

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 20-0051.01 Thomas Morris x4218

SENATE BILL 20-096

SENATE SPONSORSHIP

Rodriguez and Holbert, Bridges, Fields, Ginal, Lee, Marble, Smallwood, Sonnenberg, Story, Tate, Todd, Williams A.

HOUSE SPONSORSHIP

Duran and Carver,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING AN AUTHORIZATION FOR NOTARIES PUBLIC TO PERFORM**
102 **NOTARIAL ACTS USING AUDIO-VIDEO COMMUNICATION.**

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>.)

Current law requires an individual who wishes to have a document notarized to appear personally before a notary public. The bill authorizes a notary public to perform a notarial act on behalf of an individual who is not in the notary's physical presence, but only with respect to an electronic document.

To perform a "remote notarization", a notary must use an

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

SENATE
3rd Reading Unamended
March 11, 2020

SENATE
Amended 2nd Reading
March 10, 2020

electronic system that conforms to standards established by rules of the secretary of state, including using real-time audio-video communication. The bill establishes the standards that a notary must comply with to have satisfactory evidence of the identity of the individual seeking the remote notarization.

The bill also prohibits the use or sale of personal information of a remotely located individual by a remote notary and the provider of a remote notarization system except in specific, limited circumstances.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-21-502, **add** (1.3),
3 (1.7), (10.5), (11.3), (11.5), (11.7), and (15.5) as follows:

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

5 (1.3) "AUDIO-VIDEO COMMUNICATION" MEANS COMMUNICATION
6 BY WHICH AN INDIVIDUAL IS ABLE TO SEE, HEAR, AND COMMUNICATE WITH
7 A REMOTELY LOCATED INDIVIDUAL IN REAL TIME USING ELECTRONIC
8 MEANS.

9 (1.7) "CREDENTIAL" MEANS A TANGIBLE RECORD EVIDENCING THE
10 IDENTITY OF AN INDIVIDUAL.

11 (10.5) "REAL-TIME" OR "IN REAL TIME" MEANS, WITH RESPECT TO
12 AN INTERACTION BETWEEN INDIVIDUALS BY MEANS OF AUDIO-VIDEO
13 COMMUNICATION, THAT THE INDIVIDUALS CAN SEE AND HEAR EACH OTHER
14 SUBSTANTIALLY SIMULTANEOUSLY AND WITHOUT INTERRUPTION OR
15 DISCONNECTION. DELAYS OF A FEW SECONDS THAT ARE INHERENT IN THE
16 METHOD OF COMMUNICATION DO NOT PREVENT THE INTERACTION FROM
17 BEING CONSIDERED TO HAVE OCCURRED IN REAL TIME.

18 (11.3) "REMOTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL
19 WHO IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO
20 PERFORMS A NOTARIAL ACT UNDER THIS SECTION.

21 (11.5) "REMOTE NOTARIZATION" MEANS AN ELECTRONIC

1 NOTARIAL ACT PERFORMED WITH RESPECT ONLY TO AN ELECTRONIC
2 RECORD BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION IN
3 ACCORDANCE WITH SECTION 24-21-514.5 AND RULES ADOPTED BY THE
4 SECRETARY OF STATE.

5 (11.7) "REMOTE NOTARIZATION SYSTEM" MEANS AN ELECTRONIC
6 DEVICE OR PROCESS THAT:

7 (a) ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED
8 INDIVIDUAL TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY
9 SIGHT AND SOUND; AND

10 (b) WHEN NECESSARY AND CONSISTENT WITH OTHER APPLICABLE
11 LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED
12 INDIVIDUAL WHO HAS A VISION, HEARING, OR SPEECH IMPAIRMENT.

13 (15.5) "TAMPER-EVIDENT" MEANS THE USE OF A SET OF
14 APPLICATIONS, PROGRAMS, HARDWARE, SOFTWARE, OR OTHER
15 TECHNOLOGIES THAT WILL DISPLAY EVIDENCE OF ANY CHANGES MADE TO
16 AN ELECTRONIC RECORD.

