microphotographed, reproduced on film, or copied to an
4 electronic format. Any device or electronic storage system used
5 to copy or reproduce the journal shall accurately reflect the
6 information in the original thereof in all details.

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

15 (e) An entry in a journal shall be made contemporaneously
16 with performance of the notarial act and contain the following
17 information:

- 18 (1) The type, date, and time of day of the notarial act;
19 (2) The title or type and date of the document or
20 proceeding and the nature of the act, transaction, or
21 thing to which the document relates;



1 (3) The ~~[signature,]~~ full printed name~~[-]~~ and address of
2 each person whose signature is notarized and of each
3 witness~~[-]~~ and, if the journal is maintained in a
4 tangible medium, the signature of each person;

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

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

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

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

19 (g) On resignation from, or the expiration, revocation, or
20 suspension of, a notary public's commission, the notary public
21 shall retain the notary public's journal in accordance with this



1 section and inform the attorney general where the journal is
2 located.

3 (h) On the death or adjudication of incompetency of a
4 current or former notary public, the notary public's personal
5 representative or guardian or any other person knowingly in
6 possession of the journal shall transmit it to the attorney
7 general or a repository approved by the attorney general.

8 (i) All copies or certificates granted by the notary
9 public shall be under the [~~notary's~~] notary public's hand and
10 notary seal and shall be received as evidence of [~~such~~] the
11 transactions.

12 (j) The journals shall be subject to reasonable periodic,
13 special, or other audits or inspections by the department of the
14 attorney general, within or without this State, as the attorney
15 general considers necessary or appropriate. An audit or
16 inspection may be made at any time and without prior notice.
17 The department of the attorney general may copy, and remove for
18 audit or inspection copies of, all records the department of the
19 attorney general reasonably considers necessary or appropriate
20 to conduct the audit or inspection. If any notary public fails
21 to comply with this section, the notary public shall be subject



1 to an administrative fine of no less than \$50 nor more than
2 \$500. All unpaid fees, fines, and forfeitures shall constitute
3 a debt due and owing to the State."

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

6 **"§456-17 Fees.** Subject to section 456-18, every notary
7 public is entitled to demand and receive the following fees:

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

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

10 For noting any other protest, \$5;

11 For every notice thereof, and certified copy of protest,
12 \$5;

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

14 For the administration of oath, including the certificate
15 of the oath, \$5; for affixing the certificate of the oath to
16 every duplicate original instrument beyond four, \$2.50;

17 For taking any acknowledgment, \$5 for each party signing;
18 for affixing to every duplicate original beyond one of any
19 instrument acknowledged before the notary~~[r]~~ public, the
20 ~~[notary's]~~ notary public's certificate of the acknowledgment,
21 \$2.50 for each person making the acknowledgment~~[r]~~; and



1 For any of the foregoing notarial acts performed for a
2 remotely located individual under section 456-B, other than
3 affixing a notary public's certificate to a duplicate original,
4 \$25."

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

7 "~~+~~§456-19~~+~~ **Notary public signing for disabled person.**

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

20 SECTION 18. Section 456-20, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) A person commits the offense of failure to verify
2 identity [~~and signature~~] if the person is a commissioned notary
3 public and knowingly notarizes a document and[+
4 ~~(1) If] if a witness to the signing of the instrument,
5 fails to verify the identity of the signer by
6 ~~[personally knowing the signer or by comparing the~~
7 ~~personal appearance of the signer with satisfactory~~
8 ~~proof of the signer's identity, or~~
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.] proof~~
18 of the signer's signature and identity, or by
19 obtaining satisfactory evidence of identity under
20 section 456-B of a remotely located individual."~~



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

3 " ~~[+]§456-21[+]~~ **Failure to authenticate with a**
4 **certification statement.** (a) A person commits the offense of
5 failure to authenticate with a certification statement if the
6 person is a commissioned notary public and knowingly ~~[notarizes]~~
7 performs a notarial act with respect to a document and fails to
8 include any of the following in the notary certification:

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

20 (b) If a notarial act regarding a tangible record is
21 performed by a notary public, an official stamp shall be



1 stamped, impressed, or attached on the certificate. If a
2 notarial act is performed regarding a tangible record by a
3 notary public and the certificate contains the information
4 specified in this section, an official stamp shall be affixed to
5 the certificate. If a notarial act regarding an electronic
6 record is performed by a notary public and the certificate
7 contains the information specified in this section, an official
8 stamp shall be attached to or logically associated with the
9 certificate.

