

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 Section 3-102 as follows:

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

Sec. 3-102. Notarial Record; Residential Real Property Transactions.

(a) This Section shall apply to every notarial act in Illinois involving a document of conveyance that transfers or purports to transfer title to residential real property located in Cook County.

(b) As used in this Section, the following terms shall have the meanings ascribed to them:

(1) "Document of Conveyance" shall mean a written instrument that transfers or purports to transfer title effecting a change in ownership to Residential Real Property, excluding:

(i) court-ordered and court-authorized conveyances of Residential Real Property, including without limitation, quit-claim deeds executed pursuant to a marital settlement agreement incorporated into a judgment of dissolution of marriage, and transfers in

the administration of a probate estate;

(ii) judicial sale deeds relating to Residential Real Property, including without limitation, sale deeds issued pursuant to proceedings to foreclose a mortgage or execute on a levy to enforce a judgment;

(iii) deeds transferring ownership of Residential Real Property to a trust where the beneficiary is also the grantor;

(iv) deeds from grantors to themselves that are intended to change the nature or type of tenancy by which they own Residential Real Property;

(v) deeds from a grantor to the grantor and another natural person that are intended to establish a tenancy by which the grantor and the other natural person own Residential Real Property;

(vi) deeds executed to the mortgagee in lieu of foreclosure of a mortgage; and

(vii) deeds transferring ownership to a revocable or irrevocable grantor trust where the beneficiary includes the grantor.

(2) "Financial Institution" shall mean a State or federally chartered bank, savings and loan association, savings bank, ~~or~~ credit union, or trust company.

(3) "Notarial Record" shall mean the written document created in conformity with this Section by a notary in connection with Documents of Conveyance.

(4) "Residential Real Property" shall mean a building or buildings located in Cook County, Illinois and containing one to 4 dwelling units or an individual residential condominium unit.

(5) "Title Insurance Agent" shall have the meaning ascribed to it under the Title Insurance Act.

(6) "Title Insurance Company" shall have the meaning ascribed to it under the Title Insurance Act.

(c) A notary appointed and commissioned as a notary in Illinois shall, in addition to compliance with other provisions of this Act, create a Notarial Record of each notarial act performed in connection with a Document of Conveyance. The Notarial Record shall contain:

(1) The date of the notarial act;

(2) The type, title, or a description of the Document of Conveyance being notarized, and the property index number ("PIN") used to identify the Residential Real Property for assessment or taxation purposes and the common street address for the Residential Real Property that is the subject of the Document of Conveyance;

(3) The signature, printed name, and residence street address of each person whose signature is the subject of the notarial act and a certification by the person that the property is Residential Real Property as defined in this Section, which states "The undersigned grantor hereby certifies that the real property identified in this

Notarial Record is Residential Real Property as defined in the Illinois Notary Public Act".

(4) A description of the satisfactory evidence reviewed by the notary to determine the identity of the person whose signature is the subject of the notarial act;

(5) The date of notarization, the fee charged for the notarial act, the Notary's home or business phone number, the Notary's residence street address, the Notary's commission expiration date, the correct legal name of the Notary's employer or principal, and the business street address of the Notary's employer or principal; and

(6) The notary public shall require the person signing the Document of Conveyance (including an agent acting on behalf of a principal under a duly executed power of attorney), whose signature is the subject of the notarial act, to place his or her right thumbprint on the Notarial Record. If the right thumbprint is not available, then the notary shall have the party use his or her left thumb, or any available finger, and shall so indicate on the Notarial Record. If the party signing the document is physically unable to provide a thumbprint or fingerprint, the notary shall so indicate on the Notarial Record and shall also provide an explanation of that physical condition. The notary may obtain the thumbprint by any means that reliably captures the image of the finger in a physical or electronic medium.