17 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-21-506 as
18 follows:

19 **24-21-506. Personal appearance required - definition.** (1) If
20 a notarial act relates to a statement made in or a signature executed on a
21 record, the individual making the statement or executing the signature
22 shall appear personally before the notarial officer.

23 (2) FOR PURPOSES OF THIS SECTION, "APPEAR PERSONALLY"
24 MEANS:

25 (a) BEING IN THE SAME PHYSICAL LOCATION AS ANOTHER
26 INDIVIDUAL AND CLOSE ENOUGH TO SEE, HEAR, COMMUNICATE WITH, AND
27 EXCHANGE TANGIBLE IDENTIFICATION CREDENTIALS WITH THAT

1 INDIVIDUAL; OR

2 (b) INTERACTING WITH A REMOTELY LOCATED INDIVIDUAL BY
3 MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION IN COMPLIANCE
4 WITH SECTION 24-21-514.5 AND RULES ADOPTED BY THE SECRETARY OF
5 STATE.

6 **SECTION 3.** In Colorado Revised Statutes, **add** 24-21-514.5 as
7 follows:

8 **24-21-514.5. Audio-video communication - definitions.** (1) AS
9 USED IN THIS SECTION:

10 (a) "CREDENTIAL ANALYSIS" MEANS A PROCESS OR SERVICE THAT
11 COMPLIES WITH ANY RULES ADOPTED BY THE SECRETARY OF STATE
12 THROUGH WHICH A THIRD PARTY AFFIRMS THE VALIDITY OF A
13 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THROUGH THE REVIEW
14 OF PUBLIC OR PROPRIETARY DATA SOURCES.

15 (b) "DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION
16 ASSESSMENT" MEANS AN IDENTITY ASSESSMENT THAT IS BASED ON A SET
17 OF QUESTIONS FORMULATED FROM PUBLIC OR PRIVATE DATA SOURCES FOR
18 WHICH THE REMOTELY LOCATED INDIVIDUAL TAKING THE ASSESSMENT
19 HAS NOT PREVIOUSLY PROVIDED AN ANSWER AND THAT MEETS ANY RULES
20 ADOPTED BY THE SECRETARY OF STATE.

21 (c) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE
22 THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE
23 UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY OR INSULAR
24 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

25 (d) "PUBLIC KEY CERTIFICATE" MEANS AN ELECTRONIC
26 CREDENTIAL THAT IS USED TO IDENTIFY A REMOTELY LOCATED
27 INDIVIDUAL WHO SIGNED AN ELECTRONIC RECORD WITH THE CREDENTIAL.

1 (e) "REMOTE PRESENTATION" MEANS TRANSMISSION TO THE
2 NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE
3 OF A GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT IS OF
4 SUFFICIENT QUALITY TO ENABLE THE NOTARY PUBLIC TO:

5 (I) IDENTIFY THE REMOTELY LOCATED INDIVIDUAL SEEKING THE
6 NOTARY PUBLIC'S SERVICES; AND

7 (II) PERFORM CREDENTIAL ANALYSIS.

8 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS
9 SECTION, A NOTARY PUBLIC MAY PERFORM A REMOTE NOTARIZATION ONLY
10 WITH RESPECT TO AN ELECTRONIC RECORD AND IN COMPLIANCE WITH THIS
11 SECTION AND ANY RULES ADOPTED BY THE SECRETARY OF STATE FOR A
12 REMOTELY LOCATED INDIVIDUAL WHO IS LOCATED:

13 (I) IN THIS STATE;

14 (II) OUTSIDE OF THIS STATE BUT WITHIN THE UNITED STATES; OR

15 (III) OUTSIDE THE UNITED STATES IF:

