

# 2022 Legislative Update

*Paul Hodnefield*  
*January 19, 2022*

# Update Parameters

- ▶ It is Still Early in the 2022 Legislative Session
  - Still time remaining for bill introductions.
  - Eight state legislatures have not yet convened in 2022
  - Four state legislatures convened in the past day
  - MT, NV, ND and TX are not in session during 2022
- ▶ Categories
  - Recording legislation
  - Notary Legislation
  - Other Legislation of Potential Interest

# General Observations

- ▶ There are Many Carryover Bills from 2021
- ▶ Few Notary Introductions So Far
  - 2021 – Tracked 121 notary-related bills
  - 2022 – So far, only 6 new notary-related bills
- ▶ COVID-19
  - Only one new COVID-19 Emergency Measure

# Real Estate Recording Legislation

Carryover, Introduced or Pre-Filed for 2022 Session

# Recording Legislation: 2021 Carryover Bills

## ▶ Kansas SB 58

- Prohibits the filing of false liens on real or personal property
- Specifies what constitutes a false lien
- Provides that a violation of the foregoing would be a felony.
- Sent to conference committee on March 25, 2021.
- Remains pending in conference committee

# Recording Legislation: Fraudulent Deeds

- ▶ New Jersey AB 171, SB 390
  - Introduced on January 11, 2022
  - Intended to provide additional protection against fraudulent deeds and recordings.
  - Text is not available. May be similar to AB 3784 (2020)
    - ▶ Would have required person recording a deed to submit an affidavit of title; required a county recorder to send notice to the transferor of the recording and authorize an additional \$2 fee to cover the cost of such notice
  - AB 171 was assigned to the Assembly Housing Committee.
  - SB 390 was assigned to Senate Community and Urban Affairs Committee.

# Recording Legislation: Beneficial Owners

- ▶ New Jersey Senate Bill 889
  - Pre-filed on January 18, 2022
  - Requires LLCs to disclose ownership information when submitting a deed for recording.
  - Text is not available.
  - Committee assignment is pending.

# Recording Legislation: Recording, Timing

- ▶ New Jersey Assembly Bill 985
  - Introduced on January 11, 2022
  - Promotes prompt recording of residential deeds.
  - Text is not available.
  - May be similar to AB 3396 (2020)
    - ▶ Would have imposed a late fee of \$10 per calendar day that the deed is not recorded beginning on the 31st day after a deed is delivered
  - Assigned to the Assembly Housing Committee



# Recording Legislation: Record Contents

- ▶ Utah Senate Bill 80
  - Introduced January 18, 2022
  - Clarifies requirements for the legal description on documents submitted for recording.
  - Pending in Senate Government Operations and Political Subdivisions Committee.

# Recording Legislation: Recording Intake

- ▶ Indiana House Bill 1025
  - Introduced on January 4, 2022
  - Prohibits a county recorder from recording a deed for a non-dwelling structure connected to a commercial onsite sewage system unless such system has been inspected and certifications provided to the health department, county recorder and buyer
  - Assigned to the House Environmental Affairs Committee

# Recording Legislation: Electronic Issues

- ▶ Indiana Senate Bill 357
  - Introduced on January 10, 2022
  - Provides that after January 1, 2024 a county recorder may not refuse a record simply because it is in electronic form.
  - There are exceptions for certain documents, such as military discharge papers.
  - Assigned to the Senate Judiciary Committee

# Recording Legislation: Electronic Issues

- ▶ Vermont House Bill 512
  - Introduced on January 4, 2022
  - Adopts the Uniform Real Property Electronic Recording Act
  - Establishes a municipal Land Records Management Office (LRMO) at the secretary of state to oversee the management of municipal land records. The LRMO shall be responsible for overseeing the implementation and utilization of modern methods, techniques, equipment, documentation, and training that will improve the quality of public service with respect to land records and help to achieve a high degree of standardization throughout the State.
  - Pending in House Commerce & Economic Development Committee

# Recording Legislation: Fees & Taxes

- ▶ Wyoming House Bill 35
  - Pre-filed January 18, 2022
  - Establishes an optional county excise tax on the sale of real property.
  - Provides that a county clerk shall not record a document transferring legal title to or beneficial interest in real property until all taxes due under this chapter have been paid to the county treasurer.
  - Pending introduction.

