

AN ACT concerning government.

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

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

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

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

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

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

act of the individual or entity identified in the record.

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

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

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

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

"Dynamic knowledge based authentication assessment" means an identity assessment that is based on a set of questions formulated from public or private data sources for which the person taking the assessment has not previously provided an answer that meets any rules adopted by the Secretary of State.

"Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical,

electromagnetic, or similar capabilities.

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

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

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

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

- (1) the electronic notary public's electronic signature, electronic seal, title, and commission expiration date;
- (2) other required information concerning the date and placement of the electronic notarization; and
- (3) the facts attested to or certified by the electronic notary public in the particular notarization.

"Electronic notarial certificate" includes the form of an acknowledgment, jurat, verification on oath or affirmation, or verification of witness or attestation that is completed

remotely by an electronic notary public and:

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

(2) contains other required information concerning the date and place of the electronic notarization;

(3) otherwise conforms to the requirements for an acknowledgment, jurat, verification on oath or affirmation, or verification of witness or attestation under the laws of this State; and

(4) indicates that the person making the acknowledgment, oath, or affirmation appeared.

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

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

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

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

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

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

"Identity proofing" means a process or service operating according to criteria approved by the Secretary of state through which a third person affirms the identity of an individual through review of personal information from public and proprietary data sources, including (a) by means of dynamic knowledge-based authentication, such as a review of personal information from public or proprietary data sources; or (b) by means of analysis of biometric data, such as, but not limited to, facial recognition, voiceprint analysis, or fingerprint analysis.

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

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

(2) being in a different physical location from another

person, but able to see, hear, and communicate with the person by means of audio-video communication that meets any rules adopted by the Secretary of State.

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

"Notary public" or "notary" means an individual commissioned to perform notarial acts.

"Notarization" means the performance of a notarial act.

"Outside the United States" means a location outside of the geographic boundaries of a state or commonwealth of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory, or insular possession, or other location subject to the jurisdiction of the United States.

"Principal" means an individual:

- (1) whose signature is notarized; or
- (2) taking an oath or affirmation from the notary but not in the capacity of a witness for the notarization.

"Public key certificate" means an electronic credential which is used to identify an individual who signed an

electronic record with the certificate.

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

"Remote notarial act" means a notarial act that is done by way of audio-video communication technology that allows for direct, contemporaneous interaction between the individual signing the document (the signatory) and the witness by sight and sound but that requires the notary public to use his or her physical stamp and seal to notarize the document without the aid of an electronic seal or signature.

"Remote notary public" means any notary public that performs a remote notarial act.

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

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

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

~~commissioned to perform notarial acts.~~

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

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

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

(5 ILCS 312/1-106 new)

Sec. 1-106. Electronic Notarization Fund. The Electronic Notarization Fund is created as a special fund in the State treasury. Moneys in the Electronic Notarization Fund during the preceding calendar year, shall be distributed, subject to appropriation, to the Secretary of State to fund the Department of Index's implementation and maintenance of the electronic notarization commissions. This Section is effective on and after July 1, 2022.

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

Sec. 2-101. Appointment.

(a) The Secretary of State may appoint and commission as notaries public for a 4-year term as many persons resident in a county in this State as he deems necessary. The Secretary of State may appoint and commission as notaries public for a one-year term as many persons who are residents of a state

bordering Illinois whose place of work or business is within a county in this State as the Secretary deems necessary, but only if the laws of that state authorize residents of Illinois to be appointed and commissioned as notaries public in that state.

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

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

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

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

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

she is reappointed.

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

(5 ILCS 312/2-101.5 new)

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

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

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

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

(b) The Secretary of State shall have the authority to adopt administrative rules mandating a course of study and examination and establishing the course of study content, length of the course of study to be required, and to approve any course of study providers.

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

Sec. 2-102. Application.