10 ~~[-(b)]~~ (c) Any person who violates this section shall be
11 guilty of a misdemeanor and shall be sentenced in accordance
12 with chapter 706.

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

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

17 "**§502-42 Certificate, contents.** The certificate of
18 acknowledgment shall state in substance that the person who
19 executed the instrument appeared before the ~~[officer]~~ notary
20 public granting the certificate and acknowledged or stated that
21 the person executed the same, and that ~~[such]~~ the person was



1 personally known to the [~~officer~~] notary public granting [~~such~~]
2 the certificate to be the person whose name is subscribed to the
3 instrument as a party thereto, or was proved to be [~~such~~] the
4 party by the oath or affirmation of a credible witness known to
5 the [~~officer~~] notary public whose name shall be inserted in the
6 certificate[-] or by other satisfactory evidence of identity
7 under the laws of this State. If the person who executed the
8 instrument appeared before a notary public as a remotely located
9 individual under section 456-B, then the certificate shall
10 indicate that the notarial act was performed using communication
11 technology in a manner provided in section 456-B. It shall not
12 be ground for the rejection of any [~~such~~] certificate, or for
13 refusing to accept [~~such~~] the instrument for record or in
14 evidence, that the certificate fails to state that the person
15 making the acknowledgment stated or acknowledged that the
16 instrument was executed freely or voluntarily by the person or
17 as the person's free act and deed."

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

20 "§502-48 Identification of person making. No
21 acknowledgment of any conveyance or other instrument, except as



1 provided by this chapter, whereby any real estate is conveyed or
2 may be affected, shall be taken, unless the person offering to
3 make the acknowledgment is personally known to the [officer]
4 notary public taking the acknowledgment to be the person whose
5 name is subscribed to the conveyance or instrument as a party
6 thereto, or is proved to be [such] the party by the oath or
7 affirmation of a credible witness known to the [officer] notary
8 public, or by production of a [current] valid identification
9 card or document issued by the United States, this State, any
10 other state, or a national government that contains the bearer's
11 photograph and signature[-], or by obtaining satisfactory
12 evidence of identity of a remotely located individual under
13 section 456-B."

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

16 "**§502-72 Disposition of records.** [~~Except as otherwise~~
17 ~~provided in respect to notaries public by section 456-16, the]~~
18 The books of record so kept shall every five years, and upon the
19 resignation, death, or removal from office of [such] the judge
20 or other officer, be deposited with the clerk of the circuit



1 court of the judicial circuit for and in which the judge or
2 other officer was or is authorized to act."

3 SECTION 23. Section 456-16, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§456-16 Disposition of records; penalty. The records of
6 each notary public shall be deposited with the office of the
7 attorney general upon the resignation, death, expiration of each
8 term of office, or removal from or abandonment of office. If
9 any notary fails to comply with this section within ninety days
10 of the date of the resignation, expiration of any term of
11 office, or removal from or abandonment of office or if the
12 notary's personal representative fails to comply with this
13 section within ninety days of the notary's death, then the
14 notary or the notary's personal representative shall forfeit to
15 the State not less than \$50 nor more than \$500, in the
16 discretion of the court, in an action brought by the attorney
17 general on behalf of the State."~~]

18 SECTION 24. This Act does not affect rights and duties
19 that matured, penalties that were incurred, and proceedings that
20 were begun before its effective date.



1 SECTION 25. In codifying the new sections added by section
2 2 and referenced in sections 16, 18, 20, and 21 of this Act, the
3 revisor of statutes shall substitute appropriate section numbers
4 for the letters used in designating the new sections in this
5 Act.

6 SECTION 26. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 27. This Act shall take effect on September 1,
9 2020.



Report Title:

Notaries Public

Description:

Updates the laws regarding notaries public to conform to the Revised Uniform Law on Notarial Acts (2018), the Hawaii Uniform Electronic Transactions Act, other state notary laws, and current notary practices. Takes effect on 9/1/2020. (SD2)

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