

**House File 736 - Introduced**

HOUSE FILE 736  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO HSB 167)

**A BILL FOR**

1 An Act providing for notarial acts, including by providing  
2 for the use of electronic media, providing penalties, and  
3 including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 9B.1, Code 2019, is amended to read as  
2 follows:

3 **9B.1 Short title.**

4 This chapter may be cited as the "*Revised Uniform Law on*  
5 *Notarial Acts*" Acts (2018)".

6 Sec. 2. Section 9B.2, subsection 10, paragraph b, Code 2019,  
7 is amended to read as follows:

8 *b.* ~~"Personal~~ Except as provided in section 9B.14A, "personal  
9 appearance" does not include appearances which require video,  
10 optical, or technology with similar capabilities.

11 Sec. 3. Section 9B.4, Code 2019, is amended by adding the  
12 following new subsection:

13 NEW SUBSECTION. 3. A notarial officer may certify that a  
14 tangible copy of an electronic record is an accurate copy of  
15 the electronic record as provided in section 9B.14A.

16 Sec. 4. Section 9B.6, Code 2019, is amended to read as  
17 follows:

18 **9B.6 Personal appearance required.**

19 If a notarial act relates to a statement made in or a  
20 signature executed on a record, the individual making the  
21 statement or executing the signature shall appear personally  
22 before the notarial officer. This section is satisfied by a  
23 remotely located individual using communication technology to  
24 appear before a notary public as provided in section 9B.14A.

25 Sec. 5. NEW SECTION. **9B.14A Notarial act performed for**  
26 **remotely located individual.**

27 1. As used in this section unless the context otherwise  
28 requires:

29 *a.* "*Communication technology*" means an electronic device or  
30 process that does all of the following:

31 (1) Allows a notary public and a remotely located individual  
32 to communicate with each other simultaneously by sight and  
33 sound.

34 (2) When necessary and consistent with other applicable  
35 law, facilitates communication with a remotely located

1 individual who has a vision, hearing, or speech impairment.

2     *b.* "Foreign state" means a jurisdiction other than the  
3 United States, a state, or a federally recognized Indian tribe.

4     *c.* "Identity proofing" means a process or service by which  
5 a third person provides a notary public with a means to verify  
6 the identity of a remotely located individual by a review of  
7 personal information from public or private data sources.

8     *d.* "Outside the United States" means a location outside  
9 the geographic boundaries of the United States, Puerto Rico,  
10 the United States Virgin Islands, and any territory, insular  
11 possession, or other location subject to the jurisdiction of  
12 the United States.

13     *e.* "Remotely located individual" or "individual" means an  
14 individual who is not in the physical presence of the notary  
15 public who performs a notarial act under subsection 3.

16     2. A remotely located individual may comply with section  
17 9B.6 by using communication technology to appear before a  
18 notary public.

19     3. A notary public located in this state may perform a  
20 notarial act using communication technology for a remotely  
21 located individual if all of the following applies:

22     *a.* The notary public has any of the following:

23         (1) Personal knowledge under section 9B.7, subsection 1, of  
24 the identity of the individual.

25         (2) Satisfactory evidence of the identity of the remotely  
26 located individual by oath or affirmation from a credible  
27 witness appearing before the notary public under section 9B.7,  
28 subsection 2, or this section.

29         (3) Obtained satisfactory evidence of the identity of the  
30 remotely located individual by using at least two different  
31 types of identity proofing.

32     *b.* The notary public is able reasonably to confirm that a  
33 record before the notary public is the same record in which the  
34 remotely located individual made a statement or on which the  
35 individual executed a signature.

1     *c.* The notary public, or a person acting on behalf of  
2 the notary public, creates an audio-visual recording of the  
3 performance of the notarial act.

4     *d.* For a remotely located individual located outside the  
5 United States, all of the following applies:

6       (1) The record complies with any of the following:

7       (a) Is to be filed with or relates to a matter before a  
8 public official or court, governmental entity, or other entity  
9 subject to the jurisdiction of the United States.

10       (b) Involves property located in the territorial  
11 jurisdiction of the United States or involves a transaction  
12 substantially connected with the United States.

13       (2) The act of making the statement or signing the record  
14 is not prohibited by the foreign state in which the remotely  
15 located individual is located.

16     4. If a notarial act is performed under this section, the  
17 certificate of notarial act required by section 9B.15 and the  
18 short-form certificate provided in section 9B.16 must indicate  
19 that the notarial act was performed using communication  
20 technology.

21     5. A short-form certificate provided in section 9B.16 for a  
22 notarial act subject to this section is sufficient if any of  
23 the following applies:

24       *a.* It complies with rules adopted under subsection 8,  
25 paragraph "a".

26       *b.* It is in the form provided in section 9B.16 and contains  
27 a statement substantially as follows: "This notarial act  
28 involved the use of communication technology".

