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HOUSE BILL 12

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2020

INTRODUCED BY

Alonzo Baldonado

AN ACT

RELATING TO NOTARIAL ACTS; PERMITTING THE DEVELOPMENT OF A
REMOTE PLATFORM TO COMPLETE CERTAIN NOTARIAL ACTS; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 14-12A-2 NMSA 1978 (being Laws 2003,
Chapter 286, Section 2) is amended to read:

"14-12A-2. DEFINITIONS.--As used in the Notary Public
Act:

A. "acknowledgment" means a notarial act in which a
person:

(1) at a single time and place [~~(1)~~] appears
in person before the notary public and presents a document or
presents a document through a remote platform pursuant to rules
and standards adopted by the secretary of state;

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1 (2) is personally known to the notary public
2 or identified by the notary public through satisfactory
3 evidence; and

4 (3) indicates to the notary public that the
5 signature on the document was voluntarily affixed by the person
6 for the purposes stated within the document and, if applicable,
7 that the person had due authority to sign in a particular
8 representative capacity;

9 B. "affirmation" means a notarial act that is
10 legally equivalent to an oath and in which a person:

11 (1) at a single time and place [~~+~~] appears
12 in person before the notary public or presents a document
13 through a remote platform pursuant to rules and standards
14 adopted by the secretary of state;

15 (2) is personally known to the notary public
16 or identified by the notary public through satisfactory
17 evidence; and

18 (3) makes a vow of truthfulness or fidelity on
19 penalty of perjury, based on personal honor and without
20 invoking a deity or using any form of the word "swear";

21 C. "commission" means both to empower to perform
22 notarial acts and the written evidence of authority to perform
23 those acts;

24 D. "copy certification" means a notarial act in
25 which a notary public:

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1 (1) is presented with a document that is
2 neither a vital record, a public record nor publicly
3 recordable;

4 (2) copies or supervises the copying of the
5 document using a photographic or electronic copying process;

6 (3) compares the document to the copy; and

7 (4) determines that the copy is accurate and
8 complete;

9 E. "credible witness" means an honest, reliable and
10 impartial person who personally knows the person appearing
11 before a notary public and takes an oath or affirmation from
12 the notary to vouch for that person's identity;

13 F. "jurat" means a notarial act in which a person:

14 (1) at a single time and place [~~(1)~~] appears
15 in person before the notary public and presents a document or
16 presents a document through a remote platform pursuant to rules
17 and standards adopted by the secretary of state;

18 (2) is personally known to the notary public
19 or identified by the notary public through satisfactory
20 evidence;

21 (3) signs the document in the presence of the
22 notary public or through a remote platform pursuant to rules
23 and standards adopted by the secretary of state; and

24 (4) takes an oath or affirmation from the
25 notary public that the person is voluntarily affixing [~~his~~] the

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1 person's signature and vouching for the truthfulness or
2 accuracy of the signed document;

3 G. "notarial act" means any act that a notary
4 public or other person is empowered to perform pursuant to the
5 Notary Public Act or the Uniform Law on Notarial Acts;

6 H. "notarial certificate" means the part of, or
7 attachment to, a notarized document that is completed by the
8 notary public, bears the notary public's signature and seal and
9 states the facts attested by the notary public in a particular
10 notarization;

11 I. "notary public" means any person commissioned by
12 the governor to perform official acts pursuant to the Notary
13 Public Act;

14 J. "oath" means a notarial act that is legally
15 equivalent to an affirmation and in which a person at a single
16 time and place:

17 (1) appears in person before the notary
18 public;

19 (2) is personally known to the notary public
20 or identified by the notary public through satisfactory
21 evidence; and

22 (3) makes a vow of truthfulness or fidelity on
23 penalty of perjury while invoking a deity or using any form of
24 the word "swear";

25 K. "official misconduct" means:

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1 (1) a notary public's performance of an act
2 prohibited, or failure to perform an act mandated, by the
3 Notary Public Act or by any other law in connection with a
4 notarial act by the notary public; or

5 (2) a notary public's performance of an
6 official act in a manner found by the governor to be negligent
7 or against the public interest;

8 L. "personal appearance" means that the principal
9 and the notary public are physically close enough to see, hear,
10 communicate with and give identification documents to each
11 other;

12 M. "personally known" means familiarity with a
13 person resulting from interactions with that person over a
14 period of time sufficient to dispel any reasonable uncertainty
15 that the person has the identity claimed;

