

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SENATE BILL 1030

AN ACT

AMENDING SECTIONS 41-319 AND 41-330, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTION 44-7011, ARIZONA REVISED STATUTES; RELATING TO NOTARIES PUBLIC.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-319, Arizona Revised Statutes, is amended to
3 read:

4 41-319. Journal

5 A. The notary shall keep a paper journal and, except as prescribed
6 by subsection E **OF THIS SECTION**, shall keep only one journal at a time.
7 The notary shall record all notarial acts in chronological order. The
8 notary shall furnish, when requested, a certified copy of any public
9 record in the notary's journal. Records of notarial acts that violate the
10 attorney-client privilege or that are confidential pursuant to federal or
11 state law are not a public record. Each journal entry shall include at
12 least:

- 13 1. The date of the notarial act.
- 14 2. A description of the document or type of notarial act.
- 15 3. The printed full name, signature and address of each person for
16 whom a notarial act is performed.
- 17 4. The type of satisfactory evidence of identity presented to the
18 notary by each person for whom a notarial act is performed, if other than
19 the notary's personal knowledge of the individual is used as satisfactory
20 evidence of identity.
- 21 5. A description of the identification document, its serial or
22 identification number and its date of issuance or expiration.
- 23 6. The fee, if any, charged for the notarial act.

24 B. If a notary has personal knowledge of the identity of a signer,
25 the requirements of subsection A, paragraphs 1 through 5 **OF THIS SECTION**
26 may be satisfied by the notary retaining a paper or electronic copy of the
27 notarized documents for each notarial act.

28 C. If a notary does more than one notarization for an individual
29 within a six month period, the notary shall have the individual provide
30 satisfactory evidence of identity the first time the notary performs the
31 notarization for the individual but may not require satisfactory evidence
32 of identity or the individual to sign the journal for subsequent
33 notarizations performed for the individual during the six month period.

34 D. If a notary performs more than one notarization of the same type
35 for a signer either on like documents or within the same document and at
36 the same time, the notary may group the documents together and make one
37 journal entry for the transaction.

38 E. If one or more entries in a notary public's journal are not
39 public records, the notary public ~~may~~ **SHALL** keep one journal that contains
40 entries that are not public records and one journal that contains entries
41 that are public records. **IF A NOTARY PUBLIC KEEPS ONLY ONE JOURNAL, THAT**
42 **JOURNAL IS PRESUMED TO BE A PUBLIC RECORD.** A notary public's journal that
43 contains entries that are not public records is the property of the
44 employer of that notary public and shall be retained by that employer if
45 the notary public leaves that employment. A notary public's journal that

1 contains only public records is the property of the notary public without
2 regard to whether the notary public's employer purchased the journal or
3 provided the fees for the commissioning of the notary public.

4 F. Except as provided in subsections A and E **OF THIS SECTION**, the
5 notary's journal is a public record that may be viewed by or copied for
6 any member of the public, but only ~~upon~~ **ON** presentation to the notary of a
7 written request that details the month and year of the notarial act, the
8 name of the person whose signature was notarized and the type of document
9 or transaction.

10 Sec. 2. Section 41-330, Arizona Revised Statutes, is amended to
11 read:

12 41-330. **Grounds for refusal, revocation or suspension of**
13 **commission**

14 A. The secretary of state may refuse to appoint any person as a
15 notary public, ~~or~~ may revoke or suspend the commission of any notary
16 public **OR MAY REQUIRE THAT A NOTARY PUBLIC ATTEND A NOTARY TRAINING COURSE**
17 **INSTEAD OF OR IN ADDITION TO A SUSPENSION** for any of the following
18 reasons:

19 1. Substantial and material misstatement or omission in the
20 application for a notary public commission that is submitted to the
21 secretary of state.

22 2. Conviction of a felony unless restored to civil rights, or of a
23 lesser offense involving moral turpitude or of a nature that is
24 incompatible with the duties of a notary public. A conviction after a
25 plea of no contest is deemed to be a conviction for purposes of this
26 paragraph.

27 3. Revocation, suspension, restriction or denial of a professional
28 license if that action was for misconduct, dishonesty or any cause that
29 substantially relates to the duties or responsibilities of a notary
30 public.