16 (A) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE
17 NOTARIAL ACT IS PROHIBITED IN THE JURISDICTION IN WHICH THE
18 REMOTELY LOCATED INDIVIDUAL IS PHYSICALLY LOCATED AT THE TIME OF
19 THE ACT; AND

20 (B) THE REMOTELY LOCATED INDIVIDUAL CONFIRMS TO THE
21 NOTARY PUBLIC THAT THE REQUESTED NOTARIAL ACT AND THE RECORD
22 RELATE TO: A MATTER THAT WILL BE FILED WITH OR IS CURRENTLY
23 BEFORE A COURT, GOVERNMENTAL ENTITY, OR OTHER ENTITY IN THE
24 UNITED STATES; PROPERTY LOCATED IN THE UNITED STATES; OR A
25 TRANSACTION SUBSTANTIALLY CONNECTED TO THE UNITED STATES.

26 (b) A NOTARY PUBLIC SHALL NOT USE A REMOTE NOTARIZATION
27 SYSTEM TO NOTARIZE:

1 (I) A RECORD RELATING TO THE ELECTORAL PROCESS; OR

2 (II) A WILL, CODICIL, DOCUMENT PURPORTING TO BE A WILL OR
3 CODICIL, OR ANY ACKNOWLEDGMENT REQUIRED UNDER SECTION
4 15-11-502 OR 15-11-504.

5 (3) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S
6 INITIAL NOTARIZATION USING A REMOTE NOTARIZATION SYSTEM, THE
7 NOTARY PUBLIC SHALL NOTIFY THE SECRETARY OF STATE THAT THE
8 NOTARY PUBLIC WILL BE PERFORMING REMOTE NOTARIZATIONS AND
9 SHALL IDENTIFY EACH REMOTE NOTARIZATION SYSTEM THAT THE NOTARY
10 PUBLIC INTENDS TO USE. THE REMOTE NOTARIZATION SYSTEM MUST
11 CONFORM TO THIS PART 5 AND ANY RULES ADOPTED BY THE SECRETARY
12 OF STATE. THE NOTICE MUST BE SUBMITTED IN THE FORMAT REQUIRED BY
13 THE SECRETARY OF STATE AND MUST:

14 (a) INCLUDE AN AFFIRMATION THAT THE NOTARY PUBLIC HAS READ
15 AND WILL COMPLY WITH THIS SECTION AND ALL RULES ADOPTED BY THE
16 SECRETARY OF STATE; AND

17 (b) BE ACCOMPANIED BY PROOF THAT THE NOTARY PUBLIC HAS
18 SUCCESSFULLY COMPLETED ANY TRAINING AND EXAMINATION REQUIRED
19 BY THE SECRETARY OF STATE.

20 (4) A NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT FOR A
21 REMOTELY LOCATED INDIVIDUAL BY MEANS OF AUDIO-VIDEO
22 COMMUNICATION MUST:

23 (a) BE LOCATED WITHIN THIS STATE AT THE TIME THE NOTARIAL
24 ACT IS PERFORMED;

25 (b) EXECUTE THE NOTARIAL ACT IN A SINGLE, REAL-TIME SESSION;

26 (c) CONFIRM THAT ANY RECORD THAT IS SIGNED, ACKNOWLEDGED,
27 OR OTHERWISE PRESENTED FOR NOTARIZATION BY THE REMOTELY

1 LOCATED INDIVIDUAL IS THE SAME RECORD SIGNED BY THE NOTARY
2 PUBLIC;

3 (d) CONFIRM THAT THE QUALITY OF THE AUDIO-VIDEO
4 COMMUNICATION IS SUFFICIENT TO MAKE THE DETERMINATIONS REQUIRED
5 FOR THE NOTARIAL ACT UNDER THIS PART 5 AND ANY OTHER LAW OF THIS
6 STATE; AND

7 (e) IDENTIFY THE VENUE FOR THE NOTARIAL ACT AS THE
8 JURISDICTION WITHIN THE STATE OF COLORADO WHERE THE NOTARY
9 PUBLIC IS PHYSICALLY LOCATED WHILE PERFORMING THE ACT.

