



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3698

Introduced 2/14/2020, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Notary Public Act. Provides requirements concerning electronic notarization and electronic notaries public. Amends the Uniform Real Property Electronic Recording Act. Provides that a paper or tangible copy of an electronic document that a notary public has certified to be a true and correct copy satisfies specified recording requirements. Provides further requirements concerning the certification of electronic documents by notaries public. Defines terms. Makes conforming changes. Effective January 1, 2021, or upon the adoption by the Secretary of State of rules necessary for implementation, whichever is later.

LRB101 17219 RJF 66622 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Notary Public Act is amended by
5 changing Sections 1-104, 2-101, 2-102, 2-102.5, 2-103, 2-104,
6 2-105, 2-106, 2-107, 3-101, 3-103, 3-104, 3-105, 3-106, 4-101,
7 5-101, 5-102, 6-102, and 6-104 and Sections 7-106, 7-107, and
8 7-108 and by adding Sections 1-106, 2-101.5, 2-102.6, 2-102.7,
9 3-101.5, and 3-107 and the heading of Article VI-A and Sections
10 6A-101, 6A-102, 6A-103, 6A-104, 6A-105, 6A-106, and 7-110 as
11 follows:

12 (5 ILCS 312/1-104) (from Ch. 102, par. 201-104)

13 Sec. 1-104. Definitions. As used in this Act: ~~Notary Public~~
14 ~~and Notarization Defined.~~

15 "Accredited immigration representative" means a not for
16 profit organization recognized by the Board of Immigration
17 Appeals under 8 C.F.R. 292.2(a) and employees of those
18 organizations accredited under 8 C.F.R. 292.29(d).

19 "Acknowledgment" means a declaration by an individual
20 before a notarial officer that the individual has signed a
21 record for the purpose stated in the record and, if the record
22 is signed in a representative capacity, that the individual
23 signed the record with proper authority and signed it as the

1 act of the individual or entity identified in the record.

2 "Audio-video communication" means communication by which a
3 person is able to see, hear, and communicate with another
4 person in real time using electronic means.

5 "Communication technology" means an electronic device or
6 process that allows a notary public and a remotely located
7 individual to communicate with each other simultaneously by
8 audio-video communication.

9 "Credential" means a tangible record evidencing the
10 identity of a person, including a valid and unexpired
11 identification card or other document issued by the federal
12 government or any state government that contains the photograph
13 and signature of the principal.

14 "Credential analysis" means a process or service that
15 complies with any rules or regulations adopted by the Secretary
16 of State through which a third party affirms the validity of a
17 government-issued identification credential or any data
18 thereon through the review of data sources.

19 "Digital certificate" means a computer-based record or
20 electronic file to a notary public or applicant for commission
21 as an electronic notary public for the purpose of creating an
22 official electronic signature. The digital certificate shall
23 be kept in the exclusive control of the electronic notary
24 public.

25 "Dynamic knowledge based authentication assessment" means
26 an identity assessment that is based on a set of questions

1 formulated from public or private data sources for which the
2 person taking the assessment has not previously provided an
3 answer and that meets any rules adopted by the Secretary of
4 State.

5 "Electronic" means of or relating to technology having
6 electrical, digital, magnetic, wireless, optical,
7 electromagnetic, or similar capabilities.

8 "Electronic document" means information that is created,
9 generated, sent, communicated, received, or stored by
10 electronic means.

11 "Electronic notarial act" means an act that an electronic
12 notary public of this State is authorized to perform. The term
13 includes:

- 14 (1) taking an acknowledgment;
15 (2) administering an oath or affirmation;
16 (3) executing a jurat;
17 (4) certifying a true and correct copy; and
18 (5) performing such other duties as may be prescribed
19 by a specific statute.

20 "Electronic notarial certificate" means the portion of a
21 notarized electronic document that is completed by an online
22 notary public and contains the following:

- 23 (1) the electronic notary public's electronic
24 signature, electronic seal, title, and commission
25 expiration date;
26 (2) other required information concerning the date and

1 placement of the electronic notarization; and

2 (3) the facts attested to or certified by the
3 electronic notary public in the particular notarization.

4 "Electronic notarial certificate" also may also include a
5 remote online notarial certificate as defined under this Act.

6 "Electronic notary public" means a person commissioned by
7 the Secretary of State to perform electronic notarial acts.

8 "Electronic record" means a record created, generated,
9 sent, communicated, received or stored by electronic means.

10 "Electronic seal" means information within a notarized
11 electronic document that includes the names, commission
12 number, jurisdiction, and expiration date of the commission of
13 an electronic notary public and generally includes the
14 information required to be set forth in a mechanical stamp
15 under subsection (b-5) of Section 3-101.

16 "Electronic signature" means the official signature of the
17 commissioned notary that is on file with the Secretary of State
18 and has been reduced to an electronic format that may be
19 attached to or logically associated with a record and executed
20 or adopted by an individual with the intent to sign the record.

21 "Identity proofing" means a process or service operating
22 according to criteria approved by the Secretary of State
23 through which a third person affirms the identity of an
24 individual through review of personal information from public
25 and proprietary data sources, including (a) by means of dynamic
26 knowledge-based authentication, such as a review of personal

1 information from public or proprietary data sources; or (b) by
2 means of analysis of biometric data, such as, but not limited
3 to, facial recognition, voiceprint analysis, or fingerprint
4 analysis.

5 "In the presence of" or "appear before" means:

6 (1) being in the same physical location as another
7 person and close enough to see, hear, communication with
8 and exchange credentials with that person; or

9 (2) being in a different physical location from another
10 person, but able to see, hear, and communicate with the
11 person by means of audio-video communication that meets any
12 rules adopted by the Secretary of State.

13 "Notarial act" means an act, whether performed with respect
14 to a tangible or electronic record, that a notary public or an
15 electronic notary public may perform under the law of this
16 State. "Notary act" includes taking an acknowledgment,
17 administering an oath or affirmation, taking a verification on
18 oath, or affirmation, witnessing or attesting a signature,
19 certifying or attesting a copy, and noting a protest of a
20 negotiable instrument.

21 "Notary public" or "notary" means an individual appointed
22 and commissioned to perform notarial acts.

23 "Notarization" means the performance of a notarial act.

24 "Outside the United States" means a location outside of the
25 geographic boundaries of a state or commonwealth of the United
26 States, the District of Columbia, Puerto Rico, the United

1 States Virgin Islands, and any territory, or insular
2 possession, or other location subject to the jurisdiction of
3 the United States.

4 "Principal" means an individual:

5 (1) whose signature is notarized; or

6 (2) taking an oath or affirmation from the notary but
7 not in the capacity of a witness for the notarization.

8 "Public key certificate" means an electronic credential
9 which is used to identify an individual who signed an
10 electronic record with the certificate.

11 "Real time" means the actual span of uninterrupted time
12 during which all parts of an electronic notarial act occur.

13 "Remote electronic notarization system" means a set of
14 applications, programs, hardware, software, or technology to
15 enable an electronic notary to perform electronic notarial acts
16 through audio-video communication.

17 "Remote online notarial certificate" means the form of an
18 acknowledgment, jurat, verification on oath or affirmation, or
19 verification of witness or attestation that is completed
20 remotely by an electronic notary public and:

21 (1) contains the electronic notary's electronic
22 signature, electronic seal, title and commission, and
23 expiration date;

24 (2) contains other required information concerning the
25 date and place of the remote online notarization;

26 (3) otherwise conforms to the requirements for an

1 acknowledgment, jurat, verification on oath or
2 affirmation, or verification of witness or attestation
3 under the laws of this State; and

4 (4) indicates that the person making the
5 acknowledgment, oath, or affirmation appeared remotely
6 online.

7 "Remote presentation" means the transmission of a quality
8 image of a government-issued identification credential to an
9 electronic notary public through communication technology for
10 the purpose of enabling the electronic notary public to
11 identify the person appearing before the electronic notary
12 public and to perform a credential analysis.

13 "Tamper evident" means that any change to an electronic
14 document shall display evidence of the change.

15 "Unique to the electronic notary public" and "sole control"
16 mean, with respect to an electronic notarization, that the
17 signing device used to affix the electronic signature of the
18 electronic notary public and to render the official electronic
19 seal information tamper evident must be accessible by and
20 attributable solely to the electronic notary public to the
21 exclusion of all other persons and entities for the necessary
22 period of time that such device is engaged and operating to
23 effectuate the authorized electronic notarization.

24 ~~(a) The terms "notary public" and "notary" are used~~
25 ~~interchangeably to mean any individual appointed and~~
26 ~~commissioned to perform notarial acts.~~

1 ~~(b) "Notarization" means the performance of a notarial act.~~

2 ~~(c) "Accredited immigration representative" means a~~
3 ~~not-for-profit organization recognized by the Board of~~
4 ~~Immigration Appeals under 8 C.F.R. 292.2(a) and employees of~~
5 ~~those organizations accredited under 8 C.F.R. 292.2(d).~~

6 (Source: P.A. 93-1001, eff. 8-23-04.)

7 (5 ILCS 312/1-106 new)

8 Sec. 1-106. Electronic Notarization Fund. The Electronic
9 Notarization Fund is created as a special fund in the State
10 treasury. Moneys in the Electronic Notarization Fund during the
11 preceding calendar year, shall be distributed, subject to
12 appropriation, to the Secretary of State to fund the Department
13 of Index's implementation of the electronic notarization
14 commissions.

15 (5 ILCS 312/2-101) (from Ch. 102, par. 202-101)

16 Sec. 2-101. Appointment.

17 (a) The Secretary of State may appoint and commission as
18 notaries public for a 4-year term as many persons resident in a
19 county in this State as he deems necessary. The Secretary of
20 State may appoint and commission as notaries public for a
21 one-year term as many persons who are residents of a state
22 bordering Illinois whose place of work or business is within a
23 county in this State as the Secretary deems necessary, but only
24 if the laws of that state authorize residents of Illinois to be

1 appointed and commissioned as notaries public in that state.

2 (b) A notary public commissioned in this State may apply
3 for an electronic notary public commission to perform
4 electronic notarial acts with the name that appears on the
5 notary's commission.

6 (c) An individual may apply for a notary public commission
7 and apply for an electronic notary public commission at the
8 same time.

9 (d) Any notary or electronic notary appointed by the
10 Secretary of State may elect not to perform a notarial act or
11 an electronic notarial act for any reason.

12 (e) The commission of a notary public and an electronic
13 notary public shall have the same term pursuant to subsection
14 (a).

