

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 23-0324.01 Jason Gelender x4330

SENATE BILL 23-153

SENATE SPONSORSHIP

Rodriguez and Rich, Gardner, Gonzales

HOUSE SPONSORSHIP

Duran and Pugliese,

Senate Committees

Business, Labor, & Technology
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF NOTARIES**
102 **BY THE SECRETARY OF STATE IN THE DEPARTMENT OF STATE,**
103 **AND, IN CONNECTION THEREWITH, IMPLEMENTING THE**
104 **RECOMMENDATIONS IN THE 2022 SUNSET REPORT BY THE**
105 **DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN**
106 **APPROPRIATION.**

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/>.)

Sunset Process - Senate Business, Labor, and Technology

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

SENATE
3rd Reading Unamended
April 17, 2023

SENATE
Amended 2nd Reading
April 14, 2023

Committee. The bill implements the recommendations of the department of regulatory agencies, as specified in the department's sunset review of the "Revised Uniform Law on Notarial Acts" (act), as follows:

- Continues the act for 9 years, until September 1, 2032;
- Repeals the requirement that a certificate evidencing a notarial act performed by a notary public indicate the date of expiration of the notary public's commission;
- Repeals statutory fees for notarial acts performed by a notary public and requires the secretary of state to adopt rules that prescribe or establish caps for fees that a notary public may charge for notarial acts; and
- Requires the secretary of state to adopt rules that establish minimum requirements for the use of interpreters and translators in the performance of notarial acts.

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

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

3 as follows:

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

5 **(5.5) "INTERPRETER" MEANS AN INDIVIDUAL WHO PROVIDES**

6 INTERPRETER SERVICES WHEN A NOTARIAL OFFICER AND AN INDIVIDUAL

7 EXECUTING A RECORD DO NOT COMMUNICATE IN THE SAME LANGUAGE.

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

9 follows:

10 **24-21-514.7. Interpreters - use in facilitation of notarial acts**

11 **- limitations. (1) IF A NOTARIAL OFFICER AND AN INDIVIDUAL FOR WHOM**

12 A NOTARIAL ACT IS TO BE PERFORMED DO NOT COMMUNICATE IN THE SAME

13 LANGUAGE, AN INTERPRETER WHO COMMUNICATES IN A LANGUAGE IN

14 COMMON WITH BOTH THE NOTARIAL OFFICER AND THE INDIVIDUAL MAY BE

15 USED TO FACILITATE THE NOTARIAL ACT. A NOTARIAL OFFICER MAY RELY

16 ON REPRESENTATIONS MADE BY THE INTERPRETER ON BEHALF OF THE

17 INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED AS FACTUAL.

1 ANY ERRORS IN INTERPRETATION ARE NOT ATTRIBUTABLE TO THE
2 NOTARIAL OFFICER, AND THE NOTARIAL OFFICER IS NOT BE LIABLE IN ANY
3 DISPUTES ARISING FROM SUCH ERRORS.

4 (2) AN INTERPRETER SHALL APPEAR PERSONALLY, AS DEFINED IN
5 SECTION 24-21-506(2), BEFORE THE NOTARIAL OFFICER. AN INTERPRETER
6 APPEARING PERSONALLY BEFORE THE NOTARIAL OFFICER SHALL BE
7 IDENTIFIED PURSUANT TO SECTION 24-21-507 OR, IF APPEARING
8 PERSONALLY BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION,
9 PURSUANT TO SECTION 24-21-514.5.

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

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

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

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

26 (4) (a) IF A NOTARIAL OFFICER DOES NOT COMMUNICATE IN THE
27 SAME LANGUAGE AS THE INDIVIDUAL EXECUTING THE RECORD WITH

1 RESPECT TO WHICH THE NOTARIAL OFFICER IS PERFORMING A NOTARIAL
2 ACT, THE NOTARIAL OFFICER IS NOT LIABLE IN ANY LEGAL ACTION
3 REGARDING A DISPUTE THAT DIRECTLY RESULTS FROM AN ERROR IN
4 INTERPRETATION.

