

CHAPTER 212

GOVERNMENT - STATE

SENATE BILL 23-153

BY SENATOR(S) Rodriguez and Rich, Gardner, Gonzales;
also REPRESENTATIVE(S) Duran and Pugliese, Jodeh, Marshall, Ricks, Snyder.

AN ACT

CONCERNING THE CONTINUATION OF THE REGULATION OF NOTARIES BY THE SECRETARY OF STATE IN THE DEPARTMENT OF STATE, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS IN THE 2022 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 24-21-502, **add** (5.5) as follows:

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

(5.5) "INTERPRETER" MEANS AN INDIVIDUAL WHO PROVIDES INTERPRETER SERVICES WHEN A NOTARIAL OFFICER AND AN INDIVIDUAL EXECUTING A RECORD DO NOT COMMUNICATE IN THE SAME LANGUAGE.

SECTION 2. In Colorado Revised Statutes, **add** 24-21-514.7 as follows:

24-21-514.7. Interpreters - use in facilitation of notarial acts - limitations.

(1) IF A NOTARIAL OFFICER AND AN INDIVIDUAL FOR WHOM A NOTARIAL ACT IS TO BE PERFORMED DO NOT COMMUNICATE IN THE SAME LANGUAGE, AN INTERPRETER WHO COMMUNICATES IN A LANGUAGE IN COMMON WITH BOTH THE NOTARIAL OFFICER AND THE INDIVIDUAL MAY BE USED TO FACILITATE THE NOTARIAL ACT. A NOTARIAL OFFICER MAY RELY ON REPRESENTATIONS MADE BY THE INTERPRETER ON BEHALF OF THE INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED AS FACTUAL. ANY ERRORS IN INTERPRETATION ARE NOT ATTRIBUTABLE TO THE NOTARIAL OFFICER, AND THE NOTARIAL OFFICER IS NOT LIABLE IN ANY DISPUTES ARISING FROM SUCH ERRORS.

(2) AN INTERPRETER SHALL APPEAR PERSONALLY, AS DEFINED IN SECTION

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

24-21-506 (2), BEFORE THE NOTARIAL OFFICER . AN INTERPRETER APPEARING PERSONALLY BEFORE THE NOTARIAL OFFICER SHALL BE IDENTIFIED PURSUANT TO SECTION 24-21-507 OR, IF APPEARING PERSONALLY BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION, PURSUANT TO SECTION 24-21-514.5.

(3) (a) AN INTERPRETER SHALL NOT PROVIDE INTERPRETER SERVICES WHEN THE INTERPRETER HAS A DISQUALIFYING INTEREST IN THE TRANSACTION. FOR THE PURPOSES OF THIS SUBSECTION (3), AN INTERPRETER HAS A DISQUALIFYING INTEREST IN A TRANSACTION IF:

(I) THE INTERPRETER OR THE INTERPRETER'S SPOUSE, PARTNER IN A CIVIL UNION, ANCESTOR, DESCENDENT, OR SIBLING IS A PARTY TO OR IS NAMED IN THE RECORD THAT IS TO BE NOTARIZED; OR

(II) THE INTERPRETER OR THE INTERPRETER'S SPOUSE OR PARTNER IN A CIVIL UNION MAY RECEIVE DIRECTLY AND AS A PROXIMATE RESULT OF THE NOTARIZATION ANY ADVANTAGE, RIGHT, TITLE, INTEREST, CASH, OR PROPERTY. THIS SUBSECTION (3)(a)(II) DOES NOT APPLY TO A REASONABLE FEE RECEIVED BY THE INTERPRETER FOR PROVIDING INTERPRETER SERVICES.

(b) A NOTARIAL ACT IS VOIDABLE IF INTERPRETER SERVICES ARE PROVIDED IN VIOLATION OF THIS SUBSECTION (3) IN RELATION TO THE NOTARIAL ACT.

(4) (a) IF A NOTARIAL OFFICER DOES NOT COMMUNICATE IN THE SAME LANGUAGE AS THE INDIVIDUAL EXECUTING THE RECORD WITH RESPECT TO WHICH THE NOTARIAL OFFICER IS PERFORMING A NOTARIAL ACT, THE NOTARIAL OFFICER IS NOT LIABLE IN ANY LEGAL ACTION REGARDING A DISPUTE THAT DIRECTLY RESULTS FROM AN ERROR IN INTERPRETATION.

(b) A PARTY WHO FILES AN ACTION FOR DAMAGES BASED ON A VIOLATION OF THIS PART 5 RELATED TO A NOTARIAL ACT THAT A NOTARIAL OFFICER PERFORMED IN ACCORDANCE WITH THIS SECTION HAS THE BURDEN OF PROOF IN ESTABLISHING THAT THE DISPUTE IS RELATED TO A CAUSE OTHER THAN THE INTERPRETATION.

