

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1952

5 By: Representative Penzo
6

For An Act To Be Entitled

8 AN ACT TO REGULATE THE WITNESSING OF CERTAIN
9 DOCUMENTS BY A NOTARY PUBLIC; TO DECLARE AN
10 EMERGENCY; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO REGULATE THE WITNESSING OF CERTAIN
13 DOCUMENTS BY A NOTARY PUBLIC; AND TO
14 DECLARE AN EMERGENCY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY. Notary public – Public
22 emergency exceptions – Definitions.

23 (a) As used in this section:

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

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

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

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

29 (D) Employed by a:

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

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

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

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



1 limitation videoconference technology; and

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

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

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

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

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

20 (B)(i) An individual who:

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

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

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

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

36 (B) Absent an express prohibition in a document against

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

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

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

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14 SECTION 3. DO NOT CODIFY. CONTINGENT EFFECTIVENESS. This act is
15 effective until the Governor finds that the threat or danger to the public
16 declared under Executive Order No. 21-07 has passed and terminates the state
17 of emergency declared and renewed under Executive Order No. 21-07 by
18 executive order or proclamation under the Arkansas Emergency Services Act of
19 1973, § 12-75-101 et seq.

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

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(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.