CHAPTER 39

REVISED UNIFORM LAW ON NOTARIAL ACTS

§1901. Short title

This chapter may be known and cited as the Revised Uniform Law on Notarial Acts. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1902. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

1. Acknowledgment. "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.
[RR 2023, c. 2, Pt. A, §4 (COR).]

2. Electronic. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Electronic signature. "Electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. An authorized officer, agent, partner, trustee or other representative of a person other than an individual; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A public officer, personal representative, guardian or other representative, in the capacity stated in a record; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. An agent or attorney-in-fact for a principal; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. An authorized representative of another in any other capacity. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Notarial act. "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of this State. "Notarial 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 or loss in mercantile usage.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Notarial officer. "Notarial officer" means a notary public or other individual authorized to perform a notarial act.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

7. Notary public. "Notary public" means an individual commissioned to perform a notarial act by the Secretary of State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

8. Official stamp. "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record and includes an official notary seal.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

9. Person. "Person" means an individual, corporation, business trust, statutory 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.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

10. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. To execute or adopt a tangible symbol; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. To attach to or logically associate with the record an electronic symbol, sound or process. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

12. Signature. "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

13. Stamping device. "Stamping device" means:

A. A physical device capable of affixing to or embossing on a tangible record an official stamp; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

14. State. "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.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

15. Verification on oath or affirmation. "Verification on oath or affirmation" means a declaration made by an individual on oath or affirmation before a notarial officer that a statement in a record is true.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF). RR 2023, c. 2, Pt. A, §4 (COR).

§1903. Applicability

This chapter applies to a notarial act performed on or after July 1, 2023. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1904. Authority to perform notarial act

1. Notarial acts authorized. A notarial officer may perform a notarial act authorized by this chapter or by a law of this State other than this chapter.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Certification of electronic records. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. A notarial officer may not perform any notarial act for any person if that person is the officer's spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative of the officer. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A notarial officer may not perform any notarial act with respect to a record to which the notarial officer or the officer's spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative of the officer is a party or in which any of them has a direct beneficial interest. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Notwithstanding paragraphs A and B, a notarial officer authorized by Title 19-A, section 655 to solemnize marriages may solemnize the marriage of a parent, sibling or child or an in-law or a step or half relative of the officer. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Acts of notarial officer who is interested in corporation. Any notarial officer who is a stockholder, director, officer or employee of a bank or other corporation may take the acknowledgment of any party to any written instrument executed to or by the bank or corporation, may administer an oath to any other stockholder, director, officer, employee or agent of the bank or corporation or may protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments that may be owned or held for collection by the bank or other corporation. It is unlawful for any notarial officer to take the acknowledgment of an instrument by or to a bank or other corporation of which the notarial officer is a stockholder, director, officer or employee when the notarial officer is a party to the instrument, either individually or as a representative of the bank or other corporation, or to protest any negotiable instrument owned or held for collection by the bank or other corporation, when the notarial officer is individually a party to the instrument.
[RR 2023, c. 2, Pt. A, §5 (COR).]

5. Direct initiative or people's veto referendum. A notarial officer may not administer an oath or affirmation to a circulator of a petition for a direct initiative or people's veto referendum under Title 21-A, section 902 if the notarial officer also provides services that are not notarial acts to initiate or promote that direct initiative or people's veto referendum.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Voidable notarial acts. A notarial act performed in violation of subsection 3, 4 or 5 is voidable.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF). RR 2023, c. 2, Pt. A, §5 (COR).

§1905. Requirements for certain notarial acts

1. Acknowledgment of a record. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.
[RR 2023, c. 2, Pt. A, §6 (COR).]

2. Statement of oath or affirmation. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Witnessing or attesting to a signature. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Certifying or attesting copy of record. A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true and accurate transcription or reproduction of the record or item.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Protest of negotiable instrument. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in Title 11, section 3-1505, subsection (1), paragraph (b).
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Protests of losses; record and copies. When requested, a notarial officer shall enter on record all losses or damages sustained or apprehended by sea or land and all averages and such other matters as, by mercantile usage, appertain to the notarial officer's office and shall grant warrants of survey on vessels; all facts, extracts from documents and circumstances so noted must be signed and sworn to by all the persons appearing to protest. The notarial officer shall note, extend and record the protest so made and grant authenticated copies thereof under the notarial officer's signature and, in the case of a notary public, notarial stamp to those who request and pay for them.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF). RR 2023, c. 2, Pt. A, §6 (COR).

