



# 130th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2022

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Legislative Document

No. 2023

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H.P. 1503

House of Representatives, March 9, 2022

### **An Act To Implement the Recommendations of the Secretary of State Regarding Notarial Acts**

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Reported by Representative HARNETT of Gardiner for the Secretary of State pursuant to Public Law 2021, chapter 337, section 4.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **PART A**

3 **Sec. A-1. 4 MRSA c. 19**, as amended, is repealed.

4 **Sec. A-2. 4 MRSA c. 22**, as amended, is repealed.

5 **Sec. A-3. 4 MRSA §1056**, as amended by PL 1981, c. 456, Pt. A, §12, is repealed.

6 **Sec. A-4. 4 MRSA c. 39** is enacted to read:

7 **CHAPTER 39**

8 **REVISED UNIFORM LAW ON NOTARIAL ACTS**

9 **§1901. Short title**

10 This chapter may be known and cited as the Revised Uniform Law on Notarial Acts.

11 **§1902. Definitions**

12 As used in this chapter, unless the context otherwise indicates, the following terms  
13 have the following meanings.

14 **1. Acknowledgement.** "Acknowledgment" means a declaration by an individual  
15 before a notarial officer that the individual has signed a record for the purpose stated in the  
16 record and, if the record is signed in a representative capacity, that the individual signed  
17 the record with proper authority and signed it as the act of the individual or entity identified  
18 in the record.

19 **2. Electronic.** "Electronic" means relating to technology having electrical, digital,  
20 magnetic, wireless, optical, electromagnetic or similar capabilities.

21 **3. Electronic signature.** "Electronic signature" means an electronic symbol, sound  
22 or process attached to or logically associated with a record and executed or adopted by an  
23 individual with the intent to sign the record.

24 **4. In a representative capacity.** "In a representative capacity" means acting as:

25 A. An authorized officer, agent, partner, trustee or other representative of a person  
26 other than an individual;

27 B. A public officer, personal representative, guardian or other representative, in the  
28 capacity stated in a record;

29 C. An agent or attorney-in-fact for a principal; or

30 D. An authorized representative of another in any other capacity.

31 **5. Notarial act.** "Notarial act" means an act, whether performed with respect to a  
32 tangible or electronic record, that a notarial officer may perform under the laws of this  
33 State. "Notarial act" includes taking an acknowledgment, administering an oath or  
34 affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature,  
35 certifying or attesting a copy and noting a protest of a negotiable instrument or loss in  
36 mercantile usage.

1           6. Notarial officer. "Notarial officer" means a notary public or other individual  
2 authorized to perform a notarial act.

3           7. Notary public. "Notary public" means an individual commissioned to perform a  
4 notarial act by the Secretary of State.

5           8. Official stamp. "Official stamp" means a physical image affixed to or embossed  
6 on a tangible record or an electronic image attached to or logically associated with an  
7 electronic record and includes an official notary seal.

8           9. Person. "Person" means an individual, corporation, business trust, statutory trust,  
9 estate, trust, partnership, limited liability company, association, joint venture, public  
10 corporation, government or governmental subdivision, agency or instrumentality or any  
11 other legal or commercial entity.

12           10. Record. "Record" means information that is inscribed on a tangible medium or  
13 that is stored in an electronic or other medium and is retrievable in perceivable form.

14           11. Sign. "Sign" means, with present intent to authenticate or adopt a record:

15           A. To execute or adopt a tangible symbol; or

16           B. To attach to or logically associate with the record an electronic symbol, sound or  
17 process.

18           12. Signature. "Signature" means a tangible symbol or an electronic signature that  
19 evidences the signing of a record.

20           13. Stamping device. "Stamping device" means:

21           A. A physical device capable of affixing to or embossing on a tangible record an  
22 official stamp; or

23           B. An electronic device or process capable of attaching to or logically associating with  
24 an electronic record an official stamp.

25           14. State. "State" means a state of the United States, the District of Columbia, Puerto  
26 Rico, the United States Virgin Islands or any territory or insular possession subject to the  
27 jurisdiction of the United States.

28           15. Verification on oath or affirmation. "Verification on oath or affirmation" means  
29 a declaration made by an individual on oath or affirmation before a notarial officer that a  
30 statement in a record is true.

31 **§1903. Applicability**

32           This chapter applies to a notarial act performed on or after July 1, 2023.

33 **§1904. Authority to perform notarial act**

34           1. Notarial acts authorized. A notarial officer may perform a notarial act authorized  
35 by this chapter or by a law of this State other than this chapter.

36           2. Certification of electronic records. A notarial officer may certify that a tangible  
37 copy of an electronic record is an accurate copy of the electronic record.

38           3. Conflict of interest. A notarial officer may not perform a notarial act with regard  
39 to which the notarial officer has a conflict of interest as set forth in this subsection.

1           A. A notarial officer may not perform any notarial act for any person if that person is  
2           the officer's spouse, domestic partner, parent, sibling or child or an in-law or a step or  
3           half relative of the officer.

4           B. A notarial officer may not perform any notarial act with respect to a record to which  
5           the notarial officer or the officer's spouse, domestic partner, parent, sibling or child or  
6           an in-law or a step or half relative of the officer is a party or in which any of them has  
7           a direct beneficial interest.

8           C. Notwithstanding paragraphs A and B, a notarial officer authorized by Title 19-A,  
9           section 655 to solemnize marriages may solemnize the marriage of a parent, sibling or  
10          child or an in-law or a step or half relative of the officer.

11          **4. Acts of notarial officer who is interested in corporation.** Any notarial officer  
12          who is a stockholder, director, officer or employee of a bank or other corporation may take  
13          the acknowledgement of any party to any written instrument executed to or by the bank or  
14          corporation, may administer an oath to any other stockholder, director, officer, employee  
15          or agent of the bank or corporation or may protest for nonacceptance or nonpayment bills  
16          of exchange, drafts, checks, notes and other negotiable instruments that may be owned or  
17          held for collection by the bank or other corporation. It is unlawful for any notarial officer  
18          to take the acknowledgment of an instrument by or to a bank or other corporation of which  
19          the notarial officer is a stockholder, director, officer or employee when the notarial officer  
20          is a party to the instrument, either individually or as a representative of the bank or other  
21          corporation, or to protest any negotiable instrument owned or held for collection by the  
22          bank or other corporation, when the notarial officer is individually a party to the instrument.

23          **5. Direct initiative or people's veto referendum.** A notarial officer may not  
24          administer an oath or affirmation to a circulator of a petition for a direct initiative or  
25          people's veto referendum under Title 21-A, section 902 if the notarial officer also provides  
26          services that are not notarial acts to initiate or promote that direct initiative or people's veto  
27          referendum.

28          **6. Voidable notarial acts.** A notarial act performed in violation of subsection 3, 4 or  
29          5 is voidable.

30          **§1905. Requirements for certain notarial acts**

31          **1. Acknowledgement of a record.** A notarial officer who takes an acknowledgment  
32          of a record shall determine, from personal knowledge or satisfactory evidence of the  
33          identity of the individual, that the individual appearing before the officer and making the  
34          acknowledgment has the identity claimed and that the signature on the record is the  
35          signature of the individual.