31 4. Failure to discharge fully and faithfully any of the duties or
32 responsibilities required of a notary public.

33 5. The use of false or misleading advertising in which the notary
34 public has represented that the notary public has duties, rights or
35 privileges that the notary public does not possess by law.

36 6. Charging more than the fees authorized by statute or rule.

37 7. The commission of any act involving dishonesty, fraud or deceit
38 with the intent to substantially benefit the notary public or another
39 person or to substantially injure another person.

40 8. Failure to complete the acknowledgment or jurat at the time the
41 notary's signature and seal are affixed to the document.

42 9. Failure to administer the oath or affirmation required at the
43 time of performing a jurat for an individual.

44 10. Execution of any notarial certificate by the notary public
45 containing a statement known by the notary public to be false.

1 11. The return for insufficient funds or any other reason for
2 nonpayment of a check issued for the bond filing fees or the application
3 fees to the secretary of state.

4 12. Notarizing a document that contains no notarial certificate.

5 B. If an application is denied, the secretary of state shall notify
6 the applicant within thirty days after receipt of the application and
7 shall state the reasons for the denial. IF A PERSON APPEALS THE DENIAL OF
8 AN APPLICATION, THE PERSON MAY NOT SUBMIT A NEW APPLICATION FOR
9 CONSIDERATION WHILE THE APPEAL IS PENDING.

10 C. The secretary of state may suspend the commission of a notary
11 for at least thirty days and for not more than one hundred eighty days.

12 D. If a person has had a notary commission in this state revoked,
13 THE PERSON MAY NOT SUBMIT A NEW APPLICATION FOR A NOTARY COMMISSION FOR
14 ONE YEAR AFTER THE DATE OF THE REVOCATION. The secretary of state may
15 refuse to again appoint the person as a notary public for an indefinite
16 period of time.

17 E. On DENIAL OF AN APPLICATION OR revocation or suspension of a notary
18 public's commission, the secretary of state shall give notice to the
19 ~~notary public~~ PERSON and shall provide the person with notice of the
20 opportunity for a hearing on the DENIAL OF AN APPLICATION OR revocation or
21 suspension pursuant to chapter 6, article 10 of this title. The DENIAL OF
22 AN APPLICATION OR revocation or suspension of a notary public commission
23 is an appealable agency action.

24 Sec. 3. Title 41, chapter 2, Arizona Revised Statutes, is amended
25 by adding article 4, to read:

26 ARTICLE 4. REMOTE ONLINE NOTARIZATION

27 41-371. Definitions

28 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

29 1. "COMMUNICATION TECHNOLOGY" MEANS AN ELECTRONIC DEVICE OR PROCESS
30 THAT ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED INDIVIDUAL TO
31 COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY SIGHT AND SOUND.

32 2. "CREDENTIAL ANALYSIS" MEANS A PROCESS OR SERVICE THAT MEETS THE
33 STANDARDS ESTABLISHED UNDER SECTION 41-372 THROUGH WHICH A THIRD PERSON
34 AFFIRMS THE VALIDITY OF AN IDENTIFICATION CREDENTIAL THROUGH REVIEW OF
35 PUBLIC OR PRIVATE DATA SOURCES.

36 3. "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL,
37 DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC OR SIMILAR
38 CAPABILITIES.

39 4. "ELECTRONIC RECORD" MEANS INFORMATION THAT IS CREATED,
40 GENERATED, SENT, COMMUNICATED, RECEIVED OR STORED BY ELECTRONIC MEANS.

41 5. "ELECTRONIC SEAL" MEANS AN ELECTRONIC IMAGE THAT CONTAINS
42 INFORMATION ATTACHED TO OR LOGICALLY ASSOCIATED WITH AN ELECTRONIC RECORD
43 AND THAT CONTAINS THE WORDS "NOTARY PUBLIC", THE NAME OF THE COUNTY IN
44 WHICH THE NOTARY PUBLIC IS COMMISSIONED, THE NOTARY PUBLIC'S NAME AS IT

1 APPEARS ON THE NOTARIAL COMMISSION, THE COMMISSION NUMBER AND THE
2 EXPIRATION DATE OF THE NOTARIAL COMMISSION.

3 6. "ELECTRONIC SIGNATURE" HAS THE SAME MEANING PRESCRIBED IN
4 SECTION 41-351.