10 (5) A REMOTE NOTARIZATION SYSTEM USED TO PERFORM REMOTE
11 NOTARIZATIONS MUST:

12 (a) REQUIRE THE NOTARY PUBLIC, THE REMOTELY LOCATED
13 INDIVIDUAL, AND ANY REQUIRED WITNESS TO ACCESS THE SYSTEM
14 THROUGH AN AUTHENTICATION PROCEDURE THAT COMPLIES WITH RULES
15 ADOPTED BY THE SECRETARY OF STATE REGARDING SECURITY AND
16 ACCESS;

17 (b) ENABLE THE NOTARY PUBLIC TO VERIFY THE IDENTITY OF THE
18 REMOTELY LOCATED INDIVIDUAL AND ANY REQUIRED WITNESS BY MEANS
19 OF PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF IDENTITY IN
20 COMPLIANCE WITH SUBSECTION (6) OF THIS SECTION; AND

21 (c) CONFIRM THAT THE NOTARY PUBLIC, THE REMOTELY LOCATED
22 INDIVIDUAL, AND ANY REQUIRED WITNESS ARE VIEWING THE SAME
23 RECORD AND THAT ALL SIGNATURES, CHANGES, AND ATTACHMENTS TO
24 THE RECORD ARE MADE IN REAL TIME.

25 (6) (a) A NOTARY PUBLIC SHALL DETERMINE FROM PERSONAL
26 KNOWLEDGE OR SATISFACTORY EVIDENCE OF IDENTITY AS DESCRIBED IN
27 SUBSECTION (6)(b) OF THIS SECTION THAT THE REMOTELY LOCATED

1 INDIVIDUAL APPEARING BEFORE THE NOTARY PUBLIC BY MEANS OF
2 AUDIO-VIDEO COMMUNICATION IS THE INDIVIDUAL THAT HE OR SHE
3 PURPORTS TO BE.

4 (b) A NOTARY PUBLIC HAS SATISFACTORY EVIDENCE OF IDENTITY
5 IF THE NOTARY PUBLIC CAN IDENTIFY THE REMOTELY LOCATED
6 INDIVIDUAL WHO PERSONALLY APPEARS BEFORE THE NOTARY PUBLIC BY
7 MEANS OF AUDIO-VIDEO COMMUNICATION BY USING AT LEAST ONE OF THE
8 FOLLOWING METHODS:

9 (I) THE OATH OR AFFIRMATION OF A CREDIBLE WITNESS WHO
10 PERSONALLY KNOWS THE REMOTELY LOCATED INDIVIDUAL, IS
11 PERSONALLY KNOWN TO THE NOTARY PUBLIC, AND IS IN THE PHYSICAL
12 PRESENCE OF THE NOTARY PUBLIC OR THE REMOTELY LOCATED
13 INDIVIDUAL DURING THE REMOTE NOTARIZATION;

14 (II) REMOTE PRESENTATION AND CREDENTIAL ANALYSIS OF A
15 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL, AND THE DATA
16 CONTAINED ON THE CREDENTIAL, THAT CONTAINS THE SIGNATURE AND A
17 PHOTOGRAPH OF THE REMOTELY LOCATED INDIVIDUAL, AND AT LEAST ONE
18 OF THE FOLLOWING:

19 (A) A DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION
20 ASSESSMENT BY A TRUSTED THIRD PARTY THAT COMPLIES WITH RULES
21 ADOPTED BY THE SECRETARY OF STATE;

22 (B) A VALID PUBLIC KEY CERTIFICATE THAT COMPLIES WITH RULES
23 ADOPTED BY THE SECRETARY OF STATE; OR

24 (C) AN IDENTITY VERIFICATION BY A TRUSTED THIRD PARTY THAT
25 COMPLIES WITH RULES ADOPTED BY THE SECRETARY OF STATE; OR

26 (III) ANY OTHER METHOD THAT COMPLIES WITH RULES ADOPTED
27 BY THE SECRETARY OF STATE.