36          **2. Statement of oath or affirmation.** A notarial officer who takes a verification of a  
37          statement on oath or affirmation shall determine, from personal knowledge or satisfactory  
38          evidence of the identity of the individual, that the individual appearing before the officer  
39          and making the verification has the identity claimed and that the signature on the statement  
40          verified is the signature of the individual.

41          **3. Witnessing or attesting to a signature.** A notarial officer who witnesses or attests  
42          to a signature shall determine, from personal knowledge or satisfactory evidence of the  
43          identity of the individual, that the individual appearing before the officer and signing the  
44          record has the identity claimed.

1           **4. Certifying or attesting copy of record.** A notarial officer who certifies or attests  
2 a copy of a record or an item that was copied shall determine that the copy is a full, true  
3 and accurate transcription or reproduction of the record or item.

4           **5. Protest of negotiable instrument.** A notarial officer who makes or notes a protest  
5 of a negotiable instrument shall determine the matters set forth in Title 11, section 3-1505,  
6 subsection (1), paragraph (b).

7           **6. Protests of losses; record and copies.** When requested, a notarial officer shall  
8 enter on record all losses or damages sustained or apprehended by sea or land and all  
9 averages and such other matters as, by mercantile usage, appertain to the notarial officer's  
10 office and shall grant warrants of survey on vessels; all facts, extracts from documents and  
11 circumstances so noted must be signed and sworn to by all the persons appearing to protest.  
12 The notarial officer shall note, extend and record the protest so made and grant  
13 authenticated copies thereof under the notarial officer's signature and, in the case of a notary  
14 public, notarial stamp to those who request and pay for them.

15           **§1906. Personal appearance required**

16           If a notarial act relates to a statement made in or a signature executed on a record, the  
17 individual making the statement or executing the signature shall appear personally before  
18 the notarial officer.

19           **§1907. Identification of individual**

20           **1. Personal knowledge of identity.** A notarial officer has personal knowledge of the  
21 identity of an individual appearing before the officer if the individual is personally known  
22 to the officer through dealings sufficient to provide reasonable certainty that the individual  
23 has the identity claimed.

24           **2. Evidence of identity.** A notarial officer has satisfactory evidence of the identity of  
25 an individual appearing before the officer if the officer can identify the individual:

26           A. By means of:

27                   (1) A passport, driver's license or government-issued nondriver identification card;  
28                   or

29                   (2) Another form of government identification issued to an individual that contains  
30                   the signature or a photograph of the individual and is satisfactory to the notarial  
31                   officer; or

32           B. By a verification on oath or affirmation of a credible witness personally appearing  
33 before the notarial officer and known to the officer or whom the officer can identify on  
34 the basis of a passport, driver's license or government-issued nondriver identification  
35 card.

36           **3. Additional information or credentials.** A notarial officer may require an  
37 individual to provide additional information or identification credentials necessary to  
38 assure the officer of the identity of the individual.

39           **§1908. Authority to refuse to perform notarial act**

40           **1. Basis to refuse.** A notarial officer may refuse to perform a notarial act if the officer  
41 is not satisfied that:

1           A. The individual executing the record is competent or has the capacity to execute the  
2           record; or

3           B. The individual's signature is knowingly and voluntarily made.

4           **2. Refusal permitted unless otherwise required.** A notarial officer may refuse to  
5           perform a notarial act unless refusal is prohibited by a law other than this chapter.

6           **§1909. Signature if individual unable to sign**

7           If an individual is physically unable to sign a record due to a disability, the individual  
8           may direct an individual other than the notarial officer to sign the individual's name on the  
9           record. The notarial officer shall insert "Signature affixed by (name of other individual) at  
10           the direction of (name of individual)" or words of similar import.

11           **§1910. Notarial act in this State**

12           **1. Persons authorized to perform notarial acts.** A notarial act may be performed in  
13           this State by:

14           A. A notary public of this State;

15           B. A judge, clerk or deputy clerk of a court of this State;

16           C. An attorney-at-law duly admitted and eligible to practice in the courts of this State;

17           or

18           D. Any other individual authorized to perform the specific act by the laws of this State.

19           **2. Prima facie evidence.** The signature and title of an individual performing a notarial  
20           act in this State are prima facie evidence that the signature is genuine and that the individual  
21           holds the designated title.

22           **3. Signature and title conclusive.** The signature and title of a notarial officer  
23           described in subsection 1, paragraph A, B or C conclusively establish the authority of the  
24           officer to perform the notarial act.

25           **4. Laws on notaries public apply to notarial officers.** If a provision of law other  
26           than a provision in this chapter specifies that an act may be performed by a notary public,  
27           such act may be performed by any of the notarial officers described in subsection 1,  
28           paragraph A, B or C unless the law expressly provides otherwise.

29           **§1911. Notarial act in another state**

30           **1. Notarial acts in other states recognized.** A notarial act performed in another state  
31           has the same effect under the laws of this State as if performed by a notarial officer of this  
32           State, if the act performed in that state is performed by:

33           A. A notary public of that state;

34           B. A judge, clerk or deputy clerk of a court of that state; or

35           C. Any other individual authorized by the laws of that state to perform the notarial act.

36           **2. Prima facie evidence.** The signature and title of an individual performing a notarial  
37           act in another state are prima facie evidence that the signature is genuine and that the  
38           individual holds the designated title.

1           **3. Signature and title conclusive.** The signature and title of a notarial officer  
2 described in subsection 1, paragraph A or B conclusively establish the authority of the  
3 officer to perform the notarial act.

4           **§1912. Notarial act under authority of federally recognized Indian tribe**

5           **1. Notarial acts under authority of federally recognized Indian tribes recognized.**  
6 A notarial act performed under the authority and in the jurisdiction of a federally recognized  
7 Indian tribe has the same effect as if performed by a notarial officer of this State, if the act  
8 performed in the jurisdiction of the tribe is performed by:

9           A. A notary public of the tribe;

10          B. A judge, clerk or deputy clerk of a court of the tribe; or

11          C. Any other individual authorized by the laws of the tribe to perform the notarial act.

12           **2. Prima facie evidence.** The signature and title of an individual performing a notarial  
13 act under the authority of and in the jurisdiction of a federally recognized Indian tribe are  
14 prima facie evidence that the signature is genuine and that the individual holds the  
15 designated title.

16           **3. Signature and title conclusive.** The signature and title of a notarial officer  
17 described in subsection 1, paragraph A or B conclusively establish the authority of the  
18 officer to perform the notarial act.

19           **§1913. Notarial act under federal authority**

20           **1. Notarial act under federal authority recognized.** A notarial act performed under  
21 federal law has the same effect under the laws of this State as if performed by a notarial  
22 officer of this State, if the act performed under federal law is performed by:

23          A. A judge, clerk or deputy clerk of a federal court;

24          B. An individual in military service or performing duties under the authority of military  
25 service who is authorized to perform notarial acts under federal law;

26          C. An individual designated a notarizing officer by the United States Department of  
27 State for performing notarial acts overseas; or

28          D. Any other individual authorized by federal law to perform the notarial act.

29           **2. Prima facie evidence.** The signature and title of an individual acting under federal  
30 authority and performing a notarial act are prima facie evidence that the signature is  
31 genuine and that the individual holds the designated title.

