

SPONSOR: Sen. Lopez & Sen. Hansen & Rep. Vanderwende
Sens. Lawson, Pettyjohn, Wilson; Reps. Gray, D. Short

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 262
AS AMENDED BY
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 20 AND TITLE 29 OF THE DELAWARE CODE RELATING TO THE REVISED UNIFORM LAW ON NOTARIAL ACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4301, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4301. ~~Appointment of notaries in general; qualifications; revocation.~~Commission as a notary public; qualifications; oath; denial of, refusal to renew, revocation of, suspension of, or condition on commission; no immunity or benefit.

(a) ~~In addition to the notaries public authorized to be appointed under §§ 4302-4306 of this title, the Governor may appoint as many notaries public as the Governor may decide is necessary and proper in each county of the State. The Governor may delegate such duties relative to the appointment of notaries to the Secretary of State as the Governor may decide is necessary and proper. For purposes of this title, "Secretary" shall mean the Secretary of State. Any person who acts as a notary under Delaware law shall register and be commissioned and otherwise be in compliance with the provisions of this title.~~ In addition to an individual authorized to be appointed under § 4303 through 4306 of this title, an individual qualified under subsection (b) of this section may apply to the Governor for a commission as a notary public. The individual applying for the commission shall comply with and provide the information required by regulations adopted by the Governor and pay the fee required under § 4307(a) of this title. The Governor may delegate the Governor's duties under this chapter to the Secretary of State.

(b) ~~Any person who desires to become a notary shall be at least 18 years of age and shall provide such evidence as the Secretary may require to show:~~ An individual applying for a commission as a notary public must meet all of the following:

(1) ~~Good character and reputation;~~ Be at least 18 years of age.

(2) ~~A reasonable need for a notary commission; and~~ Be a citizen or permanent legal resident of the United States.

LC : MJC : NMX : 1241510034
LC : HVW : CBM : 5081510289
Released: 06/30/2022 08:21 PM

(3) ~~Legal residence including street address of the notary within the State.~~ Be a resident of or have a place of employment or practice in this State.

(4) Be able to read and write English.

(5) Not be disqualified to receive a commission under § 4334 of this title.

(6) Comply with other requirements established by the Secretary of State by regulation as necessary to ensure the competence, integrity, and qualifications of a notary public and the proper performance of notarial acts.

(c)~~The Governor may also appoint, as notaries public for notarial acts other than electronic notarial acts, nonresidents of this State who otherwise meet the requirements of paragraphs (b)(1) and (b)(2) of this section, provided that such individuals maintain an office or regular place of employment in Delaware. Nonresidents seeking appointments as notaries public shall include in their application a residential address and a Delaware employment address. Those appointed as notaries shall also notify the Secretary of each change of address within 30 days of such change. All addresses required by this subsection shall include a street address.~~

(1) A nonresident individual who seeks a commission as a notary public shall include in the individual's application a residential address and the address of the individual's place of employment or practice in this State.

(2) Service of process, ~~subpoenas~~ subpoenas, and other documents ~~upon nonresident notaries~~ on a nonresident individual who is a notary public may be made personally or by leaving them with any person of suitable age and discretion at the ~~Delaware place of employment.~~individual's place of employment or practice in this State. Substituted service ~~shall be~~is effectual if served ~~upon~~ on the Secretary of State, under ~~the guideline of~~ § 376(b) of Title 8 ~~in the event that the office~~if the place of employment or practice has been closed or ~~such~~ the individual ceases to be regularly employed or regularly practice at the filed ~~Delaware~~ place of employment or practice address. The Secretary of State shall ~~then~~ forward ~~such~~ documents received under this paragraph (c)(2) to the individual at the filed residential address.

(3) An individual appointed under this section shall notify the Secretary of State of a change of address within 30 days of the change. An address required under this subsection must include a street address.

(d)(1)~~The Governor, or as permitted, the Secretary may revoke any notary commission for cause.~~ Before issuance of a commission as a notary public, an individual applying for a commission shall execute an oath of office and submit it to the Secretary of State as required under § 4308 of this title.

(2) On compliance with this section, the Governor shall issue a commission as a notary public to an individual for the term under § 4307(a) of this title.

(3) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this State on public officials or employees.

(4) The Governor may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for cause, including under § 4334 of this title.

(e) The Secretary of State may promulgate regulations or establish ~~such~~ additional standards and guidelines governing applications, registrations, appointments, and the conduct of ~~resident and nonresident notaries.~~notaries public.

Section 2. Amend § 4302, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4302. Appointment of electronic notaries; term.