5 7. "FOREIGN STATE" MEANS A JURISDICTION OTHER THAN THE UNITED
6 STATES, A STATE OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

7 8. "IDENTITY PROOFING" MEANS A PROCESS OR SERVICE THAT MEETS THE
8 STANDARDS ESTABLISHED UNDER SECTION 41-372 THROUGH WHICH A THIRD PERSON
9 AFFIRMS THE IDENTITY OF A REMOTELY LOCATED INDIVIDUAL BY A REVIEW OF
10 PERSONAL INFORMATION FROM PUBLIC OR PRIVATE DATA SOURCES.

11 9. "NOTARIAL ACT" MEANS AN ACT THAT IS PERFORMED BY A NOTARY PUBLIC
12 OF THIS STATE PURSUANT TO SECTION 41-313, SUBSECTION A.

13 10. "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE THE
14 GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE UNITED STATES
15 VIRGIN ISLANDS AND ANY TERRITORY, INSULAR POSSESSION OR OTHER LOCATION
16 SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

17 11. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST,
18 STATUTORY TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY,
19 ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL
20 SUBDIVISION, AGENCY OR INSTRUMENTALITY OR ANY OTHER LEGAL OR COMMERCIAL
21 ENTITY.

22 12. "PERSONAL KNOWLEDGE" HAS THE SAME MEANING PRESCRIBED IN SECTION
23 41-311.

24 13. "REMOTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS NOT IN
25 THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC PERFORMING A REMOTE ONLINE
26 NOTARIZATION.

27 14. "REMOTE ONLINE NOTARIZATION" OR "REMOTE ONLINE NOTARIAL ACT"
28 MEANS A NOTARIAL ACT PERFORMED BY MEANS OF COMMUNICATION TECHNOLOGY.

29 15. "REMOTE PRESENTATION" MEANS TRANSMISSION TO A NOTARY PUBLIC
30 THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE OF A REMOTELY LOCATED
31 INDIVIDUAL'S IDENTIFICATION CREDENTIAL THAT IS OF SUFFICIENT QUALITY TO
32 ENABLE THE NOTARY PUBLIC TO REASONABLY IDENTIFY THE REMOTELY LOCATED
33 INDIVIDUAL AND TO PERFORM CREDENTIAL ANALYSIS.

34 16. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
35 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS OR ANY TERRITORY
36 OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

37 41-372. Rules; standards

38 A. ON OR BEFORE JULY 1, 2020, THE SECRETARY OF STATE SHALL ADOPT
39 RULES TO FACILITATE REMOTE ONLINE NOTARIZATIONS. THE RULES SHALL INCLUDE
40 SUFFICIENT FORMS OF NOTARIAL CERTIFICATES FOR REMOTE ONLINE NOTARIZATIONS
41 AND STANDARDS FOR APPLICATIONS AND REGISTRATION, COMMUNICATION TECHNOLOGY,
42 CREDENTIAL ANALYSIS, IDENTITY PROOFING AND RETENTION OF THE AUDIO AND
43 VISUAL RECORDING CREATED UNDER SECTION 41-374.

44 B. IN ADOPTING STANDARDS, THE SECRETARY OF STATE MAY REVIEW AND
45 CONSIDER STANDARDS ADOPTED BY NATIONAL STANDARD-SETTING ORGANIZATIONS.

1 41-373. Authority to perform remote online notarizations

2 A NOTARY PUBLIC WHO IS PHYSICALLY LOCATED IN THIS STATE AND WHO IS
3 AUTHORIZED TO PERFORM REMOTE ONLINE NOTARIZATIONS BY THE SECRETARY OF
4 STATE MAY PERFORM A NOTARIAL ACT BY MEANS OF COMMUNICATION TECHNOLOGY FOR
5 A REMOTELY LOCATED INDIVIDUAL WHO IS PHYSICALLY LOCATED:

- 6 1. IN THIS STATE.
7 2. OUTSIDE THIS STATE BUT NOT OUTSIDE THE UNITED STATES.
8 3. OUTSIDE THE UNITED STATES IF BOTH OF THE FOLLOWING APPLY:

9 (a) THE ELECTRONIC RECORD IS EITHER:

10 (i) TO BE FILED WITH OR RELATES TO A MATTER BEFORE A COURT,
11 GOVERNMENTAL ENTITY, PUBLIC OFFICIAL OR OTHER ENTITY SUBJECT TO THE
12 JURISDICTION OF THE UNITED STATES.

