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## **OLR Bill Analysis**

### **sHB 6604**

#### ***AN ACT CONCERNING REMOTE NOTARIAL ACTS.***

#### **SUMMARY**

This bill allows notaries public and Superior Court commissioners (collectively, "notaries") to perform notarial acts electronically until June 30, 2022. (This provision codifies Executive Order 7Q (§ 3), which the governor issued on March 30, 2020, and subsequently extended for the duration of the declared public health and civil preparedness emergencies.) It requires notaries who do so to (1) use an electronic device or process that allows a notary and a remotely located individual to communicate with each other simultaneously by sight and sound and (2) comply with specified requirements.

The bill also requires the Commerce Committee chairpersons to convene a working group to examine and make recommendations on whether (1) to adopt the Revised Uniform Law on Notarial Acts (RULONA, see BACKGROUND) and (2) remote notarization should be permitted with respect to real estate and trusts and estates transactions.

EFFECTIVE DATE: Upon passage

#### **REMOTE NOTARIZATION**

Current law does not permit remote notarization in Connecticut. For example, it defines "acknowledgement" as "a notarial act in which a notary public certifies that a signatory...has admitted, in the notary's presence, to having signed a document for its stated purpose" (CGS § 3-94a(1)).

The bill instead allows remote notarizations until June 30, 2022, subject to the following requirements:

1. A signatory who is not personally known to the notary must

present satisfactory evidence of identification while communicating with the notary and may not transmit it before or after the transaction (evidence of identification includes two specified forms of ID or an affirmation by a person known to both the notary and signatory).

2. The electronic device or process must be capable of recording the complete notarial act.
3. The notary must retain a recording of the complete notarial act for at least 10 years.
4. The signatory must affirmatively represent that he or she is physically present in Connecticut during the transaction.
5. The signatory must transmit to the notary, by fax or electronic means, a copy of the signed document on the same date it was executed.
6. The notary may notarize the transmitted copy and send it back to the signatory by fax or electronic means.
7. The notary may repeat the notarization of the original signed document as of its execution date as long as the notary receives the original signed document, together with the electronically notarized copy, within 30 days after the execution date.

Under the bill, only an attorney in good standing and admitted to practice law in Connecticut may remotely administer a self-proving affidavit to a last will or conduct a real estate closing. The bill suspends all witness requirements for notarizations, except for those concerning a last will. It allows witnessing requirements for a last will to be satisfied remotely, using the communication technology described above, if a Superior Court commissioner (generally, an attorney admitted to the Connecticut bar and in good standing) supervises its completion and certifies his or her supervision.

The bill requires town clerks to accept remotely notarized documents for recording on their town's land records. Remotely

notarized documents submitted to the clerks for this purpose must be accompanied by a one-page certification confirming the use of remote notarization.

## **WORKING GROUP**

The bill requires the Commerce Committee chairpersons to convene a working group to examine RULONA and recommend whether to adopt it. The group must also recommend whether remote notarization should be permitted for real estate and trusts and estates transactions.

Under the bill, the working group must be co-chaired by the secretary of the state (or her designee) and a legislator who is an attorney with experience in real estate transactions. It must also include representatives of the following: (1) Commerce, Government Administration and Elections (GAE), and Judiciary committees; (2) judicial branch; (3) Office of the Secretary of the State; (4) State Library; (5) Connecticut Town Clerks Association; (6) Uniform Law Commission; (7) state or regional bar associations; (8) notary associations, and (9) title insurance and mortgage industries.

The bill requires the chairpersons to schedule the group's first meeting, which must be held within 60 days after the bill's passage. The group must meet monthly thereafter until it submits its final report. The working group must report its findings and recommendations to the Commerce, GAE, and Judiciary committees by January 1, 2022. It terminates on this date or the date it submits its final report, whichever is later.

## **BACKGROUND**

### ***Related Bills***

SB 1074 and HB 6651, reported favorably by the GAE Committee, allow remote notarizations under similar conditions until December 31, 2021.

### ***RULONA***

RULONA was approved by the National Conference of

Commissioners on Uniform State Laws in July 2018. It establishes requirements for notaries public, notarial acts, and remote electronic notarizations, among other things.

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute

Yea 23 Nay 0 (03/22/2021)