

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1952

By: Representative Penzo

For An Act To Be Entitled

AN ACT TO REGULATE THE WITNESSING OF CERTAIN DOCUMENTS BY A NOTARY PUBLIC; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE THE WITNESSING OF CERTAIN DOCUMENTS BY A NOTARY PUBLIC; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY. Notary public – Public emergency exceptions – Definitions.

(a) As used in this section:

(1) "Notary public" means a person who is:

(A) An attorney licensed by the State of Arkansas;

(B) A title agent licensed by the State of Arkansas;

(C) Supervised by an attorney or a title agent licensed by the State of Arkansas; or

(D) Employed by a:

(i) Nonbank financial institution licensed or registered by the State Securities Department; or

(ii) Bank, savings and loan association, or state or federal credit union with federal depository insurance;

(2)(A) "Real-time audio and visual means" means technology by which all parties can see and hear the other parties simultaneously.

(B) "Real-time audio and visual means" includes without



limitation videoconference technology; and

(3) "Videoconference technology" means Skype, Zoom, FaceTime, and other similar technologies.

(b) If the Governor declares a disaster emergency under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., then:

(1)(A) A notarial certificate is complete if an official signature or seal on the notarial certificate is executed at a time when the principal or signer is not present in person but is otherwise present remotely through real-time audio and visual means.

(B) A signed or sealed notarial certificate is allowed to be executed with the understanding that the notarial certificate will be completed or attached to a document outside of the physical presence of the notary public if the notary public is present through real-time audio and visual means;

(2)(A) A notary public may notarize signatures, including acknowledgments and jurats, virtually through real-time audio and visual means, provided that the notary public is physically located in the State of Arkansas at the time of signing and the signing of documents is visually seen by the person who confirms it.

(B)(i) An individual who:

(a) Witnesses a document through real-time audio and visual means may be considered an in-person witness if the presence and identity of the witnesses are validated at the time of signing by a notary public; or

(b) Signs a document through real-time audio and visual means may be considered in the presence of an in-person witness if the presence and identity of the witnesses are validated at the time of signing by a notary public.

(ii) The identity and physical presence of witnesses and signers in this state shall be validated at the time of execution of the documents to be witnessed;

(3)(A) If two (2) or more individuals sign a document simultaneously in different locations, the individuals shall necessarily sign separate signature pages, and all documents executed under this section shall be executed in counterparts.

(B) Absent an express prohibition in a document against

signing in counterparts, all legal documents, including without limitation deeds, last wills and testaments, durable powers of attorney, and healthcare proxies, may be signed in counterparts; and

(4) A notary public does not have to file with the Secretary of State his or her signatures, general descriptions of potential commercial documents to be notarized by facsimile signature, the names of persons signing documents by facsimile signature, or the written consent of those persons if the notary public determines that the commercial documents would be best notarized by facsimile signature.

SECTION 2. DO NOT CODIFY. RETROACTIVITY. This act is retroactive to March 30, 2020.

SECTION 3. DO NOT CODIFY. CONTINGENT EFFECTIVENESS. This act is effective until the Governor finds that the threat or danger to the public declared under Executive Order No. 21-07 has passed and terminates the state of emergency declared and renewed under Executive Order No. 21-07 by executive order or proclamation under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the risk of exposure to coronavirus 2019 (COVID-19) or to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or any of its mutations as declared by the Governor under Executive Order No. 21-07 is causing delays in conducting business and satisfying requirements for notarization and signing of certain documents due to the inability to hold in-person meetings; that a need exists to allow for remote witnessing of certain documents during a state of emergency as described by Executive Order No. 21-07; and that this act is immediately necessary because businesses in Arkansas will suffer and the question as to the legal effectiveness of signatures during a disaster emergency can result in confusion and uncertainty, and it is the intent of the General Assembly that this act be retroactive to prevent further harm to businesses and citizens. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.