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

stating:

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

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

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

(4) the applicant's e-mail address;

(5) ~~(e-5)~~ the applicant's business address if different than the applicant's residence address, if performing notarial acts constitutes any portion of the applicant's job duties;

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

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

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

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

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

(11) ~~(i)~~ that the applicant has not been convicted of
a felony;

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

(13) that the applicant has provided satisfactory
proof to the Secretary of State that the applicant has
successfully completed any required course of study on
notarization; and

(14) ~~(j)~~ any other information the Secretary of State
deems necessary.

(b) Any notary appointed under subsection (a) shall have
the authority to conduct remote notarizations.

(c) Application for electronic notary public commission.
An application for an electronic notary public commission must
be filed with the Secretary of State in a manner prescribed by
the Secretary of State. Every applicant for appointment and

commission as an electronic notary public shall complete an application to be filed with the Secretary of State, stating:

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

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

(3) the applicant's email address;

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

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

(6) the electronic signature of the applicant; and

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

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

(e) Approval of commission. Upon the applicant's fulfillment of the requirements for a notarial commission or an electronic notary public commission, the Secretary of State shall approve the commission and issue to the applicant a unique commission number.

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

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

(5 ILCS 312/2-102.5)

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

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

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

(c) The Secretary of State may cross reference information provided by applicants with that contained in the Secretary of State's driver's license and Illinois Identification Card databases in order to match the information submitted by applicants, and may receive from those databases the

applicant's digitized signature upon a successful match of the applicant's information with that information contained in the databases.

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

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

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

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

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

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

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

(3) I authorize the Secretary of State to utilize my

signature on file with the Secretary of State driver's license and Illinois Identification Card databases and understand that such signature will be used on this online ~~notary public~~ application for appointment and commission as a notary public or electronic notary as if I had signed this form personally."

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

(f) Immediately upon receiving a completed online ~~notary public~~ application, the online system shall send by electronic mail a confirmation notice that the application has been received. Upon completion of the procedure outlined in subsection (c) of this Section, the online ~~notary public~~ application system shall send by electronic mail a notice informing the applicant of whether the following information has been matched with the Secretary of State driver's license and Illinois Identification Card databases:

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

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

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

(4) that the residence address provided by the applicant matches the residence address for that person on file with the Secretary of State; ~~and~~

(5) the last 4 digits of the applicant's social security number.

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

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

(5 ILCS 312/2-102.6 new)

Sec. 2-102.6. Database of notaries public. The Secretary of State may maintain a database of notaries public on a

publicly-accessible website which: (1) any interested person may use to verify the authority and good standing of a listed individual to perform notarial acts; (2) indicates whether a notary holds a valid electronic commission and is able to lawfully perform electronic notarial acts; and (3) describes any administrative or disciplinary action taken against the notary by the Secretary of State.

(5 ILCS 312/2-102.7 new)

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

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

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

(c) The Secretary of State shall adopt rules applicable to this Section, setting forth the standards electronic notary

platforms must achieve to be approved for use in the State of Illinois and requirements with which vendors of electronic notary platforms must comply.

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

Sec. 2-103. Appointment Fee.

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

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

(c) The changes made to this Section by this amendatory Act of the 102nd General Assembly are effective on and after July 1, 2022.

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

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

Sec. 2-104. Oath.

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

"I, (name of applicant), solemnly affirm, under the

penalty of perjury, that the answers to all questions in this application are true, complete, and correct; that I have carefully read the notary law of this State; and that, if appointed and commissioned as a notary public, I will perform faithfully, to the best of my ability, all notarial acts in accordance with the law."

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

" (Signature of applicant)

State of Illinois

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

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

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

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

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

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

Sec. 2-105. Bond.

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

(b) A notary public that performs notarizations either remotely or electronically and by means of audio-video communication shall obtain and maintain a surety bond in the amount of \$25,000 from a surety or insurance company licensed to do business in this State, and this bond shall be exclusively conditioned on the faithful performance of remote notarial acts or electronic notarial acts by means of audio-video communication. When a notary is required to hold both the \$5,000 bond and the \$25,000 bond, one bond totaling \$30,000 shall satisfy the provisions of this Section.

(c) The bonding company issuing the bond to a notary public or an electronic notary public shall submit verification of the bond information for the notary to the Secretary of State in a format prescribed by the Secretary of

State.