~~(a) The Governor may appoint as many electronic notaries as the Governor may decide is necessary and proper. The Governor may delegate such duties relative to the appointment of electronic notaries to the Secretary of State as the Governor may decide is necessary and proper. Any person who acts as an electronic notary under Delaware law shall register and be commissioned and otherwise be in compliance with the provisions of this title.~~

~~(b) Any person who desires to become an electronic notary shall be at least 18 years of age and shall provide such evidence as the Secretary may require to show:~~

~~(1) Good character and reputation;~~

~~(2) A reasonable need for an electronic notary commission; and~~

~~(3) Legal residence including street address of the electronic notary within the State.~~

~~(c) The Governor may also appoint, as notaries public for electronic notarial acts, nonresidents of this State who otherwise meet the requirements of paragraphs (b)(1) and (b)(2) of this section provided that such individual shall have demonstrated to the satisfaction of the Secretary that:~~

~~(1) Such individual maintains an office or regular place of employment in Delaware; or~~

~~(2) Such individual is an attorney-at-law in good standing licensed in any state, commonwealth, territory, district or possession of the United States or such individual is a legal assistant or paralegal working under the direct supervision of an attorney-at-law in good standing licensed in any state, commonwealth, territory, district or possession of the United States and such attorney-at-law is a Delaware electronic notary and has previously submitted to the Secretary and had approved by the Secretary an application containing such information as the Secretary shall deem necessary and proper and demonstrating such attorney-at-law has a reasonable need for permitting 1 or more legal~~

~~assistants or paralegals under that attorney-at-law's direct supervision to become an electronic notary under Delaware law; or~~

~~(3) Such individual is a current employee of a banking, trust, or insurance company organized and regulated under the laws of the United States or any state, commonwealth, territory, district or possession of the United States, and such banking, trust, or insurance company shall have previously submitted to the Secretary and had approved by the Secretary an application containing such information as the Secretary shall deem necessary and proper and demonstrating that such banking, trust, or insurance company is in good standing and has a reasonable need for permitting 1 or more of its employees to become an electronic notary under Delaware law; or~~

~~(4) Such individual is a current employee of a federal governmental agency or unit of the United States and such agency or unit shall have previously submitted to the Secretary and had approved by the Secretary an application containing such information as the Secretary shall deem necessary and proper and demonstrating that such agency or unit has a reasonable need for permitting 1 or more of its employees to become an electronic notary under Delaware law. Any such electronic notary, so appointed, shall only perform electronic notarial acts in the performance of their official duties.~~

~~Nonresidents seeking appointment as a Delaware electronic notary public shall include in their application their primary residential address within any state, commonwealth, territory, district or possession of the United States and their employment address in Delaware or within any state, commonwealth, territory, district or possession of the United States. Those appointed as electronic notaries public shall also notify the Secretary of each change of address within 30 days of such change. Each nonresident electronic notary not having an employment address in Delaware shall also designate a registered agent in the State of Delaware to receive service of process, subpoenas and other documents. All addresses required by this subsection shall include a street address.~~

~~Service of process, subpoenas and other documents upon nonresident electronic notaries may be made personally or by leaving them with any person of suitable age and discretion at the Delaware place of employment or the electronic notary's registered agent, if applicable. Substituted service shall be effectual if served upon the Secretary of State, under the guideline of § 376(b) of Title 8 in the event that the office has been closed or such individual ceases to be regularly employed at the filed Delaware employment address or such registered agent has resigned. The Secretary of State shall then forward such documents to the electronic notary's filed residential address or employment address outside of the State.~~

~~(d) An applicant to become an electronic notary shall submit a registration form established by the Secretary for registering and being commissioned as an electronic notary, which shall include:~~

~~(1) The applicant's full legal name;~~

~~(2) A description of the technology or technologies the registrant will use for electronic identification, electronic signatures and such other aspects involved in performing each electronic notarial transaction;~~

~~(3) If the device used to create the registrant's electronic signature is issued or registered through a licensed authority, the name of that authority, the source of the license, the starting and expiration dates of the device's term of registration, and any revocations, annulments, or other premature terminations of any registered device of the registrant that were due to misuse or compromise of the device, with the date, cause, and nature of each termination explained in detail;~~

~~(4) The electronic mail address of the registrant;~~

~~(5) The electronic signature of the notary which shall be unique to the notary;~~

~~(6) Evidence that the electronic notary has taken a course of instruction, whether in the classroom, distance learning or online, in accordance with standards established by the Secretary prior to being commissioned as an electronic notary, and continuing education, whether in the classroom, distance learning or online, in accordance with standards established by the Secretary, during the 2-year term as provided in § 4307 of this title; and~~

~~(7) Such other information as the Secretary shall reasonably request.~~

~~The registration form shall (i) be signed by the applicant using the electronic signature described in the form; (ii) include any decrypting instructions, codes, keys, or software that allow the registration to be read; and (iii) be transmitted electronically to the Secretary.~~

~~Nothing herein shall be construed to prevent an electronic notary from using updated technology or technologies during the term of the commission; however, the electronic notary shall notify the Secretary electronically within 90 days of installation or use of such updated technology or technologies and provide a brief description thereof.~~

~~(e) The Governor, or as permitted, the Secretary may revoke any electronic notary commission for cause.~~

~~(f) The Secretary may promulgate regulations or establish such additional standards and guidelines governing applications, registrations, appointments, and the conduct of resident and nonresident electronic notaries.~~ [Repealed.]

