

SB1583



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1583

Introduced 2/26/2021, 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, 2022, or upon the adoption by the Secretary of State of rules necessary for implementation, whichever is later.

LRB102 11889 RJF 17225 b

A BILL FOR

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
10 Sections 6A-101, 6A-102, 6A-103, 6A-104, 6A-105, 6A-106, and
11 7-110 as follows:

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

13 Sec. 1-104. Definitions. As used in this Act: Notary
14 Public 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
13 photograph and signature of the principal.

14 "Credential analysis" means a process or service that
15 complies with any rules or regulations adopted by the
16 Secretary of State through which a third party affirms the
17 validity of a government-issued identification credential or
18 any data 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
18 State 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
26 dynamic knowledge-based authentication, such as a review of

1 personal information from public or proprietary data sources;
2 or (b) by means of analysis of biometric data, such as, but not
3 limited to, facial recognition, voiceprint analysis, or
4 fingerprint 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
10 another person, but able to see, hear, and communicate
11 with the person by means of audio-video communication that
12 meets any rules adopted by the Secretary of State.

13 "Notarial act" means an act, whether performed with
14 respect to a tangible or electronic record, that a notary
15 public or an electronic notary public may perform under the
16 law of this State. "Notary act" includes taking an
17 acknowledgment, administering an oath or affirmation, taking a
18 verification on oath, or affirmation, witnessing or attesting
19 a signature, certifying or attesting a copy, and noting a
20 protest of a 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
25 the geographic boundaries of a state or commonwealth of the
26 United States, the District of Columbia, Puerto Rico, the

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

25 ~~(a) The terms "notary public" and "notary" are used~~
26 ~~interchangeably to mean any individual appointed and~~

1 ~~commissioned to perform notarial acts.~~

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

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

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

9 (5 ILCS 312/1-106 new)

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

17 (5 ILCS 312/2-101) (from Ch. 102, par. 202-101)

18 Sec. 2-101. Appointment.

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

1 county in this State as the Secretary deems necessary, but
2 only if the laws of that state authorize residents of Illinois
3 to be appointed and commissioned as notaries public in that
4 state.

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

9 (c) An individual may apply for a notary public commission
10 and apply for an electronic notary public commission at the
11 same time.

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

15 (e) The commission of a notary public and an electronic
16 notary public shall have the same term pursuant to subsection
17 (a).

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

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

2 (5 ILCS 312/2-101.5 new)

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

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

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

11 (2) pass an examination at the completion of the
12 course.

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

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

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

25 (2) provide instruction in, without limitation,

1 notarial law, ethics, and procedure, as well as technology
2 if applying for an electronic notary public commission;

3 (3) comply with any rules adopted by the Secretary of
4 State relating to courses of study on notarization and
5 electronic notarization; and

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

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

8 Sec. 2-102. Application.

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

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

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

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

25 (4) ~~(c-5)~~ the applicant's business address if

1 different than the applicant's residence address, if
2 performing notarial acts constitutes any portion of the
3 applicant's job duties;

4 (5) ~~(d)~~ that the applicant has resided in the State of
5 Illinois for 30 days preceding the application or that the
6 applicant who is a resident of a state bordering Illinois
7 has worked or maintained a business in Illinois for 30
8 days preceding the application;

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

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

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

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

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

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

1 (12) that the applicant has provided satisfactory
2 proof to the Secretary of State that the applicant has
3 successfully completed any required course of study on
4 notarization; and

5 (13) ~~(j)~~ any other information the Secretary of State
6 deems necessary.

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

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

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

19 (3) the applicant's email address;

20 (4) that the applicant has provided satisfactory proof
21 to the Secretary of State that the applicant has
22 successfully completed any required course of study on
23 electronic notarization and passed a qualifying
24 examination;

25 (5) a description of the technology or device that the
26 applicant intends to use to create his or her electronic

1 signature in performing electronic notarial acts;

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

3 (7) any other information the Secretary of State deems
4 necessary.

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

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

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

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

24 (5 ILCS 312/2-102.5)

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

1 (a) The Secretary of State may establish and maintain an
2 online application system that permits an Illinois resident to
3 apply for appointment and commission as a notary public or
4 electronic notary public.

5 (b) Any such online ~~notary public~~ application system shall
6 employ security measures to ensure the accuracy and integrity
7 of notary public applications submitted electronically under
8 this Section.

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

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

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

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

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

1 (e) For his or her application to be accepted, the
2 applicant shall mark the box associated with the following
3 statement included as part of the online ~~notary public~~
4 application: "By clicking on the box below, I swear or affirm
5 all of the following:

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

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

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

20 (4) I authorize the Secretary of State to utilize my
21 signature to conduct a verification to confirm the
22 information provided in the application, including a
23 criminal background check, if necessary."

24 (f) Immediately upon receiving a completed online ~~notary~~
25 ~~public~~ application, the online system shall send by electronic
26 mail a confirmation notice that the application has been

1 received. Upon completion of the procedure outlined in
2 subsection (c) of this Section, the online ~~notary-public~~
3 application system shall send by electronic mail a notice
4 informing the applicant of whether the following information
5 has been matched with the Secretary of State driver's license
6 and Illinois Identification Card databases:

7 (1) that the applicant has an authentic Illinois
8 driver's license or Illinois Identification Card issued by
9 the Secretary of State and that the driver's license or
10 Illinois Identification Card number provided by the
11 applicant matches the driver's license or Illinois
12 Identification Card number for that person on file with
13 the Secretary of State;

14 (2) that the date of issuance of the Illinois driver's
15 license or Illinois Identification Card listed on the
16 application matches the date of issuance of that license
17 or card for that person on file with the Secretary of
18 State;

19 (3) that the date of birth provided by the applicant
20 matches the date of birth for that person on file with the
21 Secretary of State; and

22 (4) that the residence address provided by the
23 applicant matches the residence address for that person on
24 file with the Secretary of State.

25 (g) If the information provided by the applicant matches
26 all of the criteria identified in subsection (f) of this

1 Section, the online ~~notary public~~ application system shall
2 retrieve from the Secretary of State's database files an
3 electronic copy of the applicant's signature from his or her
4 Illinois driver's license or Illinois Identification Card and
5 such signature shall be deemed to be the applicant's signature
6 on his or her online ~~notary public~~ application.

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

8 (5 ILCS 312/2-102.6 new)

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

18 (5 ILCS 312/2-102.7 new)

19 Sec. 2-102.7. Registration of electronic notarization
20 technology.

21 (a) Notaries holding an electronic notary public
22 commission shall register the capability to notarize
23 electronically before performing any electronic notarial acts
24 with the Secretary of State. The registration shall be made

1 with the Secretary of State every time an electronic notary
2 public adopts a new or additional technology with which to
3 perform electronic notarial acts and the technology or vendor
4 must first be approved by the Secretary of State.