32           **3. Signature and title conclusive.** The signature and title of an officer described in  
33 subsection 1, paragraph A, B or C conclusively establish the authority of the officer to  
34 perform the notarial act.

35           **§1914. Foreign notarial act**

36           **1. Foreign state.** As used in this section, "foreign state" means a government other  
37 than the United States, a state or a federally recognized Indian tribe.

38           **2. Foreign notarial acts recognized.** If a notarial act is performed under authority  
39 and in the jurisdiction of a foreign state or constituent unit of a foreign state or is performed  
40 under the authority of a multinational or international governmental organization, the act

1 has the same effect under the laws of this State as if performed by a notarial officer of this  
2 State.

3 **3. Digest or list conclusive.** If the title of office and indication of authority to perform  
4 notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used  
5 as a source for that information, the authority of an officer with that title to perform notarial  
6 acts is conclusively established.

7 **4. Prima facie evidence.** The signature and official stamp of an individual holding  
8 an office described in subsection 3 are prima facie evidence that the signature is genuine  
9 and the individual holds the designated title.

10 **5. Hague Convention.** An apostille in the form prescribed by the Hague Convention  
11 of October 5, 1961 and issued by a foreign state party to the Convention conclusively  
12 establishes that the signature of the notarial officer is genuine and that the officer holds the  
13 indicated office.

14 **6. Consular authentication.** A consular authentication issued by an individual  
15 designated by the United States Department of State as a notarizing officer for performing  
16 notarial acts overseas and attached to the record with respect to which the notarial act is  
17 performed conclusively establishes that the signature of the notarial officer is genuine and  
18 that the officer holds the indicated office.

19 **§1915. Notarial act performed for remotely located individual**

20 **1. Definitions.** As used in this section, the following terms have the following  
21 meanings.

22 A. "Communication technology" means an electronic device or process that allows a  
23 notarial officer and a remotely located individual to communicate with each other  
24 simultaneously by sight and sound. When necessary and consistent with other  
25 applicable laws, "communication technology" includes an electronic device or process  
26 that facilitates communication with a remotely located individual who has a vision,  
27 hearing or speech impairment.

28 B. "Foreign state" means a jurisdiction other than the United States, a state or a  
29 federally recognized Indian tribe.

30 C. "Identity proofing" means a process or service by which a 3rd person provides a  
31 notarial officer with a means to verify the identity of a remotely located individual by  
32 a review of personal information from public or private data sources.

33 D. "Outside the United States" means a location outside the geographic boundaries of  
34 the United States, Puerto Rico, the United States Virgin Islands and any territory,  
35 insular possession or other location subject to the jurisdiction of the United States.

36 E. "Remotely located individual" means an individual who is not in the physical  
37 presence of the notarial officer who performs a notarial act under subsection 3.

38 **2. Personal appearance by communication technology authorized.** Except as  
39 provided in subsection 16, a remotely located individual may comply with section 1906 by  
40 using communication technology to appear before a notarial officer.



1           **3. Remote notarization authorized.** Except as provided in subsection 16, a notarial  
2 officer located in this State may use communication technology to perform a notarial act  
3 for a remotely located individual if:

4           A. The notarial officer:

5                 (1) Has personal knowledge under section 1907, subsection 1 of the identity of the  
6                 remotely located individual;

7                 (2) Has satisfactory evidence of the identity of the remotely located individual by  
8                 oath or affirmation from a credible witness appearing before the notarial officer  
9                 under section 1907, subsection 2 or this section; or

10                (3) Has obtained satisfactory evidence of the identity of the remotely located  
11                individual by using at least 2 different types of identity proofing;

12           B. The notarial officer is able reasonably to confirm that a record before the notarial  
13           officer is the same record in which the remotely located individual made a statement  
14           or on which the individual executed a signature;

15           C. The notarial officer, or a person acting on behalf of the notarial officer, creates an  
16           audiovisual recording of the performance of the notarial act; and

17           D. For a remotely located individual located outside the United States:

18                 (1) The record:

19                         (a) Is to be filed with or relates to a matter before a public official or court,  
20                         governmental entity or other entity subject to the jurisdiction of the United  
21                         States; or

22                         (b) Involves property located in the territorial jurisdiction of the United States  
23                         or involves a transaction substantially connected with the United States; and

24                 (2) The act of making the statement or signing the record is not prohibited by the  
25                 foreign state in which the remotely located individual is located.

26           **4. Remote acknowledgement of tangible record.** A notarial officer located in this  
27 State may use communication technology under subsection 3 to take an acknowledgment  
28 of a signature on a tangible record physically present before the notarial officer if the record  
29 is displayed to and identified by the remotely located individual during the audiovisual  
30 recording under subsection 3, paragraph C.

31           **5. Declaration required.** The requirement under subsection 3, paragraph B for the  
32 performance of a notarial act with respect to a tangible record not physically present before  
33 the notarial officer is satisfied if:

34           A. The remotely located individual:

35                 (1) During the audiovisual recording under subsection 3, paragraph C, signs:

36                         (a) The record; and

37                         (b) A declaration, in substantially the following form, that is part of or securely  
38                         attached to the record:

39                         I declare under penalty of perjury that the record of which this declaration is a  
40                         part or to which it is attached is the same record on which (name of notarial

1                    officer), a notarial officer, performed a notarial act and before whom I  
2                    appeared by means of communication technology on (date).

3                    .....

4                    (Signature of remotely located individual)

5                    .....

6                    (Printed name of remotely located individual); and

7                    (2) Sends the record and declaration to the notarial officer not later than 4 days  
8                    after the notarial act was performed; and

9                    B. The notarial officer:

10                    (1) In the audiovisual recording under subsection 3, paragraph C, records the  
11                    individual signing the record and declaration; and

12                    (2) After receipt of the record and declaration from the individual, executes a  
13                    certificate of notarial act under section 1916, which must include a statement in  
14                    substantially the following form:

15                    I (name of notarial officer) witnessed, by means of communication technology,  
16                    (name of remotely located individual) sign the attached record and declaration on  
17                    (date).

18                    **6. Notarial act deemed contemporaneous.** A notarial act performed in compliance  
19                    with subsection 5 complies with section 1916, subsection 1, paragraph A and is effective  
20                    on the date the remotely located individual signed the declaration under subsection 5,  
21                    paragraph A, subparagraph (1), division (b).

22                    **7. Other procedures not precluded.** Subsection 5 does not preclude use of another  
23                    procedure to satisfy subsection 3, paragraph B for a notarial act performed with respect to  
24                    a tangible record.