13 (ii) INVOLVES PROPERTY THAT IS LOCATED IN THE TERRITORIAL
14 JURISDICTION OF THE UNITED STATES OR A TRANSACTION SUBSTANTIALLY CONNECTED
15 TO THE UNITED STATES.

16 (b) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE ACT OF
17 MAKING THE STATEMENT OR SIGNING THE ELECTRONIC RECORD IS PROHIBITED BY THE
18 FOREIGN STATE IN WHICH THE REMOTELY LOCATED INDIVIDUAL IS LOCATED.

19 41-374. Electronic record of remote online notarizations

20 A. A NOTARY PUBLIC SHALL RECORD EACH REMOTE ONLINE NOTARIAL ACT
21 PERFORMED BY THE NOTARY PUBLIC IN CHRONOLOGICAL ORDER IN ONE OR MORE
22 JOURNALS MAINTAINED IN A PERMANENT, TAMPER-EVIDENT ELECTRONIC FORMAT THAT
23 COMPLIES WITH THE RULES ADOPTED BY THE SECRETARY OF STATE. A NOTARY
24 PUBLIC MAY NOT RECORD A REMOTE ONLINE NOTARIAL ACT IN A PAPER JOURNAL
25 REQUIRED BY SECTION 41-319. EACH JOURNAL ENTRY UNDER THIS SUBSECTION
26 SHALL INCLUDE:

- 27 1. THE DATE AND TIME OF THE NOTARIAL ACT.
28 2. A DESCRIPTION OF THE RECORD, IF ANY, AND TYPE OF NOTARIAL ACT.
29 3. THE FULL NAME AND ADDRESS OF EACH INDIVIDUAL FOR WHOM THE REMOTE
30 ONLINE NOTARIAL ACT IS PERFORMED.

31 4. IF THE IDENTITY OF THE INDIVIDUAL IS BASED ON PERSONAL
32 KNOWLEDGE, A STATEMENT TO THAT EFFECT.

33 5. IF THE IDENTITY OF THE INDIVIDUAL IS BASED ON CREDENTIAL
34 ANALYSIS AND IDENTITY PROOFING, A BRIEF DESCRIPTION OF THE RESULTS OF THE
35 IDENTITY VERIFICATION PROCESS AND THE IDENTIFICATION CREDENTIAL PRESENTED,
36 INCLUDING THE DATE OF ISSUANCE AND EXPIRATION OF THE IDENTIFICATION
37 CREDENTIAL BUT NOT ITS SERIAL OR IDENTIFICATION NUMBER.

38 6. IF THE IDENTITY OF THE INDIVIDUAL IS BASED ON AN OATH OR
39 AFFIRMATION OF A CREDIBLE WITNESS, THE INFORMATION REQUIRED BY PARAGRAPHS
40 3, 4 AND 5 OF THIS SUBSECTION WITH RESPECT TO THE CREDIBLE WITNESS.

41 7. A FEE, IF ANY, CHARGED BY THE NOTARY PUBLIC.

42 B. A NOTARY PUBLIC, OR A PERSON ACTING ON BEHALF OF THE NOTARY
43 PUBLIC, SHALL CREATE AN AUDIO AND VISUAL RECORDING OF THE PERFORMANCE OF
44 EACH REMOTE ONLINE NOTARIAL ACT.