15 (f) The electronic notary public commission of a notary
16 public is suspended by operation of law when the notary public
17 is no longer appointed and commissioned as a notary public in
18 this State under this Act. If the commission of the notary
19 public has been revoked or suspended, the Secretary of State
20 shall immediately notify the notary public in writing that his
21 or her commission as a notary public and as an electronic
22 notary public will be suspended by operation of law until he or
23 she is reappointed.

24 (Source: P.A. 91-818, eff. 6-13-00.)

25 (5 ILCS 312/2-101.5 new)

1 Sec. 2-101.5. Course of study and examination.

2 (a) Applicants applying for the first time as a notary
3 public or as an electronic notary public or applying to renew
4 his or her appointment as a notary public or as an electronic
5 notary public shall:

6 (1) complete any course of study on notarization and
7 electronic notarization that is required by the Secretary
8 of State; and

9 (2) pass an examination at the completion of the
10 course.

11 (b) Any applicant applying only for a notary public
12 commission and not an electronic notary public commission shall
13 be required to only take the course of study for notary public
14 commissions. Any applicant applying for an electronic notary
15 public commission or a commission as both a notary public and
16 an electronic notary public must take the course of study for
17 both notaries public and electronic notaries public.

18 (c) A course of study required to be completed under this
19 Section must:

20 (1) be taken online and be of a duration of not more
21 than 3 hours, including instruction and completion of an
22 examination of the course content;

23 (2) provide instruction in, without limitation,
24 notarial law, ethics, and procedure, as well as technology
25 if applying for an electronic notary public commission;

26 (3) comply with any rules adopted by the Secretary of

1 State relating to courses of study on notarization and
2 electronic notarization; and

3 (4) be approved by the Secretary of State.

4 (5 ILCS 312/2-102) (from Ch. 102, par. 202-102)
5 Sec. 2-102. Application.

6 (a) Application for notary public commission. Every
7 applicant for appointment and commission as a notary shall
8 complete an application in a format prescribed by the Secretary
9 of State to be filed with the Secretary of State, stating:

10 (1) ~~(a)~~ the applicant's official name, as it appears on
11 his or her current driver's license or state-issued
12 identification card;

13 (2) ~~(b)~~ the county in which the applicant resides or,
14 if the applicant is a resident of a state bordering
15 Illinois, the county in Illinois in which that person's
16 principal place of work or principal place of business is
17 located;

18 (3) ~~(c)~~ the applicant's residence address, as it
19 appears on his or her current driver's license or
20 state-issued identification card;

21 (4) ~~(c-5)~~ the applicant's business address if
22 different than the applicant's residence address, if
23 performing notarial acts constitutes any portion of the
24 applicant's job duties;

25 (5) ~~(d)~~ that the applicant has resided in the State of

1 Illinois for 30 days preceding the application or that the
2 applicant who is a resident of a state bordering Illinois
3 has worked or maintained a business in Illinois for 30 days
4 preceding the application;

5 (6) ~~(e)~~ that the applicant is a citizen of the United
6 States or an alien lawfully admitted for permanent
7 residence in the United States;

8 (7) ~~(f)~~ the applicant's date of birth;

9 (8) ~~(g)~~ that the applicant is able to read and write
10 the English language;

11 (9) that the applicant has not had a prior application
12 or commission revoked due to a finding or decision by the
13 Secretary of State ~~(h) that the applicant has never been~~
14 ~~the holder of a notary public appointment that was revoked~~
15 ~~or suspended during the past 10 years;~~

16 (10) ~~(i)~~ that the applicant has not been convicted of a
17 felony;

18 (11) ~~(i-5)~~ that the applicant's signature authorizes
19 the Office of the Secretary of State to conduct a
20 verification to confirm the information provided in the
21 application, including a criminal background check of the
22 applicant, if necessary; ~~and~~

23 (12) that the applicant has provided satisfactory
24 proof to the Secretary of State that the applicant has
25 successfully completed any required course of study on
26 notarization; and

1 (13) ~~(j)~~ any other information the Secretary of State
2 deems necessary.

3 (b) Application for electronic notary public commission.
4 An application for an electronic notary public commission must
5 be filed with the Secretary of State using the online notary
6 application system. Every applicant for appointment and
7 commission as an electronic notary public shall complete an
8 application in a format prescribed by the Secretary of State to
9 be filed with the Secretary of State, stating:

10 (1) all information required to be included in an
11 application for appointment as an electronic notary
12 public, as provided under subsection (a);

13 (2) that the applicant is commissioned as a notary
14 public under this Act;

15 (3) the applicant's email address;

16 (4) that the applicant has provided satisfactory proof
17 to the Secretary of State that the applicant has
18 successfully completed any required course of study on
19 electronic notarization and passed a qualifying
20 examination;

21 (5) a description of the technology or device that the
22 applicant intends to use to create his or her electronic
23 signature in performing electronic notarial acts;

24 (6) the electronic signature of the applicant; and

25 (7) any other information the Secretary of State deems
26 necessary.

1 (c) Electronic notarial acts. Before an electronic notary
2 public performs an electronic notarial act using audio-video
3 communication, he or she must be granted an electronic notary
4 public commission by the Secretary of State under this Section,
5 and identify the technology that the electronic notary public
6 intends to use, which must be approved by the Secretary of
7 State.

8 (d) Approval of commission. Upon the applicant's
9 fulfillment of the requirements for a notarial commission or an
10 electronic notary public commission, the Secretary of State
11 shall approve the commission or commissions and issue to the
12 applicant a unique commission number, along with a digital
13 certificate if approved for an electronic notary public
14 commission.

15 (e) Rejection of application. The Secretary of State may
16 reject an application for a notarial commission or an
17 electronic notary public commission if the applicant fails to
18 comply with any Section of this Act.

19 (Source: P.A. 99-112, eff. 1-1-16; 100-809, eff. 1-1-19.)

20 (5 ILCS 312/2-102.5)

21 Sec. 2-102.5. Online ~~notary public~~ application system.

22 (a) The Secretary of State may establish and maintain an
23 online application system that permits an Illinois resident to
24 apply for appointment and commission as a notary public or
25 electronic notary public.

1 (b) Any such online ~~notary public~~ application system shall
2 employ security measures to ensure the accuracy and integrity
3 of notary public applications submitted electronically under
4 this Section.

5 (c) The Secretary of State may cross reference information
6 provided by applicants with that contained in the Secretary of
7 State's driver's license and Illinois Identification Card
8 databases in order to match the information submitted by
9 applicants, and may receive from those databases the
10 applicant's digitized signature upon a successful match of the
11 applicant's information with that information contained in the
12 databases.

13 (d) An online ~~notary public~~ application shall contain all
14 of the information that is required for a paper application as
15 provided in Section 2-102 of this Act. The applicant shall also
16 be required to provide:

17 (1) the applicant's full Illinois driver's license or
18 Illinois Identification Card number;

19 (2) the date of issuance of the Illinois driver's
20 license or Illinois Identification Card; and

21 (3) the applicant's e-mail address for notices to be
22 provided under this Section.

23 (e) For his or her application to be accepted, the
24 applicant shall mark the box associated with the following
25 statement included as part of the online ~~notary public~~
26 application: "By clicking on the box below, I swear or affirm

1 all of the following:

2 (1) I am the person whose name and identifying
3 information is provided on this form, and I desire to be
4 appointed and commissioned as a notary public in the State
5 of Illinois.

6 (2) All the information I have provided on this form is
7 true and correct as of the date I am submitting this form.

8 (3) I authorize the Secretary of State to utilize my
9 signature on file with the Secretary of State driver's
10 license and Illinois Identification Card databases and
11 understand that such signature will be used on this online
12 ~~notary public~~ application for appointment and commission
13 as a notary public or electronic notary as if I had signed
14 this form personally."

15 (4) I authorize the Secretary of State to utilize my
16 signature to conduct a verification to confirm the
17 information provided in the application, including a
18 criminal background check, if necessary."

19 (f) Immediately upon receiving a completed online ~~notary~~
20 ~~public~~ application, the online system shall send by electronic
21 mail a confirmation notice that the application has been
22 received. Upon completion of the procedure outlined in
23 subsection (c) of this Section, the online ~~notary public~~
24 application system shall send by electronic mail a notice
25 informing the applicant of whether the following information
26 has been matched with the Secretary of State driver's license

1 and Illinois Identification Card databases:

2 (1) that the applicant has an authentic Illinois
3 driver's license or Illinois Identification Card issued by
4 the Secretary of State and that the driver's license or
5 Illinois Identification Card number provided by the
6 applicant matches the driver's license or Illinois
7 Identification Card number for that person on file with the
8 Secretary of State;

9 (2) that the date of issuance of the Illinois driver's
10 license or Illinois Identification Card listed on the
11 application matches the date of issuance of that license or
12 card for that person on file with the Secretary of State;

13 (3) that the date of birth provided by the applicant
14 matches the date of birth for that person on file with the
15 Secretary of State; and

16 (4) that the residence address provided by the
17 applicant matches the residence address for that person on
18 file with the Secretary of State.

19 (g) If the information provided by the applicant matches
20 all of the criteria identified in subsection (f) of this
21 Section, the online ~~notary-public~~ application system shall
22 retrieve from the Secretary of State's database files an
23 electronic copy of the applicant's signature from his or her
24 Illinois driver's license or Illinois Identification Card and
25 such signature shall be deemed to be the applicant's signature
26 on his or her online ~~notary-public~~ application.

1 (Source: P.A. 99-112, eff. 1-1-16.)

2 (5 ILCS 312/2-102.6 new)

3 Sec. 2-102.6. Database of notaries public. The Secretary of
4 State may maintain a database of notaries public on a
5 publicly-accessible website which: (1) any interested person
6 may use to verify the authority and good standing of a listed
7 individual to perform notarial acts; (2) indicates whether a
8 notary holds a valid electronic commission and is able to
9 lawfully perform electronic notarial acts; and (3) describes
10 any administrative or disciplinary action taken against the
11 notary by the Secretary of State.

12 (5 ILCS 312/2-102.7 new)

13 Sec. 2-102.7. Registration of electronic notarization
14 technology.

15 (a) Notaries holding an electronic notary public
16 commission shall register the capability to notarize
17 electronically before performing any electronic notarial acts
18 with the Secretary of State. The registration shall be made
19 with the Secretary of State every time an electronic notary
20 public adopts a new or additional technology with which to
21 perform electronic notarial acts and the technology or vendor
22 must first be approved by the Secretary of State.