Section 3. Amend § 4306, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4306. Appointment of notaries for certain service organizations; limited governmental notaries; limitations.

(c) ~~Upon~~ On the request of the administrative head of ~~any state, county, municipal, or local governmental agency or unit of this State whose personnel include full-time police officers who are statutorily responsible for the prevention or investigation of crime involving injury to persons or property and who are authorized to execute search warrants and to~~

~~make arrests (hereinafter called a "qualified police agency"),~~ a qualified police agency, the Governor shall appoint a sufficient number of ~~electronic~~ limited governmental notaries public as may be requested by the administrative head to facilitate the law-enforcement responsibilities of the ~~agency or unit.~~ qualified police agency. The appointment ~~shall~~ is to be for a term of 2 years, without charge to the appointee, administrative head, or police ~~agency, except for costs not waived by the Secretary which are established under § 4307(b) of this title for special identification cards, hardware, or other related materials and technologies or training. Any such notary, so appointed, shall have no authority to perform any duties with respect to such office or to take affidavits or acknowledgements, except on documents and papers in connection with, and for the benefit of, their respective police agency. The notaries public so appointed shall make no charge for any service rendered and the Secretary may waive the fees established pursuant to the schedule authorized under § 4307(c) of this title for electronic notarial acts or services performed by such electronic notaries public.~~ agency. For purposes of this section, a "qualified police agency" means a state, county, municipal, or local governmental agency or unit of this State whose personnel includes full-time police officers who are statutorily responsible for the prevention or investigation of crime involving injury to persons or property and who are authorized to execute search warrants and to make arrests.

(d)(1) The Governor may appoint as a limited governmental ~~notaries~~ notary public an individual who otherwise ~~meet~~ meets the requirements of § 4301(b) ~~or (c) of this title provided:~~ of this title if all of the following apply:

~~(1)~~a. The individual is an employee of a state governmental agency or ~~unit; or~~ unit or an employee of a qualified police agency.

~~(2) The individual is an employee of a qualified police agency as defined in subsection (c) of this section above; and~~

~~(3)~~b. The individual submits all of the following forms to be established by the Secretary:

~~a.~~1. An application form completed by the ~~applicant; and~~individual.

~~b.~~2. An employer request and approval form.

(2)a. ~~Such appointments shall expire upon~~An appointment under paragraph (d)(1) of this section expires on the end of the ~~notary's~~ individual's employment with ~~the State~~ a state governmental agency or unit or qualified police agency and ~~shall~~ is to be made without charge to the appointee or the agency or ~~unit. Any such notary, so appointed shall have no authority to perform any duties with respect to such office or to take affidavits or acknowledgements, except for those duties established by their respective agency or unit. The notaries public so appointed shall make no charge for any service rendered. The engraving of the notary seal shall comply with § 4310(a) of this title except that the Commission expiration date statement required by such subsection shall be satisfied by the phrase "My Commission expires upon office." A notary public appointed under this subsection that transfers employment to~~

~~another state governmental agency or unit or qualified police agency shall notify the Secretary of such change within 30 days. The notary may only retain the appointment upon receipt of an employer request and approval form from the agency or unit to which the notary transferred.~~ unit or qualified police agency.

b. An individual appointed under paragraph (d)(1) of this section may not do any of the following:

1. Perform a notarial act other than a notarial act authorized by the individual's state governmental agency or unit or qualified police agency.

2. Charge for a service rendered.

c. Except for the expiration date statement, which must state "My Commission expires upon office", the individual's official stamp must comply with § 4330 of this title.

d. If the individual transfers employment to another state governmental agency or unit or qualified police agency, the individual shall notify the Secretary of State of the transfer within 30 days. The individual may retain the appointment only if the individual provides to the Secretary of State an employer request and approval form from the agency or unit or qualified police agency to which the individual transferred.

Section 4. Amend § 4307, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4307. Term of office; fees; resignation.

(a) ~~Notaries public shall~~An individual is to be initially commissioned as a notary public for ~~the~~ a term of 2 years. ~~Any~~ A notary public who wishes to renew ~~that~~ the notary public's ~~own~~ commission may request a 2-year reappointment or a 4-year reappointment. ~~A notary applicant~~An individual must pay a nonrefundable application fee of $60 for a 2-year term or $90 for a 4-year term.