# Recording Legislation: Other

- ▶ West Virginia HB 4230, SB 391
  - Introduced January 17-18, 2022
  - Authorizes the secretary of state to promulgate a rule regarding real property electronic recording standards and regulations.

# Notary Legislation

Introduced or Pre-Filed for 2022 Session

# Notary Legislation: 2021 Carryover Bills

- ▶ Rhode Island, HB 6241, HB 6254 and SB 931
  - Permits remote online notarization
  - Recognizes notarial acts performed under the authority and in the jurisdiction of a federally recognized Indian tribe
  - Sets fee limits of \$5 for in-person and \$25 for remote notarization



# Notary Legislation: 2021 Carryover Bills

- ▶ Georgia House Bill 334
  - Provides for remote online notaries and notarization
  - Directs the GSCCCA to establish standards for remote notarization
  - Creates an electronic notary journal requirement
  - House concurred in Senate amendments on March 31, 2021.
  - Tabled in Senate, which adjourned on March 31, 2021

# Notary Legislation: 2021 Carryover Bills

- ▶ California Assembly Bill 1093
  - Adopts the Online Notary Public Act
  - Provides for remote online notarization
  - Passed Assembly Judiciary Committee on January 13, 2022.
  - Pending in Assembly Appropriations Committee.

# Notary Legislation: 2021 Carryover Bills

- ▶ North Carolina House Bill 776
  - Authorizes remote online notarization
  - Sent to conference committee on September 23, 2021.
  - Remains pending in conference committee

# Notary Legislation: 2021 Carryover Bills

- ▶ United States HB 3962, SB 1625
  - Authorizes notaries public to perform electronic and remote online notarization that occurs in or affects interstate commerce
  - Establishes minimum standards for online notarization
  - Senate bill introduced May 13, 2021
  - House bill introduced June 17, 2021
  - House bill remains pending in multiple house committees
  - Senate bill remains pending in Judiciary Committee

# Notary Legislation: Remote Notary

- ▶ New York Senate Bill 1780
  - Introduced on January 15, 2021
  - Enacted December 22, 2021
  - Effective June 20, 2022
  - Provides for electronic and remote online notarization
- ▶ New York Assembly Bill 8691
  - Introduced on January 10, 2022
  - Provides for remote ink notarization

# Notary Legislation: Remote Notary

- ▶ Vermont House Bill 512
  - Introduced on January 4, 2022
  - Adopts the Revised Uniform Law on Notarial Acts, including remote notary provisions
  - Assigned to House Commerce & Economic Development Committee

# Notary Legislation: COVID-19

- ▶ Massachusetts House Bill 4340
  - Introduced on January 18, 2022
  - Temporarily provides for remote notarization of physical documents
  - Bill repeals remote notary effective July 15, 2022
  - Committee assignment is pending

# Notary Legislation: Other

- ▶ Maryland House Bill 82
  - Introduced January 12, 2022
  - Increases the maximum fee that the secretary of state may adopt by regulation for a notarial act from \$4 to \$25
- ▶ Mississippi Senate Bill 2035
  - Introduced January 6, 2022
  - Authorizes a non-resident who works or practices in the state to be commissioned as a notary
- ▶ New Jersey Assembly Bill 732
  - Pre-filed January 11, 2022
  - Requires notaries public to be U.S. citizens; text not yet available



# Notary Legislation: Other

- ▶ West Virginia House Bill 3209
  - Introduced January 12, 2022
  - Exempts previously commissioned notaries from requirement that a person must have a high school diploma or equivalent to be recommissioned as a notary public
- ▶ West Virginia HB 4229, SB 390
  - Introduced January 17-18, 2022
  - Authorizes the secretary of state to promulgate a rule regarding standards and guidelines for electronic notarization, remote online notarization, and remote Ink notarization

# Other Legislation of Interest

# COVID-19 Recording

- ▶ Ohio: House Bill 342 (2021)
  - Provides for recording of a person's COVID-19 vaccination record cards with the county recorder
  - Introduced in June, 2021 and carried over to 2022 session
  - Remains pending in committee

# Q&A – Thank You!

Paul Hodnefield

Associate General Counsel

CSC<sup>®</sup>

[paul.hodnefield@cscglobal.com](mailto:paul.hodnefield@cscglobal.com)

651-494-1730