§1906. Personal appearance required

If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1907. Identification of individual

1. Personal knowledge of identity. A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. By means of:

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

(2) Another form of government identification issued to an individual that contains the signature or a photograph of the individual and is satisfactory to the notarial officer; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. By a verification on oath or affirmation of a credible witness personally appearing before the notarial officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license or government-issued nondriver identification card. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1908. Authority to refuse to perform notarial act

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

A. The individual executing the record is competent or has the capacity to execute the record; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. The individual's signature is knowingly and voluntarily made. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1909. Signature if individual unable to sign

If an individual is physically unable to sign a record due to a disability, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1910. Notarial act in this State

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

A. A notary public of this State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A justice, judge, clerk or deputy clerk of a court of this State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. An attorney-at-law duly admitted and eligible to practice in the courts of this State; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Any other individual authorized to perform the specific act by the laws of this State. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1911. Notarial act in another state

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

A. A notary public of that state; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A judge, clerk or deputy clerk of a court of that state; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Any other individual authorized by the laws of that state to perform the notarial act. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

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

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

A. A notary public of the tribe; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A judge, clerk or deputy clerk of a court of the tribe; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Any other individual authorized by the laws of the tribe to perform the notarial act. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1913. Notarial act under federal authority

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

A. A judge, clerk or deputy clerk of a federal court; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Any other individual authorized by federal law to perform the notarial act. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1914. Foreign notarial act

1. Foreign state. As used in this section, "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Foreign notarial acts recognized. If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of a foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the laws of this State as if performed by a notarial officer of this State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Digest or list conclusive. If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Prima facie evidence. The signature and official stamp of an individual holding an office described in subsection 3 are prima facie evidence that the signature is genuine and the individual holds the designated title.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Hague Convention. An apostille in the form prescribed by the Hague Convention of October 5, 1961 and issued by a foreign state party to the Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Consular authentication. A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1915. Notarial act performed for remotely located individual

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

A. "Communication technology" means an electronic device or process that allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound. When necessary and consistent with other applicable laws, "communication technology" includes an electronic device or process that facilitates communication with a remotely located individual who has a vision, hearing or speech impairment. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. "Foreign state" means a jurisdiction other than the United States, a state or a federally recognized Indian tribe. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. "Identity proofing" means a process or service by which a 3rd person provides a notarial officer with a means to verify the identity of a remotely located individual by a review of personal

information from public or private data sources. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. "Remotely located individual" means an individual who is not in the physical presence of the notarial officer who performs a notarial act under subsection 3. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. The notarial officer:

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

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

(3) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least 2 different types of identity proofing; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. The notarial officer is able reasonably to confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the individual executed a signature; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The notarial officer, or a person acting on behalf of the notarial officer, creates an audiovisual recording of the performance of the notarial act; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

(1) The record:

(a) 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

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

(2) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Remote acknowledgment of tangible record. A notarial officer located in this State may use communication technology under subsection 3 to take an acknowledgment of a signature on a tangible

record physically present before the notarial officer if the record is displayed to and identified by the remotely located individual during the audiovisual recording under subsection 3, paragraph C.
[RR 2023, c. 2, Pt. A, §7 (COR).]

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

A. The remotely located individual:

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

(a) The record; and

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

I declare under penalty of perjury that the record of which this declaration is a part or to which it is attached is the same record on which (name of notarial officer), a notarial officer, performed a notarial act and before whom I appeared by means of communication technology on (date).

……..

(Signature of remotely located individual)

……..