1 C. A NOTARY PUBLIC SHALL TAKE REASONABLE STEPS TO:
2 1. ENSURE THE INTEGRITY, SECURITY AND AUTHENTICITY OF REMOTE ONLINE
3 NOTARIZATIONS.
4 2. MAINTAIN A BACKUP OF THE AUDIO AND VISUAL RECORDING REQUIRED BY
5 SUBSECTION B OF THIS SECTION AND AN ELECTRONIC JOURNAL KEPT BY THE NOTARY
6 PUBLIC UNDER SUBSECTION A OF THIS SECTION.
7 3. PROTECT THE BACKUP REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION
8 FROM UNAUTHORIZED USE.
9 D. A NOTARY PUBLIC OR A GUARDIAN, CONSERVATOR OR AGENT OF THE
10 NOTARY PUBLIC OR A PERSONAL REPRESENTATIVE OF A DECEASED NOTARY PUBLIC
11 SHALL RETAIN AN ELECTRONIC JOURNAL KEPT BY THE NOTARY PUBLIC PURSUANT TO
12 SUBSECTION A OF THIS SECTION AND THE AUDIO AND VISUAL RECORDING REQUIRED
13 BY SUBSECTION B OF THIS SECTION OR CAUSE THE JOURNAL AND RECORDING TO BE
14 RETAINED BY A DEPOSITORY DESIGNATED BY OR ON BEHALF OF THE PERSON REQUIRED
15 TO RETAIN THE JOURNAL AND RECORDING. THE JOURNAL AND RECORDING SHALL BE
16 RETAINED FOR AT LEAST FIVE YEARS AFTER THE DATE OF THE REMOTE ONLINE
17 NOTARIAL ACT.
18 E. AN ELECTRONIC JOURNAL KEPT BY THE NOTARY PUBLIC PURSUANT TO
19 SUBSECTION A OF THIS SECTION AND THE AUDIO AND VISUAL RECORDING REQUIRED
20 BY SUBSECTION B OF THIS SECTION ARE:
21 1. SUBJECT TO SECTION 41-319 RELATING TO PUBLIC RECORDS.
22 2. NOT SUBJECT TO SECTION 41-317.
23 41-375. Use of electronic signature and electronic seal
24 A. IN PERFORMING A REMOTE ONLINE NOTARIZATION, A NOTARY PUBLIC
25 SHALL ATTACH OR LOGICALLY ASSOCIATE THE NOTARY PUBLIC'S ELECTRONIC
26 SIGNATURE AND ELECTRONIC SEAL TO THE NOTARIAL CERTIFICATE IN A
27 TAMPER-EVIDENT FORMAT. THE ELECTRONIC SEAL MUST BE CAPABLE OF BEING
28 COPIED TOGETHER WITH THE ELECTRONIC RECORD TO WHICH IT IS ATTACHED OR WITH
29 WHICH IT IS LOGICALLY ASSOCIATED. THE NOTARIAL CERTIFICATE MUST BE
30 ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE ELECTRONIC RECORD THAT IS THE
31 SUBJECT OF THE REMOTE ONLINE NOTARIAL ACT. IF THE SECRETARY OF STATE
32 ESTABLISHES STANDARDS UNDER SECTION 41-352 OR 41-372 FOR ATTACHING OR
33 LOGICALLY ASSOCIATING THE ELECTRONIC SIGNATURE, ELECTRONIC SEAL OR
34 NOTARIAL CERTIFICATE, THE PROCESS MUST CONFORM TO THE STANDARDS.
35 B. A NOTARY PUBLIC'S USE OF AN ELECTRONIC SEAL SATISFIES THE
36 REQUIREMENT OF SECTION 41-313, SUBSECTION D, PARAGRAPH 3 TO AUTHENTICATE
37 THE REMOTE ONLINE NOTARIAL ACT.
38 C. A NOTARY PUBLIC SHALL TAKE REASONABLE STEPS TO PROTECT THE
39 NOTARY PUBLIC'S ELECTRONIC SEAL FROM UNAUTHORIZED USE. A NOTARY PUBLIC
40 MAY NOT ALLOW ANOTHER PERSON TO USE THE NOTARY PUBLIC'S ELECTRONIC SEAL.
41 D. A NOTARY PUBLIC SHALL IMMEDIATELY NOTIFY AN APPROPRIATE LAW
42 ENFORCEMENT AGENCY AND THE SECRETARY OF STATE ON ACTUAL KNOWLEDGE OF THE
43 THEFT OR VANDALISM OF THE NOTARY PUBLIC'S ELECTRONIC SEAL OR ELECTRONIC
44 JOURNAL. A NOTARY PUBLIC SHALL IMMEDIATELY NOTIFY THE SECRETARY OF STATE

1 ON ACTUAL KNOWLEDGE OF THE LOSS OR USE BY ANOTHER PERSON OF THE NOTARY
2 PUBLIC'S ELECTRONIC SEAL OR ELECTRONIC JOURNAL.