5 (b) An electronic notary public who registers the
6 capability of performing electronic notarial acts shall
7 provide the following information to the Secretary of State:

8 (1) the electronic technology or technologies to be
9 used in attaching or logically associating an electronic
10 notarial signature, seal, and certificate to an electronic
11 document;

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

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

17 (c) Prior to any electronic notarial acts being performed
18 in this State, the vendor of electronic notarization
19 technology must submit the technology to the Secretary of
20 State and receive approval by the Secretary of State for use in
21 this State.

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

1 (5 ILCS 312/2-103) (from Ch. 102, par. 202-103)

2 Sec. 2-103. Appointment Fee.

3 (a) Every applicant for appointment and commission as a
4 notary public shall pay to the Secretary of State a fee of \$15
5 ~~\$10~~. Ten dollars from each applicant fee shall be deposited in
6 the General Revenue Fund. Five dollars from each applicant fee
7 shall be deposited in the Electronic Notarization Fund.

8 (b) Every applicant for a commission as an electronic
9 notary public shall pay to the Secretary of State a fee of \$25.
10 This fee is in addition to the fee proscribed for a commission
11 as a notary public and shall be deposited in the Electronic
12 Notarization Fund.

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

14 (5 ILCS 312/2-104) (from Ch. 102, par. 202-104)

15 Sec. 2-104. Oath.

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

18 "I, (name of applicant), solemnly affirm, under the
19 penalty of perjury, that the answers to all questions in this
20 application are true, complete, and correct; that I have
21 carefully read the notary law of this State; and that, if
22 appointed and commissioned as a notary public, I will perform
23 faithfully, to the best of my ability, all notarial acts in
24 accordance with the law."

25 (b) In the event that the applicant completes a paper

1 application for appointment and commission as a notary public,
2 he or she shall take the oath in the presence of a person
3 qualified to administer an oath in this State. The printed
4 oath shall be followed by the signature of the applicant and
5 notarized as follows:

6 " (Signature of applicant)
7 State of Illinois
8 County of (name of county where the notarization is
9 completed)

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

12 (Official signature and official seal
13 of notary)".

14 (c) In the event that the applicant completes an online
15 application for appointment and commission as a notary public,
16 he or she shall affirm the oath electronically. An electronic
17 affirmation of the oath in the online ~~notary public~~
18 application system shall have the same force and effect as an
19 oath sworn and affirmed in person.

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

21 (5 ILCS 312/2-105) (from Ch. 102, par. 202-105)

22 Sec. 2-105. Bond.

23 (a) Every application for appointment and commission as a
24 notary public shall be accompanied by an executed bond
25 commencing on the date of the appointment with a term of 4

1 years, in the sum of \$5,000, with, as surety thereon, a company
2 qualified to write surety bonds in this State. The bond shall
3 be conditioned upon the faithful performance of all notarial
4 acts in accordance with this Act. The Secretary of State may
5 prescribe an official bond form.

6 (b) An electronic notary public who performs electronic
7 notarial acts by means of audio-video communication shall
8 obtain and maintain a surety bond in the amount of \$25,000 from
9 a surety or insurance company licensed to do business in this
10 State, and this bond shall be exclusively conditioned on the
11 faithful performance of electronic notarial acts by means of
12 audio-video communication.

13 (c) All surety bonds shall be filed with the Secretary of
14 State.

15 (d) In addition to the surety bond, a notary public shall
16 maintain an errors and omissions insurance policy from an
17 insurer authorized to transact business in this State, in the
18 minimum amount of \$25,000 and on such terms as are specified by
19 the Secretary by rule and that are reasonably necessary to
20 protect the public. The applicant shall provide evidence of
21 this insurance policy to the Secretary of State.

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

23 (5 ILCS 312/2-106) (from Ch. 102, par. 202-106)

24 Sec. 2-106. Appointment recorded by county clerk. The
25 appointment of the applicant as a notary public or an

1 electronic notary public is complete when the commission is
2 recorded with the county clerk.

3 The Secretary of State shall forward the applicant's
4 commission to the county clerk of the county in which the
5 applicant resides or, if the applicant is a resident of a state
6 bordering Illinois, the county in Illinois in which the
7 applicant's principal place of work or principal place of
8 business is located. Upon receipt thereof, the county clerk
9 shall notify the applicant of the action taken by the
10 Secretary of State, and the applicant shall either appear at
11 the county clerk's office to record the same and receive the
12 commission or request by mail to have the commission sent to
13 the applicant with a specimen signature of the applicant
14 attached to the request. The applicant shall have a record of
15 the appointment, and the time when the commission will expire,
16 entered in the records of the office of the county clerk. When
17 the applicant appears before the county clerk, the applicant
18 shall pay a fee of \$5, at which time the county clerk shall
19 then deliver the commission to the applicant.

20 If the appointment is completed by mail, the applicant
21 shall pay the county clerk a fee of \$10.00, which shall be
22 submitted with the request to the county clerk. The county
23 clerk shall then record the appointment and send the
24 commission by mail to the applicant.

25 If an applicant does not respond to the notification by
26 the county clerk within 30 days, the county clerk shall again

1 notify the applicant that the county clerk has received the
2 applicant's notary public or electronic notary public
3 commission issued by the Secretary of State. The second notice
4 shall be in substantially the following form:

5 "The records of this office indicate that you have not
6 picked up your notary public commission or electronic
7 notary public commission from the Office of the County
8 Clerk.

9 The Illinois Notary Public Law requires you to appear in
10 person in the clerk's office, record your commission, and
11 pay a fee of \$5.00 to the county clerk or request that your
12 commission be mailed to you. This request must be
13 accompanied by a specimen of your signature and a \$10.00
14 fee payable to the county clerk.

15 Your appointment as a notary or an electronic notary is
16 not complete until the commission is recorded with the
17 county clerk. Furthermore, if you do not make arrangements
18 with the clerk for recording and delivery of your
19 commission within 30 days from the date of this letter,
20 the county clerk will return your commission to the
21 Secretary of State. Your commission will be cancelled and
22 your name will be removed from the list of notaries and
23 electronic notaries in the State of Illinois.

24 I should also like to remind you that any person who
25 attests to any document as a notary or an electronic
26 notary and is not a notary or an electronic notary in good

1 standing with the Office of the Secretary of State is
2 guilty of official misconduct and may be subject to a fine
3 or imprisonment.".

4 The Secretary of State shall cancel the appointment of all
5 notaries or electronic notaries whose commissions are returned
6 to his office by the county clerks. No application fee will be
7 refunded and no bonding company is required to issue a refund
8 when an appointment is cancelled. If a notary or electronic
9 notary fails to complete his or her commission more than twice
10 in the same application year, the notary or electronic notary
11 applicant shall not be entitled to reapply for a notarial or
12 electronic notarial commission until the following calendar
13 year.

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

15 (5 ILCS 312/2-107)

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

17 (a) Every company, corporation, association, organization,
18 or person that remits notary public applications to the
19 Secretary of State on behalf of applicants for appointment and
20 commission as a notary public, for compensation or otherwise,
21 shall comply with standards to qualify for licensure as a
22 notary public remittance agent.