16 N. "principal" means:

17 (1) a person whose signature is notarized; or

18 (2) a person, other than a credible witness,
19 taking an oath or affirmation from the notary public;

20 O. "remote platform" means any form of online,
21 electronic or telephonic process that is permitted by the
22 secretary of state to facilitate a remote notarial act;

23 [Θ-] P. "satisfactory evidence of identity" means
24 identification of a person based on:

25 (1) at least one current document issued by a

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1 federal, state or tribal government agency bearing the
2 photographic image of the person's face and signature and a
3 physical description of the person, though a properly stamped
4 passport without a physical description is acceptable; or

5 (2) the oath or affirmation of one credible
6 witness unaffected by the document or transaction who is
7 personally known to the notary public and who personally knows
8 the person, or of two credible witnesses unaffected by the
9 document or transaction who each personally knows the person
10 and shows to the notary public documentary identification as
11 described in Paragraph (1) of this subsection; and

12 [P-] Q. "seal" means a device, including a rubber
13 stamp, for affixing on a paper document an image containing the
14 notary public's name, the words "State of New Mexico" and, in
15 the case of a rubber stamp, the commission expiration date."

16 SECTION 2. Section 14-14-2 NMSA 1978 (being Laws 1993,
17 Chapter 281, Section 2) is amended to read:

18 "14-14-2. NOTARIAL ACTS.--

19 A. In taking an acknowledgment, the notarial
20 officer shall determine, either from personal knowledge or from
21 satisfactory evidence, that the person [~~appearing before the~~
22 ~~officer and~~] making the acknowledgment is the person whose true
23 signature is on the instrument.

24 B. In taking a verification upon oath or
25 affirmation, the notarial officer shall determine, either from

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1 personal knowledge or from satisfactory evidence, that the
2 person [~~appearing before the officer and~~] making the
3 verification is the person whose true signature is on the
4 statement verified.

5 C. In witnessing or attesting a signature, the
6 notarial officer shall determine, either from personal
7 knowledge or from satisfactory evidence, that the signature is
8 that of the person [~~appearing before the officer and~~] named
9 therein.

10 D. In certifying or attesting a copy of a document
11 or other item, the notarial officer shall determine that the
12 proffered copy is a full, true and accurate transcription or
13 reproduction of the one that was copied.

14 E. In making or noting a protest of a negotiable
15 instrument, the notarial officer shall determine the matters
16 set forth in Section 55-3-505 NMSA 1978.

17 F. A notarial officer has satisfactory evidence
18 that a person is the person whose true signature is on a
19 document if that person is:

- 20 (1) personally known to the notarial officer;
21 (2) identified upon the oath or affirmation of
22 a credible witness personally known to the notarial officer;
23 [~~or~~]
24 (3) identified on the basis of identification
25 documents; or

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1 (4) identified through a remote platform
2 pursuant to rules and standards adopted by the secretary of
3 state."

4 SECTION 3. Section 14-15-1 NMSA 1978 (being Laws 1996,
5 Chapter 11, Section 1) is amended to read:

6 "14-15-1. SHORT TITLE.--~~[This act]~~ Chapter 14, Article 15
7 NMSA 1978 may be cited as the "Electronic Authentication of
8 Documents Act"."

9 SECTION 4. Section 14-15-5 NMSA 1978 (being Laws 1996,
10 Chapter 11, Section 5, as amended) is amended to read:

11 "14-15-5. RULES.--

12 A. The secretary of state, in consultation with the
13 department of information technology, [commission] shall adopt
14 rules and standards to accomplish the purposes of the
15 Electronic Authentication of Documents Act.

16 B. The rules shall address circumstances under
17 which standards other than adopted standards may be used."

18 SECTION 5. Section 14-15-6 NMSA 1978 (being Laws 1996,
19 Chapter 11, Section 6, as amended) is amended to read:

20 "14-15-6. CONTRACTING SERVICES.--The ~~[office]~~ secretary
21 of state, in consultation with the department of information
22 technology, may contract with a private, public or quasi-public
23 organization for the provision of services under the Electronic
24 Authentication of Documents Act. A contract for services shall
25 comply with rules adopted pursuant to the Electronic

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Authentication of Documents Act and the provisions of the
Public Records Act and the Procurement Code."

SECTION 6. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.