(b) ~~Electronic notaries public shall be commissioned for the term of 2 years. An electronic notary applicant must pay a nonrefundable application fee of $60. The Secretary may establish such other fees to cover the actual costs incurred by the State to issue or provide any special identification cards, hardware or other related materials, technologies or training to electronic notaries public.~~ [Repealed.]

(c) ~~The Secretary may establish a schedule of fees for each electronic notarial act or service, not to exceed $10 per notarial act or service.~~[Repealed.]

(d) ~~Every notary~~A notary public who wishes to resign from office or who no longer meets the qualifications for a commission during ~~their~~ the notary's term of office shall immediately mail or deliver the official commission to the Secretary of State, who shall cancel the same.

(e) ~~Every notary who is registered to perform electronic notarizations who wishes to resign or who no longer meets the qualifications for a commission or whose term of office shall have expired shall immediately erase, delete or destroy the coding, disk, certificate, card, software or password that enables the electronic affixation of the notary's official electronic signature or seal and shall so certify to the Secretary. The failure of an electronic notary to comply with this subsection may result in the Secretary imposing a civil penalty on the notary of $500.~~[Repealed.]

(f) If any person shall knowingly or wilfully make any false or fraudulent statement or misrepresentation in or with reference to any application for a notary commission or any other document required by this chapter, ~~such person shall be~~the person is guilty of perjury.

Section 5. Amend § 4308, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4308. ~~Oath.~~Oath of office.

~~The notaries and resident electronic notaries shall severally~~A notary public shall take and subscribe the oath or affirmation prescribed by ~~article~~ Article XIV of the Constitution of this State. ~~The nonresident electronic notaries shall severally take and subscribe the oath or affirmation on a commission issued by the Secretary before a notary public or other officer authorized to administer oaths. Notaries and electronic notaries shall be~~A notary public is exempt from the recordation of the oath of office prescribed by § 9605(a) of Title 9. ~~Notaries and electronic notaries shall not be permitted to~~A notary public may not perform notarial acts until a copy of the fully executed oath is received by the Secretary of State in an electronic or paper document format deemed acceptable by the Secretary of State.

Section 6. Amend § 4309, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4309. Seal and powers.

~~(a) The notary shall have a seal and shall exercise the powers and perform the duties belonging to that office. The notary shall also have power to take the acknowledgement of deeds and other instruments. The notary public must ensure, either from personal knowledge of identity or from satisfactory evidence of identity as defined in § 4321 of this title, that the individual whose presence and signature is being certified is in fact the person he or she claims to be.~~

~~(b) A notary who has registered with the Secretary to perform electronic notarizations as required by § 4302 of this title shall have an electronic seal and may perform a notarial act by electronic means. The electronic notary must ensure, either from personal knowledge of identity or from satisfactory evidence of identity as defined in § 4321 of this title, that the individual whose presence and signature is being certified is in fact the person he or she claims to be.~~

~~(c) A notary public or electronic notary public shall not notarize a document without the person signing the document being personally present.~~ [Repealed.]

Section 7. Amend § 4310, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4310. Engraving of seal; effect of use of nonconforming seal; electronic notarial seal; notary's official signature; electronic signature.

~~(a) The seal required by § 4309 of this title shall be used in the transaction of official business by notaries public. Each notary public shall provide, keep and use a seal that is either an engraved embossed seal or a black-inked rubber stamp seal to be used on the paper document being notarized. The seal shall contain the notary's name exactly as it appears on the commission, the words "My Commission expires on" and the commission expiration date and the words "Notary Public" and "State of Delaware."~~

~~(b) If the official seal of any notary public is not engraved in conformity with this section, it shall not invalidate an official act, but such act shall be as valid as though the seal had been engraved in conformity with the requirements of this section.~~

~~(c) The electronic seal required by § 4309 of this title shall be used in the transaction of all official electronic notarial acts and shall contain the notary's name exactly as it appears on the commission, the words "My Commission expires on" and the commission expiration date and the words "Notary Public" and "State of Delaware."~~

~~(d) In acting as a notary public, a notary shall sign the notary's name exactly and only as it appears on the commission, or otherwise execute the notary's electronic signature in a manner that attributes such signature to the notary public identified on the commission.~~

~~(e) The notary's official electronic seal and signature shall be attached to an electronic document in a manner that is capable of independent verification and prevents any subsequent changes or modifications to the electronic document.~~

~~(f) A notary performing electronic notarial acts shall:~~

~~(1) Use an electronic seal and signature that conform to generally accepted standards for secure electronic notarization;~~

~~(2) Use the notary's electronic seal and signature only for the purpose of performing electronic notarial acts;~~