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

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

5 (2) the agent holds a surety bond in the amount of
6 \$20,000 for the purposes of acting as a remittance agent;
7 and

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

11 (c) A notary public remittance agent submitting an
12 application on behalf of an applicant for appointment and
13 commission as a notary public shall remit the application and
14 fee provided by the applicant within 30 days after receiving
15 the application and fee from the applicant.

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

19 (e) The agent shall not issue a notary seal or notary stamp
20 to the notary applicant until sufficient evidence has been
21 received that the notary applicant has received a commission
22 from the appropriate county clerk.

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

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

5 (h) The Secretary of State shall adopt rules applicable to
6 this Section.

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

8 (5 ILCS 312/3-101) (from Ch. 102, par. 203-101)

9 Sec. 3-101. Official seal.

10 (a) Notary public official seal. Each notary public shall,
11 upon receiving the notary commission from the county clerk,
12 obtain an official rubber stamp seal with which the notary
13 shall authenticate his official acts. The rubber stamp seal
14 shall contain the following information:

15 (1) the words "Official Seal";

16 (2) the notary's official name;

17 (3) the words "Notary Public", "State of Illinois",
18 and "My commission expires (commission
19 expiration date)"; and

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

23 (b) (Blank).

24 (b-5) Electronic notary public electronic seal and
25 electronic signature. An electronic notarial act must be

1 evidenced by the following, which must be attached to or
2 logically associated with the electronic document that is the
3 subject of the electronic notarial act and which must be
4 immediately perceptible and reproducible:

5 (1) the electronic signature of the electronic notary
6 public;

7 (2) the electronic seal of the electronic notary
8 public;

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

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

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

20 (d) Electronic signature and seal secure. An electronic
21 notary public shall keep the electronic notary public's
22 electronic signature and electronic seal secure and under the
23 notary public's exclusive control. The electronic notary
24 public shall not allow another person to use his or her
25 electronic signature or electronic seal.

26 (e) Electronic notarial certificate. An electronic notary

1 public shall attach his or her electronic signature and
2 electronic seal to the electronic notarial certificate of an
3 electronic document in a manner that is capable of independent
4 verification and renders any subsequent change or modification
5 to the electronic document evident.

6 (f) Electronic signature and seal compromised. An
7 electronic notary public shall notify an appropriate law
8 enforcement agency, the vendor of the electronic notary
9 technology, and the Secretary of State no later than the next
10 business day of the theft, compromise, or vandalism of the
11 electronic notary public's electronic signature or electronic
12 seal.

13 (g) Electronic signature and seal access. The electronic
14 notary public shall not disclose any access information used
15 to affix the electronic notary public's signature and seal
16 except when requested by law enforcement, the courts, and with
17 reasonable precautions, electronic document preparation, and
18 transmission vendors.

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

20 (5 ILCS 312/3-101.5 new)

21 Sec. 3-101.5. Security of electronic signature and seal.
22 The following requirements apply only to electronic notaries
23 public.

24 (a) The electronic signature and electronic seal of an
25 electronic notary public must be used only for the purposes of

1 performing electronic notarial acts.

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

5 (1) when not in use, the electronic notary public
6 shall keep the electronic signature, electronic seal, and
7 all notarial records secure under the exclusive control of
8 the notary public and protected by a password where
9 applicable;

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

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

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

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

25 (2) notify the Secretary of State and the vendor from
26 which the electronic notary public obtained the electronic

1 signature or electronic seal in writing, including,
2 without limitation, a signature using the name under which
3 the electronic notary public is commissioned pursuant to
4 Section 2-106.

5 (d) An electronic notary public shall take reasonable
6 steps to maintain the technology or device used to create his
7 or her electronic signature, and to ensure that the technology
8 or device has not been recalled, revoked, terminated, or
9 otherwise rendered ineffective or unsecure by the entity that
10 created the technology or device. Upon learning that the
11 technology or device used to create his or her electronic
12 signature has been rendered ineffective or unsecure, an
13 electronic notary public shall cease performing electronic
14 notarial acts until:

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

16 (2) the electronic notary public sends an electronic
17 message to the Secretary of State that includes the
18 electronic signature of the electronic notary public
19 required under paragraph (6) of subsection (b) of Section
20 2-102 relating to the new technology or device.

21 (e) The electronic notary public's electronic signature
22 and electronic seal are deemed to be reliable if the following
23 requirements are met:

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

25 (2) it is capable of independent verification;

26 (3) it is retained under the electronic notary

1 public's sole control;

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

7 (5) the electronic notary public has chosen technology
8 or a vendor that meets the minimum requirements
9 established by the Secretary of State and is approved by
10 the Secretary of State.

11 (5 ILCS 312/3-103) (from Ch. 102, par. 203-103)

12 Sec. 3-103. Notice.

13 (a) Every notary public who is not an attorney or an
14 accredited immigration representative who advertises the
15 services of a notary public in a language other than English,
16 whether by radio, television, signs, pamphlets, newspapers,
17 electronic communications, or other written communication,
18 with the exception of a single desk plaque, shall include in
19 the document, advertisement, stationery, letterhead, business
20 card, or other comparable written or electronic material the
21 following: notice in English and the language in which the
22 written or electronic communication appears. This notice shall
23 be of a conspicuous size, if in writing or electronic
24 communication, and shall state: "I AM NOT AN ATTORNEY LICENSED
25 TO PRACTICE LAW IN ILLINOIS. I AM NOT ALLOWED TO DRAFT LEGAL

1 DOCUMENTS OR RECORDS, NOR MAY I GIVE LEGAL ADVICE ON ANY
2 MATTER, INCLUDING, BUT NOT LIMITED TO, MATTERS OF IMMIGRATION,
3 OR ACCEPT OR CHARGE FEES FOR THE PERFORMANCE OF THOSE
4 ACTIVITIES ". If such advertisement is by radio or television,
5 the statement may be modified but must include substantially
6 the same message.

7 A notary public shall not, in any document, advertisement,
8 stationery, letterhead, business card, electronic
9 communication, or other comparable written material describing
10 the role of the notary public, literally translate from
11 English into another language terms or titles including, but
12 not limited to, notary public, notary, licensed, attorney,
13 lawyer, or any other term that implies the person is an
14 attorney. To illustrate, the word "notario" is prohibited
15 under this provision.

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

21 (b) All notaries public required to comply with the
22 provisions of subsection (a) shall prominently post at their
23 place of business as recorded with the Secretary of State
24 pursuant to Section 2-102 of this Act a schedule of fees
25 established by law which a notary public may charge. The fee
26 schedule shall be written in English and in the non-English

1 language in which notary services were solicited and shall
2 contain the disavowal of legal representation required above
3 in subsection (a), unless such notice of disavowal is already
4 prominently posted.

