

Senate Bill 765

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION (at the request of Oregon Law Commission)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes permanent provisions allowing notary public to perform notarial act using communication technology for remotely located individual under certain circumstances.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to notaries; amending ORS 93.810, 194.225, 194.290, 194.305 and 194.400; repealing section
3 32, chapter 12, Oregon Laws 2020 (first special session); and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 194.225, as amended by sections 21 and 22, chapter 12, Oregon Laws 2020
6 (first special session), is amended to read:

7 194.225. (1) A notarial officer may perform a notarial act authorized by this chapter or by law
8 of this state other than this chapter.

9 (2) A notarial officer may not perform a notarial act with respect to a record to which the of-
10 ficer or the officer's spouse is a party, or in which either the officer or the officer's spouse has a
11 direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

12 **(3) A notarial officer may certify that a tangible copy of an electronic record is an ac-
13 curate copy of the electronic record.**

14 **SECTION 2.** ORS 194.290, as amended by sections 23 and 24, chapter 12, Oregon Laws 2020
15 (first special session), is amended to read:

16 194.290. (1) The official stamp of a notary public must:

17 [(1)] (a) Include the notary public's name, jurisdiction, commission expiration date and other
18 information required by the Secretary of State by rule; and

19 [(2)] (b) Be a legible imprint capable of being copied together with the record to which it is af-
20 fixed or attached or with which it is logically associated.

21 **(2) The official stamp of a notary public is an official notarial seal for all purposes under
22 the laws of this state.**

23 **SECTION 3.** ORS 194.305, as amended by sections 25 and 26, chapter 12, Oregon Laws 2020
24 (first special session), is amended to read:

25 194.305. (1) A notary public may select one or more tamper-evident technologies to perform
26 notarial acts with respect to electronic records. A person may not require a notary public to per-
27 form a notarial act with respect to an electronic record with a technology that the notary public
28 has not selected.

29 (2) Before a notary public performs the notary public's initial notarial act with respect to an
30 electronic record, a notary public shall notify the Secretary of State that the notary public will be

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 performing notarial acts with respect to electronic records and identify the technology the notary
 2 public intends to use. If the Secretary of State, by rule, has established standards pursuant to ORS
 3 194.360 for approval of technology, the technology must conform to the standards. If the technology
 4 conforms to the standards, the Secretary of State shall approve the use of the technology.

5 **(3) A county clerk may accept for recording a tangible copy of an electronic record con-**
 6 **taining a notarial certificate as satisfying any requirement that a record accepted for re-**
 7 **recording be an original, if the notarial officer executing the notarial certificate certifies that**
 8 **the tangible copy is an accurate copy of the electronic record.**

9 **SECTION 4.** ORS 93.810, as amended by sections 28 and 29, chapter 12, Oregon Laws 2020 (first
 10 special session), is amended to read:

11 93.810. The following are subjects of validating or curative Acts applicable to this chapter:

12 (1) Evidentiary effect and recordation of conveyances before 1854.

13 (2) Evidentiary effect and recordation of certified copies of deeds issued by the State Land Board
 14 before 1885 where the original deed was lost.

15 (3) Defective acknowledgments of married women to conveyances before 1891.

16 (4) Foreign instruments executed before 1903.

17 (5) Deeds of married women before 1907, validity; executed under power of attorney and record
 18 as evidence.

19 (6) Conveyances by reversioners and remainderpersons to life tenant.

20 (7) Decrees or judgments affecting lands in more than one county.

21 (8) Irregular deeds and conveyances; defective acknowledgments; irregularities in judicial sales;
 22 sales and deeds of executors, personal representatives, administrators, conservators and guardians;
 23 vested rights arising by adverse title; recordation.

24 (9) Defective acknowledgments.

25 (10) Title to lands from or through aliens.

26 (11) An instrument that is presented for recording as an electronic image or by electronic means
 27 and that is recorded before June 16, 2011.

28 **(12) A tangible copy of an electronic record containing a notarial certificate that is ac-**
 29 **cepted for recording by a county clerk before June 30, 2020.**

30 **SECTION 5.** ORS 194.400, as amended by sections 30 and 31, chapter 12, Oregon Laws 2020
 31 (first special session), is amended to read:

32 194.400. (1) The fee that a notary public may charge for performing a notarial act may not ex-
 33 ceed \$10 per notarial act, **except that a notary public may charge a fee not to exceed \$25 per**
 34 **notarial act for a notarial act performed under section 20, chapter 12, Oregon Laws 2020**
 35 **(first special session).**

36 (2) A notary public may charge an additional fee for traveling to perform a notarial act if:

37 (a) The notary public explains to the person requesting the notarial act that the fee is in addi-
 38 tion to a fee specified in subsection (1) of this section and is in an amount not determined by law;
 39 and

40 (b) The person requesting the notarial act agrees in advance upon the amount of the additional
 41 fee.

42 (3) If a notary public charges fees under this section for performing notarial acts, the notary
 43 public shall display, in English, a list of the fees the notary public will charge.

44 (4) A notary public who is employed by a private entity may enter into an agreement with the
 45 entity under which fees collected by the notary public under this section are collected by and accrue

1 to the entity.

2 (5) A public body as defined in ORS 174.109 may collect the fees described in this section for
3 notarial acts performed in the course of employment by notaries public who are employed by the
4 public body.

5 **SECTION 6. Section 32, chapter 12, Oregon Laws 2020 (first special session), is repealed.**

6 **SECTION 7. This 2021 Act being necessary for the immediate preservation of the public
7 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
8 on its passage.**

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