~~(3) Take reasonable steps to ensure that any registered device used to create an electronic signature is current and has not been revoked or terminated by its issuing or registering authority;~~

~~(4) Keep the electronic seal and signature secure under the notary's exclusive control and shall not allow them to be used by any other person; and~~

~~(5) Take reasonable steps to ensure the integrity, security and authenticity of electronic notarizations.~~

~~(g) Immediately upon discovering that the notary's physical or electronic seal, electronic signature or official journal required under § 4314 of this title has been lost, stolen or may be otherwise used by a person other than the notary, the notary shall immediately notify the Secretary who shall disable use of the missing technology on any electronic system of the Secretary. Upon request of the electronic notary and completion of a new registration form:~~

~~(1) Signed by the applicant using the electronic signature described in the form; and~~

~~(2) Including any decrypting instructions, codes, keys, or software that allow the registration to be read;~~

~~the Secretary may reinstate the electronic notary. The electronic notary may notify appropriate law enforcement agency in the case of theft or vandalism.~~

~~(h) Any notary public failing to comply with the requirements of this section may be removed by the Governor for neglect.~~[Repealed.]

Section 8. Amend § 4311, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4311. Fees for services.

(a) The maximum fee a notary public ~~can~~ may charge for ~~any paper notarial act~~ a notarial act performed with respect to a tangible record is $5.00.

(b) The maximum fee a notary public ~~can~~ may charge for ~~any electronic notarial act~~ a notarial act performed with respect to an electronic record is $25.

(c) The fees prescribed in this section ~~shall be~~are the maximum fees to be charged by ~~any~~ a notary public and, ~~upon violation hereof,~~ on violation of this section, the Secretary of State may revoke the commission of ~~such notary, and such notary shall~~ the notary public and the notary public may not be reappointed within a period of 2 years.

(d) A notary public may choose to waive any fee for any notarial ~~act; provided, however, that a notary public may not waive any fee or fees for an electronic notarial act or service assessed pursuant to § 4307(c) of this title.~~ act.

Section 9. Amend § 4313, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4313. Commission; signature of Governor; seal.

(a) The commission appointing a notary public ~~or electronic notary public shall~~must be in ~~such~~ a form as the Secretary of State ~~shall designate~~ designates and ~~shall~~ must be executed by the Governor and the Secretary of State. The signatures required by this subsection ~~shall be~~ may be satisfied by an electronic or a facsimile signature which may be engraved, ~~printed~~ printed, or stamped ~~thereon.~~ on the commission.

(b) The ~~commission shall have placed thereon the~~ impression of the Great Seal of the State, or a facsimile of the Great ~~Seal shall~~ Seal, must be engraved or printed ~~thereon~~.on the commission.

Section 10. Amend § 4314, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4314. Official electronic journal of notarial acts.

~~(a) A notary performing electronic notarial acts shall keep, maintain, protect and provide for lawful inspection an electronic journal of notarial acts. The Secretary shall establish standards for the maintenance of electronic journals.~~

~~(b) For every electronic notarial act, the notary shall record in the journal at the time of notarization the following:~~

~~(1) The date and time of day of the notarial act;~~

~~(2) The type of notarial act;~~

~~(3) The type, title or a description of the document or proceeding;~~

~~(4) The printed name and address of each person whose signature is notarized or who requests a notarial act;~~

~~(5) The evidence of identity of each principal, in the form of either: a statement that the person is "personally known" to the notary; a notation of the type of identification document and the identification number on such identification document; or the printed name and address of the credible witness swearing or affirming to the person's identity;~~

~~(6) The fee, if any, charged for the notarial act; and,~~

~~(7) Such other information as the notary may deem to be necessary and appropriate.~~

~~(c) A notary shall not record a Social Security or credit card number in the journal.~~

~~(d) A notary shall keep the official journal secure under the notary's exclusive control and shall not allow it to be used by any other person.~~

~~(e) A notary shall maintain a backup record of an electronic journal and ensure protection of such backup record from unauthorized use. The Secretary shall establish standards for backup records.~~ [Repealed.]

Section 11. Amend Subchapter II, Chapter 43, Title 29 of the Delaware Code by repealing Subchapter II, Chapter 43, Title 29 of the Delaware Code in its entirety and making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter II. Revised Uniform Law on Notarial Acts.

§ 4315. Short title.

This subchapter may be cited as the Revised Uniform Law on Notarial Acts.

§ 4316. Definitions.

For purposes of this chapter:

(1) "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.

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

(3) "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.

(4) "In a representative capacity" means acting as one of the following:

a. An authorized officer, agent, partner, trustee, or other representative for a person other than an individual.

b. A public officer, personal representative, guardian, or other representative, in the capacity stated in a record.

c. An agent or attorney-in-fact for a principal.

d. An authorized representative of another in any other capacity.