25                    **8. Remote oaths authorized.** A notarial officer located in this State may use  
26                    communication technology under subsection 3 to administer an oath or affirmation to a  
27                    remotely located individual if, except as otherwise provided by other laws of this State, the  
28                    notarial officer:

29                    A. Identifies the individual under subsection 3, paragraph A;

30                    B. Creates or causes the creation under subsection 3, paragraph C of an audiovisual  
31                    recording of the individual taking the oath or affirmation; and

32                    C. Retains or causes the retention under subsection 11 of the recording.

33                    **9. Certificate must indicate use of communication technology.** If a notarial act is  
34                    performed under this section, the certificate of notarial act under section 1916 and the short  
35                    form certificate under section 1917 must indicate that the notarial act was performed using  
36                    communication technology.

37                    **10. Form of short form certificate.** A short form certificate under section 1917 for  
38                    a notarial act subject to this section is sufficient if it:

39                    A. Complies with rules adopted under subsection 13, paragraph A; or

1           B. Complies with section 1917 and contains a statement in substantially the following  
2           form:

3           This notarial act involved the use of communication technology.

4           **11. Retention of recording.** A notarial officer, a guardian, conservator or agent of a  
5           notarial officer or a personal representative of a deceased notarial officer shall retain the  
6           audiovisual recording created under subsection 3, paragraph C or cause the recording to be  
7           retained by a repository designated by or on behalf of the person required to retain the  
8           recording. Unless a different period is required by rule adopted under subsection 13,  
9           paragraph D, the recording must be retained for at least 10 years.

10          **12. Notice to Secretary of State.** Before a notarial officer performs the notarial  
11          officer's initial notarial act under this section, the notarial officer shall notify the Secretary  
12          of State that the notarial officer will be performing notarial acts with respect to remotely  
13          located individuals and identify the technologies the notarial officer intends to use. If the  
14          Secretary of State has established by rule standards under subsection 13 and section 1928  
15          for approval of communication technology or identity proofing, the communication  
16          technology and identity proofing must conform to the standards.

17          **13. Rules.** In addition to adopting rules under section 1928, the Secretary of State  
18          may adopt rules regarding performance of a notarial act under this section. The rules may:

19            A. Prescribe the means of performing a notarial act involving a remotely located  
20            individual using communication technology;

21            B. Establish standards for communication technology and identity proofing;

22            C. Establish requirements or procedures to approve providers of communication  
23            technology and the process of identity proofing;

24            D. Establish standards and a period for the retention of an audiovisual recording under  
25            subsection 3, paragraph C; and

26            E. Prescribe methods for a notarial officer to confirm under subsections 4 and 5 the  
27            identity of a tangible record.

28          **14. Rulemaking considerations.** Before adopting, amending or repealing a rule  
29          governing performance of a notarial act with respect to a remotely located individual, the  
30          Secretary of State shall consider:

31            A. The most recent standards regarding the performance of a notarial act with respect  
32            to a remotely located individual promulgated by national standard-setting  
33            organizations and the recommendations of a national association of secretaries of state;

34            B. Standards, practices and customs of other jurisdictions that have laws substantially  
35            similar to this section; and

36            C. The views of governmental officials and entities and other interested persons.

37          **15. Service of process.** By allowing its communication technology or identity  
38          proofing to facilitate a notarial act for a remotely located individual or by providing storage  
39          of the audiovisual recording under subsection 3, paragraph C, the provider of the  
40          communication technology, identity proofing or storage appoints the Secretary of State as  
41          the provider's agent for service of process in any civil action in this State related to the

1 notarial act. The Secretary of State may specify by rule a reasonable fee for accepting  
2 service of process under this subsection.

3 **16. Certain remote notarial acts prohibited.** Notwithstanding any provision of this  
4 chapter to the contrary, a notarial officer may not perform the following notarial acts for a  
5 remotely located individual:

6 A. Solemnizing a marriage pursuant to Title 19-A, section 655;

7 B. Witnessing the marking and sealing of an absentee ballot pursuant to Title 21-A,  
8 section 754-A;

9 C. Administering an oath or affirmation to a candidate for office under Title 21-A,  
10 section 336 or 355;

11 D. Administering an oath or affirmation to the circulator of a candidate petition under  
12 Title 21-A, section 335 or 354;

13 E. Witnessing the signing of an application for a people's veto referendum or the direct  
14 initiative of legislation under Title 21-A, section 901; or

15 F. Administering an oath or affirmation to the circulator of a people's veto referendum  
16 or the direct initiative of legislation under Title 21-A, section 902.

17 **§1916. Certificate of notarial act**

18 **1. Certificate required.** A notarial act must be evidenced by a certificate. The  
19 certificate must:

20 A. Be executed contemporaneously with the performance of the notarial act;

21 B. Be signed and dated by the notarial officer and, if the notarial officer is a notary  
22 public, be signed in the same manner as on file with the Secretary of State;

23 C. Identify the jurisdiction in which the notarial act is performed;

24 D. Contain the title of office of the notarial officer; and

25 E. If the notarial officer is a notary public, indicate the date of expiration, if any, of the  
26 officer's commission.

27 **2. Stamp required.** If a notarial act regarding a tangible record is performed by a  
28 notary public, an official stamp must be affixed to or embossed on the certificate. If a  
29 notarial act is performed regarding a tangible record by a notarial officer other than a notary  
30 public and the certificate contains the information specified in subsection 1, paragraphs B,  
31 C and D, an official stamp may be affixed to or embossed on the certificate. If a notarial  
32 act regarding an electronic record is performed by a notarial officer and the certificate  
33 contains the information specified in subsection 1, paragraphs B, C and D, an official stamp  
34 may be attached to or logically associated with the certificate.

35 **3. Sufficiency of certificate.** A certificate of a notarial act is sufficient if it meets the  
36 requirements of subsections 1 and 2 and:

37 A. Is in a short form set forth in section 1917;

38 B. Is in a form otherwise permitted by the laws of this State;

39 C. Is in a form permitted by the law applicable in the jurisdiction in which the notarial  
40 act was performed; or

1 D. Sets forth the actions of the notarial officer and the actions are sufficient to meet  
2 the requirements of the notarial act as provided in sections 1905, 1906 and 1907 or a  
3 law of this State other than this chapter.

4 **4. Execution of certificate certifies compliance.** By executing a certificate of a  
5 notarial act, a notarial officer certifies that the officer has complied with the requirements  
6 and made the determinations specified in sections 1904, 1905 and 1906.

7 **5. Notarial act to precede signature.** A notarial officer may not affix the officer's  
8 signature to, or logically associate it with, a certificate until the notarial act has been  
9 performed.

10 **6. Certificate to be attached.** If a notarial act is performed regarding a tangible  
11 record, a certificate must be part of, or securely attached to, the record. If a notarial act is  
12 performed regarding an electronic record, the certificate must be affixed to, or logically  
13 associated with, the electronic record. If the Secretary of State has established standards  
14 by rule pursuant to section 1928 for attaching, affixing or logically associating the  
15 certificate, the process must conform to the standards.

16 **§1917. Short form certificates**

17 The following short form certificates of notarial acts are sufficient for the purposes  
18 indicated, if completed with the information required by section 1916, subsections 1 and 2.

