
DIGEST

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HB 274 Reengrossed

2020 Regular Session

Garofalo

Abstract: Provides for recordation of tangible copies of electronic acts; allows for the performance of notarial functions remotely through the use of technology; and provides for limitations, qualifications, procedures, duties, and rulemaking relative to the performance of remote online notarization.

Proposed law (C.C. Art. 3344 and R.S. 9:2760) allows for the recordation of tangible copies of electronic acts.

Proposed law (R.S. 35:623) provides for the legal effect of remote online notarization.

Proposed law (R.S. 35:6) authorizes remote online notarization by states other than Louisiana and the District of Columbia.

Proposed law (R.S. 35:624) authorizes the secretary of state to form a stakeholder committee and to adopt rules in order to develop and maintain standards to implement proposed law.

Proposed law (R.S. 35:625) provides that any regularly commissioned notary public in Louisiana is authorized to perform remote online notarizations. Proposed law will cease to be effective on Feb. 1, 2022.

Proposed law (R.S. 35:625.1) provides for the process and requirements necessary to become and remain authorized to perform remote online notarizations, including the requirement that the secretary of state may only authorize a regularly commissioned notary public who holds a valid notarial commission in this state.

Proposed law (R.S. 35:626(A)) provides for the locations of the notary public, parties, and witnesses to a remote online notarial act, requires the notary public to be physically located in a parish where the notary is authorized to exercise the function of a notary public, and proposed law (R.S. 35:626(B)) provides for the location of a remote online notarial act.

Proposed law (R.S. 35:627(A)) provides procedures for a notary public to verify the identity of parties and witnesses to a remote online notarial act.

Proposed law (R.S. 35:627(B)) requires a notary public performing remote online notarization to include in a remote online notarial act a statement that it is a remote online notarial act and to electronically and digitally sign the remote online notarial act.

Proposed law (R.S. 35:628) provides for duties of the notary public in performing remote online notarization.

Proposed law (R.S. 35:629(A)) requires a notary public to maintain electronic copies and audio-video recordings of each remote online notarization for at least ten years after the date of the remote online notarization.

Proposed law (R.S. 35:629(B)) allows a notary public to designate a custodian to maintain the electronic records required by proposed law.

Proposed law (R.S. 35:630) prohibits contractual modification of the provisions of proposed law.

Proposed law amending C.C. Art. 3344(A) and R.S. 35:6 and enacting R.S. 9:2760 shall become effective on Aug. 1, 2020.

Proposed law enacting R.S. 35:621, 622, 623, 624, 626, 627, 628, 629, and 630 shall become effective upon the later of the enactment of the SECURE Notarization Act or Aug. 1, 2020. If the SECURE Notarization Act is not enacted prior to Feb. 1, 2022, R.S. 35:621, 622, 623, 624, 626, 627, 628, 629, and 630 of proposed law shall become effective on Feb. 1, 2022.

Proposed law enacting R.S. 35:625 and 625.1 is contingent upon enactment of the SECURE Notarization Act. If the SECURE Notarization Act is enacted, R.S. 35:625 and 625.1 of proposed law shall become effective upon the later of the enactment of the SECURE Notarization Act or Aug. 1, 2020.

(Amends C.C. Art. 3344(A)(intro. para.) and R.S. 35:6; Adds R.S. 9:2760 and R.S. 35:621-630)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide for notarization of acts by foreign notaries.
2. Provide for multiple effective dates for certain provisions of proposed law.
3. Add the Louisiana State Bar Association as a stakeholder.

The House Floor Amendments to the engrossed bill:

1. Add the Louisiana Public Tag Association as a member of the stakeholder committee formed by the secretary of state.
2. Make technical changes.