23 (b) An electronic notary public who registers the
24 capability of performing electronic notarial acts shall

1 provide the following information to the Secretary of State:

2 (1) the electronic technology or technologies to be
3 used in attaching or logically associating an electronic
4 notarial signature, seal, and certificate to an electronic
5 document;

6 (2) an exemplar of the notary's electronic signature
7 and official electronic seal; and

8 (3) any necessary instructions or techniques supplied
9 by the vendor that allow the notary's electronic signature
10 and official seal to be read.

11 (c) Prior to any electronic notarial acts being performed
12 in this State, the vendor of electronic notarization technology
13 must submit the technology to the Secretary of State and
14 receive approval by the Secretary of State for use in this
15 State.

16 (d) The Secretary of State shall adopt rules applicable to
17 this Section, setting forth the requirements with which vendors
18 of electronic notary platforms and technology must comply.

19 (5 ILCS 312/2-103) (from Ch. 102, par. 202-103)

20 Sec. 2-103. Appointment Fee.

21 (a) Every applicant for appointment and commission as a
22 notary public shall pay to the Secretary of State a fee of \$15
23 ~~\$10~~. Ten dollars from each applicant fee shall be deposited in
24 the General Revenue Fund. Five dollars from each applicant fee
25 shall be deposited in the Electronic Notarization Fund.

1 (b) Every applicant for a commission as an electronic
 2 notary public shall pay to the Secretary of State a fee of \$25.
 3 This fee is in addition to the fee proscribed for a commission
 4 as a notary public and shall be deposited in the Electronic
 5 Notarization Fund.

6 (Source: P.A. 85-1396.)

7 (5 ILCS 312/2-104) (from Ch. 102, par. 202-104)
 8 Sec. 2-104. Oath.

9 (a) Every applicant for appointment and commission as a
 10 notary public shall take the following oath:

11 "I, (name of applicant), solemnly affirm, under the penalty
 12 of perjury, that the answers to all questions in this
 13 application are true, complete, and correct; that I have
 14 carefully read the notary law of this State; and that, if
 15 appointed and commissioned as a notary public, I will perform
 16 faithfully, to the best of my ability, all notarial acts in
 17 accordance with the law."

18 (b) In the event that the applicant completes a paper
 19 application for appointment and commission as a notary public,
 20 he or she shall take the oath in the presence of a person
 21 qualified to administer an oath in this State. The printed oath
 22 shall be followed by the signature of the applicant and
 23 notarized as follows:

24 " (Signature of applicant)

25 State of Illinois

1 County of (name of county where the notarization is
2 completed)

3 Subscribed and affirmed before me on (insert date) by (name
4 of person who signature is being notarized).

5 (Official signature and official seal
6 of notary)".

7 (c) In the event that the applicant completes an online
8 application for appointment and commission as a notary public,
9 he or she shall affirm the oath electronically. An electronic
10 affirmation of the oath in the online ~~notary public~~ application
11 system shall have the same force and effect as an oath sworn
12 and affirmed in person.

13 (Source: P.A. 99-112, eff. 1-1-16.)

14 (5 ILCS 312/2-105) (from Ch. 102, par. 202-105)

15 Sec. 2-105. Bond.

16 (a) Every application for appointment and commission as a
17 notary public shall be accompanied by an executed bond
18 commencing on the date of the appointment with a term of 4
19 years, in the sum of \$5,000, with, as surety thereon, a company
20 qualified to write surety bonds in this State. The bond shall
21 be conditioned upon the faithful performance of all notarial
22 acts in accordance with this Act. The Secretary of State may
23 prescribe an official bond form.

24 (b) An electronic notary public who performs electronic
25 notarial acts by means of audio-video communication shall

1 obtain and maintain a surety bond in the amount of \$25,000 from
2 a surety or insurance company licensed to do business in this
3 State, and this bond shall be exclusively conditioned on the
4 faithful performance of electronic notarial acts by means of
5 audio-video communication.

6 (c) All surety bonds shall be filed with the Secretary of
7 State.

8 (d) In addition to the surety bond, a notary public shall
9 maintain an errors and omissions insurance policy from an
10 insurer authorized to transact business in this State, in the
11 minimum amount of \$25,000 and on such terms as are specified by
12 the Secretary by rule and that are reasonably necessary to
13 protect the public. The applicant shall provide evidence of
14 this insurance policy to the Secretary of State.

15 (Source: P.A. 84-322.)

16 (5 ILCS 312/2-106) (from Ch. 102, par. 202-106)

17 Sec. 2-106. Appointment recorded by county clerk. The
18 appointment of the applicant as a notary public or an
19 electronic notary public is complete when the commission is
20 recorded with the county clerk.

21 The Secretary of State shall forward the applicant's
22 commission to the county clerk of the county in which the
23 applicant resides or, if the applicant is a resident of a state
24 bordering Illinois, the county in Illinois in which the
25 applicant's principal place of work or principal place of

1 business is located. Upon receipt thereof, the county clerk
2 shall notify the applicant of the action taken by the Secretary
3 of State, and the applicant shall either appear at the county
4 clerk's office to record the same and receive the commission or
5 request by mail to have the commission sent to the applicant
6 with a specimen signature of the applicant attached to the
7 request. The applicant shall have a record of the appointment,
8 and the time when the commission will expire, entered in the
9 records of the office of the county clerk. When the applicant
10 appears before the county clerk, the applicant shall pay a fee
11 of \$5, at which time the county clerk shall then deliver the
12 commission to the applicant.

13 If the appointment is completed by mail, the applicant
14 shall pay the county clerk a fee of \$10.00, which shall be
15 submitted with the request to the county clerk. The county
16 clerk shall then record the appointment and send the commission
17 by mail to the applicant.

18 If an applicant does not respond to the notification by the
19 county clerk within 30 days, the county clerk shall again
20 notify the applicant that the county clerk has received the
21 applicant's notary public or electronic notary public
22 commission issued by the Secretary of State. The second notice
23 shall be in substantially the following form:

24 "The records of this office indicate that you have not
25 picked up your notary public commission or electronic
26 notary public commission from the Office of the County

1 Clerk.

2 The Illinois Notary Public Law requires you to appear in
3 person in the clerk's office, record your commission, and
4 pay a fee of \$5.00 to the county clerk or request that your
5 commission be mailed to you. This request must be
6 accompanied by a specimen of your signature and a \$10.00
7 fee payable to the county clerk.

8 Your appointment as a notary or an electronic notary is not
9 complete until the commission is recorded with the county
10 clerk. Furthermore, if you do not make arrangements with
11 the clerk for recording and delivery of your commission
12 within 30 days from the date of this letter, the county
13 clerk will return your commission to the Secretary of
14 State. Your commission will be cancelled and your name will
15 be removed from the list of notaries and electronic
16 notaries in the State of Illinois.

17 I should also like to remind you that any person who
18 attests to any document as a notary or an electronic notary
19 and is not a notary or an electronic notary in good
20 standing with the Office of the Secretary of State is
21 guilty of official misconduct and may be subject to a fine
22 or imprisonment."

23 The Secretary of State shall cancel the appointment of all
24 notaries or electronic notaries whose commissions are returned
25 to his office by the county clerks. No application fee will be
26 refunded and no bonding company is required to issue a refund

1 when an appointment is cancelled. If a notary or electronic
2 notary fails to complete his or her commission more than twice
3 in the same application year, the notary or electronic notary
4 applicant shall not be entitled to reapply for a notarial or
5 electronic notarial commission until the following calendar
6 year.

7 (Source: P.A. 100-201, eff. 8-18-17.)

8 (5 ILCS 312/2-107)

9 Sec. 2-107. Notary public remittance agent.

10 (a) Every company, corporation, association, organization,
11 or person that remits notary public applications to the
12 Secretary of State on behalf of applicants for appointment and
13 commission as a notary public, for compensation or otherwise,
14 shall comply with standards to qualify for licensure as a
15 notary public remittance agent.

16 (b) The standards to qualify for licensure as a notary
17 public remittance agent shall include, but not be limited to,
18 the following:

19 (1) the applicant has not been the subject of any
20 administrative citation, criminal complaint, or civil
21 action in the State of Illinois arising from his or her
22 duties as a notary public remittance agent;

23 (2) the agent holds a surety bond in the amount of
24 \$20,000 for the purposes of acting as a remittance agent;
25 and

1 (3) the agent complies with all requirements set forth
2 by the Secretary of State for the submission of the notary
3 public applications.

4 (c) A notary public remittance agent submitting an
5 application on behalf of an applicant for appointment and
6 commission as a notary public shall remit the application and
7 fee provided by the applicant within 30 days after receiving
8 the application and fee from the applicant.

9 (d) The agent shall not modify a notary's application
10 information in any way prior to submitting the application
11 information to the Secretary of State.

12 (e) The agent shall not issue a notary seal or notary stamp
13 to the notary applicant until sufficient evidence has been
14 received that the notary applicant has received a commission
15 from the appropriate county clerk.

16 (f) Any violation of this Act, including this Section, may
17 result in an administrative citation, criminal complaint, or
18 civil action arising from his or her duties as a notary public
19 or notary public remittance agent.

20 (g) ~~(e)~~ The provisions of this Section do not apply to
21 units of ~~local~~ government or private business that are making
22 applications, and providing application fees for their
23 employees.

24 (h) The Secretary of State shall adopt rules applicable to
25 this Section.

26 (Source: P.A. 101-366, eff. 1-1-20.)

1 (5 ILCS 312/3-101) (from Ch. 102, par. 203-101)

2 Sec. 3-101. Official seal.

3 (a) Notary public official seal. Each notary public shall,
4 upon receiving the notary commission from the county clerk,
5 obtain an official rubber stamp seal with which the notary
6 shall authenticate his official acts. The rubber stamp seal
7 shall contain the following information:

8 (1) the words "Official Seal";

9 (2) the notary's official name;

10 (3) the words "Notary Public", "State of Illinois", and
11 "My commission expires (commission expiration
12 date)"; and

13 (4) a serrated or milled edge border in a rectangular
14 form not more than one inch in height by two and one-half
15 inches in length surrounding the information.

16 (b) (Blank).