29     6. A notary public, a guardian, conservator, or agent of  
30 a notary public, or a personal representative of a deceased  
31 notary public shall retain the audio-visual recording created  
32 under subsection 3, paragraph "c", or cause the recording  
33 to be retained by a repository designated by or on behalf  
34 of the person required to retain the recording. Unless a  
35 different period is required by rule adopted under subsection

1 8, paragraph "d", the recording must be retained for a period of  
2 at least ten years after the recording is made.

3 7. Before a notary public performs the notary public's  
4 initial notarial act under this section, the notary public  
5 must notify the secretary of state that the notary public will  
6 be performing notarial acts with respect to remotely located  
7 individuals and identify the technologies the notary public  
8 intends to use. If the secretary of state has established  
9 standards under subsection 8 and section 9B.27 for approval  
10 of communication technology or identity proofing, the  
11 communication technology and identity proofing must conform to  
12 the standards.

13 8. In addition to adopting rules under section 9B.27, the  
14 secretary of state may adopt rules under this section regarding  
15 performance of a notarial act. The rules may do all of the  
16 following:

17 a. Prescribe the means and process, including training  
18 requirements, of performing a notarial act involving a remotely  
19 located individual using communication technology.

20 b. Establish standards for communication technology and  
21 identity proofing.

22 c. Establish requirements or procedures to approve providers  
23 of communication technology and the process of identity  
24 proofing.

25 d. Establish standards for data security and a period  
26 for the retention of an audio-visual recording created under  
27 subsection 3, paragraph "c".

28 9. Before adopting, amending, or repealing a rule governing  
29 performance of a notarial act with respect to a remotely  
30 located individual, the secretary of state must consider all  
31 of the following:

32 a. The most recent standards regarding the performance of  
33 a notarial act with respect to a remotely located individual  
34 promulgated by national standard-setting organizations and the  
35 recommendations of the national association of secretaries of

1 state.

2     *b.* Standards, practices, and customs of other jurisdictions  
3 that have laws substantially similar to this section.

4     *c.* The views of governmental officials and entities and  
5 other interested persons.

6     10. By allowing its communication technology or identity  
7 proofing to facilitate a notarial act for a remotely located  
8 individual or by providing storage of the audio-visual  
9 recording created under subsection 3, paragraph “c”, the  
10 provider of the communication technology, identity proofing,  
11 or storage appoints the secretary of state as the provider’s  
12 agent for service of process in any civil action in this state  
13 related to the notarial act.

14     11. The commission of a notary public performing a notarial  
15 act under this section is conditional upon the notary public  
16 complying with the requirements in section 9B.21.

17     12. A document purporting to convey or encumber real  
18 property that has been recorded by the county recorder for the  
19 jurisdiction in which the real property is located, although  
20 the document may not have been certified according to this  
21 section, shall give the same notice to third persons and be  
22 effective from the time of recording as if the document had  
23 been certified according to this section.

24     13. In any cause of action brought under this section, venue  
25 shall lie in the county where the notary public is performing  
26 the notarial act.

27     14. In any cause of action brought under this section, Iowa  
28 law shall be the choice of law. Any condition, stipulation, or  
29 provision in a document requiring the application of the law of  
30 another state in lieu of this state is void.

31     Sec. 6. NEW SECTION. 9B.14B Use of information.

32     1. As used in this section, unless the context otherwise  
33 requires:

34     *a.* (1) “*Personally identifiable information*” means  
35 information about or pertaining to an individual in a record

1 which identifies the individual, and includes information that  
2 can be used to distinguish or trace an individual's identity,  
3 either alone or when combined with other information.

4 (2) "*Personally identifiable information*" includes but is  
5 not limited to a person's photograph, social security number,  
6 driver's license number, name, address, and telephone number.

7 *b. "Remote facilitator"* means a person who participates in  
8 performing a notarial act under section 9B.14A, by doing any  
9 of the following:

10 (1) Providing communication technology used by a public  
11 notary or remotely located individual.

12 (2) Creating, transmitting, or retaining audio-visual  
13 recordings on behalf of a notary public.

14 2. A notary public or a remote facilitator shall not sell,  
15 offer for sale, use, or transfer to another person personally  
16 identifiable information collected in the course of performing  
17 a notarial act for any purpose other than as follows:

18 *a.* As required to perform the notarial act.

19 *b.* As necessary to effect, administer, enforce, service, or  
20 process the transaction for which the personally identifiable  
21 information was provided.

22 3. Subsection 2 does not apply to the transfer of personally  
23 identifiable information to another person in any of the  
24 following circumstances:

25 *a.* Upon written consent of the person for the use or release  
26 of that person's personally identifiable information.

27 *b.* In response to a court order, subpoena, or other legal  
28 process compelling disclosure.