5 (c) No notary public, agency or any other person who is not
6 an attorney shall represent, hold themselves out or advertise
7 that they are experts on immigration matters or provide any
8 other assistance that requires legal analysis, legal judgment,
9 or interpretation of the law unless they are a designated
10 entity as defined pursuant to Section 245a.1 of Part 245a of
11 the Code of Federal Regulations (8 CFR 245a.1) or an entity
12 accredited by the Board of Immigration Appeals.

13 (c-5) In addition to the notice required under subsection
14 (a), every notary public who is subject to subsection (a)
15 shall, prior to rendering notary services or electronic notary
16 services, provide any person seeking notary or electronic
17 notary services services with a written acknowledgment that
18 substantially states, in English and the language used in the
19 advertisement for notary services the following: "I AM NOT AN
20 ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS. I AM NOT
21 ALLOWED TO DRAFT LEGAL DOCUMENTS OR RECORDS, NOR MAY I GIVE
22 LEGAL ADVICE ON ANY MATTER OR ACCEPT OR CHARGE FEES FOR THE
23 PERFORMANCE OF THOSE ACTIVITIES". The Office of the Secretary
24 of State shall translate this acknowledgement into Spanish and
25 any other language the Secretary of State may deem necessary
26 to achieve the requirements of this subsection (c-5), and

1 shall make the translations available on the website of the
2 Secretary of State. This acknowledgment shall be signed by the
3 recipient of notary services or electronic notary services
4 before notary services or electronic notary services are
5 rendered, and the notary shall retain copies of all signed
6 acknowledgments throughout their present commission and for 2
7 years thereafter. Notaries shall provide recipients of notary
8 services or electronic notary services with a copy of their
9 signed acknowledgment at the time services are rendered. This
10 provision shall not apply to notary services or electronic
11 notary services related to documents prepared or produced in
12 accordance with the Illinois Election Code.

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

19 Any notary public who violates the provisions of this
20 Section shall be guilty of official misconduct and subject to
21 fine or imprisonment.

22 Nothing in this Section shall preclude any consumer of
23 notary public services from pursuing other civil remedies
24 available under the law.

25 (e) No notary public who is not an attorney or an
26 accredited representative shall accept payment in exchange for

1 providing legal advice or any other assistance that requires
2 legal analysis, legal judgment, or interpretation of the law.

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

9 (g) If a notary public or electronic notary public of this
10 State is convicted of a 2 or more business offense ~~offenses~~
11 involving a violation of this Act ~~within a 12-month period~~
12 ~~while commissioned, or of 3 or more business offenses~~
13 ~~involving a violation of this Act within a 5-year period~~
14 ~~regardless of being commissioned,~~ the Secretary shall
15 automatically revoke the notary public commission or
16 electronic notary public commission of that person on the date
17 that the person's most recent business offense conviction is
18 entered as a final judgment.

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

20 (5 ILCS 312/3-104) (from Ch. 102, par. 203-104)

21 Sec. 3-104. Maximum Fee.

22 (a) Except as otherwise provided in this subsection (a)
23 ~~provided in subsection (b) of this Section,~~ the maximum fee
24 for non-electronic notarization in this State is \$1.00 for any
25 notarial act performed and, ~~until July 1, 2018,~~ up to \$25 for

1 any notarial act performed pursuant to Section 3-102.

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

5 (1) \$10 per form completion;

6 (2) \$10 per page for the translation of a non-English
7 language into English where such translation is required
8 for immigration forms;

9 (3) \$5 ~~\$1~~ for notarizing;

10 (4) \$3 to execute any procedures necessary to obtain a
11 document required to complete immigration forms; and

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

13 Fees authorized under this subsection shall not include
14 application fees required to be submitted with immigration
15 applications.

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

22 (c) Any person who violates the provisions of ~~this~~
23 subsection (a) or (b) shall be guilty of a Class A misdemeanor
24 for a first offense and a Class 3 felony for a second or
25 subsequent offense committed within 5 years of a previous
26 conviction for the same offense.

1 (d) ~~(e)~~ Upon his own information or upon complaint of any
2 person, the Attorney General or any State's Attorney, or their
3 designee, may maintain an action for injunctive relief in the
4 court against any notary public or any other person who
5 violates the provisions of subsection (a) or (b) of this
6 Section. These remedies are in addition to, and not in
7 substitution for, other available remedies.

8 If the Attorney General or any State's Attorney fails to
9 bring an action as provided pursuant to this subsection within
10 90 days of receipt of a complaint, any person may file a civil
11 action to enforce the provisions of this subsection and
12 maintain an action for injunctive relief.

13 (e) ~~(d)~~ All notaries public must provide receipts and keep
14 records for fees accepted for services provided. Failure to
15 provide receipts and keep records that can be presented as
16 evidence of no wrongdoing shall be construed as a presumptive
17 admission of allegations raised in complaints against the
18 notary for violations related to accepting prohibited fees.

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

20 (5 ILCS 312/3-105) (from Ch. 102, par. 203-105)

21 Sec. 3-105. Authority.

22 (a) A notary public shall have authority to perform
23 notarial acts, or electronic notarial acts, if the notary
24 holds an electronic notary public commission, throughout the
25 State so long as the notary resides in the same county in which

1 the notary was commissioned or, if the notary is a resident of
2 a state bordering Illinois, so long as the notary's principal
3 place of work or principal place of business is in the same
4 county in Illinois in which the notary was commissioned.

5 (b) An electronic notary public who is physically located
6 in this State may perform an electronic notarial act using
7 communication technology in accordance with this Article and
8 any rules adopted by the Secretary of State for a remotely
9 located individual who is physically located: (i) in this
10 State; or (ii) outside of this State, but not outside the
11 United States.

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

13 (5 ILCS 312/3-106) (from Ch. 102, par. 203-106)

14 Sec. 3-106. Certificate of Authority. Upon the receipt of
15 a written request, the notarized document, and a fee of \$2
16 payable to the Secretary of State or County Clerk, the Office
17 of the Secretary of State or County Clerk shall provide a
18 certificate of authority in substantially the following form:

19 I (Secretary of State or County
20 Clerk) of the State of Illinois, which office is an office of
21 record having a seal, certify that (notary's name),
22 by whom the foregoing or annexed document was notarized or
23 electronically notarized, was, on (insert date), appointed and
24 commissioned a notary public in and for the State of Illinois
25 and that as such, full faith and credit is and ought to be

1 given to this notary's official attestations. In testimony
2 whereof, I have affixed my signature and the seal of this
3 office on (insert date).

4

5 (Secretary of State or County Clerk).

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

7 (5 ILCS 312/3-107 new)

8 Sec. 3-107. Journal.

9 (a) A notary public or an electronic notary public shall
10 keep a journal of each notarial act or electronic notarial act
11 which includes, without limitation, the requirements of
12 subsection (b), but does not include any electronic signatures
13 of the person for whom an electronic notarial act was
14 performed and any witnesses.