17 (b-5) Electronic notary public electronic seal and
18 electronic signature. An electronic notarial act must be
19 evidenced by the following, which must be attached to or
20 logically associated with the electronic document that is the
21 subject of the electronic notarial act and which must be
22 immediately perceptible and reproducible:

23 (1) the electronic signature of the electronic notary
24 public;

25 (2) the electronic seal of the electronic notary

1 public;

2 (3) the words "Notary Public", "State of Illinois", and

3 "My commission expires (commission expiration date)"; and

4 (4) language explicitly stating that the electronic
5 notarial act was performed using audio-video
6 communication, if applicable.

7 (c) Registered devices. An electronic notary public shall
8 take reasonable steps to ensure that any registered device used
9 to create an electronic seal or electronic signature is current
10 and has not been revoked or terminated by the device's issuing
11 or registering authority.

12 (d) Electronic signature and seal secure. An electronic
13 notary public shall keep the electronic notary public's
14 electronic signature and electronic seal secure and under the
15 notary public's exclusive control. The electronic notary
16 public shall not allow another person to use his or her
17 electronic signature or electronic seal.

18 (e) Electronic notarial certificate. An electronic notary
19 public shall attach his or her electronic signature and
20 electronic seal to the electronic notarial certificate of an
21 electronic document in a manner that is capable of independent
22 verification and renders any subsequent change or modification
23 to the electronic document evident.

24 (f) Electronic signature and seal compromised. An
25 electronic notary public shall notify an appropriate law
26 enforcement agency, the vendor of the electronic notary

1 technology, and the Secretary of State no later than the next
2 business day of the theft, compromise, or vandalism of the
3 electronic notary public's electronic signature or electronic
4 seal.

5 (g) Electronic signature and seal access. The electronic
6 notary public shall not disclose any access information used to
7 affix the electronic notary public's signature and seal except
8 when requested by law enforcement, the courts, and with
9 reasonable precautions, electronic document preparation, and
10 transmission vendors.

11 (Source: P.A. 100-81, eff. 1-1-18.)

12 (5 ILCS 312/3-101.5 new)

13 Sec. 3-101.5. Security of electronic signature and seal.
14 The following requirements apply only to electronic notaries
15 public.

16 (a) The electronic signature and electronic seal of an
17 electronic notary public must be used only for the purposes of
18 performing electronic notarial acts.

19 (b) An electronic notary public shall safeguard his or her
20 electronic signature, the electronic seal, and all notarial
21 records maintained by the notary public as follows:

22 (1) when not in use, the electronic notary public shall
23 keep the electronic signature, electronic seal, and all
24 notarial records secure under the exclusive control of the
25 notary public and protected by a password where applicable;

1 (2) an electronic notary public shall not permit his or
2 her electronic signature or electronic seal to be used by
3 any other person; and

4 (3) an electronic notary public shall not surrender or
5 destroy his or her electronic notarial records, except as
6 otherwise required by the order of a court, order of law
7 enforcement, or as allowed under any Section of this Act or
8 any rules adopted pursuant thereto.

9 (c) Except as otherwise provided in subsection (d), an
10 electronic notary public, no later than the next business day
11 following discovering that his or her electronic signature or
12 electronic seal has been stolen, lost, damaged, or otherwise
13 rendered incapable of affixing a legible image, shall:

14 (1) inform the appropriate law enforcement agency in
15 the case of theft or vandalism; and

16 (2) notify the Secretary of State and the vendor from
17 which the electronic notary public obtained the electronic
18 signature or electronic seal in writing, including,
19 without limitation, a signature using the name under which
20 the electronic notary public is commissioned pursuant to
21 Section 2-106.

22 (d) An electronic notary public shall take reasonable steps
23 to maintain the technology or device used to create his or her
24 electronic signature, and to ensure that the technology or
25 device has not been recalled, revoked, terminated, or otherwise
26 rendered ineffective or unsecure by the entity that created the

1 technology or device. Upon learning that the technology or
2 device used to create his or her electronic signature has been
3 rendered ineffective or unsecure, an electronic notary public
4 shall cease performing electronic notarial acts until:

5 (1) a new technology or device is acquired; and

6 (2) the electronic notary public sends an electronic
7 message to the Secretary of State that includes the
8 electronic signature of the electronic notary public
9 required under paragraph (6) of subsection (b) of Section
10 2-102 relating to the new technology or device.

11 (e) The electronic notary public's electronic signature
12 and electronic seal are deemed to be reliable if the following
13 requirements are met:

14 (1) it is unique to the electronic notary public;

15 (2) it is capable of independent verification;

16 (3) it is retained under the electronic notary public's
17 sole control;

18 (4) it is attached to or logically associated with the
19 electronic document in a tamper evident manner. Evidence of
20 tampering pursuant to this standard may be used to
21 determine whether the electronic notarial act is valid or
22 invalid; and

23 (5) the electronic notary public has chosen technology
24 or a vendor that meets the minimum requirements established
25 by the Secretary of State and is approved by the Secretary
26 of State.

1 (5 ILCS 312/3-103) (from Ch. 102, par. 203-103)

2 Sec. 3-103. Notice.

3 (a) Every notary public who is not an attorney or an
4 accredited immigration representative who advertises the
5 services of a notary public in a language other than English,
6 whether by radio, television, signs, pamphlets, newspapers,
7 electronic communications, or other written communication,
8 with the exception of a single desk plaque, shall include in
9 the document, advertisement, stationery, letterhead, business
10 card, or other comparable written or electronic material the
11 following: notice in English and the language in which the
12 written or electronic communication appears. This notice shall
13 be of a conspicuous size, if in writing or electronic
14 communication, and shall state: "I AM NOT AN ATTORNEY LICENSED
15 TO PRACTICE LAW IN ILLINOIS. I AM NOT ALLOWED TO DRAFT LEGAL
16 DOCUMENTS OR RECORDS, NOR MAY I GIVE LEGAL ADVICE ON ANY
17 MATTER, INCLUDING, BUT NOT LIMITED TO, MATTERS OF IMMIGRATION,
18 OR ACCEPT OR CHARGE FEES FOR THE PERFORMANCE OF THOSE
19 ACTIVITIES ". If such advertisement is by radio or television,
20 the statement may be modified but must include substantially
21 the same message.

22 A notary public shall not, in any document, advertisement,
23 stationery, letterhead, business card, electronic
24 communication, or other comparable written material describing
25 the role of the notary public, literally translate from English

1 into another language terms or titles including, but not
2 limited to, notary public, notary, licensed, attorney, lawyer,
3 or any other term that implies the person is an attorney. To
4 illustrate, the word "notario" is prohibited under this
5 provision.

6 Failure to follow the procedures in this Section shall
7 result in a fine of \$1,500 for each written violation. The
8 second violation shall result in permanent revocation of the
9 commission of notary public. Violations shall not preempt or
10 preclude additional appropriate civil or criminal penalties.

11 (b) All notaries public required to comply with the
12 provisions of subsection (a) shall prominently post at their
13 place of business as recorded with the Secretary of State
14 pursuant to Section 2-102 of this Act a schedule of fees
15 established by law which a notary public may charge. The fee
16 schedule shall be written in English and in the non-English
17 language in which notary services were solicited and shall
18 contain the disavowal of legal representation required above in
19 subsection (a), unless such notice of disavowal is already
20 prominently posted.

21 (c) No notary public, agency or any other person who is not
22 an attorney shall represent, hold themselves out or advertise
23 that they are experts on immigration matters or provide any
24 other assistance that requires legal analysis, legal judgment,
25 or interpretation of the law unless they are a designated
26 entity as defined pursuant to Section 245a.1 of Part 245a of

1 the Code of Federal Regulations (8 CFR 245a.1) or an entity
2 accredited by the Board of Immigration Appeals.

3 (c-5) In addition to the notice required under subsection
4 (a), every notary public who is subject to subsection (a)
5 shall, prior to rendering notary services or electronic notary
6 services, provide any person seeking notary or electronic
7 notary services services with a written acknowledgment that
8 substantially states, in English and the language used in the
9 advertisement for notary services the following: "I AM NOT AN
10 ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS. I AM NOT ALLOWED
11 TO DRAFT LEGAL DOCUMENTS OR RECORDS, NOR MAY I GIVE LEGAL
12 ADVICE ON ANY MATTER OR ACCEPT OR CHARGE FEES FOR THE
13 PERFORMANCE OF THOSE ACTIVITIES". The Office of the Secretary
14 of State shall translate this acknowledgement into Spanish and
15 any other language the Secretary of State may deem necessary to
16 achieve the requirements of this subsection (c-5), and shall
17 make the translations available on the website of the Secretary
18 of State. This acknowledgment shall be signed by the recipient
19 of notary services or electronic notary services before notary
20 services or electronic notary services are rendered, and the
21 notary shall retain copies of all signed acknowledgments
22 throughout their present commission and for 2 years thereafter.
23 Notaries shall provide recipients of notary services or
24 electronic notary services with a copy of their signed
25 acknowledgment at the time services are rendered. This
26 provision shall not apply to notary services or electronic

1 notary services related to documents prepared or produced in
2 accordance with the Illinois Election Code.

3 (d) Any person who aids, abets or otherwise induces another
4 person to give false information concerning immigration status
5 shall be guilty of a Class A misdemeanor for a first offense
6 and a Class 3 felony for a second or subsequent offense
7 committed within 5 years of a previous conviction for the same
8 offense.

9 Any notary public who violates the provisions of this
10 Section shall be guilty of official misconduct and subject to
11 fine or imprisonment.

12 Nothing in this Section shall preclude any consumer of
13 notary public services from pursuing other civil remedies
14 available under the law.

15 (e) No notary public who is not an attorney or an
16 accredited representative shall accept payment in exchange for
17 providing legal advice or any other assistance that requires
18 legal analysis, legal judgment, or interpretation of the law.

19 (f) Violation of subsection (e) is a business offense
20 punishable by a fine of 3 times the amount received for
21 services, or \$1,001 minimum, and restitution of the amount paid
22 to the consumer. Nothing in this Section shall be construed to
23 preempt nor preclude additional appropriate civil remedies or
24 criminal charges available under law.

25 (g) If a notary public or electronic notary public of this
26 State is convicted of a 2 or more business offense offenses

1 involving a violation of this Act ~~within a 12-month period~~
2 ~~while commissioned, or of 3 or more business offenses involving~~
3 ~~a violation of this Act within a 5-year period regardless of~~
4 ~~being commissioned,~~ the Secretary shall automatically revoke
5 the notary public commission or electronic notary public
6 commission of that person on the date that the person's most
7 recent business offense conviction is entered as a final
8 judgment.

9 (Source: P.A. 100-81, eff. 1-1-18; 101-465, eff. 1-1-20.)