29 *c.* As part of a change in the form of a business entity's  
30 organization or a change in the control of a business  
31 entity, including as a result of an acquisition, merger, or  
32 consolidation. However, any reorganized or successor business  
33 entity shall comply with the same requirements as provided in  
34 subsection 2.

35 4. A person who violates this section is guilty of a simple

1 misdemeanor.

2 Sec. 7. Section 9B.20, Code 2019, is amended by adding the  
3 following new subsection:

4 NEW SUBSECTION. 3. A county recorder may accept for  
5 recording a tangible copy of an electronic record containing  
6 a notarial certificate as satisfying any requirement that a  
7 record accepted for recording be an original, if the notarial  
8 officer executing the notarial certificate certifies that the  
9 tangible copy is an accurate copy of the electronic record.

10 Sec. 8. Section 9B.21, Code 2019, is amended by adding the  
11 following new subsection:

12 NEW SUBSECTION. 3A. The commission of a notary public,  
13 who performs a notarial act using communication technology  
14 for a remotely located individual under section 9B.14A, is  
15 conditional upon the notary public executing an agreement with  
16 such individual that at least stipulates any claim or cause of  
17 action arising out of the notarial act must be brought by the  
18 individual in a district court in this state as provided in  
19 section 9B.14A rather than a state court in another state.

20 Sec. 9. EFFECTIVE DATE. This Act takes effect July 1, 2020.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with  
23 the explanation's substance by the members of the general assembly.

24 GENERAL. This bill amends Code chapter 9B, the "Revised  
25 Uniform Law on Notarial Acts" (RULONA), enacted by the  
26 general assembly in 2012 (2012 Acts, chapter 1050), which is  
27 based on a uniform Act proposed by the national conference  
28 of commissioners on uniform state laws (commissioners) in  
29 2010. The Code chapter governs a notary public (an individual  
30 commissioned to perform a notarial act by the secretary of  
31 state) or other notarial officer (a statutory authorized  
32 individual such as a judge) who performs a specific official  
33 act such as attesting to some fact which often involves an  
34 individual's statement or signing of a record presented by an  
35 individual (Code section 9B.2). Such an individual must appear



1 personally before the notarial officer (Code section 9B.6).  
2 A notarial act must be evidence by some form of certificate  
3 executed contemporaneously with the performance of the notarial  
4 act (Code sections 9B.15 and 9B.16). The record may either be  
5 tangible or electronic. A notary public who elects to perform  
6 a notarial act involving an electronic record must notify the  
7 secretary of state regarding the tamper-proof technology that  
8 the notary public will use (Code section 9B.20).

9 UNIFORM PROVISIONS. The bill includes amendments proposed  
10 to the uniform Act by the commissioners in 2018 and referred  
11 to as "RULONA (2018)", by allowing a notary public to perform  
12 a notarial act remotely by utilizing audio-visual technology.  
13 Under the bill, an individual may personally appear before  
14 a notary public by means of communication technology.  
15 Communication technology is a process that allows a notary  
16 public and a remotely located individual (individual) to  
17 communicate with each other simultaneously. The notary public  
18 must have some reliable evidence of the true identity of the  
19 individual and confirm that the record before the notary public  
20 is the same record of the individual's statement or the same  
21 document that is being signed. The certificate must indicate  
22 that the remote notarial act is performed in accordance with  
23 the provisions of the new Code section. The bill also requires  
24 that an audio-visual recording of the performance be created  
25 and stored for at least 10 years. The secretary of state is  
26 authorized to adopt rules required to administer the new Code  
27 section. The bill amends Code section 9B.20, by providing that  
28 a county recorder may accept a tangible copy of an electronic  
29 record, if a notarial officer certifies that the copy is  
30 accurate.

31 NONUNIFORM PROVISIONS — NOTICE TO CREDITORS. The bill  
32 provides that a document purporting to convey or encumber  
33 real property that has been recorded provides notice to third  
34 persons regardless of whether it has been properly certified.  
35 The bill also provides that a county recorder may accept a

1 tangible copy of the electronic record, if a notarial officer  
2 certifies that the copy is accurate. In a cause of action  
3 brought under the new Code section, venue lies in the county  
4 where the notary public is performing the notarial act, and  
5 Iowa law is the choice of law.

6       NONUNIFORM PROVISIONS — RESTRICTION ON USE OF PERSONALLY  
7 IDENTIFIABLE INFORMATION. The bill creates nonuniform Code  
8 section 9B.14B that restricts a public notary or person  
9 involved in performing a notarial act electronically from  
10 using personally identifiable information that is contained  
11 in a created record, subject to specified exceptions (e.g.,  
12 consent of a party). A person who violates this provision of  
13 the bill commits a simple misdemeanor. A simple misdemeanor is  
14 punishable by confinement for no more than 30 days or a fine of  
15 at least \$65 but not more than \$625 or by both.

16       EFFECTIVE DATE. The bill takes effect July 1, 2020.