
DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 572 Original

2018 Regular Session

Magee

Abstract: Creates electronic notaries public and electronic notarial acts and provides for the definitions, qualifications, authority, jurisdiction, duties, fees, and procedures for such notaries and notarial acts.

Proposed law creates electronic notaries public and electronic notarial acts.

Proposed law provides definitions for "credential analysis", "electronic", "electronic document", "electronic notarial act", "electronic notarial certificate", "electronic notary public", "electronic seal", "electronic signature", "identity proofing", "notarial act", "online", "principal", and "remote presentation" .

Proposed law authorizes the secretary of state to develop rules to implement proposed law, which shall include standards for electronic notarial acts, credential analysis, and identity proofing.

Proposed law provides that a notary public or an applicant for appointment as an electronic notary public may apply to the secretary of state to be appointed and commissioned as an electronic notary public, and provides requirements for such applications.

Proposed law authorizes electronic notaries public to perform all notarial acts and related functions and provides for the inclusion of certain information on all such acts.

Proposed law requires all electronic notaries public to ensure the integrity, security, and authenticity of all electronic notarial acts performed, and to maintain a record and backup of all electronic notarial records.

Proposed law provides that all acts performed in accordance with proposed law shall be deemed to have been performed within this state and governed by the law of this state.

Proposed law provides the general procedures for executing electronic notarial acts which includes the use of two-way video and audio conference technology.

Proposed law authorizes an electronic notary public to charge a fee in an amount that is reasonable and customary.

Proposed law provides the procedures for termination of an electronic notary public's commission including the destruction of the electronic notary public's electronic signature and seal, with the

destruction of such signature and seal certified to the secretary.

Present law defines an authentic act is a writing executed before a notary public or other officer authorized to perform that function, in the presence of two witnesses, and signed by each party who executed it, by each witness, and by each notary public before whom it was executed.

Present law further requires that the typed or hand-printed name of each person be placed in a legible form immediately beneath the signature of each person signing the act, but that in order to be an authentic act, the writing need not be executed at one time or place, or before the same notary public or in the presence of the same witnesses, as long as each party who executes it does so before a notary public and in the presence of two witnesses and each party, each witness, and each notary public signs it.

Present law provides that the failure to include the typed or hand-printed name of each person signing the act shall not affect the validity or authenticity of the act.

Proposed law retains present law but further provides that a person may appear by an online, internet-based, two-way audio and video communication that meets the electronic notarial act requirements provided by proposed law.

Proposed law provides that a writing executed by electronic means before an electronic notary public and meeting the requirements of proposed law shall be considered an authentic act.

(Adds C.C. Art. 1833(D) and (E) and R.S. 35:681 through 692)