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

(5 ILCS 312/2-107)

Sec. 2-107. Notary public remittance agent.

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

(b) The Secretary of State shall adopt rules describing the requirements for a notary public remittance agent to be licensed in the State of Illinois. ~~The standards to qualify for licensure as a notary public remittance agent shall include, but not be limited to, the following:~~

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

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

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

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

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

(e) The agent shall not issue a notary seal or notary stamp to the notary applicant until sufficient evidence has been received that the notary applicant has received a commission from the Secretary of State.

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

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

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

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

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

(a) Notary public official seal. Each notary public shall, upon receiving the notary commission from the Secretary of State ~~county clerk~~, obtain an official rubber stamp seal with which the notary shall authenticate his or her official acts. The rubber stamp seal shall contain the following information:

- (1) the words "Official Seal";
- (2) the notary's official name;
- (3) the words "Notary Public", "State of Illinois", and "My commission expires (commission expiration date)"; and

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

(b) (Blank).

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

- (1) the electronic signature of the electronic notary public;
- (2) the electronic seal of the electronic notary public, which shall look identical to a traditional notary public seal;
- (3) the words "Notary Public", "State of Illinois",

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

and

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

(c) Registered devices. An electronic notary shall register his or her chosen device with the Secretary of State before first use. Thereafter, electronic notary public shall take reasonable steps to ensure that any registered device used to create an electronic seal or electronic signature is current and has not been revoked or terminated by the device's issuing or registering authority. Upon learning that the technology or device used to create his or her electronic signature has been rendered ineffective or unsecure, an electronic notary public shall cease performing electronic notarial acts until:

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

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

(d) Electronic signature and seal security.

(1) An electronic notary public shall keep the electronic notary public's electronic signature and electronic seal secure and under the notary public's

exclusive control. The electronic notary public shall not allow another person to use his or her electronic signature or electronic seal.

(2) An electronic notary public shall notify an appropriate law enforcement agency, the vendor of the electronic notary technology, and the Secretary of State no later than the next business day after the theft, compromise, or vandalism of the electronic notary public's electronic signature or electronic seal.

(3) The electronic notary public shall not disclose any access information used to affix the electronic notary public's signature and seal except when requested by law enforcement.

(e) Certificate of electronic notarial act. An electronic notary public shall attach his or her electronic signature and electronic seal with the electronic notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic document evident.

(f) The Secretary of State shall have the authority to adopt administrative rules to implement this Section.

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

(5 ILCS 312/3-101.5 new)

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

public.

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

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

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

(2) it is capable of independent verification;

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

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

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

(6) the technology adheres to any other standards or requirements set by the Secretary of State in administrative rule.

(c) The electronic notary public shall be prohibited from selling or transferring personal information learned through the course of an electronic notarization, except when required

by law, law enforcement, the Secretary of State or court order.

(d) The Secretary of State shall have the authority to adopt administrative rules to implement this Section.

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

Sec. 3-103. Notice.

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

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

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

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

(c) No notary public, agency or any other person who is not an attorney shall represent, hold themselves out or advertise

that they are experts on immigration matters or provide any other assistance that requires legal analysis, legal judgment, or interpretation of the law unless they are a designated entity as defined pursuant to Section 245a.1 of Part 245a of the Code of Federal Regulations (8 CFR 245a.1) or an entity accredited by the Board of Immigration Appeals.

(c-5) In addition to the notice required under subsection (a), every notary public who is subject to subsection (a) shall, prior to rendering notary services or electronic notary services, provide any person seeking notary or electronic notary services services with a written acknowledgment that substantially states, in English and the language used in the advertisement for notary services the following: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS. I AM NOT ALLOWED TO DRAFT LEGAL DOCUMENTS OR RECORDS, NOR MAY I GIVE LEGAL ADVICE ON ANY MATTER OR ACCEPT OR CHARGE FEES FOR THE PERFORMANCE OF THOSE ACTIVITIES". The Office of the Secretary of State shall translate this acknowledgement into Spanish and any other language the Secretary of State may deem necessary to achieve the requirements of this subsection (c-5), and shall make the translations available on the website of the Secretary of State. This acknowledgment shall be signed by the recipient of notary services or electronic notary services before notary services or electronic notary services are rendered, and the notary shall retain copies of all signed acknowledgments throughout their present commission and for 2

years thereafter. Notaries shall provide recipients of notary services or electronic notary services with a copy of their signed acknowledgment at the time services are rendered. This provision shall not apply to notary services or electronic notary services related to documents prepared or produced in accordance with the Illinois Election Code.