(d) If a notarial act under this Section is performed by a notary who is a principal, employee, or agent of a Title Insurance Company, Title Insurance Agent, Financial Institution, or attorney at law, the notary shall deliver the original Notarial Record to the notary's employer or principal within 14 days after the performance of the notarial act for retention for a period of 7 years as part of the employer's or principal's business records. In the event of a sale or merger of any of the foregoing entities or persons, the successor or assignee of the entity or person shall assume the responsibility to maintain the Notarial Record for the balance of the 7-year business records retention period. Liquidation or other cessation of activities in the ordinary course of business by any of the foregoing entities or persons shall relieve the entity or person from the obligation to maintain Notarial Records after delivery of Notarial Records to the Recorder of Deeds of Cook County, Illinois.

(e) If a notarial act is performed by a notary who is not a principal, employee, or agent of a Title Insurance Company, Title Insurance Agent, Financial Institution, or attorney at law, the notary shall deliver the original Notarial Record within 14 days after the performance of the notarial act to the Recorder of Deeds of Cook County, Illinois for retention for a period of 7 years, accompanied by a filing fee of \$5.

(f) The Notarial Record required under subsection (c) of this Section shall be created and maintained for each person

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whose signature is the subject of a notarial act regarding a Document of Conveyance and shall be in substantially the following form:

NOTARIAL RECORD - RESIDENTIAL REAL PROPERTY TRANSACTIONS

Date Notarized:

Fee: \$

The undersigned grantor hereby certifies that the real property identified in this Notarial Record is Residential Real Property as defined in the Illinois Notary Public Act.

Grantor's (Signer's) Printed Name:

Grantor's (Signer's) Signature:

Grantor's (Signer's) Residential Street Address, City, State, and Zip:

Type or Name of Document of Conveyance:

PIN No. of Residential Real Property:

Common Street Address of Residential Real Property:

Thumbprint or Fingerprint:

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Description of Means of Identification:

Additional Comments:

Name of Notary Printed:

Notary Phone Number:

Commission Expiration Date:

Residential Street Address of Notary, City, State, and Zip:

Name of Notary's Employer or Principal:

Business Street Address of Notary's Employer or Principal,
City, State, and Zip:

(g) No copies of the original Notarial Record may be made or retained by the Notary. The Notary's employer or principal may retain copies of the Notarial Records as part of its business records, subject to applicable privacy and confidentiality standards.

(h) The failure of a notary to comply with the procedure set forth in this Section shall not affect the validity of the Residential Real Property transaction in connection to which

the Document of Conveyance is executed, in the absence of fraud.

(i) The Notarial Record or other medium containing the thumbprint or fingerprint required by subsection (c)(6) shall be made available or disclosed only upon receipt of a subpoena duly authorized by a court of competent jurisdiction. Such Notarial Record or other medium shall not be subject to disclosure under the Freedom of Information Act and shall not be made available to any other party, other than a party in succession of interest to the party maintaining the Notarial Record or other medium pursuant to subsection (d) or (e).

(j) In the event there is a breach in the security of a Notarial Record maintained pursuant to subsections (d) and (e) by the Recorder of Deeds of Cook County, Illinois, the Recorder shall notify the person identified as the "signer" in the Notarial Record at the signer's residential street address set forth in the Notarial Record. "Breach" shall mean unauthorized acquisition of the fingerprint data contained in the Notarial Record that compromises the security, confidentiality, or integrity of the fingerprint data maintained by the Recorder. The notification shall be in writing and made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable security, confidentiality, and integrity of the Recorder's data system.

(k) Subsections (a) through (i) shall not apply on and

after July 1, 2013.

(1) Beginning July 1, 2013, at the time of notarization, a notary public shall officially sign every notary certificate and affix the rubber stamp seal clearly and legibly using black ink, so that it is capable of photographic reproduction. The illegibility of any of the information required by this Section does not affect the validity of a transaction.

(Source: P.A. 95-988, eff. 6-1-09.)

Section 99. Effective date. This Act takes effect upon becoming law.