(5)a. "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this State.

b. "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.

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

(7) "Notary public" means an individual commissioned to perform a notarial act under Subchapter I of this chapter.

(8) "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.

(9) "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.

(10) “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.

(11) “Sign” means, with present intent to authenticate or adopt a record, to do any of the following:

a. Execute or adopt a tangible symbol.

b. Attach to or logically associate with the record an electronic symbol, sound, or process.

(12) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

(13) “Stamping device” means any of the following:

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

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

(14) “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.

(15) “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.

§ 4317. Authority to perform notarial act.

(a) A notarial officer may perform a notarial act authorized by this subchapter or by law of this State other than this subchapter.

(b) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer’s spouse is a party or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

(c) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

§ 4318. Requirements for certain notarial acts.

(a) 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.

(b) 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.

(c) 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.

(d) 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. A notarial officer may not attest to a copy of an official or public record that must be certified by a public official.

(e) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in § 3-505 of Title 6.

§ 4319. Personal appearance required.

Except as provided under § 4320 of this title, 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.

§ 4320. Notarial act performed for remotely located individual.

(a) For purposes of this section:

(1) "Communication technology" means an electronic device or process that does both of the following:

a. Allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound.

b. When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(2) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(3) "Identity proofing" means a process or service by which a third 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.

(4) "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.

(5) "Remotely located individual" means an individual who is not in the physical presence of the notarial officer who performs a notarial act under subsection (c) of this section.

(b) A remotely located individual may comply with § 4319 of this title by using communication technology to appear before a notarial officer.

(c) A notarial officer located in this State may use communication technology to perform a notarial act for a remotely located individual if all of the following apply:

(1) The notarial officer has one or more of the following:

a. Personal knowledge under § 4321(a) of this title of the identity of the remotely located individual.

b. Satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notarial officer under § 4321(b) of this title or this section.

c. Obtained satisfactory evidence of the identity of the remotely located individual by using at least 2 different types of identity proofing.

(2) 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.

(3) The notarial officer, or a person acting on behalf of the notarial officer, creates an audio-visual recording of the performance of the notarial act.

(4) For a remotely located individual located outside the United States, all of the following apply:

a. Any of the following apply:

1. The record is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States.

2. The record involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States.

b. 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.

(d) A notarial officer located in this State may use communication technology under subsection (c) of this section 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 audio-visual recording under paragraph (c)(3) of this section.

(e) The requirement under paragraph (c)(2) of this section for the performance of a notarial act with respect to a tangible record not physically present before the notarial officer is satisfied if all of the following apply:

(1) The remotely located individual does all of the following:

a. During the audio-visual recording under paragraph (c)(3) of this section, signs all of the following:

1. The record.

2. 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

b. Sends the record and declaration to the notarial officer not later than 3 days after the notarial act was performed.

(2) The notarial officer does all of the following:

a. In the audio-visual recording under paragraph (c)(3) of this section, records the individual signing the record and declaration.

b. After receipt of the record and declaration from the individual, executes a certificate of notarial act under § 4328 of this title, 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).

(f) A notarial act performed in compliance with subsection (e) of this section complies with § 4328(a)(1) of this title and is effective on the date the remotely located individual signed the declaration under paragraph (e)(1)a.2. of this section.

(g) Subsection (e) of this section does not preclude use of another procedure to satisfy paragraph (c)(2) of this section for a notarial act performed with respect to a tangible record.

(h) A notarial officer located in this State may use communication technology under subsection (c) of this section to administer an oath to a remotely located individual if, except as otherwise provided by other law of this State, the notarial officer does all of the following:

(1) Identifies the individual under paragraph (c)(1) of this section.

(2) Creates or causes the creation under paragraph (c)(3) of this section of an audio-visual recording of the individual taking the oath.

(3) Retains or causes the retention under subsection (k) of this section of the recording.

(i) If a notarial act is performed under this section, the certificate of notarial act under § 4328 of this title and the short-form certificate under § 4329 of this title must indicate that the notarial act was performed using communication technology.

(j) A short-form certificate under § 4329 of this title for a notarial act subject to this section is sufficient if it does any of the following:

(1) Complies with regulations adopted under paragraph (m)(1) of this section.

(2) Is in the form under § 4329 of this title and contains a statement in substantially the following form: This notarial act involved the use of communication technology.

(k) A notarial officer, a guardian, conservator, or agent of a notarial officer, or a personal representative of a deceased notarial officer shall retain the audio-visual recording created under paragraph (c)(3) of this section 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 paragraph (m)(4) of this section, the recording must be retained for a period of at least 10 years.

