



House of Representatives

General Assembly

File No. 311

January Session, 2021

Substitute House Bill No. 6604

House of Representatives, April 7, 2021

The Committee on Commerce reported through REP. SIMMONS, C. of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REMOTE NOTARIAL ACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section,
2 "notary public" means a person commissioned by the Secretary of the
3 State pursuant to section 3-94b of the general statutes or a commissioner
4 of the Superior Court as described in section 51-85 of the general
5 statutes. Notwithstanding any provision of the general statutes, on and
6 after the effective date of this section until June 30, 2022, any notarial act
7 that is required under Connecticut law to be performed by a notary
8 public may be performed using an electronic device or process that
9 allows a notary public and a remotely located individual to
10 communicate with each other simultaneously by sight and sound,
11 provided the following conditions are met:

12 (1) The individual seeking the notarial act from a notary public, if not
13 personally known to the notary public, shall present satisfactory
14 evidence of identity, as defined in section 3-94a of the general statutes,
15 while connected to the electronic device or process, and may not

16 transmit such evidence prior to or after the transaction;

17 (2) The electronic device or process used by the notary public shall be
18 capable of recording the complete notarial act and such recording shall
19 be made and retained by the notary public for not less than ten years;

20 (3) The individual seeking the signatory act shall affirmatively
21 represent using the electronic device or process that he or she is
22 physically situated in this state;

23 (4) The individual seeking the signatory act shall transmit by fax or
24 electronic means a legible copy of the signed document directly to the
25 notary public on the same date it was executed;

26 (5) The notary public may notarize the transmitted copy of the
27 document and transmit such copy to the individual seeking the
28 signatory act by fax or electronic means; and

29 (6) The notary public may repeat the notarization of the original
30 signed document as of the date of execution, provided the notary public
31 receives such original signed document, together with the electronically
32 notarized copy, within thirty days after the date of execution.

33 (b) Notwithstanding the provisions of subdivisions (1) to (6),
34 inclusive, of subsection (a) of this section, only an attorney admitted to
35 practice law in this state and in good standing may remotely administer
36 a self-proving affidavit to a will pursuant to section 45a-285 of the
37 general statutes or conduct a real estate closing as required under
38 section 51-88a of the general statutes. Any witnessing requirement for a
39 will may be satisfied remotely through the use of an electronic device or
40 process if it is completed under the supervision of a commissioner of the
41 Superior Court. The supervising commissioner shall certify that he or
42 she supervised the remote witnessing of the will.

43 (c) Notwithstanding any provision of the general statutes, no witness
44 shall be required for any document requiring a notarial act, other than a
45 will, as set forth in subsection (b) of this section.

46 (d) All remotely notarized documents pertaining to real property
47 shall be accepted for recording on the land records by all town clerks. A
48 one-page certification confirming the use of remote notarization
49 procedures shall be attached to each remotely notarized document
50 submitted for recording on the land records in this state.

51 Sec. 2. (*Effective from passage*) (a) The chairpersons of the joint standing
52 committee of the General Assembly having cognizance of matters
53 relating to commerce shall convene a working group to examine and
54 make recommendations regarding whether to adopt the Revised
55 Uniform Law on Notarial Acts and whether remote notarial acts should
56 be permitted in connection with real estate and trusts and estates
57 transactions.

58 (b) Appointments to the working group shall include, but need not
59 be limited to, the Secretary of the State, or the Secretary's designee, a
60 representative from the General Assembly who is an attorney having
61 experience in real estate transactions, representatives from the joint
62 standing committees of the General Assembly having cognizance of
63 matters relating to commerce, government administration and the
64 judiciary, the Judicial Branch, the office of the Secretary of the State, the
65 Connecticut State Library, the Connecticut Town Clerks Association, the
66 Uniform Law Commission, state or regional bar associations, notary
67 associations and the title insurance industry and the mortgage industry.
68 All appointments to the working group shall be made not later than
69 thirty days after the effective date of this section.

70 (c) The Secretary of the State, or the Secretary's designee, and the
71 representative from the General Assembly who is an attorney having
72 experience in real estate transactions shall be the chairpersons of the
73 working group. The chairpersons of the working group shall schedule
74 the first meeting of the working group, which shall be held not later than
75 sixty days after the effective date of this section. The working group
76 shall meet at least monthly thereafter, until it submits its report
77 pursuant to subsection (d) of this section.

78 (d) Not later than January 1, 2022, the working group shall submit a

79 report on its findings and recommendations pursuant to subsection (a)
 80 of this section to the joint standing committees of the General Assembly
 81 having cognizance of matters relating to commerce, government
 82 administration and the judiciary, in accordance with the provisions of
 83 section 11-4a of the general statutes. The working group shall terminate
 84 on the date that it submits such report or on January 1, 2022, whichever
 85 is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

CE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill allows notaries public and Superior Court commissioners to perform notarial acts electronically until June 30, 2022.¹ This has no fiscal impact on the state or municipalities.

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

Not later than January 1, 2022, the working group shall submit a report on its findings and recommendations to the commerce, government administration, and judiciary committees. The working group shall terminate on the date that it submits such report or on January 1, 2022, whichever is later. This provision has no fiscal impact as PA 17-236 prohibits transportation allowances for members of working groups.

The Out Years

¹ 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.

State Impact: None

Municipal Impact: None

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)