
SENATE FLOOR AMENDMENTS

2020 Regular Session

Amendments proposed by Senator Luneau to Engrossed Senate Bill No. 472 by Senator Luneau

1 AMENDMENT NO. 1

2 Delete the set of Senate Floor Amendments, proposed by Senator Fred Mills on behalf of the
3 Legislative Bureau and adopted by the Senate on May 11, 2020, designated as SFLBSB 472
4 ELLISB 1143.

5 AMENDMENT NO. 2

6 On page 1, delete line 2, and insert, "To amend and reenact the introductory paragraph of
7 Civil Code Article 3344(A) and to enact R.S. 9:2760 and Chapter 10 of Title 35 of the
8 Louisiana Revised Statutes of 1950, to be comprised"

9 AMENDMENT NO. 3

10 On page 1, line 4, after "relative to" delete the remainder of the line and insert "remote
11 online notarization; to authorize and provide for recordation of certain electronic notarial
12 acts; to authorize a"

13 AMENDMENT NO. 4

14 On page 1, between lines 8 and 9 insert the following:

15 "Section 1. The introductory paragraph of Civil Code Article 3344(A) is
16 hereby amended and reenacted to read as follows:

17 Art. 3344. Refusal for failure of original signature or proper certification; effect of
18 recordation; necessity of proof of signature recordation of a duplicate

19 A. The **Except as otherwise provided by law, the** recorder shall refuse to
20 record:

21 * * *

22 Section 2. R.S. 9:2760 is hereby enacted to read as follows:

23 **§2760. Recordation of electronic record in tangible form**

24 **The recorder shall not refuse to record a tangible copy of an electronic**
25 **record on the ground that it does not bear the original signature of a party if a**
26 **notary public or other officer before whom it was executed certifies that the**
27 **tangible copy is an accurate copy of the electronic record.**

28 AMENDMENT NO. 5

29 On page 1, line 9, change "Section 1." to "Section 3."

30 AMENDMENT NO. 6

31 On page 1, delete lines 11 through 17 and delete pages 2 through 7, and insert the following:

32 **"CHAPTER 10. REMOTE ONLINE NOTARIZATION**

33 **§621. Short title**

34 **This Chapter may be cited as the "Remote Online Notarization Act".**

35 **§622. Definitions**

36 **A. In this Chapter:**

37 **(1) "Communication technology" means an electronic device or process**
38 **that allows substantially simultaneous communication by sight and sound.**

39 **(2) "Credential analysis" means a process through which the**
40 **authenticity of an individual's government-issued identification credential is**

1 evaluated by another person through review of public and proprietary data
2 sources.

3 (3) "Identity proofing" means a process through which the identity of
4 an individual is affirmed by another person by either of the following means:

5 (a) Dynamic knowledge-based authentication, such as a review of
6 personal information from public or proprietary data sources.

7 (b) Analysis of biometric data, such as facial recognition, voiceprint
8 analysis, or fingerprint analysis.

9 (4) "Remote online notarial act" means an instrument executed before
10 a notary public by means of communication technology that meets the
11 standards adopted under this Chapter.

12 (5) "Remote online notarization" means the process through which an
13 instrument is executed before a notary public by means of communication
14 technology that meets the standards adopted under this Chapter.

15 B. The definitions of "electronic", "electronic record", "electronic
16 signature", and "record" as provided by the Louisiana Uniform Electronic
17 Transactions Act, R.S. 9:2601 et seq., apply in this Chapter.

18 §623. Legal recognition of remote online notarial acts

19 A. Except as otherwise provided in Subsections B and C of this Section,
20 a remote online notarial act that meets the requirements of R.S. 35:625, 626,
21 and 627 satisfies any requirement that a party appear before a notary public at
22 the time of the execution of the instrument. In all other respects, a remote
23 online notarial act shall comply with other applicable laws governing the
24 manner of the execution of that act.

25 B. The following instruments shall not be executed by remote online
26 notarization:

27 (1) Testaments or codicils thereto.

28 (2) Trust instruments or acknowledgments thereof.

29 (3) Donations inter vivos.

30 (4) Matrimonial agreements or acknowledgments thereof.

31 (5) Acts modifying, waiving, or extinguishing an obligation of final
32 spousal support or acknowledgments thereof.

33 C. Remote online notarization may not be used to execute an authentic
34 act as defined in Civil Code Article 1833. Except as otherwise provided in
35 Subsection B of this Section, an act that fails to be authentic as a result of being
36 executed by remote online notarization may still be valid as an act under private
37 signature or an acknowledged act.