1 (7) WITHOUT LIMITING THE AUTHORITY OF A NOTARY PUBLIC
2 UNDER SECTION 24-21-508 TO REFUSE TO PERFORM A NOTARIAL ACT, A
3 NOTARY PUBLIC MAY REFUSE TO PERFORM A NOTARIAL ACT UNDER THIS
4 SECTION IF THE NOTARY PUBLIC IS NOT SATISFIED THAT THE
5 REQUIREMENTS OF THIS SECTION ARE MET.

6 (8) THE CERTIFICATE OF NOTARIAL ACT FOR A REMOTE
7 NOTARIZATION MUST, IN ADDITION TO COMPLYING WITH THE
8 REQUIREMENTS OF SECTION 24-21-515, INDICATE THAT THE NOTARIAL ACT
9 WAS PERFORMED USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY.

10 (9) (a) A NOTARY PUBLIC SHALL CREATE AN AUDIO-VIDEO
11 RECORDING OF A REMOTE NOTARIZATION IF:

12 (I) THE NOTARY PUBLIC FIRST DISCLOSES TO THE REMOTELY
13 LOCATED INDIVIDUAL THE FACT OF THE RECORDING AND THE DETAILS OF
14 ITS INTENDED STORAGE, INCLUDING WHERE AND FOR HOW LONG IT WILL
15 BE STORED;

16 (II) THE REMOTELY LOCATED INDIVIDUAL EXPLICITLY CONSENTS
17 TO BOTH THE RECORDING AND THE STORAGE OF THE RECORDING; AND

18 (III) THE RECORDING IS STORED AND SECURED IN COMPLIANCE
19 WITH RULES ADOPTED BY THE SECRETARY OF STATE.

20 (b) THE AUDIO-VIDEO RECORDING REQUIRED BY THIS SUBSECTION
21 (9) MUST BE IN ADDITION TO THE JOURNAL ENTRY FOR THE NOTARIAL ACT
22 WHERE REQUIRED BY SECTION 24-21-519. THE RECORDING MUST INCLUDE
23 THE INFORMATION DESCRIBED IN THIS SUBSECTION (9)(b). A NOTARY
24 PUBLIC SHALL MAKE A GOOD-FAITH EFFORT TO NOT INCLUDE ANY OTHER
25 INFORMATION ON THE RECORDING. ANY OTHER INFORMATION INCLUDED
26 ON THE RECORDING IS NOT ADMISSIBLE IN ANY ___ COURT OF LAW, LEGAL
27 PROCEEDING, OR ADMINISTRATIVE HEARING FOR ANY PURPOSE, NOR IS THE

1 INFORMATION ADMISSIBLE IN ANY PROCEEDING IN ANY OTHER COURT OF
2 LAW, LEGAL PROCEEDING, OR ADMINISTRATIVE HEARING IF COLORADO
3 LAW APPLIES WITH RESPECT TO REMOTE NOTARIZATION. THE RECORDING
4 MUST INCLUDE:

5 (I) AT THE COMMENCEMENT OF THE RECORDING, A RECITATION BY
6 THE NOTARY PUBLIC OF INFORMATION SUFFICIENT TO IDENTIFY THE
7 NOTARIAL ACT, INCLUDING THE NAME OF THE NOTARY PUBLIC, THE DATE
8 AND TIME OF THE NOTARIAL ACT, A DESCRIPTION OF THE NATURE OF THE
9 DOCUMENT OR DOCUMENTS TO WHICH THE NOTARIAL ACT IS TO RELATE,
10 THE IDENTITY OF THE REMOTELY LOCATED INDIVIDUAL WHOSE SIGNATURE
11 IS TO BE THE SUBJECT OF THE NOTARIAL ACT AND OF ANY PERSON WHO
12 WILL ACT AS A CREDIBLE WITNESS TO IDENTIFY THE INDIVIDUAL SIGNER,
13 AND THE METHOD OR METHODS BY WHICH THE REMOTELY LOCATED
14 INDIVIDUAL AND ANY CREDIBLE WITNESS WILL BE IDENTIFIED TO THE
15 NOTARY PUBLIC;