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

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

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

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

(f) Violation of subsection (e) is a business offense punishable by a fine of 3 times the amount received for services, or \$1,001 minimum, and restitution of the amount paid to the consumer. Nothing in this Section shall be

construed to preempt nor preclude additional appropriate civil remedies or criminal charges available under law.

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

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

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

Sec. 3-104. Maximum Fee.

(a) Except as otherwise provided in this subsection (a) ~~provided in subsection (b) of this Section,~~ the maximum fee for non-electronic notarization in this State is \$5 ~~\$1.00~~ for any notarial act performed and, ~~until July 1, 2018,~~ up to \$25 for any notarial act performed pursuant to Section 3-102.

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

- (1) \$10 per form completion;
- (2) \$10 per page for the translation of a non-English

language into English where such translation is required for immigration forms;

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

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

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

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

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

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

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

substitution for, other available remedies.

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

(e) ~~(d)~~ All notaries public must provide itemized receipts and keep records for fees accepted for services provided. Notarial fees must appear on the itemized receipt as separate and distinct from any other charges assessed. Failure to provide itemized receipts and keep records that can be presented as evidence of no wrongdoing shall be construed as a presumptive admission of allegations raised in complaints against the notary for violations related to accepting prohibited fees.

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

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

Sec. 3-105. Authority.

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

county in Illinois in which the notary was commissioned.

(b) Except as provided under subsection (c), an electronic notary public who is physically located in this State may perform an electronic notarial act using communication technology in accordance with this Article and any rules adopted by the Secretary of State for a remotely located individual who is physically located: (i) in this State; or (ii) outside of this State, but not outside the United States.

(c) Notwithstanding subsection (b), an electronic notary public may perform an electronic notarial act for a remotely located individual outside of the United States if the record is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States or involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States.

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

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

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

I (Secretary of State ~~or~~ County

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

.....

(Secretary of State ~~or County Clerk~~).

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

(5 ILCS 312/3-107 new)

Sec. 3-107. Journal.

(a) A notary public or an electronic notary public shall keep a journal of each notarial act or electronic notarial act which includes, without limitation, the requirements set by the Secretary of State in administrative rule, but shall not include any electronic signatures of the person for whom an electronic notarial act was performed or any witnesses.

(b) The Secretary of State shall adopt administrative rules that set forth, at a minimum:

(1) the information to be recorded for each notarization or electronic notarization;

(2) the period during which the notary public or

electronic notary public must maintain the journal; and

(3) the minimum security requirements for protecting the information in the journal and access to the contents of the journal.

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

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

(e) If the journal of a notary public or electronic notary public is lost, stolen, or compromised, the notary or electronic notary shall notify the Secretary of State within 10 business days after the discovery of the loss, theft, or breach of security.

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

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

(a) When any notary public legally changes his or her

name, changes his or her residential address or business address, or email address, without notifying the Index Department of the Secretary of State in writing within 30 days thereof, or, if the notary public is a resident of a state bordering Illinois, no longer maintains a principal place of work or principal place of business in the same county in Illinois in which he or she was commissioned, the commission of that notary ceases to be in effect. When the commission of a notary public ceases to be in effect, his or her notarial seal or electronic notary seal shall be surrendered to the Secretary of State, and his or her certificate of notarial commission or certificate of electronic notarial commission shall be destroyed. These individuals who desire to again become a notary public must file a new application, bond, and oath with the Secretary of State.

