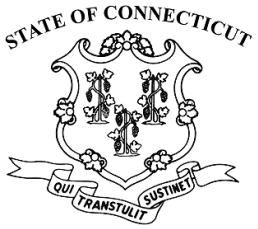

Substitute Senate Bill No. 1040

Public Act No. 23-28

AN ACT CONCERNING REMOTE NOTARIAL ACTS.

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

Section 1. (NEW) (*Effective October 1, 2023*) (a) As used in this section:

(1) "Communication technology" means an electronic device or process that:

(A) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(B) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing or speech impairment.

(2) "Identity proofing" means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(3) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States.

(4) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection (c) of this section.

(b) Except as provided in subsection (i) of this section, a document may be notarized for an individual who is not in the physical presence of the notary public at the time of the notarization if the following requirements are met:

(1) The individual and the notary can communicate simultaneously, in real time, by sight and sound using communication technology; and

(2) When performing a remote notarization pursuant to the provisions of this section, the notary reasonably identifies the individual at the time of notarization by one or more of the following methods:

(A) Personal knowledge of the identity of the individual;

(B) The individual presents a government-issued identification document or record that has not expired and includes the individual's photograph, name and signature. An acceptable form of government-issued identification document or record includes, but is not limited to, a driver's license, government-issued identification card or passport;

(C) Not less than two different types of identity proofing processes or services by which a third person provides a means to verify the identity of the individual through a review of public or private data sources; or

(D) Oath or affirmation by a credible witness who:

(i) Is in the physical presence of either the notary or the individual; or

(ii) Is able to communicate in real time with the notary and the individual by sight and sound through an electronic device or process at the time of the notarization, if the credible witness has personal knowledge of the identity of the individual and has been reasonably

identified by the notary by a method provided in this section.

(c) When an individual who is physically located outside of the state of Connecticut or outside the United States seeks a remote notarization pursuant to subsection (b) of this section, the record being notarized shall:

(1) Be intended for filing or presentation in a matter before a court, governmental entity, public official or other entity subject to the jurisdiction of the state of Connecticut;

(2) Involve property located in the territorial jurisdiction of the state of Connecticut or a transaction substantially connected to the state of Connecticut; or

(3) Otherwise not be prohibited by law of the state of Connecticut to be notarized outside the state.

(d) Once the record notarized pursuant to subsection (b) of this section is signed by the individual in accordance with the procedures set forth in this section, the individual shall mail or otherwise cause to be delivered the signed original copy of the record to the notary public for certification and execution with the notary's commission signature and official stamp or seal.

(e) The date and time of a notarization conducted pursuant to subsection (b) of this section shall be the date and time when the notary witnessed the signature being performed by means of communication technology.

(f) Nothing in this section shall affect the authority of a notary public to refuse to perform a notarial act or require a notary public to perform a notarization remotely:

(1) With respect to an electronic record;

(2) For an individual not in the physical presence of the notary; or

(3) Using a technology that the notary has not selected.

(g) The Secretary of the State may adopt regulations in accordance with the provisions of chapter 54 of the general statutes regarding the performance of a notarial act pursuant to this section. Such regulations may:

(1) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(2) Establish standards for communication technology and identity proofing; or

(3) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing.

(h) Prior to adopting or amending regulations governing the performance of a notarial act with respect to a remotely located individual, the Secretary of the State shall consider:

(1) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the National Association of Secretaries of State;

(2) Standards, practices and customs of other jurisdictions that have laws substantially similar to this section; and

(3) The views of governmental officials and entities and other interested persons.

(i) No record shall be acknowledged remotely pursuant to subsection (b) of this section in (1) the making and execution of a will, codicil, trust or trust instrument, (2) the execution of health care instructions

pursuant to section 19a-575a of the general statutes, (3) the execution of a designation of a standby guardian pursuant to section 45a-624 of the general statutes, (4) the execution of a designation of a person for decision-making and certain rights and obligations pursuant to section 1-56r of the general statutes, (5) the execution of a living will, as defined in section 19a-570 of the general statutes, (6) the execution of a power of attorney, as defined in section 1-350a of the general statutes, (7) the execution of a self-proving affidavit for an appointment of health care representative or for a living will under sections 1-56r and 19a-578 of the general statutes, (8) the execution of a mutual distribution agreement under section 45a-433 of the general statutes, (9) the execution of a disclaimer under section 45a-479 or 45a-583 of the general statutes, or (10) a real estate closing, as defined in section 51-88a of the general statutes. The performance of any such acknowledgment in connection with any of the acts described in this subsection shall be ineffective for any purpose and shall constitute a violation of section 51-88 of the general statutes.

Sec. 2. Section 1-31a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

An acknowledgment of any instrument pertaining to real property located in this state or a power of attorney may be made outside the state before an attorney admitted to the bar in this state. <u>The provisions of this section shall not apply to any acknowledgment made by a remotely located individual, as defined in section 1 of this act, in the conduct of a real estate closing, as defined in section 51-88a.</u>

Sec. 3. Section 47-7 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Notwithstanding the provisions of section 1-36, any conveyance of real estate situated in this state, any mortgage or release of mortgage or lien upon any real estate situated in this state, and any power of

attorney authorizing another to convey any interest in real estate situated in this state, executed and acknowledged in any other state or territory in conformity with the laws of that state or territory relating to the conveyance of real estate therein situated or of any interest therein or with the laws of this state, is valid.

(b) No county clerk's certificate or other authenticating certificate is required for such conveyance, mortgage, release, lien or power of attorney to be valid, provided the officer taking the acknowledgment indicated thereon the date, if any, on which his current commission expires.

(c) The provisions of this section shall not apply to any conveyance of real estate situated in this state, or any mortgage or release of mortgage or lien upon any real estate situated in this state, executed by a remotely located individual, as defined in section 1 of this act, in the conduct of a real estate closing, as defined in section 51-88a.

Sec. 4. Section 1-37 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Notwithstanding any provision in this chapter, the acknowledgment of any instrument without this state in compliance with the manner and form prescribed by the laws of the place of its execution, if in a state, a territory or insular possession of the United States, or in the District of Columbia, verified by the official seal of the officer before whom it is acknowledged, and authenticated in the manner provided by subsection (2) of section 1-36, shall have the same effect as an acknowledgment in the manner and form prescribed by the laws of this state for instruments executed within the state.

(b) The provisions of this section shall not apply to any acknowledgment made by a remotely located individual, as defined in section 1 of this act, in the conduct of a real estate closing, as defined in

section 51-88a.

Approved June 12, 2023