

General Assembly

Raised Bill No. 6604

January Session, 2021

LCO No. 4492

04492 _____ CE_

Referred to Committee on COMMERCE

Introduced by:
(CE)

AN ACT ADOPTING THE REVISED UNIFORM LAW ON NOTARIAL ACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, [20212022](#)*) Sections 1 to 32, inclusive, of this act may be cited as the "Revised Uniform Law on Notarial Acts (2018)".

Sec. 2. (NEW) (*Effective October 1, [20212022](#)*) As used in sections 1 to 32, inclusive, of this act:

(1) "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(3) "Electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed

or adopted by an individual with the intent to sign the record.

(4) "In a representative capacity" means acting as:

(A) An authorized officer, agent, partner, trustee or other representative for a person other than an individual;

(B) A public officer, personal representative, guardian or other representative, in the capacity stated in a record;

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

(D) An authorized representative of another in any other capacity.

(5) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. "Notarial Act" includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument.

(6) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(7) "Notary public" means an individual appointed to perform a notarial act by the Secretary of the State.

(8) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.

(9) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

[\(10\) "Real estate closing" shall have the meaning set forth in section 51-88a of general statutes.](#)

~~(10)~~ [\(11\)](#) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~(11)~~ [\(12\)](#) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound or process.

~~(12)~~ [\(13\)](#) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

~~(13)~~ [\(14\)](#) "Stamping device" means:

(A) A physical device capable of affixing to or embossing on a tangible record an official stamp; or

(B) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

~~(14)~~ [\(15\)](#) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

~~(15)~~ [\(16\)](#) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

Sec. 3. (NEW) (*Effective October 1, ~~2021~~2022*) Sections 1 to 32, inclusive, of this act apply to a notarial act performed on or after October 1, ~~2021~~2022.

Sec. 4. (NEW) (*Effective October 1, ~~2021~~2022*) (a) A notarial officer may perform a notarial act authorized by sections 1 to 32, inclusive, of this act or by any other provision of the general statutes.

(b) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse is a party or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

(c) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

Sec. 5. (NEW) (*Effective October 1, ~~2021~~2022*) (a) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(b) A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(c) A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(d) A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true and accurate transcription or reproduction of the record or item.

(e) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in subsection (b) of section 42a-3-505 of the general statutes.

Sec. 6. (NEW) (*Effective October 1, ~~2021~~2022*) Except as provided in section 15 of this act, if a notarial act relates to a statement made in or a

signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

Sec. 7. (NEW) (Effective October 1, ~~2021~~2022) (a) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(b) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) By means of: (A) A passport, driver's license or government-issued nondriver identification card that is current or expired not more than six months before performance of the notarial act; or

(B) Another form of government identification issued to an individual that is current or expired not more than six months before performance of the notarial act, contains the signature or a photograph of the individual and is satisfactory to the officer; or

(2) By a verification on oath or affirmation of a credible witness personally appearing before the notarial officer and known to such officer or whom such officer can identify on the basis of a passport, driver's license or government-issued nondriver identification card that is current or expired not more than six months before performance of the notarial act.

(c) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

Sec. 8. (NEW) (Effective October 1, ~~2021~~2022) (a) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(1) The individual executing the record is competent or has the

capacity to execute the record; or

(2) The individual's signature is knowingly and voluntarily made.

(b) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by any other provision of the general statutes.

Sec. 9. (NEW) (*Effective October 1, 2021*~~2022~~) If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert the phrase "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

Sec. 10. (NEW) (*Effective October 1, 2021*~~2022~~) (a) A notarial act may be performed in this state by:

(1) A notary public of this state;

(2) A judge, clerk or deputy clerk of the Superior Court or a Probate Court of this state or a family support magistrate;

(3) An individual licensed to practice law in this state;

(4) A town clerk;

(5) A justice of the peace; or

(6) Any other individual authorized to perform the specific act by the law of this state.

(b) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subdivisions (1), (2) and (3) of subsection (a) of this section conclusively establish the authority of the officer to perform the notarial act.

Sec. 11. (NEW) (Effective October 1, ~~2021~~2022) (a) [Except as set forth in Section 15, Aa](#) notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

- (1) A notary public of that state;
 - (2) A judge, clerk or deputy clerk of a court of that state; or
 - (3) Any other individual authorized by the law of that state to perform the notarial act.
- (b) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (c) The signature and title of a notarial officer described in subdivision (1) or (2) of subsection (a) of this section conclusively establish the authority of the officer to perform the notarial act.

Sec. 12. (NEW) (Effective October 1, ~~2021~~2022) (a) [Except as set forth in Section 15, aA](#) notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state if the act performed in the jurisdiction of the tribe is performed by:

- (1) A notary public of the tribe;
 - (2) A judge, clerk or deputy clerk of a court of the tribe; or
 - (3) Any other individual authorized by the law of the tribe to perform the notarial act.
- (b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (c) The signature and title of a notarial officer described in

subdivision (1) or (2) of subsection (a) of this section conclusively establish the authority of the officer to perform the notarial act.