3 E. A NOTARY PUBLIC'S POSSESSION OR USE OF AN ELECTRONIC SEAL FOR AN
4 ELECTRONIC NOTARIZATION UNDER ARTICLE 3 OF THIS CHAPTER OR FOR A REMOTE
5 ONLINE NOTARIZATION IS NOT A VIOLATION OF SECTION 41-321, SUBSECTION B.

6 41-376. Remote online notarization procedures

7 A. BEFORE PERFORMING A REMOTE ONLINE NOTARIZATION, A NOTARY PUBLIC
8 SHALL:

9 1. REASONABLY CONFIRM THAT AN ELECTRONIC RECORD BEFORE THE NOTARY
10 PUBLIC IS THE SAME ELECTRONIC RECORD IN WHICH THE REMOTELY LOCATED
11 INDIVIDUAL MADE A STATEMENT OR ON WHICH THE REMOTELY LOCATED INDIVIDUAL
12 EXECUTED OR ADOPTED A SIGNATURE.

13 2. TAKE REASONABLE STEPS TO ENSURE THAT THE COMMUNICATION
14 TECHNOLOGY USED IN THE REMOTE ONLINE NOTARIZATION IS SECURE FROM
15 UNAUTHORIZED INTERCEPTION.

16 B. IN PERFORMING A REMOTE ONLINE NOTARIZATION FOR A REMOTELY
17 LOCATED INDIVIDUAL, A NOTARY PUBLIC SHALL REASONABLY VERIFY THE IDENTITY
18 OF THE INDIVIDUAL BY ANY OF THE FOLLOWING:

19 1. THE NOTARY PUBLIC'S PERSONAL KNOWLEDGE OF THE INDIVIDUAL.

20 2. EACH OF THE FOLLOWING:

21 (a) THE INDIVIDUAL'S REMOTE PRESENTATION OF AN IDENTIFICATION
22 CREDENTIAL THAT CONSTITUTES SATISFACTORY EVIDENCE OF IDENTITY AS DEFINED
23 IN SECTION 41-311.

24 (b) CREDENTIAL ANALYSIS OF THE IDENTIFICATION CREDENTIAL DESCRIBED
25 IN SUBDIVISION (a) OF THIS PARAGRAPH.

26 (c) IDENTITY PROOFING OF THE INDIVIDUAL.

27 3. THE OATH OR AFFIRMATION OF A CREDIBLE WITNESS WITH PERSONAL
28 KNOWLEDGE OF THE INDIVIDUAL WHO APPEARS BEFORE AND IS IDENTIFIED BY THE
29 NOTARY PUBLIC EITHER:

30 (a) THROUGH SATISFACTORY EVIDENCE OF IDENTITY AS DEFINED IN SECTION
31 41-311 WHILE IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC.

32 (b) AS A REMOTELY LOCATED INDIVIDUAL UNDER PARAGRAPH 1 OR 2 OF THIS
33 SUBSECTION.

34 C. A NOTARY PUBLIC MAY:

35 1. REQUIRE A REMOTELY LOCATED INDIVIDUAL TO PROVIDE ADDITIONAL
36 INFORMATION NECESSARY TO ASSURE THE NOTARY PUBLIC OF THE IDENTITY OF THE
37 INDIVIDUAL.

38 2. REFUSE TO PERFORM A REMOTE ONLINE NOTARIZATION IF THE NOTARY
39 PUBLIC IS NOT SATISFIED AS TO THE IDENTITY OF THE REMOTELY LOCATED
40 INDIVIDUAL.

41 D. NOTWITHSTANDING SECTION 41-313, SUBSECTION B, PARAGRAPH 3, A
42 TRANSLATOR MAY BE A REMOTELY LOCATED INDIVIDUAL IF THE TRANSLATOR, SIGNER
43 AND NOTARY PUBLIC COMMUNICATE BY MEANS OF COMMUNICATION TECHNOLOGY.