16 (II) A DECLARATION BY THE REMOTELY LOCATED INDIVIDUAL
17 THAT THE INDIVIDUAL'S SIGNATURE ON THE RECORD IS KNOWINGLY AND
18 VOLUNTARILY MADE;

19 (III) IF THE REMOTELY LOCATED INDIVIDUAL FOR WHOM THE
20 NOTARIAL ACT IS BEING PERFORMED IS IDENTIFIED BY PERSONAL
21 KNOWLEDGE, AN EXPLANATION BY THE NOTARY PUBLIC AS TO HOW THE
22 NOTARY PUBLIC KNOWS THE REMOTELY LOCATED INDIVIDUAL AND HOW
23 LONG THE NOTARY PUBLIC HAS KNOWN THE REMOTELY LOCATED
24 INDIVIDUAL; ==

25 (IV) IF THE REMOTELY LOCATED INDIVIDUAL FOR WHOM THE
26 NOTARIAL ACT IS BEING PERFORMED IS IDENTIFIED BY A CREDIBLE
27 WITNESS:

1 (A) A STATEMENT BY THE NOTARY PUBLIC AS TO HOW THE
2 NOTARY PUBLIC KNOWS THE CREDIBLE WITNESS AND HOW LONG THE
3 NOTARY PUBLIC HAS KNOWN THE CREDIBLE WITNESS; AND

4 (B) AN EXPLANATION BY THE CREDIBLE WITNESS AS TO HOW THE
5 CREDIBLE WITNESS KNOWS THE REMOTELY LOCATED INDIVIDUAL AND
6 HOW LONG THE CREDIBLE WITNESS HAS KNOWN THE REMOTELY LOCATED
7 INDIVIDUAL; AND

8 (V) THE STATEMENTS, ACTS, AND CONDUCT NECESSARY TO
9 PERFORM THE REQUESTED NOTARIAL ACT OR SUPERVISION OF SIGNING OR
10 WITNESSING OF THE SUBJECT RECORD.

11 (c) THE PROVISIONS OF SECTION 24-21-519 THAT RELATE TO THE
12 SECURITY, INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF A
13 NOTARY PUBLIC'S JOURNAL APPLY EQUALLY TO THE SECURITY,
14 INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF AUDIO-VIDEO
15 RECORDINGS ALLOWED BY THIS SECTION.

16 (d) THE FAILURE OF A NOTARY PUBLIC TO PERFORM A DUTY OR
17 MEET A REQUIREMENT SPECIFIED IN THIS SUBSECTION (9) DOES NOT
18 INVALIDATE A REMOTE NOTARIZATION PERFORMED BY THE NOTARY
19 PUBLIC. A NOTARY PUBLIC IS NOT LIABLE TO ANY PERSON FOR DAMAGES
20 CLAIMED TO ARISE FROM A FAILURE TO PERFORM A DUTY OR MEET A
21 REQUIREMENT SPECIFIED IN SUBSECTION (9)(b) OF THIS SECTION.

22 (10) REGARDLESS OF THE PHYSICAL LOCATION OF THE REMOTELY
23 LOCATED INDIVIDUAL AT THE TIME OF THE NOTARIAL ACT, THE VALIDITY
24 OF A REMOTE NOTARIZATION PERFORMED BY A NOTARY IN THIS STATE IS
25 GOVERNED BY THE LAWS OF THIS STATE, INCLUDING ANY RULES ADOPTED
26 BY THE SECRETARY OF STATE PURSUANT TO THIS PART 5.