Sec. 13. (NEW) (Effective October 1, ~~2021~~2022) (a) Except as set forth in Section 15, a notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed under federal law is performed by:

- (1) A judge, clerk or deputy clerk of a court;
 - (2) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
 - (3) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
 - (4) Any other individual authorized by federal law to perform the notarial act.
- (b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (c) The signature and title of an officer described in subdivision (1), (2) or (3) of subsection (a) of this section conclusively establish the authority of the officer to perform the notarial act.

Sec. 14. (NEW) (Effective October 1, ~~2021~~2022) (a) In this section, "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe.

(b) Except as set forth in Section 15, #if a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(c) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(d) The signature and official stamp of an individual holding an office described in subsection (c) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(e) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(f) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

Sec. 15. (NEW) (*Effective October 1, 2021-2022*) (a) As used in this section:

(1) "Communication technology" means an electronic device or process that:

(A) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(B) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing or speech impairment.

(2) "Foreign state" means a jurisdiction other than the United States, a state or a federally recognized Indian tribe.

(3) "Identity proofing" means a process or service by which a third

person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(4) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States.

(5) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection (c) of this section.

(b) A remotely located individual may comply with section 6 of this act by using communication technology to appear before a notarial officer.

(c) A notarial officer located in this state may perform a notarial act using communication technology for a remotely located individual if:

(1) The notarial officer:

(A) Has personal knowledge under subsection (a) of section 7 of this act of the identity of the individual;

(B) Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under subsection (b) of section 7 of this act or this section; or

(C) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(2) The notarial officer confirms that a record before the notarial officer is the same record that the remotely located individual executes remotely before the notarial officer by communication technology;

(3) The notarial officer, or a person acting on behalf of the notarial officer, creates an audio-visual recording of the performance of the notarial act; and

(4) For a remotely located individual located outside the United States:

(A) The record:

(i) Is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States; or

(ii) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(B) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(d) If a notarial act is performed under this section, the certificate of notarial act required by section 16 of this act and the short-form certificate provided in section 17 of this act shall indicate that the notarial act was performed using communication technology.

(e) A short-form certificate provided in section 17 of this act for a notarial act subject to this section is sufficient if it:

(1) Complies with regulations adopted under subdivision (1) of subsection (h) of this section; or

(2) Is in the form provided in section 17 of this act and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(f) A notarial officer, a guardian, conservator or agent of a notarial officer or a personal representative of a deceased notarial officer shall

retain the audio-visual recording created under subdivision (3) of subsection (c) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by regulation adopted under subdivision (4) of subsection (h) of this section, the recording shall be retained for a period of at least ten years after the recording is made.

(g) Before a notary public performs the ~~notarial~~-notary public's initial notarial act under this section, the notary public shall notify the Secretary of the State that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. A notary public or notarial officer shall not perform a notarial act with respect to a remotely located individual using any technology that has not been approved by the Secretary of the State pursuant to subsection (h) of this section and any applicable regulations. Use of unapproved technology by a notary public shall be grounds to deny, refuse to renew, suspend or impose a condition on a notarial officer's commission in accordance with section 23 of this act. Use of unapproved technology by a notarial officer other than a notary public may constitute grounds for discipline of such notarial officer by the applicable body having jurisdiction over such notarial officer.

(h) The Secretary of the State shall adopt regulations, in accordance with chapter 54 of the general statutes, under this section regarding performance of a notarial act. The regulations shall:

(1) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(2) Establish standards for communication technology and identity proofing;

(3) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(4) Establish standards and a period for the retention of an audio-visual recording created under subdivision (3) of subsection (c) of this section.

(i) Before adopting, amending or repealing a regulation governing performance of a notarial act with respect to a remotely located individual, the Secretary of the State shall consider:

(1) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the National Association of Secretaries of State;

(2) Standards, practices and customs of other jurisdictions that have laws substantially similar to this section; and

(3) The views of governmental officials and entities and other interested persons.

(j) A notarial officer ~~located in this state~~ shall not perform a notarial act using communication technology for a remotely located individual if such notarial act is (i) connected with a real estate transaction or the making or execution of a will, or codicil, power of attorney or trust, or (ii) conducted in the course of a real estate closing, unless such notarial act is performed in accordance with subsection (k) of this Section.

(k) Notwithstanding anything to the contrary in the general statutes and this Act, with respect to notarial acts conducted in the course of a real estate closing involving a remotely located individual, the notarial officer shall be an attorney licensed to practice law in the state of Connecticut (1) who is employed by or a member of the law firm which represents such remotely located individual or represents an entity on behalf of which the remotely located individual is signing a record, (2) who maintains an office in this state, and (3) who is located in this state at the time of the signing of the record, and the communication technology shall be engaged by such attorney. Upon successful verification of the identity of the remotely located individual by such attorney as required by this act, such attorney shall enter and affirm their Juris Number prior to the conduct of the first notarial act. The