10 (5 ILCS 312/3-104) (from Ch. 102, par. 203-104)

11 Sec. 3-104. Maximum Fee.

12 (a) Except as otherwise provided in this subsection (a)
13 ~~provided in subsection (b) of this Section,~~ the maximum fee for
14 non-electronic notarization in this State is \$1.00 for any
15 notarial act performed and, ~~until July 1, 2018,~~ up to \$25 for
16 any notarial act performed pursuant to Section 3-102.

17 ~~(b)~~ Fees for a notary public, agency, or any other person
18 who is not an attorney or an accredited representative filling
19 out immigration forms shall be limited to the following:

20 (1) \$10 per form completion;

21 (2) \$10 per page for the translation of a non-English
22 language into English where such translation is required
23 for immigration forms;

24 (3) \$5 ~~\$1~~ for notarizing;

25 (4) \$3 to execute any procedures necessary to obtain a

1 document required to complete immigration forms; and

2 (5) A maximum of \$75 for one complete application.

3 Fees authorized under this subsection shall not include
4 application fees required to be submitted with immigration
5 applications.

6 (b) The maximum fee in this State is \$25 for any electronic
7 notarial act performed pursuant to this Act. An electronic
8 notary public may charge a reasonable fee to recover any cost
9 of providing a copy of an entry or a recording of an
10 audio-video communication in an electronic journal maintained
11 pursuant to Section 3-107.

12 (c) Any person who violates the provisions of ~~this~~
13 subsection (a) or (b) shall be guilty of a Class A misdemeanor
14 for a first offense and a Class 3 felony for a second or
15 subsequent offense committed within 5 years of a previous
16 conviction for the same offense.

17 (d) ~~(e)~~ Upon his own information or upon complaint of any
18 person, the Attorney General or any State's Attorney, or their
19 designee, may maintain an action for injunctive relief in the
20 court against any notary public or any other person who
21 violates the provisions of subsection (a) or (b) of this
22 Section. These remedies are in addition to, and not in
23 substitution for, other available remedies.

24 If the Attorney General or any State's Attorney fails to
25 bring an action as provided pursuant to this subsection within
26 90 days of receipt of a complaint, any person may file a civil

1 action to enforce the provisions of this subsection and
2 maintain an action for injunctive relief.

3 (e) ~~(d)~~ All notaries public must provide receipts and keep
4 records for fees accepted for services provided. Failure to
5 provide receipts and keep records that can be presented as
6 evidence of no wrongdoing shall be construed as a presumptive
7 admission of allegations raised in complaints against the
8 notary for violations related to accepting prohibited fees.

9 (Source: P.A. 98-29, eff. 6-21-13.)

10 (5 ILCS 312/3-105) (from Ch. 102, par. 203-105)

11 Sec. 3-105. Authority.

12 (a) A notary public shall have authority to perform
13 notarial acts, or electronic notarial acts, if the notary holds
14 an electronic notary public commission, throughout the State so
15 long as the notary resides in the same county in which the
16 notary was commissioned or, if the notary is a resident of a
17 state bordering Illinois, so long as the notary's principal
18 place of work or principal place of business is in the same
19 county in Illinois in which the notary was commissioned.

20 (b) An electronic notary public who is physically located
21 in this State may perform an electronic notarial act using
22 communication technology in accordance with this Article and
23 any rules adopted by the Secretary of State for a remotely
24 located individual who is physically located: (i) in this
25 State; or (ii) outside of this State, but not outside the

1 United States.

2 (Source: P.A. 91-818, eff. 6-13-00.)

3 (5 ILCS 312/3-106) (from Ch. 102, par. 203-106)

4 Sec. 3-106. Certificate of Authority. Upon the receipt of
5 a written request, the notarized document, and a fee of \$2
6 payable to the Secretary of State or County Clerk, the Office
7 of the Secretary of State or County Clerk shall provide a
8 certificate of authority in substantially the following form:

9 I (Secretary of State or County
10 Clerk) of the State of Illinois, which office is an office of
11 record having a seal, certify that (notary's name), by
12 whom the foregoing or annexed document was notarized or
13 electronically notarized, was, on (insert date), appointed and
14 commissioned a notary public in and for the State of Illinois
15 and that as such, full faith and credit is and ought to be
16 given to this notary's official attestations. In testimony
17 whereof, I have affixed my signature and the seal of this
18 office on (insert date).

19

20 (Secretary of State or County Clerk).

21 (Source: P.A. 91-357, eff. 7-29-99.)

22 (5 ILCS 312/3-107 new)

23 Sec. 3-107. Journal.

24 (a) A notary public or an electronic notary public shall

1 keep a journal of each notarial act or electronic notarial act
2 which includes, without limitation, the requirements of
3 subsection (b), but does not include any electronic signatures
4 of the person for whom an electronic notarial act was performed
5 and any witnesses.

6 (b) A notarial or electronic notarial journal shall contain
7 the following information:

8 (1) a description of each notarial act or electronic
9 notarial act, and if the notarization was done
10 electronically, it shall also include whether the
11 electronic notarial act was performed using audio-video
12 communication;

13 (2) the date and time of the notarization or electronic
14 notarization;

15 (3) the type of notarial act and whether the act was
16 performed as a traditional notarial act or an electronic
17 notarial act;

18 (4) the type, the title, or a description of the
19 document, proceeding, or electronic document or electronic
20 proceeding;

21 (5) the printed name and address of each principal
22 involved in the transaction or proceeding;

23 (6) evidence of the identity of each principal involved
24 in the transaction or proceeding in the form of:

25 (A) a statement that the person is personally known
26 to the notary public;

1 (B) a notation of the type of identification
2 document provided to the notary public;

3 (C) a record of the identity verification made
4 under paragraph (3) of subsection (d) of Section
5 6A-103, if applicable, and if the notarial act was
6 performed electronically; and

7 (D) The following:

8 (i) the printed name and address of each
9 credible witness swearing to or affirming the
10 person's identity; and

11 (ii) for each credible witness not personally
12 known to the notary or electronic notary, a
13 description of the type of identification
14 documents or identification verification provided
15 to the notary or electronic notary;

16 (7) if a notarial act is performed electronically, the
17 journal shall also include a recording of any audio-video
18 recording that is the basis for satisfactory evidence of
19 identity and a notation of the type of identification
20 presented as evidence; and

21 (8) the fee, if any, charged for the notarization or
22 electronic notarization.

23 (c) A notary or electronic notary shall:

24 (1) maintain and protect the journal at all times under
25 his or her sole control and surrender or destroy the
26 journal only by rule of law, by court order, or at the

1 direction of the Secretary of State;

2 (2) provide for lawful inspection and copying of the
3 journal;

4 (3) if the journal is electronic, enable access by a
5 password or other secure means of authentication;

6 (4) be capable of providing tangible or electronic
7 copies of any entry made in the journal;

8 (5) ensure the integrity, security, and authenticity
9 of the journal;

10 (6) maintain a backup of any journal maintained
11 electronically; and

12 (7) protect the backup record from unauthorized use if
13 the journal is maintained electronically.

14 (d) A notary or electronic notary may maintain his or her
15 journal in either paper form or electronic form and may
16 maintain more than one journal or electronic journal to record
17 notarial acts or electronic notarial acts.

18 (e) The fact that the employer or contractor of a notary or
19 electronic notary keeps a record of notarial acts or electronic
20 notarial acts does not relieve the notary public of the duties
21 required by this Section. A notary public or electronic notary
22 public shall not surrender the journal to an employer upon
23 termination of employment and an employer shall not retain the
24 journal of an employee when the employment of the notary public
25 or electronic notary public ceases.

26 (f) The Secretary of State may suspend the commission of a

1 notary or electronic notary who fails to produce any journal
2 entry within 10 days after receipt of a request from the
3 Secretary of State.

4 (g) The journal required by this Section shall be
5 maintained for at least 5 years after the date of the
6 transaction or proceeding.

7 (h) Upon surrender, revocation, or expiration of a
8 commission as a notary or electronic notary, all notarial
9 records or electronic notarial records required under this
10 section, except as otherwise provided by law, must be kept by
11 the notary public or electronic notary for a period of 5 years
12 after the termination of the registration of the notary public
13 or electronic notary public.

14 (i) If the journal of a notary public or electronic notary
15 public is lost, stolen, or compromised, the notary or
16 electronic notary shall notify the Secretary of State on
17 discovery of the loss, theft, or breach of security.

18 (5 ILCS 312/4-101) (from Ch. 102, par. 204-101)

19 Sec. 4-101. Changes causing commission to cease to be in
20 effect.

21 (a) When any notary public legally changes his or her name,
22 changes his or her residential address or business address, or
23 email address, without notifying the Index Department of the
24 Secretary of State in writing within 30 days thereof, or, if
25 the notary public is a resident of a state bordering Illinois,

1 no longer maintains a principal place of work or principal
2 place of business in the same county in Illinois in which he or
3 she was commissioned, the commission of that notary ceases to
4 be in effect. When the commission of a notary public ceases to
5 be in effect, his or her notarial seal or electronic notary
6 seal shall be surrendered to the Secretary of State, and his or
7 her certificate of notarial commission or certificate of
8 electronic notarial commission shall be destroyed. These
9 individuals who desire to again become a notary public must
10 file a new application, bond, and oath with the Secretary of
11 State.

12 (b) Any change to the information submitted by an
13 electronic notary public in registering to perform electronic
14 notarial acts in compliance with any Section of this Act shall
15 be reported by the notary within 30 business days to the
16 Secretary of State.

17 (c) Any notary public or electronic notary public that
18 fails to comply with this Section shall be prohibited from
19 obtaining a new commission for a period of not less than 5
20 years.

21 (Source: P.A. 100-809, eff. 1-1-19.)

22 (5 ILCS 312/5-101) (from Ch. 102, par. 205-101)

23 Sec. 5-101. Reappointment. No person is automatically
24 reappointed as a notary public or electronic notary public. At
25 least 60 days prior to the expiration of a commission, the

1 Secretary of State shall mail notice of the expiration date to
2 the holder of a commission. Every notary public or electronic
3 notary public who is an applicant for reappointment shall
4 comply with the provisions of Article II of this Act.

5 (Source: P.A. 84-322.)

6 (5 ILCS 312/5-102) (from Ch. 102, par. 205-102)

7 Sec. 5-102. Solicitation to Purchase Bond. No person shall
8 solicit any notary public and offer to provide a surety bond
9 more than 60 days in advance of the expiration date of the
10 ~~notary public's~~ commission of a notary public or electronic
11 notary public.