19 **1. Individual capacity.** For an acknowledgment in an individual capacity:

20 State of .....

21 County of .....

22 This record was acknowledged before me on ..... by .....

23 Date Name(s) of individual(s)

24 .....

25 Signature of notarial officer

26 Stamp

27 [.....]

28 Title of office

29 [My commission expires: .....]

30 **2. Representative capacity.** For an acknowledgment in a representative capacity:

31 State of .....

32 County of .....

33 This record was acknowledged before me on ..... by .....

34 Date Name(s) of individual(s)

35 as (type of authority, such as officer or trustee) of (name of party on behalf of whom  
36 record was executed).

37 .....

38 Signature of notarial officer

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Stamp  
[.....]  
Title of office  
[My commission expires: .....]  
**3. Oath or affirmation.** For a verification on oath or affirmation:  
State of .....  
County of .....  
Signed and sworn to (or affirmed) before me on ..... by .....  
Date      Name(s) of individual(s)  
making statement  
.....

Signature of notarial officer  
Stamp  
[.....]  
Title of office  
[My commission expires: .....]  
**4. Signature.** For witnessing or attesting a signature:  
State of .....  
County of .....  
Signed [or attested] before me on ..... by .....  
Date      Name(s) of individual(s)  
.....

Signature of notarial officer  
Stamp  
[.....]  
Title of office  
[My commission expires: .....]  
**5. Copy of a record.** For certifying a copy of a record:  
State of .....  
County of .....  
I certify that this is a true and correct copy of a record in the possession  
of .....  
Dated .....  
.....

1                    Signature of notarial officer  
2                    Stamp  
3                    [.....]

4                    Title of office  
5                    [My commission expires: .....]

6                    **§1918. Official stamp**

7                    The official stamp of a notary public must:

8                    **1. Information included.** Include the notary public's name, jurisdiction, commission  
9                    expiration date and other information required by the Secretary of State; and

10                    **2. Capable of being copied.** Be capable of being copied together with the record to  
11                    which it is affixed or attached or with which it is logically associated.

12                    **§1919. Stamping device**

13                    **1. Notary public's responsibility.** A notary public is responsible for the security of  
14                    the notary public's stamping device and may not allow another individual to use the device  
15                    to perform a notarial act. On resignation from, or the revocation or expiration of, the notary  
16                    public's commission or on the expiration of the date set forth in the stamping device, if any,  
17                    the notary public shall disable the stamping device by destroying, defacing, damaging,  
18                    erasing or securing it against use in a manner that renders it unusable. On the death or  
19                    adjudication of incompetency of a notary public, the notary public's personal representative  
20                    or guardian or any other person knowingly in possession of the stamping device shall render  
21                    it unusable by destroying, defacing, damaging, erasing or securing it against use in a  
22                    manner that renders it unusable.

23                    **2. Lost or stolen stamping device.** If a notary public's stamping device is lost or  
24                    stolen, the notary public or the notary public's personal representative or guardian shall  
25                    promptly notify the Secretary of State on discovering that the device is lost or stolen.

26                    **§1920. Journal**

27                    **1. Journal required.** A notarial officer other than an attorney-at-law duly admitted  
28                    and eligible to practice in the courts of this State shall maintain a journal in which the  
29                    officer chronicles all notarial acts that the officer performs. The officer shall retain the  
30                    journal for 10 years after the performance of the last notarial act chronicled in the journal.

31                    **2. Tangible medium or electronic format permitted.** A journal may be created on  
32                    a tangible medium or in an electronic format. A notarial officer shall maintain only one  
33                    journal at a time to chronicle all notarial acts, whether those notarial acts are performed  
34                    regarding tangible or electronic records. If the journal is maintained on a tangible medium,  
35                    it must be a permanent, bound register with numbered pages. If the journal is maintained  
36                    in an electronic format, it must be in a permanent, tamper-evident electronic format  
37                    complying with the rules of the Secretary of State.

38                    **3. Requirements.** An entry in a journal must be made contemporaneously with  
39                    performance of the notarial act and contain the following information:

- 40                    A. The date and time of the notarial act;  
41                    B. A description of the record, if any, and type of notarial act;

- 1           C. The full name and address of each individual for whom the notarial act is performed;
- 2           D. If identity of the individual is based on personal knowledge, a statement to that
- 3           effect;
- 4           E. If identity of the individual is based on satisfactory evidence, a brief description of
- 5           the method of identification and the identification credential presented, if any,
- 6           including the dates of issuance and expiration of any identification credential; and
- 7           F. The fee, if any, charged by the notarial officer.

8           **4. Lost or stolen journal.** If a notarial officer's journal is lost or stolen, the officer  
9           shall promptly notify the Secretary of State on discovering that the journal is lost or stolen.

10           **5. Retention.** On resignation from, or the revocation or suspension of, a notary  
11           public's commission, the former notary public shall retain the former notary public's journal  
12           in accordance with subsection 1 and inform the Secretary of State where the journal is  
13           located.

14           **6. Alternative to retention.** Instead of retaining a journal as provided in subsection  
15           5, a former notary public may transmit the journal to the Secretary of State or a repository  
16           approved by the Secretary of State.

17           **7. Death or incompetency of notary public.** On the death or adjudication of  
18           incompetency of a current or former notary public, the notary public's personal  
19           representative or guardian or any other person knowingly in possession of the journal shall  
20           transmit it to the Secretary of State or a repository approved by the Secretary of State.

21           **§1921. Notification regarding performance of notarial act on electronic record;**  
22           **selection of technology; acceptance of tangible copy of electronic record**

23           **1. Selection of technology.** A notarial officer may select one or more tamper-evident  
24           technologies to perform notarial acts with respect to electronic records. A person may not  
25           require a notarial officer to perform a notarial act with respect to an electronic record with  
26           a technology that the notarial officer has not selected.

27           **2. Notification to Secretary of State.** Before a notarial officer performs the notarial  
28           officer's initial notarial act with respect to an electronic record, the notarial officer shall  
29           notify the Secretary of State that the notarial officer will be performing notarial acts with  
30           respect to electronic records and identify the technology the notarial officer intends to use.  
31           If the Secretary of State has established by rule standards for approval of technology  
32           pursuant to section 1928, the technology must conform to the rules. The Secretary of State  
33           shall determine whether the technology proposed by the notarial officer is approved for use  
34           in this State.

35           **3. Tangible copy of electronic record.** A register of deeds may accept for recording  
36           a tangible copy of an electronic record containing a notarial certificate as satisfying any  
37           requirement that a record accepted for recording be an original if the notarial officer  
38           executing the notarial certificate certifies that the tangible copy is an accurate copy of the  
39           electronic record.

40           **§1922. Notary public commission; qualifications; no immunity or benefit**

41           **1. Application.** An individual qualified under subsection 2 may apply to the Secretary  
42           of State for a notary public commission. The applicant shall comply with and provide the



1 information required by rules established by the Secretary of State and pay any application  
2 fee.