15 (b) A notarial or electronic notarial journal shall
16 contain the following information:

17 (1) a description of each notarial act or electronic
18 notarial act, and if the notarization was done
19 electronically, it shall also include whether the
20 electronic notarial act was performed using audio-video
21 communication;

22 (2) the date and time of the notarization or
23 electronic notarization;

24 (3) the type of notarial act and whether the act was
25 performed as a traditional notarial act or an electronic

1 notarial act;

2 (4) the type, the title, or a description of the
3 document, proceeding, or electronic document or electronic
4 proceeding;

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

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

9 (A) a statement that the person is personally
10 known to the notary public;

11 (B) a notation of the type of identification
12 document provided to the notary public;

13 (C) a record of the identity verification made
14 under paragraph (3) of subsection (d) of Section
15 6A-103, if applicable, and if the notarial act was
16 performed electronically; and

17 (D) The following:

18 (i) the printed name and address of each
19 credible witness swearing to or affirming the
20 person's identity; and

21 (ii) for each credible witness not personally
22 known to the notary or electronic notary, a
23 description of the type of identification
24 documents or identification verification provided
25 to the notary or electronic notary;

26 (7) if a notarial act is performed electronically, the

1 journal shall also include a recording of any audio-video
2 recording that is the basis for satisfactory evidence of
3 identity and a notation of the type of identification
4 presented as evidence; and

5 (8) the fee, if any, charged for the notarization or
6 electronic notarization.

7 (c) A notary or electronic notary shall:

8 (1) maintain and protect the journal at all times
9 under his or her sole control and surrender or destroy the
10 journal only by rule of law, by court order, or at the
11 direction of the Secretary of State;

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

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

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

18 (5) ensure the integrity, security, and authenticity
19 of the journal;

20 (6) maintain a backup of any journal maintained
21 electronically; and

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

24 (d) A notary or electronic notary may maintain his or her
25 journal in either paper form or electronic form and may
26 maintain more than one journal or electronic journal to record

1 notarial acts or electronic notarial acts.

2 (e) The fact that the employer or contractor of a notary or
3 electronic notary keeps a record of notarial acts or
4 electronic notarial acts does not relieve the notary public of
5 the duties required by this Section. A notary public or
6 electronic notary public shall not surrender the journal to an
7 employer upon termination of employment and an employer shall
8 not retain the journal of an employee when the employment of
9 the notary public or electronic notary public ceases.

10 (f) The Secretary of State may suspend the commission of a
11 notary or electronic notary who fails to produce any journal
12 entry within 10 days after receipt of a request from the
13 Secretary of State.

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

17 (h) Upon surrender, revocation, or expiration of a
18 commission as a notary or electronic notary, all notarial
19 records or electronic notarial records required under this
20 section, except as otherwise provided by law, must be kept by
21 the notary public or electronic notary for a period of 5 years
22 after the termination of the registration of the notary public
23 or electronic notary public.

24 (i) If the journal of a notary public or electronic notary
25 public is lost, stolen, or compromised, the notary or
26 electronic notary shall notify the Secretary of State on

1 discovery of the loss, theft, or breach of security.

2 (5 ILCS 312/4-101) (from Ch. 102, par. 204-101)

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

5 (a) When any notary public legally changes his or her
6 name, changes his or her residential address or business
7 address, or email address, without notifying the Index
8 Department of the Secretary of State in writing within 30 days
9 thereof, or, if the notary public is a resident of a state
10 bordering Illinois, no longer maintains a principal place of
11 work or principal place of business in the same county in
12 Illinois in which he or she was commissioned, the commission
13 of that notary ceases to be in effect. When the commission of a
14 notary public ceases to be in effect, his or her notarial seal
15 or electronic notary seal shall be surrendered to the
16 Secretary of State, and his or her certificate of notarial
17 commission or certificate of electronic notarial commission
18 shall be destroyed. These individuals who desire to again
19 become a notary public must file a new application, bond, and
20 oath with the Secretary of State.

21 (b) Any change to the information submitted by an
22 electronic notary public in registering to perform electronic
23 notarial acts in compliance with any Section of this Act shall
24 be reported by the notary within 30 business days to the
25 Secretary of State.

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

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

6 (5 ILCS 312/5-101) (from Ch. 102, par. 205-101)

7 Sec. 5-101. Reappointment. No person is automatically
8 reappointed as a notary public or electronic notary public. At
9 least 60 days prior to the expiration of a commission, the
10 Secretary of State shall mail notice of the expiration date to
11 the holder of a commission. Every notary public or electronic
12 notary public who is an applicant for reappointment shall
13 comply with the provisions of Article II of this Act.

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

15 (5 ILCS 312/5-102) (from Ch. 102, par. 205-102)

16 Sec. 5-102. Solicitation to Purchase Bond. No person shall
17 solicit any notary public and offer to provide a surety bond
18 more than 60 days in advance of the expiration date of the
19 ~~notary public's~~ commission of a notary public or electronic
20 notary public.

21 Nor shall any person solicit any applicant for a
22 commission or reappointment thereof and offer to provide a
23 surety bond for the notary commission unless any such
24 solicitation specifically sets forth in bold face type not

1 less than 1/4 inch in height the following: "WE ARE NOT
2 ASSOCIATED WITH ANY STATE OR LOCAL GOVERNMENTAL AGENCY".

3 Whenever it shall appear to the Secretary of State that
4 any person is engaged or is about to engage in any acts or
5 practices which constitute or will constitute a violation of
6 the provisions of this Section, the Secretary of State may, in
7 his discretion, through the Attorney General, apply for an
8 injunction, and, upon a proper showing, any circuit court
9 shall have power to issue a permanent or temporary injunction
10 or restraining order without bond to enforce the provisions of
11 this Act, and either party to such suit shall have the right to
12 prosecute an appeal from the order or judgment of the court.

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

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

18 (5 ILCS 312/6-102) (from Ch. 102, par. 206-102)

19 Sec. 6-102. Notarial Acts.

20 (a) In taking an acknowledgment, the notary public must
21 determine, either from personal knowledge or from satisfactory
22 evidence, that the person appearing before the notary and
23 making the acknowledgment is the person whose true signature
24 is on the instrument.

25 (b) In taking a verification upon oath or affirmation, the

1 notary public must determine, either from personal knowledge
2 or from satisfactory evidence, that the person appearing
3 before the notary and making the verification is the person
4 whose true signature is on the statement verified.

5 (c) In witnessing or attesting a signature, the notary
6 public must determine, either from personal knowledge or from
7 satisfactory evidence, that the signature is that of the
8 person appearing before the notary and named therein.

9 (d) A notary public has satisfactory evidence that a
10 person is the person whose true signature is on a document if
11 that person:

12 (1) is personally known to the notary;

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

15 (3) is identified on the basis of identification
16 documents. Identification documents are documents that are
17 valid at the time of the notarial act, issued by a state
18 agency, federal government agency, or consulate, and
19 bearing the photographic image of the individual's face
20 and signature of the individual.