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

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

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

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

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

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

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

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

1 **SECTION 4.** In Colorado Revised Statutes, 24-21-519, **amend**
2 (3) introductory portion, (3)(f), (3)(g), and (5); and add (3)(h) and (3)(i)
3 as follows:

4 **24-21-519. Journal.** (3) An entry in a journal must be made
5 contemporaneously with performance of the A notarial act and contain the
6 following information:

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

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

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

16 (i) THE FEE, IF ANY, CHARGED BY THE NOTARY PUBLIC.

17 (5) Upon written request of any member of the public, which
18 request must include the name of the parties, the type of document, and
19 the month and year in which a record was notarized, a notary public may
20 supply a certified copy of the line item representing the requested
21 transaction. A notary public may charge ~~the fee allowed in section~~
22 ~~24-21-529~~ A FEE AS AUTHORIZED BY THE SECRETARY OF STATE BY RULE
23 for each certified copy of a line item, and shall record the transaction in
24 the notary's journal.

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

27 **24-21-523. Grounds to deny, refuse to renew, revoke, suspend,**

1 or condition commission of notary public. (2) Whenever the secretary
2 of state or the secretary of state's designee believes that a violation of this
3 part 5 has occurred, the secretary of state or the secretary of state's
4 designee may investigate the violation. The secretary of state or the
5 secretary of state's designee may also investigate possible violations of
6 this part 5 upon a signed complaint from any person. HOWEVER, THIS
7 SECTION DOES NOT AUTHORIZE THE SECRETARY OF STATE OR THE
8 SECRETARY OF STATE'S DESIGNEE TO INVESTIGATE A POTENTIAL
9 VIOLATION CONCERNING AN ACTION TAKEN BY AN INTERPRETER DURING
10 A NOTARIAL ACT.

11 **SECTION 6.** In Colorado Revised Statutes, 24-21-527, **add** (1.5)
12 as follows:

13 **24-21-527. Rules - definitions.** (1.5) IN ADDITION TO THE RULES
14 THAT THE SECRETARY OF STATE IS AUTHORIZED TO ADOPT PURSUANT TO
15 SUBSECTION (1) OF THIS SECTION, NO LATER THAN JANUARY 1, 2024, THE
16 SECRETARY OF STATE SHALL ADOPT RULES THAT PRESCRIBE OR ESTABLISH
17 CAPS FOR FEES THAT A NOTARY PUBLIC MAY CHARGE FOR THE _____
18 PERFORMANCE OF NOTARIAL ACTS.

19 **SECTION 7.** In Colorado Revised Statutes, **repeal** 24-21-529 as
20 follows:

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

27 (2) In lieu of the fee authorized in subsection (1) of this section,

1 ~~a notary public may charge a fee, not to exceed ten dollars, for the~~
2 ~~notary's electronic signature.~~

3 **SECTION 8.** In Colorado Revised Statutes, **amend** 24-21-540 as
4 follows:

5 **24-21-540. Repeal of part.** This part 5 is repealed, effective
6 ~~September 1, 2023~~ SEPTEMBER 1, 2032. Before its repeal, this part 5 is
7 scheduled for review in accordance with section 24-34-104.

8 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **repeal**
9 (24)(a)(IV); and **add** (33)(a)(IV) as follows:

10 **24-34-104. General assembly review of regulatory agencies**
11 **and functions for repeal, continuation, or reestablishment - legislative**
12 **declaration - repeal.** (24) (a) The following agencies, functions, or both,
13 are scheduled for repeal on September 1, 2023:

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

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

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

21 **SECTION 10.** In Colorado Revised Statutes, **amend** 38-30-134
22 as follows:

23 **38-30-134. Fees of commissioners.** Commissioners, for like
24 services, shall be allowed the same fees as are allowed by ~~law~~ THE
25 SECRETARY OF STATE to notaries public of this state.

26 **SECTION 11. Appropriation.** (1) For the 2023-24 state fiscal
27 year, \$96,568 is appropriated to the department of state. This

1 appropriation is from the department of state cash fund created in section
2 24-21-104 (3)(b), C.R.S. To implement this act, the department may use
3 this appropriation as follows:

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

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

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

11 **SECTION 12. Effective date.** This act takes effect upon passage;
12 except that sections 2, 4, and 7 of this act take effect January 1, 2024.

13 **SECTION 13. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.