3 **2. Qualifications.** An applicant for a notary public commission must:

4 A. Be at least 18 years of age;

5 B. Be a resident of or have a place of employment or practice in this State;

6 C. Be able to read and write English;

7 D. Not be disqualified to receive a commission under section 1924; and

8 E. Have passed the examination required under section 1923, subsection 1.

9 **3. Oath required.** Before issuance of a notary public commission, an applicant for  
10 the commission shall take and subscribe the following oath or affirmation before a dedimus  
11 justice: "I, (name), do swear that I will support the United States Constitution and the  
12 Constitution of Maine, so help me God. I, (name), do swear that I will faithfully discharge,  
13 to the best of my abilities, the duties incumbent on me as a notary public according to the  
14 Constitution of Maine and the laws of this State, so help me God."

15 When a person is conscientiously scrupulous of taking an oath, the word "affirm" may be  
16 substituted for the word "swear" and the words "this I do under penalty of perjury" may be  
17 substituted for the words "so help me God."

18 **4. Commission issued.** The Secretary of State shall issue to an applicant who has  
19 complied with this section a notary public commission valid for a term of 4 years.

20 **5. No immunity or benefit.** A commission issued under subsection 4 authorizes the  
21 notary public to perform notarial acts. The commission does not provide the notary public  
22 any immunity or benefit conferred by the laws of this State on public officials or employees.

23 **§1923. Examination of notary public**

24 **1. Examination required.** An applicant for a notary public commission who does not  
25 currently hold a commission in this State must pass an examination administered by the  
26 Secretary of State or an entity approved by the Secretary of State. The examination must  
27 be based on the course of study described in subsection 2.

28 **2. Course of study.** The Secretary of State or an entity approved by the Secretary of  
29 State shall offer regularly a course of study to applicants for notary public commissions in  
30 this State. The course must cover the laws, rules, procedures and ethics relevant to notarial  
31 acts.

32 **§1924. Grounds to deny, refuse to renew, revoke, suspend or condition commission**  
33 **of notary public**

34 **1. Grounds.** The Secretary of State may deny, refuse to renew, revoke, suspend or  
35 impose a condition on a notary public commission for any act or omission that demonstrates  
36 the individual lacks the honesty, integrity, competence or reliability to act as a notary  
37 public, including:

38 A. Failure to comply with this chapter;

39 B. A fraudulent, dishonest or deceitful statement or omission in the application for a  
40 notary public commission submitted to the Secretary of State;

- 1           C. A conviction of the applicant or notary public of any crime punishable by one year
- 2           or more imprisonment or a crime involving fraud, dishonesty or deceit;
- 3           D. A finding against, or admission of liability by, the applicant or notary public in any
- 4           legal proceeding or disciplinary action based on the applicant's or notary public's fraud,
- 5           dishonesty or deceit;
- 6           E. Failure by the notary public to discharge any duty required of a notary public,
- 7           whether by this chapter, rules of the Secretary of State or any federal or state law;
- 8           F. Use of false or misleading advertising or representation by the notary public
- 9           representing that the notary public has a duty, right or privilege that the notary public
- 10           does not have;
- 11           G. Violation by the notary public of a rule of the Secretary of State regarding a notary
- 12           public;
- 13           H. Denial, refusal to renew, revocation, suspension or conditioning of a notary public
- 14           commission in another state; or
- 15           I. Violation of Title 21-A, section 903-E.

16           **2. Right to hearing.** If the Secretary of State denies, refuses to renew, revokes,

17 suspends or imposes conditions on a notary public commission, the applicant or notary

18 public is entitled to timely notice and hearing in accordance with Title 5, chapter 375,

19 subchapter 4.

20           **3. Remedies preserved.** The authority of the Secretary of State to deny, refuse to

21 renew, suspend, revoke or impose conditions on a notary public commission does not

22 prevent a person from seeking and obtaining other criminal or civil remedies provided by

23 law.

24           **§1925. Database of notaries public**

25           The Secretary of State shall maintain an electronic database of notaries public:

26           **1. Verification.** Through which a person may verify the authority of a notary public

27 to perform notarial acts; and

28           **2. Electronic records.** That indicates whether a notary public has notified the

29 Secretary of State that the notary public will be performing notarial acts on electronic

30 records.

31           **§1926. Prohibited acts**

32           **1. Acts not authorized.** A notary public commission does not authorize an individual

33 to:

- 34           A. Assist persons in drafting legal records, give legal advice or otherwise practice law;
- 35           B. Act as an immigration consultant or an expert on immigration matters;
- 36           C. Represent a person in a judicial or administrative proceeding relating to
- 37           immigration to the United States, United States citizenship or related matters; or
- 38           D. Receive compensation for performing any of the activities listed in this subsection.

39           **2. False or deceptive advertising prohibited.** A notary public may not engage in

40 false or deceptive advertising.

1           **3. Restricted terms.** A notary public who is not an attorney licensed to practice law  
2 in this State may not use the term "notario" or "notario publico."

3           **4. Advertising requirements.** A notary public who is not an attorney licensed to  
4 practice law in this State may not advertise or represent that the notary public may assist  
5 persons in drafting legal records, give legal advice or otherwise practice law. If a notary  
6 public who is not an attorney licensed to practice law in this State in any manner advertises  
7 or represents that the notary public offers notarial services, whether orally or in a record,  
8 including broadcast media, print media and the Internet, the notary public shall include the  
9 following statement, or an alternate statement authorized or required by the Secretary of  
10 State, in the advertisement or representation, prominently and in each language used in the  
11 advertisement or representation: "I am not an attorney licensed to practice law in this State.  
12 I am not allowed to draft legal records, give advice on legal matters, including immigration,  
13 or charge a fee for those activities." If the form of advertisement or representation is not  
14 broadcast media, print media or the Internet and does not permit inclusion of the statement  
15 required by this subsection because of size, the statement must be displayed prominently  
16 or provided at the place of performance of the notarial act before the notarial act is  
17 performed.

18           **5. Access to original records.** Except as otherwise allowed by law, a notary public  
19 may not withhold access to or possession of an original record provided by a person who  
20 seeks performance of a notarial act by the notary public.

21           **6. Civil violation.** Any violation of this section constitutes a civil violation for which  
22 a fine of not more than \$5,000 may be adjudged.

23           **7. Civil action.** In addition to any other remedy that may be available, a person who  
24 is aggrieved by a violation of this section may initiate a civil action in the Superior Court  
25 against the violator for injunctive relief or damages or both. If a court finds a violation of  
26 this section, the court may award to the person:

27           A. An amount equal to actual damages sustained by the person as a result of the  
28 violation;

29           B. An amount equal to 3 times the actual damages; and

30           C. The costs of the action together with reasonable attorney's fees as determined by  
31 the court.

32           **8. Attorney General action.** If the Attorney General has reason to believe that a  
33 person in the State has engaged in or is engaging in activities that violate this section, the  
34 Attorney General may initiate an action in the Superior Court to enforce this section.