1 E. SECTION 41-319, SUBSECTION C DOES NOT APPLY TO REMOTE ONLINE
2 NOTARIZATIONS.

3 F. THE NOTARIAL CERTIFICATE FOR A REMOTE ONLINE NOTARIZATION MUST
4 INDICATE THAT THE NOTARIAL ACT WAS A REMOTE ONLINE NOTARIZATION PERFORMED
5 BY MEANS OF COMMUNICATION TECHNOLOGY. A NOTARIAL CERTIFICATE IS
6 SUFFICIENT TO SATISFY THE REQUIREMENT OF THIS SUBSECTION IF IT EITHER:

7 1. COMPLIES WITH RULES ADOPTED UNDER SECTION 41-372.

8 2. IS IN A FORM OTHERWISE SUFFICIENT UNDER THE LAWS OF THIS STATE
9 AND CONTAINS A STATEMENT SUBSTANTIALLY AS FOLLOWS: "THIS REMOTE ONLINE
10 NOTARIZATION INVOLVED THE USE OF COMMUNICATION TECHNOLOGY".

11 41-377. Termination of notary public commission

12 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A NOTARY
13 PUBLIC WHO IS AUTHORIZED TO PERFORM REMOTE ONLINE NOTARIZATIONS AND WHOSE
14 COMMISSION IS TERMINATED OR REVOKED SHALL DESTROY THE CODING, DISK,
15 CERTIFICATE, CARD, SOFTWARE OR PASSWORD THAT ENABLES THE NOTARY PUBLIC TO
16 ATTACH OR LOGICALLY ASSOCIATE THE NOTARY PUBLIC'S ELECTRONIC SIGNATURE AND
17 ELECTRONIC SEAL TO AN ELECTRONIC RECORD AND SHALL CERTIFY COMPLIANCE WITH
18 THIS SUBSECTION TO THE SECRETARY OF STATE. ON THE DEATH OR ADJUDICATION
19 OF INCOMPETENCY OF A NOTARY PUBLIC, THE NOTARY PUBLIC'S PERSONAL
20 REPRESENTATIVE OR GUARDIAN SHALL COMPLY WITH THIS SUBSECTION.

21 B. A FORMER NOTARY PUBLIC WHOSE COMMISSION TERMINATED FOR A REASON
22 OTHER THAN REVOCATION OR DENIAL OF RENEWAL IS NOT REQUIRED TO DESTROY THE
23 ITEMS DESCRIBED BY SUBSECTION A OF THIS SECTION IF THE FORMER NOTARY
24 PUBLIC IS RECOMMISSIONED AS A NOTARY PUBLIC WITHIN THREE MONTHS AFTER THE
25 TERMINATION OF THE NOTARY PUBLIC'S FORMER COMMISSION.

26 C. A NOTARY PUBLIC'S ELECTRONIC SEAL IS NOT SUBJECT TO SECTION
27 41-317, SUBSECTION B.

28 D. THE TERMINATION OF A NOTARY PUBLIC'S COMMISSION DOES NOT AFFECT
29 THE RETENTION REQUIREMENTS OF SECTION 41-374, SUBSECTION D.

30 41-378. Legal recognition and validity of remote online
31 notarizations

32 A. A REMOTE ONLINE NOTARIZATION SATISFIES ANY LAW OF THIS STATE
33 THAT REQUIRES AN INDIVIDUAL TO APPEAR BEFORE, APPEAR PERSONALLY BEFORE OR
34 BE IN THE PRESENCE OF A NOTARY PUBLIC AT THE TIME OF THE PERFORMANCE OF
35 THE NOTARIAL ACT.

36 B. A NOTARY PUBLIC'S VERIFICATION OF A REMOTELY LOCATED
37 INDIVIDUAL'S IDENTITY PURSUANT TO SECTION 41-376, SUBSECTION B SATISFIES
38 ANY LAW OF THIS STATE THAT REQUIRES THE NOTARY PUBLIC TO OBTAIN
39 SATISFACTORY EVIDENCE OF IDENTITY OF THE INDIVIDUAL FOR A REMOTE ONLINE
40 NOTARIZATION.

