

# DRAFT

## SUMMARY

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

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

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

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

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

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

**(3) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.**

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

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

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

**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.

and

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

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

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

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

(2) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the Secretary of State that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the Secretary of State, by rule, has established standards pursuant to ORS 194.360 for approval of technology, the technology must conform to the standards. If the technology conforms to the standards, the Secretary of State shall approve the use of the technology.

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

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

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

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

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

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

(4) Foreign instruments executed before 1903.

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

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

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

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

(9) Defective acknowledgments.

(10) Title to lands from or through aliens.

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

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

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

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

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

(a) The notary public explains to the person requesting the notarial act that the fee is in addition to a fee specified in subsection (1) of this section

1 and is in an amount not determined by law; and

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

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

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

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

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

15 **SECTION 7. This 2021 Act being necessary for the immediate pres-**  
16 **ervation of the public peace, health and safety, an emergency is de-**  
17 **clared to exist, and this 2021 Act takes effect on its passage.**