35           **§1927. Validity of notarial acts**

36           Except as otherwise provided in section 1904, subsection 6, the failure of a notarial  
37 officer to perform a duty or meet a requirement specified in this chapter does not invalidate  
38 a notarial act performed by the notarial officer. The validity of a notarial act under this  
39 chapter does not prevent an aggrieved person from seeking to invalidate the record or  
40 transaction that is the subject of the notarial act or from seeking other remedies based on  
41 the laws of this State other than this chapter or the laws of the United States. This section  
42 does not validate a purported notarial act performed by an individual who does not have  
43 the authority to perform notarial acts. This section does not limit the authority of the

1 Secretary of State to reject candidate or initiative or referendum petitions under Title 21-A  
2 on the basis of improper notarizations.

3 **§1928. Rules**

4 **1. Rules.** The Secretary of State may adopt rules to implement this chapter. Rules  
5 adopted regarding the performance of notarial acts with respect to electronic records may  
6 not require, or accord greater legal status or effect to, the implementation or application of  
7 a specific technology or technical specification. The rules may:

8 A. Prescribe the manner of performing notarial acts regarding tangible and electronic  
9 records;

10 B. Include provisions to ensure that any change to or tampering with a record bearing  
11 a certificate of a notarial act is self-evident;

12 C. Include provisions to ensure integrity in the creation, transmittal, storage and  
13 authentication of electronic records or signatures;

14 D. Prescribe the process of granting, renewing, conditioning, denying, suspending or  
15 revoking a notary public commission and assuring the trustworthiness of an individual  
16 holding a notary public commission;

17 E. Include provisions to prevent fraud or mistake in the performance of notarial acts;  
18 and

19 F. Provide for the administration of the examination under section 1923, subsection 1  
20 and the course of study under section 1923, subsection 2.

21 **2. Rulemaking considerations.** In adopting, amending or repealing rules about  
22 notarial acts with respect to electronic records, the Secretary of State shall consider, so far  
23 as is consistent with this chapter:

24 A. The most recent standards regarding electronic records promulgated by national  
25 bodies, such as a national association of secretaries of state;

26 B. Standards, practices and customs of other jurisdictions that enact provisions  
27 substantially similar to this chapter; and

28 C. The views of governmental officials and entities and other interested persons.

29 **§1929. Notary public commission in effect**

30 A notary public commission in effect on July 1, 2023 continues until its date of  
31 expiration. A notary public who applies to renew a notary public commission on or after  
32 July 1, 2023 is subject to and shall comply with this chapter. A notary public, in performing  
33 notarial acts after July 1, 2023, shall comply with this chapter.

34 **§1930. Savings clause**

35 This chapter does not affect the validity or effect of a notarial act performed before  
36 July 1, 2023.

37 **§1931. Uniformity of application and construction**

38 In applying and construing this chapter, consideration must be given to the need to  
39 promote uniformity of the law with respect to its subject matter among states that enact it.

1 **§1932. Relation to federal Electronic Signatures in Global and National Commerce**  
2 **Act**

3 This chapter modifies, limits and supersedes the federal Electronic Signatures in Global  
4 and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not  
5 modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section  
6 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b)  
7 of that Act, 15 United States Code, Section 7003(b).

8 **Sec. A-5. 5 MRSA §5**, as amended by PL 2009, c. 74, §2, is further amended to  
9 read:

10 **§5. Oath of office; before whom taken**

11 The Justices of the Supreme Judicial Court and of the Superior Court, the Judges of the  
12 District Court and all state officials elected by the Legislature shall take and subscribe the  
13 oath or affirmation required by the Constitution, before the Governor. Every other person  
14 elected or appointed to any civil office shall take and subscribe the oath before any dedimus  
15 justice commissioned by the Governor for that purpose, except when the Constitution  
16 otherwise provides. A newly appointed notary public shall take and subscribe the oath or  
17 affirmation before a dedimus justice as required by ~~section 82, subsection 3-A~~ Title 4,  
18 section 1922, subsection 3.

19 **Sec. A-6. 5 MRSA §82**, as amended by PL 2009, c. 74, §§3 and 4, is repealed.

20 **Sec. A-7. 33 MRSA §203, 5th ¶**, as amended by PL 1999, c. 699, Pt. D, §20 and  
21 affected by §30, is further amended to read:

22 Notwithstanding any of the requirements in this section, an instrument with an  
23 acknowledgment conforming to the requirements of the ~~Uniform Recognition of~~  
24 ~~Acknowledgments Act, Title 4, section 1011 et seq.,~~ Revised Uniform Law on Notarial  
25 Acts must be accepted for recording purposes.

26 **PART B**

27 **Sec. B-1. 5 MRSA §88**, as enacted by PL 1975, c. 273, is repealed and the following  
28 enacted in its place:

29 **§88. Facsimile signature of Secretary of State**

30 A facsimile of the signature of the Secretary of State imprinted by or at the direction  
31 of the Secretary of State upon any renewal of commissions under authority of Title 4,  
32 section 1922, upon any certificate of true copy, certificate of any record of the Secretary  
33 of State or certificate of good standing or upon any attestation required of the Secretary of  
34 State by law has the same validity as the Secretary of State's written signature.

35 **Sec. B-2. 5 MRSA §90-G** is enacted to read:

36 **§90-G. Marriage officiant license; term of license; renewal of license**

37 **1. Appointment and renewal.** The Secretary of State may license and renew a license  
38 of a marriage officiant who:

39 A. Is 18 years of age or older;

40 B. Is a resident of this State; and

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C. Demonstrates a proficiency in the English language.

**2. Term.** A license issued under this section is for a term of 4 years.

**3. Rules.** The Secretary of State shall adopt rules relating to the licensing of marriage officiants. The rules must include criteria and a procedure to be applied by the Secretary of State in licensing and renewal. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

**4. Notice of expiration of license.** The Secretary of State shall provide notice to the licensee of the expiration of a marriage officiant license 30 days prior to the expiration date. The notice must be in a form or format as determined by rule by the Secretary of State. The failure of a licensee to receive a notice under this subsection does not affect the expiration date of the license.

**5. Grounds for denial, revocation, suspension or nonrenewal.** The Secretary of State may, upon notice and an opportunity for hearing pursuant to chapter 375, subchapter 5, deny an application under this section or suspend, revoke or refuse to renew a license issued under this section upon a determination that the applicant or licensee:

A. Does not meet the requirements of subsection 1;

B. Has failed to comply with any requirement applicable to a marriage officiant set forth in Title 19-A, chapter 23; or

C. Has failed to comply with rules adopted by the Secretary of State pursuant to this section.

**Sec. B-3. 19-A MRSA §654, sub-§3, ¶B,** as amended by PL 2011, c. 111, §1, is further amended to read:

B. The date the ~~notary public's commission~~ marriage officiant's license expires;

**Sec. B-4. 19-A MRSA §655, sub-§1, ¶A,** as amended by PL 2011, c. 111, §2, is further amended by repealing subparagraph (4).