41 C. THE FAILURE OF A NOTARY PUBLIC TO PERFORM A DUTY OR MEET A
42 REQUIREMENT PRESCRIBED IN THIS ARTICLE DOES NOT INVALIDATE A REMOTE ONLINE
43 NOTARIAL ACT PERFORMED BY THE NOTARY PUBLIC. A VALID REMOTE ONLINE
44 NOTARIAL ACT DOES NOT PREVENT AN AGGRIEVED PERSON FROM SEEKING TO
45 INVALIDATE THE ELECTRONIC RECORD OR TRANSACTION THAT IS THE SUBJECT OF THE

1 REMOTE ONLINE NOTARIAL ACT OR FROM SEEKING OTHER REMEDIES BASED ON STATE
2 OR FEDERAL LAW. THIS SUBSECTION DOES NOT VALIDATE A PURPORTED REMOTE
3 ONLINE NOTARIAL ACT THAT IS PERFORMED BY AN INDIVIDUAL WHO IS NOT
4 AUTHORIZED TO PERFORM REMOTE ONLINE NOTARIAL ACTS.

5 41-379. Applicable law; conflict of laws

6 A. THE VALIDITY OF A REMOTE ONLINE NOTARIZATION SHALL BE DETERMINED
7 BY APPLYING THE LAWS OF THIS STATE, REGARDLESS OF THE PHYSICAL LOCATION OF
8 THE REMOTELY LOCATED INDIVIDUAL AT THE TIME OF THE REMOTE ONLINE
9 NOTARIZATION.

10 B. A NOTARY PUBLIC WHO IS AUTHORIZED TO PERFORM REMOTE ONLINE
11 NOTARIZATIONS IS SUBJECT TO AND MUST COMPLY WITH THIS CHAPTER EXCEPT AS
12 MODIFIED OR SUPPLEMENTED BY THIS ARTICLE.

13 C. IF A CONFLICT BETWEEN THIS ARTICLE AND ANY OTHER LAW OF THIS
14 STATE EXISTS, THIS ARTICLE CONTROLS.

15 41-380. Relation to electronic signatures in global and
16 national commerce act

17 THIS ARTICLE MODIFIES, LIMITS AND SUPERSEDES THE ELECTRONIC
18 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (P.L. 106-229; 114 STAT.
19 464; 15 UNITED STATES CODE SECTIONS 7001 THROUGH 7031), BUT DOES NOT
20 MODIFY, LIMIT OR SUPERSEDE 15 UNITED STATES CODE SECTION 7001(c) OR
21 AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN 15 UNITED
22 STATES CODE SECTION 7003(b).

23 Sec. 4. Section 44-7011, Arizona Revised Statutes, is amended to
24 read:

25 44-7011. Notarization; acknowledgment

26 Notwithstanding title 41, chapter 2, article 2, if the law requires
27 a signature or record to be notarized, acknowledged, verified or made
28 under oath, that requirement is satisfied if a notary completes a notarial
29 ~~act~~ CERTIFICATE on the electronic ~~message or document~~ RECORD. That
30 notarial ~~act~~ CERTIFICATE on the electronic ~~message or document~~ RECORD is
31 complete without the imprint OR PERCEIVABLE IMAGE of the notary's seal if
32 all of the following apply:

33 1. The electronic ~~message or document~~ RECORD is signed pursuant to
34 this chapter or section 18-106 in the presence of a notary.

35 2. The notary ~~confirms~~ REASONABLY VERIFIES that the electronic
36 signature on the electronic ~~message or document~~ RECORD is ~~verifiably~~ the
37 electronic signature EXECUTED OR ADOPTED BY THE SIGNER PURSUANT TO THIS
38 CHAPTER OR issued to the signer pursuant to ~~this chapter or~~ section
39 18-106.

40 3. The notary electronically signs with an electronic signature
41 that is consistent with this chapter or any other applicable law.

42 4. The following information appears electronically within the
43 ~~message~~ RECORD electronically signed by the notary:

44 (a) The notary's full name and commission number exactly as it
45 appears on the notary's commission.

1 (b) The words "~~electronic~~ notary public", "state of Arizona" and
2 "my commission expires on (date)".

3 (c) The address of the notary's principal place of contact exactly
4 as it appears on the notary's commission.

5 (d) The notary's e-mail or other electronic address exactly as it
6 appears on the notary's commission.

7 Sec. 5. Effective date

8 This act is effective from and after June 30, 2020.