(Printed name of remotely located individual); and

(2) Sends the record and declaration to the notarial officer not later than 4 days after the notarial act was performed; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. The notarial officer:

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

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

I (name of notarial officer) witnessed, by means of communication technology, (name of remotely located individual) sign the attached record and declaration on (date). [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Notarial act deemed contemporaneous. A notarial act performed in compliance with subsection 5 complies with section 1916, subsection 1, paragraph A and is effective on the date the remotely located individual signed the declaration under subsection 5, paragraph A, subparagraph (1), division (b).
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

7. Other procedures not precluded. Subsection 5 does not preclude use of another procedure to satisfy subsection 3, paragraph B for a notarial act performed with respect to a tangible record.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. Identifies the individual under subsection 3, paragraph A; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Creates or causes the creation under subsection 3, paragraph C of an audiovisual recording of the individual taking the oath or affirmation; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Retains or causes the retention under subsection 11 of the recording. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

9. Certificate must indicate use of communication technology. If a notarial act is performed under this section, the certificate of notarial act under section 1916 and the short form certificate under section 1917 must indicate that the notarial act was performed using communication technology.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. Complies with rules adopted under subsection 13, paragraph A; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

This notarial act involved the use of communication technology. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

11. Retention of recording. A notarial officer, a guardian, conservator or agent of a notarial officer or a personal representative of a deceased notarial officer shall retain the audiovisual recording created under subsection 3, paragraph C or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection 13, paragraph D, the recording must be retained for at least 10 years.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

12. Notice to Secretary of State. Before a notarial officer performs the notarial officer's initial notarial act under this section, the notarial officer shall notify the Secretary of State that the notarial officer will be performing notarial acts with respect to remotely located individuals and identify the technologies the notarial officer intends to use. If the Secretary of State has established by rule standards under subsection 13 and section 1928 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. Prescribe the means of performing a notarial act involving a remotely located individual using communication technology; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Establish standards for communication technology and identity proofing; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Establish standards and a period for the retention of an audiovisual recording under subsection 3, paragraph C; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Prescribe methods for a notarial officer to confirm under subsections 4 and 5 the identity of a tangible record. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of a national association of secretaries of state; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Standards, practices and customs of other jurisdictions that have laws substantially similar to this section; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The views of governmental officials and entities and other interested persons. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

15. Service of process. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audiovisual recording under subsection 3, paragraph C, the provider of the communication technology, identity proofing or storage appoints the Secretary of State as the provider's agent for service of process in any civil action in this State related to the notarial act. The Secretary of State may specify by rule a reasonable fee for accepting service of process under this subsection.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. Witnessing the marking and sealing of an absentee ballot pursuant to Title 21-A, section 754-A; [RR 2021, c. 2, Pt. A, §3 (COR).]

B. Administering an oath or affirmation to a candidate for office under Title 21-A, section 336 or 355; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Administering an oath or affirmation to the circulator of a candidate petition under Title 21-A, section 335 or 354; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Witnessing the signing of an application for a people's veto referendum or the direct initiative of legislation under Title 21-A, section 901; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Administering an oath or affirmation to the circulator of a people's veto referendum or the direct initiative of legislation under Title 21-A, section 902. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
[RR 2021, c. 2, Pt. A, §3 (COR).]

17. Solemnization of marriage remotely prohibited. A notarial officer may not solemnize a marriage pursuant to Title 19-A, section 655 for a remotely located individual.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF). RR 2021, c. 2, Pt. A, §3 (COR). RR 2023, c. 2, Pt. A, §7 (COR).

§1916. Certificate of notarial act

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

A. Be executed contemporaneously with the performance of the notarial act; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Identify the jurisdiction in which the notarial act is performed; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Contain the title of office of the notarial officer; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. If the notarial officer is a notary public, indicate the date of expiration of the officer's commission; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

F. Contain the legibly printed or typed name of the notarial officer. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Stamp requirements. If a notarial act regarding a tangible record is performed by a notarial officer, an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in subsection 1, paragraphs B, C and D, an official stamp must be attached to or logically associated with the certificate.

[PL 2023, c. 304, Pt. B, §1 (AMD); PL 2023, c. 304, Pt. B, §7 (AFF).]

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

A. Is in a short form set forth in section 1917; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Is in a form otherwise permitted by the laws of this State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 1905, 1906 and 1907 or a law of this State other than this chapter. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Certificate to be attached. If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards by rule pursuant to section 1928 for attaching, affixing or logically associating the certificate, the process must conform to the standards.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF). PL 2023, c. 304, Pt. B, §1 (AMD). PL 2023, c. 304, Pt. B, §7 (AFF).