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

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

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

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

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

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

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

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

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

Whenever it shall appear to the Secretary of State that any person is engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this Section, the Secretary of State may, in

his discretion, through the Attorney General, apply for an injunction, and, upon a proper showing, any circuit court shall have power to issue a permanent or temporary injunction or restraining order without bond to enforce the provisions of this Act, and either party to such suit shall have the right to prosecute an appeal from the order or judgment of the court.

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

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

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

Sec. 6-102. Notarial Acts.

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

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

(c) In witnessing or attesting a signature, the notary public must determine, either from personal knowledge or from

satisfactory evidence, that the signature is that of the person appearing before the notary and named therein.

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

(1) is personally known to the notary;

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

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

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

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

(5 ILCS 312/6-102.5 new)

Sec. 6-102.5. Remote notarial acts.

(a) Any commissioned notary public may perform any notarial act described under Section 6-102 remotely, after first determining, either from personal knowledge or from satisfactory evidence, that the signature is that of the

person appearing before the notary and named therein. A notary public has satisfactory evidence that a person is the person whose true signature is on a document if that person:

(1) is personally known to the notary;

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

(3) is identified on the basis of identification documents. Identification documents are documents that are (i) valid at the time of the notarial act, (ii) issued by a State agency, federal government agency, or consulate, and (iii) bearing the photographic image of the individual's face and signature of the individual.

(b) A remote notarial action must be performed in accordance with the following audio-video communication requirements:

(1) Two-way audio-video communication technology must allow for remotely located notaries and principals to engage in direct, contemporaneous interaction between the individual signing the document (signatory) and the witness by sight and sound.

(2) The two-way audio video communication technology must be recorded and preserved by the signatory or the signatory's designee for a period of at least 3 years.

(3) The signatory must attest to being physically located in Illinois during the two-way audio-video communication.

(4) The signatory must affirmatively state on the two-way audio-video communication what document the signatory is signing.

(5) Each page of the document being witnessed must be shown to the witness on the two-way audio-video communication technology in a means clearly legible to the witness.

(6) The act of signing must be captured sufficiently up close on the two-way audio-video communication for the witness to observe.

(c) Application of the notary's seal and signature:

(1) The signatory must transmit by overnight mail, fax, or electronic means a legible copy of the entire signed document directly to the notary no later than the day after the document is signed.

(2) The notary must sign the transmitted copy of the document as a witness and transmit the signed copy of the document back to the signatory via overnight mail, fax, or electronic means within 24 hours after receipt.

(3) If necessary, the notary may sign the original signed document as of the date of the original execution by the signatory provided that the witness receives the original signed document together with the electronically witnessed copy within 30 days after the date of the remote notarization.

(d) The Secretary of State shall adopt administrative

rules to implement this Section.

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

Sec. 6-104. Acts prohibited.

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

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

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

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

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

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

(g) A notary public shall not change anything in a written

instrument after it has been signed by anyone.

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

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

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

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

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

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

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

(o) A notary public shall not sell, rent, transfer, or otherwise make available to a third party, other than the electronic notarization platform, the contents of the notarial journal, audio-video recordings, or any other record associated with any notarial act, including personally identifiable information, except when required by law, law enforcement, the Secretary of State, or a court order. Upon written request of a third party, which request must include the name of the parties, the type of document, and the month and year in which a record was notarized, a notary public may supply a copy of the line item representing the requested transaction after personally identifying information has been redacted.

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

(q) Upon surrender, revocation, or expiration of a commission as a notary or electronic notary, all notarial records or electronic notarial records required under this Section, except as otherwise provided by law, must be kept by the notary public or electronic notary for a period of 5 years after the termination of the registration of the notary public or electronic notary public.

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

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

ARTICLE VI-A

ELECTRONIC NOTARIAL ACTS AND FORMS

(5 ILCS 312/6A-101 new)

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

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

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

(c) An electronic notarization vendor shall take

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

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

(e) The Secretary of State shall adopt administrative rules that set forth the requirements a provider of electronic notarization technology must meet in order to be approved for use in the State of Illinois. At a minimum, those administrative rules shall establish:

(1) minimum standards ensuring a secure means of authentication to be employed to protect the integrity of the electronic notary's electronic seal and electronic signature;

(2) minimum standards ensuring that documents electronically notarized be tamper-evident and protected from unauthorized use; and

(3) requirements for competent operation of the electronic platform.