12 Nor shall any person solicit any applicant for a commission
13 or reappointment thereof and offer to provide a surety bond for
14 the notary commission unless any such solicitation
15 specifically sets forth in bold face type not less than 1/4
16 inch in height the following: "WE ARE NOT ASSOCIATED WITH ANY
17 STATE OR LOCAL GOVERNMENTAL AGENCY".

18 Whenever it shall appear to the Secretary of State that any
19 person is engaged or is about to engage in any acts or
20 practices which constitute or will constitute a violation of
21 the provisions of this Section, the Secretary of State may, in
22 his discretion, through the Attorney General, apply for an
23 injunction, and, upon a proper showing, any circuit court shall
24 have power to issue a permanent or temporary injunction or
25 restraining order without bond to enforce the provisions of

1 this Act, and either party to such suit shall have the right to
2 prosecute an appeal from the order or judgment of the court.

3 Any person, association, corporation, or others who
4 violate the provisions of this Section shall be guilty of a
5 business offense and punishable by a fine of not less than \$500
6 for each offense.

7 (Source: P.A. 84-322.)

8 (5 ILCS 312/6-102) (from Ch. 102, par. 206-102)

9 Sec. 6-102. Notarial Acts.

10 (a) In taking an acknowledgment, the notary public must
11 determine, either from personal knowledge or from satisfactory
12 evidence, that the person appearing before the notary and
13 making the acknowledgment is the person whose true signature is
14 on the instrument.

15 (b) In taking a verification upon oath or affirmation, the
16 notary public must determine, either from personal knowledge or
17 from satisfactory evidence, that the person appearing before
18 the notary and making the verification is the person whose true
19 signature is on the statement verified.

20 (c) In witnessing or attesting a signature, the notary
21 public must determine, either from personal knowledge or from
22 satisfactory evidence, that the signature is that of the person
23 appearing before the notary and named therein.

24 (d) A notary public has satisfactory evidence that a person
25 is the person whose true signature is on a document if that

1 person:

2 (1) is personally known to the notary;

3 (2) is identified upon the oath or affirmation of a
4 credible witness personally known to the notary; or

5 (3) is identified on the basis of identification
6 documents. Identification documents are documents that are
7 valid at the time of the notarial act, issued by a state
8 agency, federal government agency, or consulate, and
9 bearing the photographic image of the individual's face and
10 signature of the individual.

11 (e) A notary public or electronic notary public shall have
12 no obligation to perform any notarial or electronic notarial
13 act, and may refuse to perform a notarial or electronic
14 notarial act without further explanation.

15 (Source: P.A. 97-397, eff. 1-1-12; 98-29, eff. 6-21-13.)

16 (5 ILCS 312/6-104) (from Ch. 102, par. 206-104)

17 Sec. 6-104. Acts prohibited.

18 (a) A notary public shall not use any name or initial in
19 signing certificates other than that by which the notary was
20 commissioned.

21 (b) A notary public shall not acknowledge any instrument in
22 which the notary's name appears as a party to the transaction.

23 (c) A notary public shall not affix his signature to a
24 blank form of affidavit or certificate of acknowledgment.

25 (d) A notary public shall not take the acknowledgment of or

1 administer an oath to any person whom the notary actually knows
2 to have been adjudged mentally ill by a court of competent
3 jurisdiction and who has not been restored to mental health as
4 a matter of record.

5 (e) A notary public shall not take the acknowledgment of
6 any person who is blind until the notary has read the
7 instrument to such person.

8 (f) A notary public shall not take the acknowledgment of
9 any person who does not speak or understand the English
10 language, unless the nature and effect of the instrument to be
11 notarized is translated into a language which the person does
12 understand.

13 (g) A notary public shall not change anything in a written
14 instrument after it has been signed by anyone.

15 (h) No notary public shall be authorized to prepare any
16 legal instrument, or fill in the blanks of an instrument, other
17 than a notary certificate; however, this prohibition shall not
18 prohibit an attorney, who is also a notary public, from
19 performing notarial acts for any document prepared by that
20 attorney.

21 (i) If a notary public accepts or receives any money from
22 any one to whom an oath has been administered or on behalf of
23 whom an acknowledgment has been taken for the purpose of
24 transmitting or forwarding such money to another and willfully
25 fails to transmit or forward such money promptly, the notary is
26 personally liable for any loss sustained because of such

1 failure. The person or persons damaged by such failure may
2 bring an action to recover damages, together with interest and
3 reasonable attorney fees, against such notary public or his
4 bondsmen.

5 (j) A notary public shall not perform any notarial act when
6 his or her commission is suspended or revoked, nor shall he or
7 she fail to comply with any term of suspension which may be
8 imposed for violation of this Section.

9 (k) No notary public shall be authorized to explain,
10 certify, or verify the contents of any document; however, this
11 prohibition shall not prohibit an attorney, who is also a
12 notary public, from performing notarial acts for any document
13 prepared by that attorney.

14 (l) A notary public shall not represent himself or herself
15 as an electronic notary public if the person has not been
16 commissioned as an electronic notary public by the Secretary of
17 State.

18 (m) No person shall knowingly create, manufacture, or
19 distribute software or hardware for the purpose of allowing a
20 person to act as an electronic notary public without being
21 commissioned in accordance with this Act. A violation of this
22 subsection (m) is a Class A misdemeanor.

23 (n) No person shall wrongfully obtain, conceal, damage, or
24 destroy the technology or device used to create the electronic
25 signature or seal of an electronic notary public. A violation
26 of this subsection (n) is a Class A misdemeanor.

1 (Source: P.A. 100-81, eff. 1-1-18; 100-809, eff. 1-1-19.)

2 (5 ILCS 312/Art. VI-A heading new)

3 ARTICLE VI-A

4 ELECTRONIC NOTARIAL ACTS AND FORMS

5 (5 ILCS 312/6A-101 new)

6 Sec. 6A-101. Requirements for systems and providers of
7 electronic notarial technology.

8 (a) An electronic notarization system shall comply with
9 this Act and any rules adopted by the Secretary of State.

10 (b) An electronic notarization system requiring enrollment
11 shall enroll only persons commissioned as electronic notaries
12 public by the Secretary of State.

13 (c) An electronic notarization vendor shall take
14 reasonable steps to ensure that an electronic notary public who
15 has enrolled to use the system has the knowledge to use it to
16 perform electronic notarial acts in compliance with this Act.

17 (d) A provider of an electronic notarization system
18 requiring enrollment shall notify the Secretary of State of the
19 name of each electronic notary public who enrolls in the system
20 within 5 days after enrollment by means prescribed by rule by
21 the Secretary of State.

22 (e) An electronic notarization system shall require access
23 to the system by a password or other secure means of
24 authentication.

1 (f) An electronic notarization system shall enable an
2 electronic notary public to affix the electronic notary's
3 electronic signature in a manner that attributes such signature
4 to the electronic notary.

5 (g) An electronic notarization system shall render every
6 electronic notarial act tamper evident.

7 (h) An electronic notary public shall not use an electronic
8 notarization if:

9 (1) the electronic notary cannot competently operate
10 the electronic notarization system; or

11 (2) the electronic notary has a reasonable belief that
12 an electronic notarization system does not meet the
13 requirements set forth in this Act.

14 (5 ILCS 312/6A-102 new)

15 Sec. 6A-102. Electronic notary not liable for system
16 failure. An electronic notary public who exercised reasonable
17 care enrolling in and using an electronic notarization system
18 shall not be liable for any damages resulting from the system's
19 failure to comply with the requirements of this Act. Any
20 provision in a contract or agreement between the electronic
21 notary public and provider that attempts to waive this immunity
22 shall be null, void, and of no effect.

23 (5 ILCS 312/6A-103 new)

24 Sec. 6A-103. Electronic notarial acts.

1 (a) An electronic notary public:

2 (1) is a notary public for purposes of this Act and is
3 subject to all provisions of this Act;

4 (2) may perform notarial acts as provided by this Act
5 in addition to performing electronic notarizations; and

6 (3) may perform an electronic notarization authorized
7 under this Article.

8 (b) In performing an electronic notarization, an
9 electronic notary public shall verify the identity of a person
10 creating an electronic signature at the time that the signature
11 is taken by using two-way audio and video conference technology
12 that meets the requirements of this Act and rules adopted under
13 this Article. For the purposes of performing an electronic
14 notarial act for a person using audio-video communication, an
15 electronic notary public has satisfactory or documentary
16 evidence of the identity of the person if the electronic notary
17 public confirms the identity of the person by:

18 (1) the electronic notary public's personal knowledge
19 of the person creating the electronic signature; or

20 (2) each of the following:

21 (A) remote presentation by the person creating the
22 electronic signature of a government-issued
23 identification credential, including a passport or
24 driver's license, that contains the signature and a
25 photograph of the person;

26 (B) credential analysis of the front and back of

1 the government-issued identification credential and
2 the data thereon; and

3 (C) a dynamic knowledge-based authentication
4 assessment.

5 (c) An electronic notary public may perform any of the acts
6 set forth in Section 6-102 using audio-video communication in
7 accordance with this Section and any rules adopted by the
8 Secretary of State.

9 (d) If an electronic notarial act is performed using
10 audio-video communication:

11 (1) the technology must allow the persons
12 communicating to see and speak to each other
13 simultaneously;

14 (2) the signal transmission must be in real time; and

15 (3) the electronic notarial act must be recorded.

16 (e) The validity of the electronic notarial act will be
17 determined by applying the laws of the State of Illinois.

18 (f) The electronic notarial certificate for an electronic
19 notarization must include a notation that the notarization is
20 an electronic notarization.

21 (g) When performing an electronic notarization, an
22 electronic notary public shall complete an electronic notarial
23 certificate and attach or logically associate the electronic
24 notary's electronic signature and seal to that certificate in a
25 tamper evident manner. Evidence of tampering pursuant to this
26 standard may be used to determine whether the electronic

1 notarial act is valid or invalid.

2 (h) The liability, sanctions, and remedies for improper
3 performance of electronic notarial acts are the same as
4 described and provided by law for the improper performance of
5 non-electronic notarial acts as described under Section 7-108.