§1917. Short form certificates

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 1916, subsections 1 and 2. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

State of …….

County of …….…….

This record was acknowledged before me on …… by ……

Date Name(s) of individual(s)

……

Signature of notarial officer

Stamp or printed name ……..

[……]

Title of office

[My commission expires: ……]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

State of ……..

County of ……

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

Date Name(s) of individual(s)

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

…….

Signature of notarial officer

Stamp or printed name ……..

[…….]

Title of office

[My commission expires: ……..]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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 or printed name ……..

[……]

Title of office

[My commission expires: ……..]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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 or printed name ……..

[…….]

Title of office

[My commission expires: ……..]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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 …….

……

Signature of notarial officer

Stamp or printed name ……..

[……]

Title of office

[My commission expires: ……]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1918. Official stamp

A notary public may keep an official stamp, which must: [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

1. Information included. Include the notary public's name, jurisdiction, commission expiration date and other information required by the Secretary of State; and
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Capable of being copied. Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1919. Stamping device

1. Notary public's responsibility. A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Lost or stolen stamping device. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall promptly notify the Secretary of State on discovering that the device is lost or stolen.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1920. Journal

1. Journal required. A notarial officer shall maintain a journal for all electronic and remote notarizations. A notarial officer may maintain a journal for all tangible notarizations. The notarial officer shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Tangible medium or electronic format permitted. A journal under this section may be created on a tangible medium or in an electronic format. A notarial officer shall maintain only one journal at a time to chronicle all notarial acts performed regarding tangible records and one or more journals to chronicle all notarial acts performed regarding electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is

maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the Secretary of State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. The date and time of the notarial act; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A description of the record, if any, and type of notarial act; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The full name and address of each individual for whom the notarial act is performed; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. If identity of the individual is based on personal knowledge, a statement to that effect; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the dates of issuance and expiration of any identification credential; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

F. The fee, if any, charged by the notarial officer. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Lost or stolen journal. If a notarial officer's journal is lost or stolen, the officer shall promptly notify the Secretary of State on discovering that the journal is lost or stolen.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Retention. On resignation from, or the revocation or suspension of, a notary public's commission, the former notary public shall retain the former notary public's journal in accordance with subsection 1 and inform the Secretary of State where the journal is located.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Alternative to retention. Instead of retaining a journal as provided in subsection 5, a former notary public may transmit the journal to the Secretary of State or a repository approved by the Secretary of State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

7. Death or incompetency of notary public. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall transmit it to the Secretary of State or a repository approved by the Secretary of State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

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

1. Selection of technology. A notarial officer may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notarial officer to perform a notarial act with respect to an electronic record with a technology that the notarial officer has not selected.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Notification to Secretary of State. Before a notarial officer performs the notarial officer's initial notarial act with respect to an electronic record, the notarial officer shall notify the Secretary of State that the notarial officer will be performing notarial acts with respect to electronic records and identify the technology the notarial officer intends to use. If the Secretary of State has established by rule standards for approval of technology pursuant to section 1928, the technology must conform to the rules. The Secretary of State shall determine whether the technology proposed by the notarial officer is approved for use in this State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Tangible copy of electronic record. A register of deeds may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

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

1. Application. An individual qualified under subsection 2 may apply to the Secretary of State for a notary public commission. The applicant shall comply with and provide the information required by rules established by the Secretary of State and pay any application fee.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. Be at least 18 years of age; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Be a resident of or have a place of employment or practice in this State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Be able to read and write English; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Not be disqualified to receive a commission under section 1924; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Have passed the examination required under section 1923, subsection 1. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

When a person is conscientiously scrupulous of taking an oath, the word "affirm" may be substituted for the word "swear" and the words "this I do under penalty of perjury" may be substituted for the words "so help me God."
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Commission issued. The Secretary of State shall issue to an applicant who has complied with this section a notary public commission valid for a term of 7 years.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. No immunity or benefit. A commission issued under subsection 4 authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by the laws of this State on public officials or employees.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1923. Examination of notary public