**Sec. B-5. 19-A MRSA §655, sub-§1, ¶A,** as amended by PL 2011, c. 111, §2, is further amended by enacting a new subparagraph (5) to read:

(5) A marriage officiant under Title 5, section 90-G;

**Sec. B-6. 19-A MRSA §657,** as amended by PL 2001, c. 574, §7, is further amended to read:

**§657. Lack of jurisdiction or authority**

A marriage, solemnized before any known inhabitant of the State professing to be a justice, judge, ~~notary public~~ or marriage officiant or an ordained or licensed minister of the gospel, is not void, nor is its validity affected by any want of jurisdiction or authority in the justice, judge, ~~notary~~ marriage officiant or minister or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

**Sec. B-7. Marriage officiant license.** Notwithstanding the Maine Revised Statutes, Title 5, section 90-G, the Secretary of State shall issue a marriage officiant license for a term of 4 years to every notary public commissioned in this State as of July 1, 2023. A

1 notary public receiving a license under this section may decline to accept it by providing  
2 written notice to the Secretary of State on a form designed by the Secretary of State.

3 **PART C**

4 **Sec. C-1. Effective date.** This Act takes effect July 1, 2023.

5 **SUMMARY**

6 This bill implements the recommendations of the Secretary of State's study on remote  
7 and online notarization pursuant to Public Law 2021, chapter 337. The bill is based on the  
8 Revised Uniform Law on Notarial Acts as approved by the National Conference of  
9 Commissioners on Uniform State Laws (NCCUSL) in 2018.

10 The bill adheres to the NCCUSL's Revised Uniform Law on Notarial Acts definitions  
11 enacted in the Maine Revised Statutes, except that the official stamp encompasses the  
12 official notary seal.

13 Maine statute has strong conflict of interest protections prohibiting performance of a  
14 notarial act for an immediate family member, except in the case of a marriage ceremony.  
15 The bill includes that current restriction, together with the uniform law's additional  
16 restriction on notarial acts involving records in which the notary public or notary public's  
17 family member has a direct beneficial interest. The bill also includes identical language  
18 from current Maine statute for the corporate conflict of interest provision and uses  
19 substantively the same language from current Maine statute that prohibits a notary public  
20 from notarizing the petitions for a referendum campaign in which the notary public is  
21 otherwise involved.

22 The bill adheres to NCCUSL's Revised Uniform Law on Notarial Acts language  
23 governing requirements for certain notarial acts and adds language to preserve the powers  
24 and responsibilities inherent in current law for protests of losses, records and copies.

25 With regard to the identification of an individual, this bill does not include NCCUSL's  
26 Revised Uniform Law on Notarial Acts provision that a license or other identification  
27 document may be expired for no more than 3 years for use in identification. For some  
28 transactions, particularly in real estate, and for some notarial officers, an expired license or  
29 identification card is never acceptable. In other situations, for example with seniors who  
30 may no longer drive, a license that has expired may be an acceptable form of identification.  
31 The language in the bill allows the notarial officer the discretion currently allowed in Maine  
32 statute.

33 This bill retains the current authorization that allows attorneys-at-law duly admitted  
34 and eligible to practice in the courts of this State to perform notarial acts. Additionally,  
35 NCCUSL's Revised Uniform Law on Notarial Acts recommends that judges, clerks or  
36 deputy clerks of the court be authorized to perform notarial acts, and the bill includes these  
37 additional authorizations.

38 Uniform acknowledgement of the notarial acts of other jurisdictions is fundamental to  
39 the constitutional principle of interstate commerce and is included in the bill. It is important  
40 to note that the Maine Revised Statutes, Title 4, sections 1911 through 1914 regarding  
41 uniform acknowledgement of notarial acts in other jurisdictions have the same legal  
42 meaning as current Maine statute under the Uniform Recognition of Acknowledgements  
43 Act passed in 1969.

1 The bill permits any notarial officer, including notaries public, attorneys, judges, clerks  
2 and deputy clerks, to perform notarial acts for a remotely located individual in accordance  
3 with the criteria established in the bill. The bill includes security measures, including  
4 identity proofing and recording requirements. The bill includes language that permits the  
5 Secretary of State to assess a fee when the Secretary of State accepts service for a civil  
6 action in a dispute pursuant to a notarial act performed for a remotely located individual.  
7 The Secretary of State currently requires a fee for any service of process made to the  
8 Secretary of State.

9 The bill requires a notarial officer to execute a certificate of the notarial act which,  
10 when the act is performed by a notary public, includes the date of expiration of the notary  
11 public's commission and the official stamp. This is a consumer protection measure to assist  
12 in the ease of verification of the validity of the notary public. The requirement of an official  
13 stamp and the date of expiration of the commission are departures from current Maine  
14 notary public law. The bill includes provisions for destruction of the stamp under the  
15 Revised Uniform Law on Notarial Acts, which are also a departure from current Maine  
16 statute.

17 The bill adopts NCCUSL's Revised Uniform Law on Notarial Acts recommendation  
18 that all notarial officers except attorneys-at-law be required to keep a journal of all notarial  
19 acts. Maine is one of very few states that have not previously required notaries public to  
20 maintain a journal. Journals can be an important safeguard for consumers and notaries  
21 public alike, serving as evidence that a notarial act was performed properly.

22 The bill authorizes all notarial officers to perform a notarial act with respect to an  
23 electronic record. A notarial officer must notify the Secretary of State prior to performing  
24 the first notarial act with respect to an electronic record. The Secretary of State shall  
25 determine what technology is permissible via the rule-making process.

26 The bill establishes the qualifications of a notary public, which are largely aligned with  
27 the current qualifications under Maine statute. The bill alters Maine's current residency  
28 requirements, which limit applicants to residents of Maine and residents of New Hampshire  
29 who are employed in Maine or operate a trade or business in Maine, to conform to  
30 NCCUSL's Revised Uniform Law on Notarial Acts recommendation that an applicant must  
31 be a resident or have a place of employment or practice in Maine. Surety bonds are required  
32 for notaries public. The bill preserves the current requirement in Maine statute that a  
33 dedimus justice administer a specified oath to the notary before the issuance of a  
34 commission.

35 The bill establishes a 4-year notary public commission.

36 The bill requires any notarial officer seeking to perform remote and online notarization  
37 to notify the Secretary of State, who will maintain a database of that information online.  
38 The Secretary of State currently maintains a searchable online database of notaries public.

39 The bill adopts all of the NCCUSL's Revised Uniform Law on Notarial Acts  
40 recommendations with regards to prohibited acts including requirements for advertising  
41 disclaimers. The bill departs from NCCUSL's Revised Uniform Law on Notarial Acts by  
42 adding language to bring in enforcement provisions of current Maine statute to provide for  
43 consumer protection in the event of a fraudulent or improper notarial act.



1           Currently, Maine is one of only 3 states that gives notaries public the authority to  
2 perform marriages. The authority is found in the law on domestic relations, Title 19-A,  
3 section 655, rather than the law on notaries public. This bill creates a separate marriage  
4 officiant license and eliminates the power of notaries public to perform marriage  
5 ceremonies. A transition section is included to require the Secretary of State to issue a  
6 marriage officiant license for a term of 4 years to every notary public commissioned in this  
7 State as of July 1, 2023. A notary public receiving a license may decline to accept it by  
8 providing written notice to the Secretary of State on a form designed by the Secretary of  
9 State.

10           This legislation takes effect July 1, 2023.