21 (e) A notary public or electronic notary public shall have
22 no obligation to perform any notarial or electronic notarial
23 act, and may refuse to perform a notarial or electronic
24 notarial act without further explanation.

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

1 (5 ILCS 312/6-104) (from Ch. 102, par. 206-104)

2 Sec. 6-104. Acts prohibited.

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

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

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

11 (d) A notary public shall not take the acknowledgment of
12 or administer an oath to any person whom the notary actually
13 knows to have been adjudged mentally ill by a court of
14 competent jurisdiction and who has not been restored to mental
15 health as a matter of record.

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

19 (f) A notary public shall not take the acknowledgment of
20 any person who does not speak or understand the English
21 language, unless the nature and effect of the instrument to be
22 notarized is translated into a language which the person does
23 understand.

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

26 (h) No notary public shall be authorized to prepare any

1 legal instrument, or fill in the blanks of an instrument,
2 other than a notary certificate; however, this prohibition
3 shall not prohibit an attorney, who is also a notary public,
4 from performing notarial acts for any document prepared by
5 that attorney.

6 (i) If a notary public accepts or receives any money from
7 any one to whom an oath has been administered or on behalf of
8 whom an acknowledgment has been taken for the purpose of
9 transmitting or forwarding such money to another and willfully
10 fails to transmit or forward such money promptly, the notary
11 is personally liable for any loss sustained because of such
12 failure. The person or persons damaged by such failure may
13 bring an action to recover damages, together with interest and
14 reasonable attorney fees, against such notary public or his
15 bondsmen.

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

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

25 (l) A notary public shall not represent himself or herself
26 as an electronic notary public if the person has not been

1 commissioned as an electronic notary public by the Secretary
2 of State.

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

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

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

13 (5 ILCS 312/Art. VI-A heading new)

14 ARTICLE VI-A

15 ELECTRONIC NOTARIAL ACTS AND FORMS

16 (5 ILCS 312/6A-101 new)

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

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

21 (b) An electronic notarization system requiring enrollment
22 shall enroll only persons commissioned as electronic notaries
23 public by the Secretary of State.

24 (c) An electronic notarization vendor shall take

1 reasonable steps to ensure that an electronic notary public
2 who has enrolled to use the system has the knowledge to use it
3 to perform electronic notarial acts in compliance with this
4 Act.

5 (d) A provider of an electronic notarization system
6 requiring enrollment shall notify the Secretary of State of
7 the name of each electronic notary public who enrolls in the
8 system within 5 days after enrollment by means prescribed by
9 rule by the Secretary of State.

10 (e) An electronic notarization system shall require access
11 to the system by a password or other secure means of
12 authentication.

13 (f) An electronic notarization system shall enable an
14 electronic notary public to affix the electronic notary's
15 electronic signature in a manner that attributes such
16 signature to the electronic notary.

17 (g) An electronic notarization system shall render every
18 electronic notarial act tamper evident.

19 (h) An electronic notary public shall not use an
20 electronic notarization if:

21 (1) the electronic notary cannot competently operate
22 the electronic notarization system; or

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

1 (5 ILCS 312/6A-102 new)

2 Sec. 6A-102. Electronic notary not liable for system
3 failure. An electronic notary public who exercised reasonable
4 care enrolling in and using an electronic notarization system
5 shall not be liable for any damages resulting from the
6 system's failure to comply with the requirements of this Act.
7 Any provision in a contract or agreement between the
8 electronic notary public and provider that attempts to waive
9 this immunity shall be null, void, and of no effect.

10 (5 ILCS 312/6A-103 new)

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

12 (a) An electronic notary public:

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

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

17 (3) may perform an electronic notarization authorized
18 under this Article.

19 (b) In performing an electronic notarization, an
20 electronic notary public shall verify the identity of a person
21 creating an electronic signature at the time that the
22 signature is taken by using two-way audio and video conference
23 technology that meets the requirements of this Act and rules
24 adopted under this Article. For the purposes of performing an
25 electronic notarial act for a person using audio-video

1 communication, an electronic notary public has satisfactory or
2 documentary evidence of the identity of the person if the
3 electronic notary public confirms the identity of the person
4 by:

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

7 (2) each of the following:

8 (A) remote presentation by the person creating the
9 electronic signature of a government-issued
10 identification credential, including a passport or
11 driver's license, that contains the signature and a
12 photograph of the person;

13 (B) credential analysis of the front and back of
14 the government-issued identification credential and
15 the data thereon; and

16 (C) a dynamic knowledge-based authentication
17 assessment.

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

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

24 (1) the technology must allow the persons
25 communicating to see and speak to each other
26 simultaneously;

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

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

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

5 (f) The electronic notarial certificate for an electronic
6 notarization must include a notation that the notarization is
7 an electronic notarization.

8 (g) When performing an electronic notarization, an
9 electronic notary public shall complete an electronic notarial
10 certificate and attach or logically associate the electronic
11 notary's electronic signature and seal to that certificate in
12 a tamper evident manner. Evidence of tampering pursuant to
13 this standard may be used to determine whether the electronic
14 notarial act is valid or invalid.

15 (h) The liability, sanctions, and remedies for improper
16 performance of electronic notarial acts are the same as
17 described and provided by law for the improper performance of
18 non-electronic notarial acts as described under Section 7-108.

19 (i) Electronic notarial acts need to fulfill certain basic
20 requirements to ensure non-repudiation and the capability of
21 being authenticated by the Secretary of State for purposes of
22 issuing apostilles and certificates of authentication. The
23 requirements are as follows:

24 (1) the fact of the electronic notarial act, including
25 the electronic notary's identity, signature, and
26 electronic commission status, must be verifiable by the

1 Secretary of State; and

2 (2) the notarized electronic document will be rendered
3 ineligible for authentication by the Secretary of State if
4 it is improperly modified after the time of electronic
5 notarization, including any unauthorized alterations to
6 the document content, the electronic notarial certificate,
7 the electronic notary public's electronic signature, or
8 the electronic notary public's official electronic seal.

9 (5 ILCS 312/6A-104 new)

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

11 (a) An electronic notary public shall arrange for a
12 recording to be made of each electronic notarial act performed
13 using audio-video communication. The audio-video recording
14 required by this Section shall be in addition to the journal
15 entry for the electronic notarial act required by Section
16 3-107. Before performing any electronic notarial act using
17 audio-video communication, the electronic notary public must
18 inform all participating persons that the electronic
19 notarization will be electronically recorded.

20 (b) If the person for whom the electronic notarial act is
21 being performed is identified by personal knowledge, the
22 recording of the electronic notarial act must include an
23 explanation by the electronic notary public as to how he or she
24 knows the person and how long he or she has known the person.

25 (c) If the person for whom the electronic notarial act is

1 being performed is identified by a credible witness:

2 (1) the credible witness must appear before the
3 electronic notary public; and

4 (2) the recording of the electronic notarial act must
5 include:

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

9 (B) an explanation by the credible witness as to
10 how he or she knows the person for whom the electronic
11 notarial act is being performed and how long he or she
12 has known the person.