38 D. This Chapter supplements and does not repeal, supersede, or limit
39 the provisions of the Louisiana Uniform Electronic Transactions Act, R.S.
40 9:2601 et seq.

41 §624. Standards for remote online notarization

42 A. The secretary of state shall, by rule adopted in accordance with the
43 Administrative Procedure Act, develop and maintain standards for the
44 implementation of this Chapter.

45 B. In developing standards for remote online notarization, the secretary
46 of state shall form a stakeholder committee that shall include but need not be
47 limited to representatives of the Louisiana Land Title Association, the Louisiana
48 Association of Independent Land Title Attorneys, the Louisiana Notary
49 Association, the Louisiana Bankers Association, the Louisiana Clerks of Court
50 Association, and the Louisiana State Law Institute.

51 C. The rules shall be adopted prior to February 1, 2022, and may
52 thereafter be modified, amended, or supplemented with or without the input of
53 the stakeholder committee.

54 §625. Notaries authorized to perform remote online notarization

55 A. Only a regularly commissioned notary public who holds a valid
56 notarial commission in the state of Louisiana may be authorized by the
57 secretary of state to perform remote online notarization.

58 B. In order to obtain authorization to perform remote online
59 notarization, a notary public shall submit an application to the secretary of state
60 in a format prescribed by the secretary of state, complete any course of

instruction required by the secretary of state, and satisfy any other requirements imposed by rules adopted by the secretary of state.

C. The authority to perform remote online notarization shall continue as long as the notary public is validly commissioned and the secretary of state has not revoked the notary public's authority to perform remote online notarization.

§626. Location of notary, parties, and witnesses; location of remote online notarial act

A. A notary public physically located in any parish of this state in which the notary has the power to exercise the function of a notary public may perform a remote online notarization for a party who is not in the physical presence of the notary and who may be located in or outside this state. A witness to a remote online notarial act shall be in the physical presence of the party.

B. A remote online notarial act is deemed to be executed in any parish of this state where any party is physically located at the time of the remote online notarization. If no party was physically located in this state at the time of the remote online notarization, the remote online notarial act is deemed to be executed in the parish where the notary public is physically located at the time of the remote online notarization.

§627. Procedure for performing remote online notarization

A. At the time of a remote online notarization, the notary public shall verify the identity of any party or witness appearing remotely, both through use of communication technology and by one of the following means:

- (1) The notary public's personal knowledge of the individual.
- (2) A process that includes all of the following:
 - (a) Remote presentation by the individual of a government-issued identification credential, such as a passport or driver's license, that contains the signature and a photograph of the individual.
 - (b) Credential analysis.
 - (c) Identity proofing.

B. The notary public shall do all of the following:

- (1) Include in the remote online notarial act a statement that it is a remote online notarial act.
- (2) Attach to or cause to be logically associated with the remote online notarial act the notary public's electronic signature, together with all other information required to be included in the act by other applicable law.
- (3) Digitally sign the remote online notarial act in a manner that renders any subsequent change or modification of the remote online notarial act to be evident.

§628. Duties of the notary

The notary public shall take reasonable steps to ensure both of the following:

- (1) The communication technology used in the performance of a remote online notarization is secure from unauthorized interception.
- (2) The electronic record before the notary public is the same electronic record in which the party made a statement or on which the party executed or adopted an electronic signature.

§629. Records of remote online notarizations

A. The notary public shall do all of the following:

- (1) Maintain electronic copies capable of being printed in a tangible medium of all remote online notarial acts for at least ten years after the date of the remote online notarization.
- (2) Maintain an audio and video recording of each remote online notarization for at least ten years after the date of the remote online notarization.
- (3) Take reasonable steps to secure the records required to be maintained by this Section from corruption, loss, destruction, and unauthorized interception or alteration.

B. The notary public may designate a custodian to maintain the electronic records required by Subsection A of this Section, provided that the

1 **notary public has unrestricted access to the electronic records and the custodian**
2 **meets any standards established by the secretary of state for the maintenance**
3 **of electronic records.**

4 **§630. No variation by agreement**

5 **The provisions of this Chapter may not be varied by agreement.**

6 Section 4. Due to the imminent threat posed by COVID-19 as provided in
7 Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the
8 existence of a statewide public health emergency, Sections 1, 2, and 3 of this Act
9 shall be retroactive to March 11, 2020."