

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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

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
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 Repeal of article.** This article is repealed, effective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9 Statutes, is repealed as follows: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), Colorado Revised Statutes, is
14 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 **SECTION 6.** The introductory portion to 12-55-110 (2), Colorado
21 Revised Statutes, is amended, and the said 12-55-110 (2) is further
22 amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

23 **12-55-110. Powers and limitations.** (2) A notary public who has
24 a disqualifying interest in a transaction may not legally perform any
25 notarial act in connection with such transaction. For the purposes of this
26 section, a notary public WHO has a disqualifying interest in a transaction
27 in connection with which notarial services are requested if he INCLUDES,

1 BUT IS NOT LIMITED TO, A NOTARY PUBLIC WHO:

2 (c) IS A SPOUSE, ANCESTOR, DESCENDANT, OR SIBLING OF THE
3 PRINCIPAL, INCLUDING IN-LAWS OR STEP OR HALF RELATIVES.

4 **SECTION 7. Repeal.** 12-55-110 (1) (f), Colorado Revised
5 Statutes, is repealed as follows:

6 **12-55-110. Powers and limitations.** (1) Every notary public is
7 empowered to:

8 (f) Present and give notice of dishonor and protest notes and other
9 negotiable instruments as provided in part 5 of article 3 of title 4, C.R.S.,
10 or the corresponding laws of another jurisdiction.

11 **SECTION 8. Repeal.** 12-55-106.7, Colorado Revised Statutes,
12 is repealed as follows:

13 **12-55-106.7. Pictorial notary public - secretary of state - rules.**

14 ~~The secretary of state shall adopt rules necessary to establish standards,~~
15 ~~procedures, practices, forms, and records relating to the ability of notaries~~
16 ~~public to transmit encrypted, authenticated photographs of individuals for~~
17 ~~use by motor vehicle offices, credit card companies, and other entities~~
18 ~~requiring an authenticated photograph of an individual. The rules shall~~
19 ~~require the notary to maintain an encryption device or other technology~~
20 ~~enabling the notary to transmit photographs electronically and protect the~~
21 ~~security and authenticity of the photographs. The rules shall authorize the~~
22 ~~notary to charge a reasonable fee, not to exceed ten dollars, for each~~
23 ~~photograph electronically transmitted. The secretary of state shall adopt~~
24 ~~the rules as soon as administratively feasible. Notwithstanding the~~
25 ~~provisions of section 24-4-103 (5), C.R.S., the rules adopted pursuant to~~
26 ~~this section shall not take effect until the general assembly, acting by bill~~
27 ~~other than a bill enacted pursuant to section 24-4-103 (8) (c) (I), C.R.S.,~~

1 ~~approves the rules.~~

2 **SECTION 9.** 12-55-103.5, Colorado Revised Statutes, is
3 amended to read:

4 **12-55-103.5. Training - rules.** (1) The office of the secretary of
5 state may enter into a contract with a private contractor or contractors to
6 conduct notary training programs. The contractor or contractors may
7 charge a fee for any such training program.

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

10 **SECTION 10. Effective date.** This act shall take effect July 1,
11 2009.

12 **SECTION 11. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.