(5 ILCS 312/6A-102 new)

Sec. 6A-102. Electronic notary not liable for system

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

(5 ILCS 312/6A-103 new)

Sec. 6A-103. Electronic notarial acts.

(a) An electronic notary public:

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

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

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

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

electronic notary public confirms the identity of the person
by:

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

(2) each of the following:

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

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

(C) a dynamic knowledge-based authentication
assessment.

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

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

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

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

(3) the electronic notarial act must be recorded.

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

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

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

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

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

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

(2) the notarized electronic document will be rendered

ineligible for authentication by the Secretary of State if it is improperly modified after the time of electronic notarization, including any unauthorized alterations to the document content, the electronic notarial certificate, the electronic notary public's electronic signature, or the electronic notary public's official electronic seal.

(5 ILCS 312/6A-104 new)

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

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

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

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

(1) the credible witness must appear before the

electronic notary public; and

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

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

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

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

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

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

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

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

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

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

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

(g) An electronic notarization system used to perform electronic notarial acts by means of audio-video communication shall conform to the requirements set forth in this Act and by administrative rules adopted by the Secretary of State.

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

(i) The Secretary of State shall adopt administrative

rules to implement this Section.

(5 ILCS 312/6A-105 new)

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

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

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

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

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

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

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

(5 ILCS 312/6A-106 new)

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

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

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

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

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

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

Sec. 7-106. Willful Impersonation.

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

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

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

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

Sec. 7-107. Wrongful Possession.

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

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

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

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

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

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

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

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

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

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

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

(c) A notary's failure to cooperate or respond to an investigation by the Secretary of State is a failure by the notary to fully and faithfully discharge the responsibilities

and duties of a notary and shall result in suspension or revocation of the notary's commission or the electronic notary's commission.

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

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

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

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

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

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

(f) After investigation and upon a determination by the Secretary of State that one or more prohibited acts have been

performed in the notarization or electronic notarization of a document, the Secretary shall, after considering the extent of the prohibited act and the degree of culpability of the notary, order one or more of the following courses of action:

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

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

(3) order revocation of the commission of the notary or electronic commission of the notary;

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

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

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

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

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

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

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

(l) Any revocation, resignation, expiration, or suspension

of the commission of a notary public terminates or suspends any commission to notarize electronically.

(m) A notary public may terminate registration to notarize electronically and maintain his or her underlying notary public commission upon directing a written notification of the change to the Secretary of State within 30 days.

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

(5 ILCS 312/7-110 new)

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

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

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

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

(5 ILCS 312/2-106 rep.)

Section 10. The Illinois Notary Public Act is amended by repealing Section 2-106.

Section 15. The State Finance Act is amended by adding Section 5.938 as follows:

(30 ILCS 105/5.938 new)

Sec. 5.938. The Electronic Notarization Fund.

Section 20. The Counties Code is amended by changing Section 4-4001 as follows:

(55 ILCS 5/4-4001) (from Ch. 34, par. 4-4001)

Sec. 4-4001. County clerks; counties of first and second class. The fees of the county clerk in counties of the first and second class, except when increased by county ordinance pursuant to the provisions of this Section, shall be:

For each official copy of any process, file, record or other instrument of and pertaining to his office, 50¢ for each 100 words, and \$1 additional for certifying and sealing the same.

For filing any paper not herein otherwise provided for, \$1, except that no fee shall be charged for filing a Statement of economic interest pursuant to the Illinois Governmental Ethics Act or reports made pursuant to Article 9 of the Election Code.

For issuance of fireworks permits, \$2.

For issuance of liquor licenses, \$5.

For filing and recording of the appointment and oath of each public official, \$3.

For officially certifying and sealing each copy of any

process, file, record or other instrument of and pertaining to his office, \$1.

For swearing any person to an affidavit, \$1.