27 (11) TO BE ELIGIBLE FOR APPROVAL BY THE SECRETARY OF STATE

1 UNDER SECTION 24-21-527 (1)(h), A PROVIDER OF A REMOTE
2 NOTARIZATION SYSTEM OR STORAGE SYSTEM MUST:

3 (a) CERTIFY TO THE SECRETARY OF STATE THAT THE PROVIDER
4 AND THE SYSTEM COMPLY WITH THE REQUIREMENTS OF THIS SECTION AND
5 THE RULES ADOPTED UNDER SECTION 24-21-527;

6 (b) MAINTAIN A USUAL PLACE OF BUSINESS IN THIS STATE OR, IF A
7 FOREIGN ENTITY, APPOINT AND MAINTAIN A REGISTERED AGENT, IN
8 ACCORDANCE WITH SECTION 7-90-701 BY FILING A STATEMENT OF
9 FOREIGN ENTITY AUTHORITY IN ACCORDANCE WITH SECTION 7-90-803,
10 WITH AUTHORITY TO ACCEPT SERVICE OF PROCESS IN CONNECTION WITH
11 A CIVIL ACTION OR OTHER PROCEEDING; AND

12 (c) NOT USE, SELL, OR OFFER TO SELL TO ANOTHER PERSON OR
13 TRANSFER TO ANOTHER PERSON FOR USE OR SALE ANY PERSONAL
14 INFORMATION OBTAINED UNDER THIS SECTION THAT IDENTIFIES A
15 REMOTELY LOCATED INDIVIDUAL, A WITNESS TO A REMOTE
16 NOTARIZATION, OR AN INDIVIDUAL NAMED IN A RECORD PRESENTED FOR
17 REMOTE NOTARIZATION, EXCEPT:

18 (I) AS NECESSARY TO FACILITATE PERFORMANCE OF A NOTARIAL
19 ACT;

20 (II) TO EFFECT, ADMINISTER, ENFORCE, SERVICE, OR PROCESS A
21 RECORD PROVIDED BY OR ON BEHALF OF THE INDIVIDUAL OR THE
22 TRANSACTION OF WHICH THE RECORD IS A PART;

23 (III) IN ACCORDANCE WITH THIS PART 5 AND THE RULES ADOPTED
24 PURSUANT TO THIS PART 5 OR OTHER APPLICABLE FEDERAL, STATE, OR
25 LOCAL LAW, OR TO COMPLY WITH A LAWFUL SUBPOENA OR COURT ORDER;
26 OR

27 (IV) IN CONNECTION WITH A PROPOSED OR ACTUAL SALE, MERGER,

1 TRANSFER, OR EXCHANGE OF ALL OR A PORTION OF A BUSINESS OR
2 OPERATING UNIT OF THE PROVIDER, IF THE PERSONAL INFORMATION
3 CONCERNS ONLY CUSTOMERS OF THE BUSINESS OR UNIT AND THE
4 TRANSFeree AGREES TO COMPLY WITH THE RESTRICTIONS SET FORTH IN
5 THIS SUBSECTION (11).

6 (12) SUBJECT TO APPLICABLE LAW OTHER THAN THIS ARTICLE 21,
7 IF A RECORD IS PRIVILEGED PURSUANT TO SECTION 13-90-107 (1)(b), THE
8 CORRESPONDING ELECTRONIC RECORD SECURED AND STORED BY THE
9 REMOTE NOTARIZATION SYSTEM AS PROVIDED IN THIS ARTICLE 21
10 REMAINS PRIVILEGED.

11 **SECTION 4.** In Colorado Revised Statutes, 24-21-515, **amend**
12 (3)(d) and (4) as follows:

13 **24-21-515. Certificate of notarial act.** (3) A certificate of a
14 notarial act is sufficient if it meets the requirements of subsections (1) and
15 (2) of this section and:

16 (d) Sets forth ~~the~~ actions of the notarial officer ~~and the actions~~
17 THAT are sufficient to meet the requirements of the notarial act as
18 provided in sections 24-21-505, 24-21-506, and 24-21-507 AND, IF
19 APPLICABLE, SECTION 24-21-514.5 or law of this state other than this part
20 5.