(5) NOTHING IN THIS SECTION LIMITS A NOTARIAL OFFICER'S AUTHORITY TO REFUSE TO PERFORM A NOTARIAL ACT AS SET FORTH IN SECTION 24-21-508.

(6) IN ADDITION TO COMPLYING WITH THE REQUIREMENTS OF SECTION 24-21-515, THE CERTIFICATE OF NOTARIAL ACT FOR A REMOTE NOTARIZATION THAT WAS PERFORMED USING AN INTERPRETER MUST INDICATE THAT THE NOTARIAL ACT WAS PERFORMED USING AN INTERPRETER AND INCLUDE THE NAME AND CREDENTIAL OR CERTIFICATION NUMBER, IF ANY, OF THE INTERPRETER.

SECTION 3. In Colorado Revised Statutes, 24-21-515, **amend** (1)(c) and (1)(d); and **repeal** (1)(e) as follows:

24-21-515. Certificate of notarial act. (1) A notarial act must be evidenced by a certificate. The certificate must:

(c) Identify the county and state in which the notarial act is performed; AND

(d) Contain the title of office of the notarial officer. ~~and~~

(e) ~~If the notarial officer is a notary public, indicate the date of expiration of the officer's commission.~~

SECTION 4. In Colorado Revised Statutes, 24-21-519, **amend** (3) introductory portion, (3)(f) and (3)(g); and **add** (3)(h) and (3)(i) as follows:

24-21-519. Journal. (3) An entry in a journal must be made contemporaneously with performance of ~~the~~ A notarial act and contain the following information:

(f) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the type of identification credential presented, if any; ~~and~~

(g) ~~The fee, if any, charged by the notary public~~ FULL NAME AND ADDRESS OF ANY INTERPRETER WHO PROVIDED INTERPRETER SERVICES TO FACILITATE THE NOTARIAL ACT;

(h) THE CERTIFICATION OR CREDENTIAL NUMBER OF ANY INTERPRETER WHO PROVIDED INTERPRETER SERVICES TO FACILITATE THE NOTARIAL ACT; AND

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

SECTION 5. In Colorado Revised Statutes, 24-21-523, **amend** (2) as follows:

24-21-523. Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public. (2) Whenever the secretary of state or the secretary of state's designee believes that a violation of this part 5 has occurred, the secretary of state or the secretary of state's designee may investigate the violation. The secretary of state or the secretary of state's designee may also investigate possible violations of this part 5 upon a signed complaint from any person. HOWEVER, THIS SECTION DOES NOT AUTHORIZE THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S DESIGNEE TO INVESTIGATE A POTENTIAL VIOLATION CONCERNING AN ACTION TAKEN BY AN INTERPRETER DURING A NOTARIAL ACT.

SECTION 6. In Colorado Revised Statutes, **amend** 24-21-529 as follows:

24-21-529. Notary's fees. (1) Except as specified in subsection (2) of this section, the fees of a notary public may be, but must not exceed, ~~five~~ FIFTEEN dollars for each document attested by a person before a notary, except as otherwise provided by law. The fee for each such document must include all duties and functions required to complete the notarial act in accordance with this part 5.

(2) In lieu of the fee authorized in subsection (1) of this section, a notary public may charge a fee, not to exceed ~~ten~~ TWENTY-FIVE dollars, for the notary's electronic signature.

SECTION 7. In Colorado Revised Statutes, **amend** 24-21-540 as follows:

24-21-540. Repeal of part. This part 5 is repealed, effective ~~September 1, 2023~~

SEPTEMBER 1, 2032. Before its repeal, this part 5 is scheduled for review in accordance with section 24-34-104.

SECTION 8. In Colorado Revised Statutes, 24-34-104, **repeal** (24)(a)(IV); and **add** (33)(a)(VI) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal.

(24) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2023:

~~(IV) The appointment of notaries public through the secretary of state in accordance with part 5 of article 21 of this title 24;~~

(33) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2032:

(VI) THE APPOINTMENT OF NOTARIES PUBLIC THROUGH THE SECRETARY OF STATE IN ACCORDANCE WITH PART 5 OF ARTICLE 21 OF THIS TITLE 24.

SECTION 9. Appropriation. (1) For the 2023-24 state fiscal year, \$96,568 is appropriated to the department of state. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$88,953 for personal services related to business and licensing, which amount is based on an assumption that the division will require an additional 0.7 FTE;

(b) \$5,350 for operating expenses related to business and licensing; and

(c) \$2,265 for operating expenses related to information technology.

SECTION 10. Effective date. This act takes effect upon passage; except that sections 1, 2, 3, 4, and 5 of this act take effect September 1, 2023.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 17, 2023