

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0221.01 Kristen Forrestal

SENATE BILL 09-111

SENATE SPONSORSHIP

Bacon, Boyd, Schultheis

HOUSE SPONSORSHIP

Court,

Senate Committees
State, Veterans & Military Affairs

House Committees
State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING CONTINUATION OF THE "NOTARIES PUBLIC ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Sunset Process - Senate State, Veteran, and Military Affairs Committee. Implements the recommendations of the department of regulatory agencies in its sunset review of the "Notaries Public Act" as follows:

- ! Continues the "Notaries Public Act" until July 1, 2018.
- ! Allows the secretary of state to suspend a notary public commission or issue a letter of admonition as a means of discipline.
- ! Requires a notary public to make a journal entry for each

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
February 17, 2009

SENATE
Amended 2nd Reading
February 13, 2009

notarial act performed.

! Adds elements to what constitutes a disqualifying interest for a notary public to perform a notarial act.

! Repeals the authority of a notary public to notarize notices of dishonor and presentment.

! Repeals the authority of a notary public to notarize photographs.

Authorizes the office of the secretary of state to promulgate rules to require that notaries public complete a training program.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-55-123, Colorado Revised Statutes, is amended
3 to read:

4 **12-55-123. Repeal of article.** This article is repealed, effective
5 July 1, 2009 2018. Prior to such repeal, the appointment function of the
6 secretary of state shall be reviewed as provided for in section 24-34-104,
7 C.R.S.

8 **SECTION 2. Repeal.** 24-34-104 (40) (e), Colorado Revised
9 Statutes, is repealed as follows:

10 **24-34-104. General assembly review of regulatory agencies
11 and functions for termination, continuation, or reestablishment.**

12 (40) The following agencies, functions, or both, shall terminate on July
13 1, 2009:

14 (e) ~~The appointment of notaries public through the secretary of
15 state in accordance with part 1 of article 55 of title 12, C.R.S.;~~

16 **SECTION 3.** 24-34-104 (49), Colorado Revised Statutes, is
17 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18 **24-34-104. General assembly review of regulatory agencies
19 and functions for termination, continuation, or reestablishment.**

20 (49) The following agencies, functions, or both, shall terminate on July

1 1, 2018:

2 (c) THE APPOINTMENT OF NOTARIES PUBLIC THROUGH THE
3 SECRETARY OF STATE IN ACCORDANCE WITH PART 1 OF ARTICLE 55 OF
4 TITLE 12, C.R.S.

5 **SECTION 4.** The introductory portion to 12-55-107 (1), Colorado
6 Revised Statutes, is amended to read:

7 **12-55-107. Revocation of commission.** (1) The secretary of
8 state or the secretary of state's designee shall MAY deny the application of
9 any person for appointment or reappointment, ISSUE A LETTER OF
10 ADMONITION, SUSPEND A COMMISSION, or revoke the commission of any
11 notary public during such notary's term of appointment, if the notary
12 public:

13 **SECTION 5.** 12-55-111 (1), (3), and (4), Colorado Revised
14 Statutes, are amended to read:

15 **12-55-111. Journal.** (1) Every notary public shall keep a journal
16 of every ~~acknowledgment taken by such~~ NOTARIAL ACT OF THE notary to
17 ~~an instrument affecting the title to real property~~ and, if required, give a
18 certified copy of or a certificate as to any such journal or any of ~~such~~ THE
19 notary's acts, upon payment of ~~such~~ THE notary's fee.

20 (3) (a) ~~Subsection (1) of this section shall not apply to any~~
21 ~~document or electronic record where the original or a copy of such~~
22 ~~document or electronic record contains the information otherwise~~
23 ~~required to be entered in the notary's journal and such original or copy or~~
24 ~~electronic record is retained by the notary's firm or employer in the~~
25 ~~regular course of business.~~

26 (b) ~~Notwithstanding any provision of this subsection (3) to the~~
27 ~~contrary, no firm, employer, or professionally licensed person shall~~

1 prohibit an employee who is a notary from maintaining a journal of his or
2 her notarial acts in the regular course of business of such firm, employer,
3 or professionally licensed person.

4 (c) For purposes of this subsection (3), "firm" includes but is not
5 limited to an office where the business of a real estate broker, lawyer, title
6 insurance company, title insurance agent, or other licensed professional
7 is regularly carried on and the records of such business are regularly
8 maintained.

9 (4) Except as otherwise exempted by paragraph (a) of subsection
10 (3) of this section or by another law of this state, for each electronic
11 record or document signed by the notary public, the notary public shall
12 record the document authentication number issued by the secretary of
13 state for each document authenticated in the journal pursuant to this
14 section.

15 [REDACTED]

16 **SECTION 6. Repeal.** 12-55-106.7, Colorado Revised Statutes,
17 is repealed as follows:

18 **12-55-106.7. Pictorial notary public - secretary of state - rules.**

19 The secretary of state shall adopt rules necessary to establish standards,
20 procedures, practices, forms, and records relating to the ability of notaries
21 public to transmit encrypted, authenticated photographs of individuals for
22 use by motor vehicle offices, credit card companies, and other entities
23 requiring an authenticated photograph of an individual. The rules shall
24 require the notary to maintain an encryption device or other technology
25 enabling the notary to transmit photographs electronically and protect the
26 security and authenticity of the photographs. The rules shall authorize the
27 notary to charge a reasonable fee, not to exceed ten dollars, for each

1 ~~photograph electronically transmitted. The secretary of state shall adopt~~
2 ~~the rules as soon as administratively feasible. Notwithstanding the~~
3 ~~provisions of section 24-4-103 (5), C.R.S., the rules adopted pursuant to~~
4 ~~this section shall not take effect until the general assembly, acting by bill~~
5 ~~other than a bill enacted pursuant to section 24-4-103 (8) (c) (I), C.R.S.,~~
6 ~~approves the rules.~~

7 **SECTION 7.** 12-55-103.5, Colorado Revised Statutes, is
8 amended to read:

9 **12-55-103.5. Training - rules.** (1) The office of the secretary of
10 state may enter into a contract with a private contractor or contractors to
11 conduct notary training programs. The contractor or contractors may
12 charge a fee for any such training program.

13 (2) THE OFFICE OF THE SECRETARY OF STATE MAY PROMULGATE
14 RULES TO REQUIRE NOTARIES PUBLIC TO COMPLETE A TRAINING PROGRAM.

15 **SECTION 8. Effective date.** This act shall take effect July 1,
16 2009.

17 **SECTION 9. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.