(*l*)(1) Before a notarial officer performs the notarial officer's initial notarial act under this section, the notarial officer shall do all of the following:

a. Notify the Secretary of State that the notarial officer will be performing notarial acts with respect to remotely located individuals.

b. Identify for the Secretary of State the technologies the notarial officer intends to use.

(2) If the Secretary of State has established standards under subsection (m) of this section and § 4338 of this title for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

(m) In addition to adopting regulations under § 4338 of this title, the Secretary of State may adopt regulations under this section regarding performance of a notarial act. The regulations may do any of the following:

(1) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology.

(2) Establish standards for communication technology and identity proofing.

(3) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing.

(4) Establish standards and a period for the retention of an audio-visual recording created under paragraph (c)(3) of this section.

(5) Prescribe methods for a notarial officer to confirm under subsections (d) and (e) of this section the identity of a tangible record.

(n) Before adopting, amending, or repealing a regulation governing performance of a notarial act with respect to a remotely located individual, the Secretary of State must consider all of the following:

(1) 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 the National Association of Secretaries of State.

(2) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section.

(3) The views of governmental officials and entities and other interested persons.

(o) By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording under paragraph (c)(3) of this section, 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.

§ 4321. Identification of individual.

(a) 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.

(b) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual by any of the following:

(1) By means of any of the following:

a. A passport, driver's license, or government issued nondriver identification card, which is current and not expired before performance of the notarial act.

b. Another form of government identification issued to an individual, which is current and not expired before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer.

(2) By a verification on oath or affirmation of a credible witness personally appearing before the 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, which is current and not expired before performance of the notarial act.

(c) 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.

§ 4322. Authority to refuse to perform notarial act.

(a) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that all of the following apply:

(1) The individual executing the record is competent or has the capacity to execute the record.

(2) The individual's signature is knowingly and voluntarily made.

(b) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this subchapter.

§ 4322A. Signature if individual unable to sign.

If an individual is physically unable to sign a record, 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.

§ 4323. Notarial act in this State.

(a) A notarial act may be performed in this State by any of the following:

(1) A notary public of this State.

(2) A judge, clerk, or deputy clerk of a court of this State.

(3) An individual licensed to practice law in this State.

(4) An individual authorized by law of this State to administer oaths.

(5) Any other individual authorized to perform the specific act by the law of this State.

(b) 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.

(c) The signature and title of a notarial officer described in paragraph (a)(1), (a)(2), or (a)(3) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 4324. Notarial act in another state.

(a) A notarial act performed in another state has the same effect under the law of this State as if performed by a notarial officer of this State, if the act performed in that state is performed by any of the following:

(1) A notary public of that state.

(2) A judge, clerk, or deputy clerk of a court of that state.

(3) Any other individual authorized by the law of that state to perform the notarial act.

(b) 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.

(c) The signature and title of a notarial officer described in paragraph (a)(1) or (a)(2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 4325. Notarial act under authority of federally recognized Indian tribe.

(a) 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 any of the following:

(1) A notary public of the tribe.

(2) A judge, clerk, or deputy clerk of a court of the tribe.

(3) Any other individual authorized by the law of the tribe to perform the notarial act.

(b) 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.

(c) The signature and title of a notarial officer described in paragraph (a)(1) or (a)(2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 4326. Notarial act under federal authority.

(a) A notarial act performed under federal law has the same effect under the law of this State as if performed by a notarial officer of this State, if the act performed under federal law is performed by any of the following:

(1) A judge, clerk, or deputy clerk of a federal court.

(2) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law.

(3) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas.

(4) Any other individual authorized by federal law to perform the notarial act.

(b) 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.

(c) The signature and title of an officer described in paragraph (a)(1), (a)(2), or (a)(3) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 4327. Foreign notarial act.

(a) In this section, “foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.

(b) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this State as if performed by a notarial officer of this State.

(c) 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.

(d) The signature and official stamp of an individual holding an office described in subsection (c) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(e) 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.

(f) 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.

§ 4328. Certificate of notarial act.

(a) A notarial act must be evidenced by a certificate. The certificate must meet all of the following:

(1) Be executed contemporaneously with the performance of the notarial act.

(2) 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.

(3) Identify the jurisdiction in which the notarial act is performed.

(4) Contain the title of office of the notarial officer.

(5) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

(b) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in paragraph (a)(2), (a)(3), and (a)(4) of this section, an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in paragraph (a)(2), (a)(3), and (a)(4) of this section, an official stamp may be attached to or logically associated with the certificate.

(c) A certificate of a notarial act is sufficient if it meets the requirements of subsections (a) and (b) of this section and any of the following:

(1) Is in a short form set forth in § 4329 of this title.

(2) Is in a form otherwise permitted by the law of this State.

(3) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed.

(4) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in §§ 4318, 4319, and 4321 of this title or law of this State other than this subchapter.

