

STAND. COM. REP. NO.

2839

Honolulu, Hawaii

FEB 14 2020

RE: S.B. No. 2275

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committees on Commerce, Consumer Protection, and Health and Technology, to which was referred S.B. No. 2275 entitled:

"A BILL FOR AN ACT RELATING TO NOTARIAL ACTS,"

beg leave to report as follows:

The purpose and intent of this measure is to authorize notaries public to perform remote notarial acts utilizing electronic documents with electronic signatures and seals.

Your Committees received testimony in support of this measure from First American Title. Your Committees received testimony in opposition to this measure from Hawaii Bankers Association. Your Committees received comments on this measure from the Department of the Attorney General, State of Hawai'i Commission to Promote Uniform Legislation, and one individual.

Your Committees find that because of technological advancements, tens of thousands of remote online notarizations are already happening each year. Twenty-two states have implemented remote online notary laws. Today, Hawaii residents are going online to use the services of remote online notaries based in other states instead of being able to use Hawaii notaries to provide these services. This measure would safeguard Hawaii residents by extending the protections of existing law to this rapidly expanding type of notarial practice.



Your Committees have heard the concerns raised in testimony that this measure, as written, does not track with the wording of the Revised Uniform Law on Notarial Acts (RULONA) drafted by the National Conference of Commissioners on Uniform States Laws regarding notarial acts performed by remotely located individuals, the Hawaii Uniform Electronic Transactions Act, other state notary laws, or current notary practices.

Your Committees note that S.B. No. 2850 (Regular Session of 2020) follows the provisions of RULONA and provides that an individual may appear before a notary public by means of communication technology and thereby comply with the requirement of an appearance before a notary public. Your Committees conclude that the language of S.B. No. 2850 is preferable for these reasons and addresses the concerns raised by the Department of the Attorney General.

Accordingly, your Committees have amended this measure by:

- (1) Deleting its contents and inserting the contents of S.B. No. 2850, a measure which:
 - (A) Clarifies that a remotely located individual may comply with any requirement of law of this State to appear personally before or be in the presence of a notary public at the time of the performance of a notarial act by using communication technology;
 - (B) Authorizes a remote online notary public located in this State to perform notarial acts using communication technology for a remotely located individual under certain circumstances;
 - (C) Clarifies that, if applicable, certificates of notarial acts shall indicate that a notarial act was performed using communication technology;
 - (D) Establishes requirements for a form of certificate of notarial act, including a certificate of acknowledgement, performed using communication technology;



- (E) Establishes requirements for preservation of audiovisual recordings;
 - (F) Requires a remote online notary public to notify the Department of the Attorney General that the remote online notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the remote online notary public intends to use;
 - (G) Requires the Department of the Attorney General to adopt, amend, or repeal administrative rules regarding notarial acts using communication technology;
 - (H) Defines "communication technology", "foreign state", "identify proofing", "outside the United States", "remote online notary public", and "remotely located individual";
 - (I) Establishes application and qualification requirements to be commissioned as a remote online notary public;
 - (J) Authorizes a notary public to select one or more tamper-evident technologies to perform notarial acts with respect to electronic documents and make certain notices to the Department of the Attorney General;
 - (K) Authorizes the Registrar of Conveyances to accept for recording electronic documents containing a notarial certificate under certain circumstances; and
 - (L) Clarifies the validity of notarial acts performed by the notary public;
- (2) Making conforming updates to certain provisions of chapter 456, Hawaii Revised Statutes;
 - (3) Clarifying that a notary public may not perform a notarial act with respect to a document to which the



notary public or the notary public's spouse or civil partner has a direct beneficial interest;

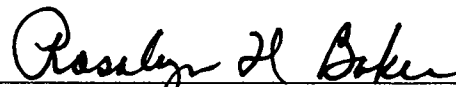
- (4) Clarifying that a notary public shall maintain a journal, in a tangible medium or electronic format, that chronicles all notarial acts performed by the notary public, and establishing other requirements;
- (5) Establishing a \$25 fee for any notarial act performed for a remotely located individual;
- (6) Clarifying penalties for failing to obtain satisfactory evidence of identity for a remotely located individual;
- (7) Clarifying requirements for affixing official stamps;
- (8) Inserting an effective date of July 1, 2021;
- (9) Amending section 1 to reflect its amended purpose; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Health and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2275, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2275, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committees on Commerce,
Consumer Protection, and Health
and Technology,



JARRETT KEOHOKALOLE, Chair



ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* SB2275	Committee Referral: CPH/TEC, JDC	Date: 2/11/20		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			✓
CHANG, Stanley (VC)	✓			✓
NISHIHARA, Clarence K.	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			✓
WAKAI, Glenn	✓			✓
FEVELLA, Kurt				✓
TOTAL	4	0	0	3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Technology
TEC

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<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	X			
ENGLISH, J. Kalani (VC)				X
MORIWAKI, Sharon Y.	X			
WAKAI, Glenn	X			
FEVELLA, Kurt				X
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; margin-top:10px;"> </div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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