13 (d) An electronic notary public shall keep a recording
14 made pursuant to this Section for a period of not less than 7
15 years, regardless of whether the electronic notarial act was
16 actually completed.

17 (e) An electronic notary public who performs an electronic
18 notarial act for a principal by means of audio-video
19 communication shall be located within the State of Illinois at
20 the time the electronic notarial act is performed. The
21 electronic notary public shall include a statement in the
22 electronic notarial certificate to indicate that the
23 electronic notarial act was performed by means of audio-video
24 communication. The statement may also be included in the
25 electronic notarial seal.

26 (f) The remote electronic notarization system used to

1 perform electronic notarial acts by means of audio-video
2 communication shall:

3 (1) provide sufficient audio clarity and video
4 resolution to enable the electronic notary public and the
5 principal to see and speak to each other simultaneously
6 through live, real time transmission;

7 (2) include a means of authentication that reasonably
8 ensures only the proper parties have access to the
9 audio-video communication;

10 (3) provide some manner of ensuring that the
11 electronic record that is presented for electronic
12 notarization is the same record electronically signed by
13 the principal;

14 (4) enable the electronic notary public to verify the
15 identity of the principal through multiple identity
16 verification methods, which may include: (i) completion of
17 a dynamic knowledge-based authentication assessment; (ii)
18 credential analysis of a remotely presented
19 government-issued identification that contains the
20 signature and a photograph of the principal; (iii) a valid
21 public key certificate; or (iv) any other identity
22 proofing method adopted by the commissioning official;

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

25 (6) provide reasonable security measures to prevent
26 unauthorized access to: (i) the live transmission of the

1 audio-video communication; (ii) a recording of the
2 audio-video communication; (iii) the verification methods
3 and credentials used to verify the identity of the
4 principal; and (iv) the electronic documents presented for
5 electronic notarization.

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

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

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

13 (3) be satisfied that any electronic record that is
14 electronically signed, acknowledged, or otherwise
15 presented for electronic notarization by the principal is
16 the same record electronically signed by the electronic
17 notary;

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

22 (5) identify the venue for the electronic notarial act
23 as the jurisdiction within Illinois where the notary is
24 physically located while performing the act.

25 (h) An electronic notarization system used to perform
26 electronic notarial acts by means of audio-video communication

1 shall:

2 (1) require the electronic notary public, the
3 principal, and any required witness to access the system
4 through an authentication procedure that is reasonably
5 secure from unauthorized access;

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

10 (3) provide reasonable certainty that the electronic
11 notary public, principal, and any required witness are
12 viewing the same electronic record and that all
13 signatures, changes, and attachments to the electronic
14 record are made in real time; and

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

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

20 (1) at the commencement of the recording, a recitation
21 by the electronic notary public of information sufficient
22 to identify the electronic notarial act;

23 (2) a declaration by the principal that the
24 principal's electronic signature on the record was
25 knowingly and voluntarily made;

26 (3) all actions and spoken words of the principal,

1 notary public, and any required witness during the entire
2 electronic notarial act; and

3 (4) at the discretion of the principal, an accurate
4 and complete image of the entire electronic record that
5 was viewed and electronically signed by the principal and
6 the electronic notary public.

7 (j) The provisions of Section 3-107 related respectively
8 to security, inspection, copying, and disposition of the
9 journal shall also apply to security, inspection, copying, and
10 disposition of audio-video recordings required by this
11 Section.

12 (5 ILCS 312/6A-105 new)

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

14 (a) An electronic notarial act must be evidenced by an
15 electronic notarial certificate signed and dated by the
16 electronic notary public. The electronic notarial certificate
17 must include identification of the jurisdiction in which the
18 electronic notarial act is performed and the electronic seal
19 of the electronic notary public.

20 (b) An electronic notarial certificate of an electronic
21 notarial act is sufficient if it meets the requirements of
22 subsection (a) and it:

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

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

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

4 (c) At the time of an electronic notarial act, an
5 electronic notary public shall officially sign every
6 electronic notarial certificate and electronically affix the
7 electronic seal clearly and legibly, so that it is capable of
8 photographic reproduction. The illegibility of any of the
9 information required under this Section does not affect the
10 validity of a transaction.

11 (5 ILCS 312/6A-106 new)

12 Sec. 6A-106. Electronic acknowledgments; physical
13 presence.

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

16 (1) being in the same physical location as the other
17 person and close enough to see, hear, communicate with,
18 and exchange tangible identification credentials with that
19 person; or

20 (2) being outside the physical presence of the other
21 person, but interacting with the other person by means of
22 communication technology.

23 (b) If the acknowledging person is outside the physical
24 presence of the person taking the acknowledgment, the
25 certification of acknowledgment must indicate that the

1 notarial act was performed by means of communication
2 technology. A form of certificate of acknowledgment as
3 provided by the Secretary of State, which may include the use
4 of a remote online notarial certificate, is sufficient for
5 purposes of this subsection (b) if it substantially reads as
6 follows: "The foregoing instrument was acknowledged before me
7 by means of communication technology this (date) by...(each
8 form continued as sufficient for its respective purposes.)".

9 (5 ILCS 312/7-106) (from Ch. 102, par. 207-106)

10 Sec. 7-106. Willful Impersonation.

11 (a) Any person who acts as, or otherwise willfully
12 impersonates, a notary public while not lawfully appointed and
13 commissioned to perform notarial acts is guilty of a Class A
14 misdemeanor.

15 (b) Any notary public or other person who is not an
16 electronic notary public that impersonates an electronic
17 notary public to perform electronic notarial acts is guilty of
18 a Class A misdemeanor.

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

20 (5 ILCS 312/7-107) (from Ch. 102, par. 207-107)

21 Sec. 7-107. Wrongful Possession.

22 (a) No person may unlawfully possess, obtain, conceal,
23 damage, or destroy a notary's official seal. Any person who
24 unlawfully possesses a notary's official seal is guilty of a

1 ~~misdemeanor and punishable upon conviction by a fine not~~
2 ~~exceeding \$1,000.~~

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

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

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

11 (5 ILCS 312/7-108) (from Ch. 102, par. 207-108)

12 Sec. 7-108. Reprimand, suspension, and revocation of
13 commission.

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

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

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

24 (3) is a licensed attorney and has been sanctioned,
25 suspended, or disbarred by the Illinois Attorney

1 Registration and Disciplinary Commission.

2 (b) Whenever the Secretary of State believes that a
3 violation of this Article has occurred, he or she may
4 investigate any such violation. The Secretary may also
5 investigate possible violations of this Article upon a signed
6 written complaint on a form designated by the Secretary.

7 (c) A notary's failure to cooperate or respond to an
8 investigation by the Secretary of State is a failure by the
9 notary to fully and faithfully discharge the responsibilities
10 and duties of a notary and shall result in suspension or
11 revocation of the notary's commission or the electronic
12 notary's commission.