6 (i) Electronic notarial acts need to fulfill certain basic
7 requirements to ensure non-repudiation and the capability of
8 being authenticated by the Secretary of State for purposes of
9 issuing apostilles and certificates of authentication. The
10 requirements are as follows:

11 (1) the fact of the electronic notarial act, including
12 the electronic notary's identity, signature, and
13 electronic commission status, must be verifiable by the
14 Secretary of State; and

15 (2) the notarized electronic document will be rendered
16 ineligible for authentication by the Secretary of State if
17 it is improperly modified after the time of electronic
18 notarization, including any unauthorized alterations to
19 the document content, the electronic notarial certificate,
20 the electronic notary public's electronic signature, or
21 the electronic notary public's official electronic seal.

22 (5 ILCS 312/6A-104 new)

23 Sec. 6A-104. Requirements for audio-video communication.

24 (a) An electronic notary public shall arrange for a
25 recording to be made of each electronic notarial act performed

1 using audio-video communication. The audio-video recording
2 required by this Section shall be in addition to the journal
3 entry for the electronic notarial act required by Section
4 3-107. Before performing any electronic notarial act using
5 audio-video communication, the electronic notary public must
6 inform all participating persons that the electronic
7 notarization will be electronically recorded.

8 (b) If the person for whom the electronic notarial act is
9 being performed is identified by personal knowledge, the
10 recording of the electronic notarial act must include an
11 explanation by the electronic notary public as to how he or she
12 knows the person and how long he or she has known the person.

13 (c) If the person for whom the electronic notarial act is
14 being performed is identified by a credible witness:

15 (1) the credible witness must appear before the
16 electronic notary public; and

17 (2) the recording of the electronic notarial act must
18 include:

19 (A) a statement by the electronic notary public as
20 to whether he or she identified the credible witness by
21 personal knowledge or satisfactory evidence; and

22 (B) an explanation by the credible witness as to
23 how he or she knows the person for whom the electronic
24 notarial act is being performed and how long he or she
25 has known the person.

26 (d) An electronic notary public shall keep a recording made

1 pursuant to this Section for a period of not less than 7 years,
2 regardless of whether the electronic notarial act was actually
3 completed.

4 (e) An electronic notary public who performs an electronic
5 notarial act for a principal by means of audio-video
6 communication shall be located within the State of Illinois at
7 the time the electronic notarial act is performed. The
8 electronic notary public shall include a statement in the
9 electronic notarial certificate to indicate that the
10 electronic notarial act was performed by means of audio-video
11 communication. The statement may also be included in the
12 electronic notarial seal.

13 (f) The remote electronic notarization system used to
14 perform electronic notarial acts by means of audio-video
15 communication shall:

16 (1) provide sufficient audio clarity and video
17 resolution to enable the electronic notary public and the
18 principal to see and speak to each other simultaneously
19 through live, real time transmission;

20 (2) include a means of authentication that reasonably
21 ensures only the proper parties have access to the
22 audio-video communication;

23 (3) provide some manner of ensuring that the electronic
24 record that is presented for electronic notarization is the
25 same record electronically signed by the principal;

26 (4) enable the electronic notary public to verify the

1 identity of the principal through multiple identity
2 verification methods, which may include: (i) completion of
3 a dynamic knowledge-based authentication assessment; (ii)
4 credential analysis of a remotely presented
5 government-issued identification that contains the
6 signature and a photograph of the principal; (iii) a valid
7 public key certificate; or (iv) any other identity proofing
8 method adopted by the commissioning official;

9 (5) be capable of creating, storing, and accessing an
10 electronic recording of the audio-video communication; and

11 (6) provide reasonable security measures to prevent
12 unauthorized access to: (i) the live transmission of the
13 audio-video communication; (ii) a recording of the
14 audio-video communication; (iii) the verification methods
15 and credentials used to verify the identity of the
16 principal; and (iv) the electronic documents presented for
17 electronic notarization.

18 (g) An electronic notary public who performs an electronic
19 notarial act for a principal by means of audio-video
20 communication shall:

21 (1) be located within this State at the time the
22 electronic notarial act is performed;

23 (2) execute the electronic notarial act in a single
24 recorded session that complies with Section 6A-103;

25 (3) be satisfied that any electronic record that is
26 electronically signed, acknowledged, or otherwise

1 presented for electronic notarization by the principal is
2 the same record electronically signed by the electronic
3 notary;

4 (4) be satisfied that the quality of the audio-video
5 communication is sufficient to make the determinations
6 required for the electronic notarial act under this Act and
7 any other law of this State; and

8 (5) identify the venue for the electronic notarial act
9 as the jurisdiction within Illinois where the notary is
10 physically located while performing the act.

11 (h) An electronic notarization system used to perform
12 electronic notarial acts by means of audio-video communication
13 shall:

14 (1) require the electronic notary public, the
15 principal, and any required witness to access the system
16 through an authentication procedure that is reasonably
17 secure from unauthorized access;

18 (2) enable the electronic notary public to verify the
19 identity of the principal and any required witness by means
20 of personal knowledge or satisfactory evidence of identity
21 in compliance with Section 6-102;

22 (3) provide reasonable certainty that the electronic
23 notary public, principal, and any required witness are
24 viewing the same electronic record and that all signatures,
25 changes, and attachments to the electronic record are made
26 in real time; and

1 (4) be capable of creating, archiving, and protecting
2 the audio-video recording, and capable of providing public
3 and official access, inspection, and copying of this
4 recording as required by this Act.

5 (i) The audio-video recording shall include:

6 (1) at the commencement of the recording, a recitation
7 by the electronic notary public of information sufficient
8 to identify the electronic notarial act;

9 (2) a declaration by the principal that the principal's
10 electronic signature on the record was knowingly and
11 voluntarily made;

12 (3) all actions and spoken words of the principal,
13 notary public, and any required witness during the entire
14 electronic notarial act; and

15 (4) at the discretion of the principal, an accurate and
16 complete image of the entire electronic record that was
17 viewed and electronically signed by the principal and the
18 electronic notary public.

19 (j) The provisions of Section 3-107 related respectively to
20 security, inspection, copying, and disposition of the journal
21 shall also apply to security, inspection, copying, and
22 disposition of audio-video recordings required by this
23 Section.

24 (5 ILCS 312/6A-105 new)

25 Sec. 6A-105. Electronic certificate of notarial acts.

1 (a) An electronic notarial act must be evidenced by an
2 electronic notarial certificate signed and dated by the
3 electronic notary public. The electronic notarial certificate
4 must include identification of the jurisdiction in which the
5 electronic notarial act is performed and the electronic seal of
6 the electronic notary public.

7 (b) An electronic notarial certificate of an electronic
8 notarial act is sufficient if it meets the requirements of
9 subsection (a) and it:

10 (1) is in the short form set forth in 6-105;

11 (2) is in a form otherwise prescribed by the law of
12 this State; or

13 (3) sets forth the actions of the electronic notary
14 public and those are sufficient to meet the requirements of
15 the designated electronic notarial act.

16 (c) At the time of an electronic notarial act, an
17 electronic notary public shall officially sign every
18 electronic notarial certificate and electronically affix the
19 electronic seal clearly and legibly, so that it is capable of
20 photographic reproduction. The illegibility of any of the
21 information required under this Section does not affect the
22 validity of a transaction.

23 (5 ILCS 312/6A-106 new)

24 Sec. 6A-106. Electronic acknowledgments; physical
25 presence.

1 (a) For purposes of this Act, a person may appear before
2 the person taking the acknowledgment by:

3 (1) being in the same physical location as the other
4 person and close enough to see, hear, communicate with, and
5 exchange tangible identification credentials with that
6 person; or

7 (2) being outside the physical presence of the other
8 person, but interacting with the other person by means of
9 communication technology.

10 (b) If the acknowledging person is outside the physical
11 presence of the person taking the acknowledgment, the
12 certification of acknowledgment must indicate that the
13 notarial act was performed by means of communication
14 technology. A form of certificate of acknowledgment as provided
15 by the Secretary of State, which may include the use of a
16 remote online notarial certificate, is sufficient for purposes
17 of this subsection (b) if it substantially reads as follows:
18 "The foregoing instrument was acknowledged before me by means
19 of communication technology this (date) by...(each form
20 continued as sufficient for its respective purposes.)".

21 (5 ILCS 312/7-106) (from Ch. 102, par. 207-106)

22 Sec. 7-106. Willful Impersonation.

23 (a) Any person who acts as, or otherwise willfully
24 impersonates, a notary public while not lawfully appointed and
25 commissioned to perform notarial acts is guilty of a Class A

1 misdemeanor.

2 (b) Any notary public or other person who is not an
3 electronic notary public that impersonates an electronic
4 notary public to perform electronic notarial acts is guilty of
5 a Class A misdemeanor.

6 (Source: P.A. 84-322.)

7 (5 ILCS 312/7-107) (from Ch. 102, par. 207-107)

8 Sec. 7-107. Wrongful Possession.

9 (a) No person may unlawfully possess, obtain, conceal,
10 damage, or destroy a notary's official seal. Any person who
11 unlawfully possesses a notary's official seal is guilty of a
12 misdemeanor and punishable upon conviction by a fine not
13 exceeding \$1,000.

14 (b) No person may unlawfully possess, conceal, damage, or
15 destroy the certificate, disk, coding, card, program,
16 software, or hardware enabling an electronic notary public to
17 affix an official electronic signature or seal.

18 (c) Any person who violates this Section shall be guilty of
19 a misdemeanor and punishable upon conviction by a fine not
20 exceeding \$1,000.

21 (Source: P.A. 84-322.)

22 (5 ILCS 312/7-108) (from Ch. 102, par. 207-108)

23 Sec. 7-108. Reprimand, suspension, and revocation of
24 commission.

1 (a) The Secretary of State may revoke the commission of any
2 notary public who, during the current term of appointment:

3 (1) submits an application for commission and
4 appointment as a notary public which contains substantial
5 and material misstatement or omission of fact; ~~or~~

6 (2) is convicted of any felony, misdemeanors,
7 including those defined in Part C, Articles 16, 17, 18, 19,
8 and 21, and Part E, Articles 31, 32, and 33 of the Criminal
9 Code of 2012, or official misconduct under this Act; or-

10 (3) is a licensed attorney and has been sanctioned,
11 suspended, or disbarred by the Illinois Attorney
12 Registration and Disciplinary Commission.

13 (b) Whenever the Secretary of State believes that a
14 violation of this Article has occurred, he or she may
15 investigate any such violation. The Secretary may also
16 investigate possible violations of this Article upon a signed
17 written complaint on a form designated by the Secretary.