For issuing each license in all matters except where the fee for the issuance thereof is otherwise fixed, \$4.

For issuing each civil union or marriage license, the certificate thereof, and for recording the same, including the recording of the parent's or guardian's consent where indicated, a fee to be determined by the county board of the county, not to exceed \$75, which shall be the same, whether for a civil union or marriage license. \$5 from all civil union and marriage license fees shall be remitted by the clerk to the State Treasurer for deposit into the Domestic Violence Fund.

For taking and certifying acknowledgments to any instrument, except where herein otherwise provided for, \$1.

For issuing each certificate of appointment or commission, the fee for which is not otherwise fixed by law, \$1.

For cancelling tax sale and issuing and sealing certificates of redemption, \$3.

For issuing order to county treasurer for redemption of forfeited tax, \$2.

For trying and sealing weights and measures by county standard, together with all actual expenses in connection

therewith, \$1.

For services in case of estrays, \$2.

The following fees shall be allowed for services attending the sale of land for taxes, and shall be charged as costs against the delinquent property and be collected with the taxes thereon:

For services in attending the tax sale and issuing certificate of sale and sealing the same, for each tract or town lot sold, \$4.

For making list of delinquent lands and town lots sold, to be filed with the Comptroller, for each tract or town lot sold, 10¢.

The county board of any county of the first or second class may by ordinance authorize the county clerk to impose an additional \$2 charge for certified copies of vital records as defined in Section 1 of the Vital Records Act, for the purpose of developing, maintaining, and improving technology in the office of the County Clerk.

The foregoing fees allowed by this Section are the maximum fees that may be collected from any officer, agency, department or other instrumentality of the State. The county board may, however, by ordinance, increase the fees allowed by this Section ~~and also the notary public recordation fees allowed by Section 2-106 of the Illinois Notary Public Act~~ and the indexing and filing of assumed name certificate fees allowed by Section 3 of the Assumed Business Name Act and

collect such increased fees from all persons and entities other than officers, agencies, departments and other instrumentalities of the State if the increase is justified by an acceptable cost study showing that the fees allowed by these Sections are not sufficient to cover the cost of providing the service.

A Statement of the costs of providing each service, program and activity shall be prepared by the county board. All supporting documents shall be public record and subject to public examination and audit. All direct and indirect costs, as defined in the United States Office of Management and Budget Circular A-87, may be included in the determination of the costs of each service, program and activity.

The county clerk in all cases may demand and receive the payment of all fees for services in advance so far as the same can be ascertained.

The county board of any county of the first or second class may by ordinance authorize the county treasurer to establish a special fund for deposit of the additional charge. Moneys in the special fund shall be used solely to provide the equipment, material and necessary expenses incurred to help defray the cost of implementing and maintaining such document storage system.

(Source: P.A. 96-328, eff. 8-11-09; 97-4, eff. 5-31-11; 97-986, eff. 8-17-12.)

Section 25. The Uniform Real Property Electronic Recording Act is amended by changing Section 2 and by adding Section 3.5 as follows:

(765 ILCS 33/2)

Sec. 2. Definitions. In this Act:

(1) "Document" means information that is:

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

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

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

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

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

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public

corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

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

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

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

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

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

(765 ILCS 33/3.5 new)

Sec. 3.5. Electronic documents certified by notary public.

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

(1) be an original or be in writing;

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

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

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

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

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

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

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

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

(d) A notarial certificate in substantially the following

form is sufficient for the purposes of this Section:

"State of

County of

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

.....
(Signature of Notary Public)

(Seal)"

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

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

provisions of this Section.

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

Section 99. Effective date. This Act takes effect on the later of: (1) January 1, 2022; or (2) the date on which the Office of the Secretary of State files with the Index Department of the Office of the Secretary of State a notice that the Office of the Secretary of State has adopted the rules necessary to implement this Act, and upon the filing of the notice, the Index Department shall provide a copy of the notice to the Legislative Reference Bureau; except that, the changes to Sections 1-106, 2-103, and 2-106 of the Illinois Notary Public Act take effect July 1, 2022.