13 (d) All written complaints which on their face appear to
14 establish facts which, if proven true, would constitute an act
15 of misrepresentation or fraud in notarization or electronic
16 notarization, or misrepresentation or fraud on the part of the
17 notary, shall be investigated by the Secretary of State to
18 determine whether cause exists to reprimand, suspend, or
19 revoke the commission of the notary.

20 (e) The Secretary of State may deliver a written official
21 warning and reprimand to a notary, or may revoke or suspend a
22 notary's commission or an electronic notary's commission, for
23 any of the following:

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

26 (2) any ground for which an application for

1 appointment as a notary may be denied for failure to
2 complete application requirements as provided under
3 Section 2-102;

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

6 (4) a violation of any provision of the general
7 statutes.

8 (f) After investigation and upon a determination by the
9 Secretary of State that one or more prohibited acts have been
10 performed in the notarization or electronic notarization of a
11 document, the Secretary shall, after considering the extent of
12 the prohibited act and the degree of culpability of the
13 notary, order one or more of the following courses of action:

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

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

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

19 (4) refer the allegations to the appropriate State's
20 Attorney's Office or the Attorney General for criminal
21 investigation; or

22 (5) refer the allegations to the Illinois Attorney
23 Registration and Disciplinary Commission for disciplinary
24 proceedings.

25 (g) After a notary receives notice from the Secretary of
26 State that his or her commission has been revoked, that notary

1 shall immediately deliver his or her official seal to the
2 Secretary. After an electronic notary public receives notice
3 from the Secretary of State that his or her electronic
4 commission has been revoked, the electronic notary public
5 shall immediately notify the electronic notary's chosen
6 technology provider, and to the extent possible, destroy or
7 remove the software used for electronic notarizations.

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

12 (i) A notary may voluntarily resign from appointment by
13 notifying the Secretary of State in writing of his or her
14 intention to do so, and by physically returning his or her
15 stamp to the Secretary. An electronic notary public may
16 voluntarily resign from appointment by notifying the Secretary
17 of State in writing of his or her intention to do so, and by
18 notifying the electronic notary's chosen technology provider,
19 and to the extent possible, destroy or remove the software
20 used for electronic notarizations. A voluntary resignation
21 shall not stop or preclude any investigation into a notary's
22 conduct, or prevent further suspension or revocation by the
23 Secretary, who may pursue any such investigation to a
24 conclusion and issue any finding.

25 (j) Upon a determination by a sworn law enforcement
26 officer that the allegations raised by the complaint are

1 founded, and the notary has received notice of suspension or
2 revocation from the Secretary of State, the notary is entitled
3 to an administrative hearing.

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

7 (l) Any revocation, resignation, expiration, or suspension
8 of the commission of a notary public terminates or suspends
9 any commission to notarize electronically.

10 (m) A notary public may terminate registration to notarize
11 electronically and maintain his or her underlying notary
12 public commission.

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

14 (5 ILCS 312/7-110 new)

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

16 (a) The validity of any notarization, including an
17 electronic notarization, shall be determined by applying the
18 laws of this State, regardless of the physical location of the
19 principal at the time of a remote notarization.

20 (b) An electronic notary public authorized to perform
21 electronic notarizations is subject to and must comply with
22 this Act.

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

1 Section 10. The State Finance Act is amended by adding
2 Section 5.935 as follows:

3 (30 ILCS 105/5.935 new)

4 Sec. 5.935. The Electronic Notarization Fund.

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

8 (765 ILCS 33/2)

9 Sec. 2. Definitions. In this Act:

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

11 (A) inscribed on a tangible medium or that is
12 stored in an electronic or other medium and is
13 retrievable in perceivable form; and

14 (B) eligible to be recorded in the land records
15 maintained by the county recorder.

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

19 (3) "Electronic document" means a document created,
20 generated, sent, communicated, received, or stored by
21 electronic means ~~that is received by the recorder in an~~
22 ~~electronic form.~~

23 (4) "Electronic signature" means an electronic sound,

1 symbol, or process attached to or logically associated
2 with a document and executed or adopted by a person with
3 the intent to sign the document.

4 (5) "Person" means an individual, corporation,
5 business trust, estate, trust, partnership, limited
6 liability company, association, joint venture, public
7 corporation, government, or governmental subdivision,
8 agency, or instrumentality, or any other legal or
9 commercial entity.

10 (6) "State" means a state of the United States, the
11 District of Columbia, Puerto Rico, the United States
12 Virgin Islands, or any territory or insular possession
13 subject to the jurisdiction of the United States.

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

15 (8) "Commission" means the Illinois Electronic
16 Recording Commission.

17 Any notifications required by this Act must be made in
18 writing and may be communicated by certified mail, return
19 receipt requested or electronic mail so long as receipt is
20 verified.

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

22 (765 ILCS 33/3.5 new)

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

24 (a) A paper or tangible copy of an electronic document
25 that a notary public has certified to be a true and correct

1 copy under subsection (b) satisfies any requirement of law
2 that, as a condition for recording, the document:

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

4 (2) be signed or contain an original signature, if the
5 document contains an electronic signature of the person
6 required to sign the document; and

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

11 (b) A notary public duly appointed and commissioned under
12 Section 2-101 of the Illinois Notary Public Act may certify
13 that a paper or tangible copy of an electronic document is a
14 true and correct copy of the electronic document if the notary
15 public has:

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

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

20 (3) personally printed or supervised the printing of
21 the electronic document onto paper or other tangible
22 medium; or

23 (4) not made any changes or modifications to the
24 electronic document or to the paper or tangible copy
25 thereof other than the certification described in this
26 subsection (b).

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

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

8 "State of

9 County of

10 On this (date), I certify that the foregoing and annexed
 11 document [entitled ,] (and) containing
 12 pages is a true and correct copy of an electronic document
 13 printed by me or under my supervision. I further certify that,
 14 at the time of printing, no security features present on the
 15 electronic document indicated any changes or errors in an
 16 electronic signature or other information in the electronic
 17 document since its creation or execution.

18

19 (Signature of Notary Public)

20 (Seal) "

21 (f) If a notarial certificate is attached to or made a part
 22 of a paper or tangible document, the certificate is prima

1 facie evidence that the requirements of subsection (c) have
2 been satisfied with respect to the document.

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

8 (h) This Section does not apply to any map or plat governed
9 by the Plat Act, the Judicial Plat Act, or the Permanent Survey
10 Act, or to any monument record governed by the Land Survey
11 Monuments Act.

12 Section 99. Effective date. This Act takes effect on the
13 later of the following:

14 (1) January 1, 2022; or

15 (2) the date on which the Office of the Secretary of
16 State files with the Index Department of the Office of the
17 Secretary of State a notice that the Office of the
18 Secretary of State has adopted the rules necessary to
19 implement this Act. Upon the filing of the notice, the
20 Index Department shall provide a copy of the notice to the
21 Legislative Reference Bureau.

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| 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 | |
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| 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 |
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