21 (4) By executing a certificate of a notarial act, a notarial officer
22 certifies that the officer has complied with the requirements and made the
23 determinations specified in sections 24-21-504, 24-21-505, and
24 24-21-506 AND, IF APPLICABLE, SECTION 24-21-514.5.

25 **SECTION 5.** In Colorado Revised Statutes, 24-21-519, **amend**
26 (2) as follows:

27 **24-21-519. Journal.** (2) (a) A journal may be created on a

1 tangible medium or in an electronic format. If a journal is maintained on
2 a tangible medium, it must be a permanent, bound register with numbered
3 pages. If a journal is maintained in an electronic format, it must be in a
4 permanent, tamper-evident electronic format complying with the rules of
5 the secretary of state.

6 (b) A NOTARY PUBLIC WHO PERFORMS A REMOTE NOTARIZATION
7 SHALL MAINTAIN A JOURNAL IN AN ELECTRONIC FORMAT WITH REGARD TO
8 EACH REMOTE NOTARIZATION. == ==

9 **SECTION 6.** In Colorado Revised Statutes, 24-21-527, **amend**
10 (1)(e); and **add** (1)(g) and (1)(h) as follows:

11 **24-21-527. Rules.** (1) The secretary of state may adopt rules to
12 implement this part 5 in accordance with article 4 of this title 24. Rules
13 adopted regarding the performance of notarial acts with respect to
14 electronic records may not require, or accord greater legal status or effect
15 to, the implementation or application of a specific technology or technical
16 specification. The rules may:

17 (e) Include provisions to prevent fraud or mistake in the
18 performance of notarial acts; ~~and~~

19 (g) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS
20 USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY, INCLUDING
21 PROVISIONS TO ENSURE THE SECURITY, INTEGRITY, AND ACCESSIBILITY OF
22 RECORDS RELATING TO THOSE ACTS; AND

23 (h) PRESCRIBE REQUIREMENTS FOR THE APPROVAL AND USE OF
24 REMOTE NOTARIZATION SYSTEMS AND STORAGE SYSTEMS.

25 **SECTION 7.** In Colorado Revised Statutes, 10-11-122, **add (4)**
26 **as follows:**

27 **10-11-122. Title commitments - rules. (4) (a) IF A TITLE**

1 INSURANCE AGENT OR TITLE INSURANCE COMPANY IS REQUIRED TO
2 PROVIDE THE STATEMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION.
3 THE AGENT OR COMPANY SHALL ALSO PROVIDE A STATEMENT
4 SUBSTANTIALLY AS FOLLOWS:

5 COLORADO NOTARIES MAY REMOTELY
6 NOTARIZE REAL ESTATE DEEDS AND OTHER
7 DOCUMENTS USING REAL-TIME AUDIO-VIDEO
8 COMMUNICATION TECHNOLOGY. YOU MAY
9 CHOOSE NOT TO USE REMOTE NOTARIZATION
10 FOR ANY DOCUMENT.

11 (b) FAILURE OF A PERSON TO PROVIDE THE STATEMENT REQUIRED
12 BY THIS SUBSECTION (4) DOES NOT SUBJECT THE PERSON TO ANY LIABILITY
13 UNDER THIS ARTICLE 11 OR TO THE PENALTY PROVISIONS OF SECTION
14 10-3-111 AND DOES NOT AFFECT OR INVALIDATE ANY PROVISIONS OF THE
15 COMMITMENT FOR TITLE INSURANCE.

16 **SECTION 8. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect January 1, 2022; except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within the ninety-day period after final adjournment of the general
21 assembly, then the act, item, section, or part will not take effect unless
22 approved by the people at the general election to be held in November
23 2020 and, in such case, will take effect January 1, 2022.

24 (2) This act applies to conduct occurring on or after the applicable
25 effective date of this act.