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**SENATE COMMITTEE AMENDMENTS**

2018 Regular Session

Amendments proposed by Senate Committee on Judiciary A to Original Senate Bill No. 358  
by Senator Luneau

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1 AMENDMENT NO. 1

2 On page 1, delete line 2 and insert

3 "To enact Chapter 10 of Title 35 of the"

4 AMENDMENT NO. 2

5 On page 1, line 3, change "632" to "630"

6 AMENDMENT NO. 3

7 On page 1, delete line 5 and insert

8 "authorize certain electronic notarial acts; to authorize a notary public to perform an  
9 electronic notarial act under certain circumstances; to provide"

10 AMENDMENT NO. 4

11 On page 1, line 10, change "632" to "630"

12 AMENDMENT NO. 5

13 On page 2, delete lines 4 through 29 and on page 3, delete lines 1 through 19, and insert:

14 **"(3) "Electronic notarial act" means an official act passed by or before a notary**  
15 **public pursuant to Title 35 and conducted using electronic means and , which**  
16 **involves electronic documents, an electronic seal, and electronic signature as**  
17 **provided by this Chapter.**

18 **(4) "Electronic notarial certificate" means the portion of the electronic**  
19 **document that is completed by the notary public in an electronic notarial act**  
20 **which contains the following:**

21 **(a) The notary public's electronic signature and electronic seal.**

22  
23 **(b) Other required information concerning the date and place of the notarial**  
24 **act.**

25  
26 **(c) The facts attested to or certified by the notary public in the notarial act.**

27 **(5) "Electronic seal" means the information required by R.S. 35:12 of the**  
28 **notary public before whom the electronic notarial act was passed, which is**  
29 **electronically affixed to the electronic document evidencing such electronic**  
30 **notarial act.**

31 **(6) "Electronic signature" means the signature of a party to an electronic**  
32 **notarial act that is attached to or logically associated with an electronic**  
33 **document by or through an electronic sound, symbol, or mark.**

34  
35 **(7) "Identity proofing" means a process or service operating in accordance with**  
36 **criteria approved by the secretary through which the identity of a signatory to**  
37 **an electronic notarial act is authenticated through review of personal**  
38 **information from public and proprietary data sources.**

1 (8) "Notarial act" as used in this Chapter means the performance by a notary  
2 public of a function authorized under Title 35.

3 (9)"Online notarial act" means an electronic notarial act performed by means  
4 of two-way video and audio conference technology and an online internet  
5 connection that meets the criteria approved by the secretary and the standards  
6 adopted in this Chapter.

7  
8 (10) "Principal" means an individual:

9 (a) Whose electronic signature is affixed to the electronic document of an  
10 electronic notarial act before a notary public; or

11 (b) Taking an oath or acknowledgment before a notary public but not in the  
12 capacity of a witness for the electronic notarial act.

13 (11) "Remote presentation" means a transmission to a notary public  
14 through communication technology of an image of a government-issued  
15 identification credential that is of sufficient quality to enable the notary public  
16 to:

17 (a) Identify the individual seeking an electronic notarial act; and

18  
19 (b) Perform credential analysis.

20  
21 (12) "Secretary" means the Louisiana Secretary of State."

22 AMENDMENT NO. 6

23 On page 3, line 20 change "§622. Adoption of rules" to "§622. Rulemaking"

24 AMENDMENT NO. 7

25 On page 3, line 21, before "The" insert "A."

26 AMENDMENT NO. 8

27 On page on page 3, between lines 22 and 23, insert

28 " B. The secretary may by rule create, promulgate and impose additional  
29 mandatory qualifications for a notary public to conduct online notarial acts."

30  
31 "C. The secretary shall create and promulgate rules that require a notary public  
32 to keep a secure electronic record of the electronic documents evidencing an  
33 electronic notarial act passed by or before the notary. The electronic record  
34 shall contain all of the following for each electronic notarial act:

35  
36 (1) The date and time of the act.

37 (2) The type of act.

38 (3) The type, the title, or a description of the electronic document or proceeding.

39 (4) The printed name and address of each principal involved in the transaction  
40 or proceeding.

41 (5) Evidence of identity of each principal to the notarial act shall meet the same  
42 standards as provided by Title 35.

43 (6) Evidence of identity for all principals to an electronic notarial act shall also  
44 include an electronic recording of any video and audio conference that is the

1 basis for satisfactory evidence of identity and a notation of the type of  
2 identification presented as evidence.

