

Rules Relating to Notaries Public

§1 Purpose and authority

§2 Social distancing

§1 Purpose and authority. These rules are adopted pursuant to sections 127A-12, 13, 25, 29, and 31, Hawaii Revised Statutes, to respond to the COVID-19 emergency declared by the Governor, specifically to enable Hawaii notaries to perform notarial acts while complying with social distancing guidelines. These rules have the force and effect of law.

§2 Social distancing. (a) The notary public shall take every reasonable precaution to perform notarial acts in compliance with all orders and social distancing guidelines relating to the COVID-19 emergency.

(b) Notaries public will not be required to perform notarial acts if they believe social distancing guidelines to ensure health and safety cannot be followed.

§3 Notarial Acts Utilizing Audio-Visual Technology. Notarial acts may be performed by utilizing audio-visual technology, provided there is compliance with the following conditions:

- (1) The notary public shall have personal knowledge of the signer or obtain satisfactory evidence of the identity of the signer by requiring presentation of a current government-issued identification card or document that contains the signer's photograph and signature to the notary public during the video conference. Transmittal of the signer's identification for purposes of verification to the notary public prior to or after the video conference shall not satisfy this condition;
- (2) The notary public shall confirm via observation during the video conference that the signer appears to be aware of significance of the transaction requiring a notarial act and is willing to perform such a transaction;
- (3) The video conferencing shall allow for direct interaction between the person and the notary public and shall not be pre-recorded;

- (4) The notary public shall confirm as is reasonably possible that the signer is physically situated in this State;
- (5) The notary public shall create an audio-visual recording of the performance of the notarial act, which shall be kept as part of the notary public's record and stored as an unsecured audio-visual recording or on a secured external digital storage such as a flash drive, DVD, or external hard drive;
- (6) The notary public shall deposit with the office of the attorney general the external digital storage and the notarial record books within ninety days of the notary public's date of the resignation, expiration of any term of office as a notary, or removal from or abandonment of office as a notary. The notary public's representative shall provide the same upon the notary public's death;
- (7) The notary public shall obtain the signed document that requires notarization by fax or electronic format on the same date it was signed;
- (8) The notary public may notarize the transmitted copy of the document and transmit the same back to the signer;
- (9) The notary public shall add a statement to the notarized document as follows: "*This notarial act involved the use of communication technology enabled by emergency order*";
- (10) The notary public shall enter in the record book that the notarial act was performed pursuant to Executive Order 20-02; and
- (11) The notary public may repeat notarization of the original signed document as of the date of execution provided the notary public receives such original signed document together with the electronically notarized copy within 60 days after the date of execution.