1. Examination required. An applicant for a notary public commission who at the time of application does not hold a commission in this State must pass an examination administered by the Secretary of State or an entity approved by the Secretary of State. The examination must be based on the course of study described in subsection 2.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Course of study. The Secretary of State or an entity approved by the Secretary of State shall offer regularly a course of study to applicants for notary public commissions in this State. The course must cover the laws, rules, procedures and ethics relevant to notarial acts.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

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

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

A. Failure to comply with this chapter; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A fraudulent, dishonest or deceitful statement or omission in the application for a notary public commission submitted to the Secretary of State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. A conviction of the applicant or notary public of any crime punishable by one year or more imprisonment or a crime involving fraud, dishonesty or deceit; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the Secretary of State or any federal or state law; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

F. Use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right or privilege that the notary public does not have; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

G. Violation by the notary public of a rule of the Secretary of State regarding a notary public; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

H. Denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

I. Violation of Title 21-A, section 903-E. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Right to hearing. If the Secretary of State denies, refuses to renew, revokes, suspends or imposes conditions on a notary public commission, the applicant or notary public is entitled to timely notice and hearing in accordance with Title 5, chapter 375, subchapter 4.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Remedies preserved. The authority of the Secretary of State to deny, refuse to renew, suspend, revoke or impose conditions on a notary public commission does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1925. Database of notaries public

The Secretary of State shall maintain an electronic database of notaries public: [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

1. Verification. Through which a person may verify the authority of a notary public to perform notarial acts; and

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Electronic records; remote notarization. That indicates whether a notary public has notified the Secretary of State that the notary public will be performing notarial acts on electronic records or remotely.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1926. Prohibited acts

1. Acts not authorized. A notary public commission does not authorize an individual to:

A. Assist persons in drafting legal records, give legal advice or otherwise practice law; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Act as an immigration consultant or an expert on immigration matters; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Receive compensation for performing any of the activities listed in this subsection. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Restricted titles. A notary public who is not an attorney licensed to practice law in this State may not use the title "notario" or "notario publico."

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Advertising requirements. A notary public who is not an attorney licensed to practice law in this State may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this State in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the Internet, the notary public shall include the following statement, or an alternate statement authorized or required by the Secretary of State, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this State. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media or the Internet and does not permit inclusion of the statement required by this subsection because of size, the statement must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Access to original records. Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person who seeks performance of a notarial act by the notary public.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Civil violation. Any violation of this section constitutes a civil violation for which a fine of not more than $5,000 may be adjudged.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. An amount equal to actual damages sustained by the person as a result of the violation; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. An amount equal to 3 times the actual damages; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The costs of the action together with reasonable attorney's fees as determined by the court. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

8. Attorney General action. If the Attorney General has reason to believe that a person in the State has engaged in or is engaging in activities that violate this section, the Attorney General may initiate an action in the Superior Court to enforce this section.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1927. Validity of notarial acts

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

the Secretary of State to reject candidate or initiative or referendum petitions under Title 21-A on the basis of improper notarizations. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1928. Rules

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

A. Prescribe the manner of performing notarial acts regarding tangible and electronic records; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Include provisions to ensure integrity in the creation, transmittal, storage and authentication of electronic records or signatures; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Prescribe the process of granting, renewing, conditioning, denying, suspending or revoking a notary public commission and assuring the trustworthiness of an individual holding a notary public commission; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Include provisions to prevent fraud or mistake in the performance of notarial acts; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

F. Provide for the administration of the examination under section 1923, subsection 1 and the course of study under section 1923, subsection 2. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

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

A. The most recent standards regarding electronic records promulgated by national bodies, such as a national association of secretaries of state; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Standards, practices and customs of other jurisdictions that enact provisions substantially similar to this chapter; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The views of governmental officials and entities and other interested persons. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Routine technical rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1929. Notary public commission in effect

A notary public commission in effect on July 1, 2023 continues until its date of expiration. A notary public who applies to renew a notary public commission on or after July 1, 2023 is subject to and shall comply with this chapter. A notary public, in performing notarial acts after July 1, 2023, shall comply with this chapter. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1930. Savings clause

This chapter does not affect the validity or effect of a notarial act performed before July 1, 2023. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1931. Uniformity of application and construction

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

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

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b). [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

§1933. Effective date

This chapter takes effect July 1, 2023. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

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