

1 SB275
2 210116-2
3 By Senator Givhan
4 RFD: Judiciary
5 First Read: 25-FEB-21

SYNOPSIS: Under existing law, an individual is required to personally appear before a notary public for verification of his or her identification and signature when executing certain instruments.

This bill would authorize the use of remote notarization for acknowledgements, would ratify and confirm actions taken pursuant to the Emergency Management Act of 1955, using the remote notarization of signatures, and would provide exemptions.

A BILL
TO BE ENTITLED
AN ACT

Relating to attestations by notaries public; to add Section 36-20-73.1 to the Code of Alabama 1975, to authorize the use of remote notarization for acknowledgements; to ratify

1 certain actions taken pursuant to the Emergency Management Act
2 of 1955; and to provide for exemptions.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 36-20-73.1 is added to the Code
5 of Alabama 1975, to read as follows:

6 (a) For the purposes of this section, the following
7 terms shall have the following meanings:

8 (1) ORIGINAL SIGNATURE. A signature signed directly
9 onto a document in wet ink by a person who is named on the
10 document.

11 (2) SIGNATORY. The person who is named on the
12 document and is to sign the document.

13 (b) Unless otherwise provided by law, the powers and
14 functions of a notary public require his or her original
15 signature.

16 (c) For purposes of this article, and subject to
17 subsections (d) to (f), inclusive, an individual may
18 personally appear before an acknowledging notary by either of
19 the following:

20 (1) Physically appearing before the notary.

21 (2) Appearing through the use of two-way audio-video
22 communication technology that allows a notary public and a
23 remotely located signatory to communicate with each other
24 simultaneously by sight and sound, provided that the notary
25 public is physically located in this state and the two-way
26 audio-video communication is recorded and maintained for a
27 period of seven years by the notary public.

1 (d) If appearing through the use of two-way
2 audio-video communication, the identity of the signatory shall
3 be verified by the notary public using either of the following
4 methods:

5 (1) The personal knowledge of the notary public of
6 the identity of the signatory.

7 (2)a. The presentation of two valid forms of
8 government issued identification, one of which shall include
9 the face and signature of the signatory; and

10 b. A process by which the notary public verifies the
11 identity of the signatory through a review of public or
12 private data sources.

13 (e) The two-way audio-video communication recording
14 shall contain all of the following:

15 (1) The date and time of the remote notarial act.

16 (2) A description of the documents to which the
17 remote notarial act relates.

18 (3) An attestation by the notary public of being
19 physically located in this state.

20 (4) A description of how the identification of the
21 signatory was verified.

22 (5) A clear image of any government issued
23 identification, if applicable.

24 (6) A clear image of the act of signing observed by
25 the notary public.

26 (f) The official date and time of the notarization
27 is the date and time the notary public witnessed the

1 signature, including the date and time the signature was
2 witnessed via two-way audio-video communication technology.
3 All documents used during the two-way audio-video
4 communication, shall be provided to the notary for his or her
5 authentication and original signature.

6 (g) Any action taken before July 1, 2021, allowing
7 for the remote notarization of signatures under the Emergency
8 Management Act of 1955, Chapter 9 of Title 31, is ratified and
9 confirmed.

10 (h) Remote notarization may not be used to notarize
11 an absentee ballot application or an absentee ballot
12 affidavit, or for any purpose related to voting.

13 Section 2. This act shall become effective July 1,
14 2021, following its passage and approval by the Governor, or
15 its otherwise becoming law.