18 (c) A notary's failure to cooperate or respond to an
19 investigation by the Secretary of State is a failure by the
20 notary to fully and faithfully discharge the responsibilities
21 and duties of a notary and shall result in suspension or
22 revocation of the notary's commission or the electronic
23 notary's commission.

24 (d) All written complaints which on their face appear to
25 establish facts which, if proven true, would constitute an act
26 of misrepresentation or fraud in notarization or electronic

1 notarization, or misrepresentation or fraud on the part of the
2 notary, shall be investigated by the Secretary of State to
3 determine whether cause exists to reprimand, suspend, or revoke
4 the commission of the notary.

5 (e) The Secretary of State may deliver a written official
6 warning and reprimand to a notary, or may revoke or suspend a
7 notary's commission or an electronic notary's commission, for
8 any of the following:

9 (1) a notary's official misconduct, as defined under
10 Section 7-104;

11 (2) any ground for which an application for appointment
12 as a notary may be denied for failure to complete
13 application requirements as provided under Section 2-102;

14 (3) any prohibited act provided under Section 6-104; or

15 (4) a violation of any provision of the general
16 statutes.

17 (f) After investigation and upon a determination by the
18 Secretary of State that one or more prohibited acts have been
19 performed in the notarization or electronic notarization of a
20 document, the Secretary shall, after considering the extent of
21 the prohibited act and the degree of culpability of the notary,
22 order one or more of the following courses of action:

23 (1) issue a letter of warning to the notary, including
24 the Secretary's findings;

25 (2) order suspension of the commission of the notary
26 for a period of time designated by the Secretary;

1 (3) order revocation of the commission of the notary;

2 (4) refer the allegations to the appropriate State's
3 Attorney's Office or the Attorney General for criminal
4 investigation; or

5 (5) refer the allegations to the Illinois Attorney
6 Registration and Disciplinary Commission for disciplinary
7 proceedings.

8 (g) After a notary receives notice from the Secretary of
9 State that his or her commission has been revoked, that notary
10 shall immediately deliver his or her official seal to the
11 Secretary. After an electronic notary public receives notice
12 from the Secretary of State that his or her electronic
13 commission has been revoked, the electronic notary public shall
14 immediately notify the electronic notary's chosen technology
15 provider, and to the extent possible, destroy or remove the
16 software used for electronic notarizations.

17 (h) A notary whose appointment has been revoked due to a
18 violation of this Act shall not be eligible for a new
19 commission as a notary public in this State for a period of at
20 least 5 years from the date of the final revocation.

21 (i) A notary may voluntarily resign from appointment by
22 notifying the Secretary of State in writing of his or her
23 intention to do so, and by physically returning his or her
24 stamp to the Secretary. An electronic notary public may
25 voluntarily resign from appointment by notifying the Secretary
26 of State in writing of his or her intention to do so, and by

1 notifying the electronic notary's chosen technology provider,
2 and to the extent possible, destroy or remove the software used
3 for electronic notarizations. A voluntary resignation shall
4 not stop or preclude any investigation into a notary's conduct,
5 or prevent further suspension or revocation by the Secretary,
6 who may pursue any such investigation to a conclusion and issue
7 any finding.

8 (j) Upon a determination by a sworn law enforcement officer
9 that the allegations raised by the complaint are founded, and
10 the notary has received notice of suspension or revocation from
11 the Secretary of State, the notary is entitled to an
12 administrative hearing.

13 (k) The Secretary of State shall adopt administrative
14 hearing rules applicable to this Section that are consistent
15 with the Illinois Administrative Procedure Act.

16 (l) Any revocation, resignation, expiration, or suspension
17 of the commission of a notary public terminates or suspends any
18 commission to notarize electronically.

19 (m) A notary public may terminate registration to notarize
20 electronically and maintain his or her underlying notary public
21 commission.

22 (Source: P.A. 100-809, eff. 1-1-19; 101-81, eff. 7-12-19.)

23 (5 ILCS 312/7-110 new)

24 Sec. 7-110. Applicable law; conflict of law.

25 (a) The validity of any notarization, including an

1 electronic notarization, shall be determined by applying the
2 laws of this State, regardless of the physical location of the
3 principal at the time of a remote notarization.

4 (b) An electronic notary public authorized to perform
5 electronic notarizations is subject to and must comply with
6 this Act.

7 (c) If a conflict between a provision of this Section and
8 another law of this State, this Section controls.

9 Section 10. The State Finance Act is amended by adding
10 Section 5.930 as follows:

11 (30 ILCS 105/5.930 new)

12 Sec. 5.930. The Electronic Notarization Fund.

13 Section 15. The Uniform Real Property Electronic Recording
14 Act is amended by changing Section 2 and by adding Section 3.5
15 as follows:

16 (765 ILCS 33/2)

17 Sec. 2. Definitions. In this Act:

18 (1) "Document" means information that is:

19 (A) inscribed on a tangible medium or that is
20 stored in an electronic or other medium and is
21 retrievable in perceivable form; and

22 (B) eligible to be recorded in the land records

1 maintained by the county recorder.

2 (2) "Electronic" means relating to technology having
3 electrical, digital, magnetic, wireless, optical,
4 electromagnetic, or similar capabilities.

5 (3) "Electronic document" means a document created,
6 generated, sent, communicated, received, or stored by
7 electronic means ~~that is received by the recorder in an~~
8 ~~electronic form.~~

9 (4) "Electronic signature" means an electronic sound,
10 symbol, or process attached to or logically associated with
11 a document and executed or adopted by a person with the
12 intent to sign the document.

13 (5) "Person" means an individual, corporation,
14 business trust, estate, trust, partnership, limited
15 liability company, association, joint venture, public
16 corporation, government, or governmental subdivision,
17 agency, or instrumentality, or any other legal or
18 commercial entity.

19 (6) "State" means a state of the United States, the
20 District of Columbia, Puerto Rico, the United States Virgin
21 Islands, or any territory or insular possession subject to
22 the jurisdiction of the United States.

23 (7) "Secretary" means the Secretary of State.

24 (8) "Commission" means the Illinois Electronic
25 Recording Commission.

26 Any notifications required by this Act must be made in

1 writing and may be communicated by certified mail, return
2 receipt requested or electronic mail so long as receipt is
3 verified.

4 (Source: P.A. 95-472, eff. 8-27-07.)

5 (765 ILCS 33/3.5 new)

6 Sec. 3.5. Electronic documents certified by notary public.

7 (a) A paper or tangible copy of an electronic document that
8 a notary public has certified to be a true and correct copy
9 under subsection (b) satisfies any requirement of law that, as
10 a condition for recording, the document:

11 (1) be an original or be in writing;

12 (2) be signed or contain an original signature, if the
13 document contains an electronic signature of the person
14 required to sign the document; and

15 (3) be notarized, acknowledged, verified, witnessed,
16 or made under oath, if the document contains an electronic
17 signature of the person authorized to perform that act, and
18 all other information required to be included.

19 (b) A notary public duly appointed and commissioned under
20 Section 2-101 of the Illinois Notary Public Act may certify
21 that a paper or tangible copy of an electronic document is a
22 true and correct copy of the electronic document if the notary
23 public has:

24 (1) reasonably confirmed that the electronic document
25 is in a tamper evident format;

1 (2) detected no changes or errors in any electronic
2 signature or other information in the electronic document;

3 (3) personally printed or supervised the printing of
4 the electronic document onto paper or other tangible
5 medium; or

6 (4) not made any changes or modifications to the
7 electronic document or to the paper or tangible copy
8 thereof other than the certification described in this
9 subsection (b).

10 (c) A county recorder shall accept for recording a paper or
11 tangible copy of a document that has been certified by a notary
12 public to be a true and correct copy of an electronic document
13 under subsection (b) as evidenced by a notarial certificate.

14 (d) A notarial certificate in substantially the following
15 form is sufficient for the purposes of this Section:

16 "State of

17 County of

18 On this (date), I certify that the foregoing and annexed
19 document [entitled,] (and) containing
20 pages is a true and correct copy of an electronic document
21 printed by me or under my supervision. I further certify that,
22 at the time of printing, no security features present on the
23 electronic document indicated any changes or errors in an

1 electronic signature or other information in the electronic
2 document since its creation or execution.

3

4 (Signature of Notary Public)

5 (Seal)"

6 (f) If a notarial certificate is attached to or made a part
7 of a paper or tangible document, the certificate is prima facie
8 evidence that the requirements of subsection (c) have been
9 satisfied with respect to the document.

10 (g) A paper or tangible copy of a deed, mortgage, or other
11 document shall be deemed, from the time of being filed for
12 record, as notice to subsequent purchasers and creditors,
13 though it may not be certified in accordance with the
14 provisions of this Section.

15 (h) This Section does not apply to any map or plat governed
16 by the Plat Act, the Judicial Plat Act, or the Permanent Survey
17 Act, or to any monument record governed by the Land Survey
18 Monuments Act.

19 Section 99. Effective date. This Act takes effect on the
20 later of the following:

21 (1) January 1, 2021; or

22 (2) the date on which the Office of the Secretary of
23 State files with the Index Department of the Office of the
24 Secretary of State a notice that the Office of the
25 Secretary of State has adopted the rules necessary to

1 implement this Act. Upon the filing of the notice, the
2 Index Department shall provide a copy of the notice to the
3 Legislative Reference Bureau.

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2		Statutes amended in order of appearance
3	5 ILCS 312/1-104	from Ch. 102, par. 201-104
4	5 ILCS 312/1-106 new	
5	5 ILCS 312/2-101	from Ch. 102, par. 202-101
6	5 ILCS 312/2-101.5 new	
7	5 ILCS 312/2-102	from Ch. 102, par. 202-102
8	5 ILCS 312/2-102.5	
9	5 ILCS 312/2-102.6 new	
10	5 ILCS 312/2-102.7 new	
11	5 ILCS 312/2-103	from Ch. 102, par. 202-103
12	5 ILCS 312/2-104	from Ch. 102, par. 202-104
13	5 ILCS 312/2-105	from Ch. 102, par. 202-105
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20	5 ILCS 312/3-105	from Ch. 102, par. 203-105
21	5 ILCS 312/3-106	from Ch. 102, par. 203-106
22	5 ILCS 312/3-107 new	
23	5 ILCS 312/4-101	from Ch. 102, par. 204-101
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1	5 ILCS 312/6-102	from Ch. 102, par. 206-102
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4	heading new	
5	5 ILCS 312/6A-101 new	
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14	5 ILCS 312/7-110 new	
15	30 ILCS 105/5.930 new	
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17	765 ILCS 33/3.5 new	