3 (7) If applicable, the fee charged for the electronic notarial act.

4 D. The secretary in its discretion, may charge a reasonable fee to require  
5 reporting of certain information from a notary public desiring to conduct  
6 electronic notarial acts and as otherwise necessary to administer the provisions  
7 of this Chapter."

8 AMENDMENT NO. 9

9 On page 3, line 23, change "623. Electronic notarial acts; standards" to "623. Standards  
10 for electronic notarial acts"

11 AMENDMENT NO. 10

12 On page 3, line 25, delete "in accordance with this Chapter,"

13 AMENDMENT NO. 11

14 On page 3, delete lines 28 and 29 and delete pages 4 and 5 and insert

15 "§624. Authority to perform electronic notarial acts

16  
17 A. The secretary shall require a notary public to complete and submit an  
18 application before being authorized under this Chapter to perform electronic  
19 notarial acts.

20 B. A notary public authorized pursuant to this Section to perform electronic  
21 notarial acts is a notary public for purposes of Title 35 and subject to the same  
22 extent as a notary public appointed and commissioned thereunder.

23 §625. Electronic record of electronic notarial acts

24 A. A notary public shall keep a secure electronic record of all electronic  
25 notarial acts in accordance with the rules developed by the secretary.

26 B. The electronic record required by Subsection A of this Section shall be  
27 maintained for at least five years after the date of the transaction or  
28 proceeding."

29 AMENDMENT NO. 12

30 On page 6, delete lines 1 through 8 and on line 9, change "628" to "626"

31 AMENDMENT NO. 13

32 On page 6, line 13, change "629" to "627"

33 AMENDMENT NO. 14

34 On page 6, delete lines 14 through 29 and insert

35 "A. A notary public passing an electronic notarial act shall keep, maintain,  
36 protect, and provide for lawful inspection an electronic record of all electronic  
37 notarial acts as provided by this Chapter and the secretary.

38 B. If the evidence used to authenticate the principal's identity was obtained  
39 using electronic audio or video conference technology or through remote  
40 presentation as provided by this Chapter, the notary public passing the

electronic notarial act shall keep an electronic copy of such evidence in addition to the recording of the video and audio conference and a notation of the type of identification used.

C. The notary public passing an electronic notarial act shall take reasonable steps to do all of the following:

(1) Ensure the integrity, security, and authenticity of electronic notarial acts.

(2) Maintain a backup of the electronic record of electronic notarial acts.

(3) Ensure protection of such backup records from unauthorized use.

(4) Ensure that any registered device used to create an electronic signature is current and has not been revoked or terminated by its issuing or registering authority.

(5) Keep his record, electronic signature, and physical and electronic seals secured under his exclusive control and not allow them to be used by any other notary or any other person.

(6) Use his electronic signature only for the purpose of performing electronic notarial acts."

AMENDMENT NO. 15

On page 7, delete lines 1 through 14

AMENDMENT NO. 16

On page 7, line 15, change "630" to "628"

AMENDMENT NO. 17

On page 7, delete lines 16 through 29 and insert

"A. A notary public may perform an electronic notarial act authorized under this Chapter that meets the requirements of this Chapter and rules developed by the secretary pursuant hereto regardless of whether the notary public or principal is physically located in this state at the time of any part of the electronic notarial act.

B. In performing an electronic notarial act pursuant to this Chapter, a notary public shall verify the identity of a principal creating an electronic signature to such act at the time that the signature is taken as authorized by this Chapter and otherwise in the same manner as governed by Title 35.

C. In performing an online notarial act, a notary public shall verify the identity of a principal to the act through remote presentation as defined in this Chapter and using two-way video and audio conference technology and an online internet connection that meets the requirements of this Chapter and otherwise in the same manner as governed by Title 35."

AMENDMENT NO. 18

On page 8, delete lines 1 through 16 and insert

"§629. Fees

The notary public who passes an online notarial act or employer thereof"

1 AMENDMENT NO. 19

2 On page 8, delete lines 20 through 29 and delete page 9 and insert

3 **"§630. Authentic acts**

4 **Nothing in this Chapter shall prevent an electronic notarial act created in**  
5 **accordance herewith and that meets the requirements of Civil Code**  
6 **Article 1833 from being recognized and treated as an authentic act as**  
7 **provided thereby.**

8 Section 2. The provisions of this Act shall become effective on August 1,  
9 2019."