(d) 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 §§ 4317, 4318, and 4319 of this title.

(e) 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.

(f) 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 under § 4338 of this title for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

§ 4329. Short form certificates.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by § 4328(a) and (b) of this title:

(1) 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

[_____]

Title of office

[My commission expires: _____]

(2) 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

[_____]

Title of office

[My commission expires: _____]

(3) 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) 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) 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

[_____]

Title of office

[My commission expires: _____]

§ 4330. Official stamp of a notary public.

The official stamp of a notary public must meet all of the following:

(1) Include all of the following:

a. The notary public's name as it appears on file with the Secretary of State.

b. "State of Delaware".

c. "My Commission expires on" and the commission expiration date.

d. Other information required by the Secretary of State.

(2) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

§ 4331. Stamping device of a notary public.

(a) 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.

(b) 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 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.

(c) 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.

(d) 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.

§ 4332. Journal of a notary public.

(a) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

(b) A journal may be created on a tangible medium or in an electronic format. A notary public shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or 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 regulations adopted by the Secretary of State.

(c) An entry in a journal must be made contemporaneously with performance of the notarial act and contain all of the following information:

(1) The date and time of the notarial act.

(2) A description of the record, if any, and type of notarial act.

(3) The full name and address of each individual for whom the notarial act is performed.

(4) If identity of the individual is based on personal knowledge, a statement to that effect.

(5) 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 date of issuance and expiration of any identification credential.

(6) The fee, if any, charged by the notary public.

(d) If a notary public's journal is lost or stolen, the notary public shall promptly notify the Secretary of State on discovering that the journal is lost or stolen.

(e) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (a) of this section and inform the Secretary of State where the journal is located.

(f) Instead of retaining a journal as provided in subsections (a) and (e) of this section, a current or former notary public may transmit the journal to the Secretary of State or a repository approved by the Secretary of State.

(g) 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.

§ 4333. Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record.

(a) 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.

(b)(1) Before a notarial officer performs the notarial officer's initial notarial act with respect to an electronic record, a notarial officer shall do all of the following:

a. Notify the Secretary of State that the notarial officer will be performing notarial acts with respect to electronic records.

b. Identify for the Secretary of State the technology the notarial officer intends to use.

(2) If the Secretary of State has established standards for approval of technology under § 4338 of this title, the technology must conform to the standards.

(3) If the technology conforms to the standards, the Secretary of State shall approve the use of the technology.

(c) A Recorder 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.

§ 4334. Grounds to deny, refuse to renew, revoke, suspend, or impose a condition on a commission of notary public.

(a) The Governor may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including any of the following:

(1) Failure to comply with this chapter.

(2) A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Secretary of State.

(3) A conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit.

(4) 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.

(5) Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, regulations adopted by the Secretary of State, or any federal or state law.

(6) 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.

(7) Violation by the notary public of a regulation adopted by the Secretary of State regarding a notary public.

(8) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state.

(9) A violation under § 4311(c) of this title.

(b) If the Governor denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with Chapter 101 of this title.

(c) The authority of the Governor to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

§ 4335. Database of notaries public.

The Secretary of State shall maintain an electronic database of notaries public that does all of the following:

(1) Permits a person to verify the authority of a notary public to perform notarial acts.

(2) Indicates whether a notary public has notified the Secretary of State that the notary public will be performing notarial acts on electronic records or notarial acts for remotely located individuals under § 4320 of this title.

§ 4336. Prohibited acts of a notary public.

(a) A commission as a notary public does not authorize an individual to do any of the following:

(1) Assist persons in drafting legal records, give legal advice, or otherwise practice law.

(2) Act as an immigration consultant or an expert on immigration matters.

(3) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters.

(4) Receive compensation for performing any of the activities listed in this subsection.

(b) A notary public may not engage in false or deceptive advertising.

(c) A notary public, other than an attorney licensed to practice law in this State, may not use the term "notario" or "notario publico".

(d)(1) A notary public, other than 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.

(2) 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.".

(3) 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 paragraph (d)(2) of this section because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(e) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

§ 4337. Validity of notarial acts.

Except as otherwise provided in § 4317(b) of this title, 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 law of this State other than this chapter or law 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.

§ 4338. Regulatory authority.

(a) The Secretary of State may adopt rules to implement this chapter. Regulations 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. Regulations may do all of the following:

(1) Prescribe the manner of performing notarial acts regarding tangible and electronic records.

(2) Include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident.

(3) Include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures.

(4) Prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public.

(5) Include provisions to prevent fraud or mistake in the performance of notarial acts.

(b) 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 subchapter, all of the following:

(1) The most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State.

(2) Standards, practices, and customs of other jurisdictions that substantially enact this subchapter.

(3) The views of governmental officials and entities and other interested persons.

§ 4339. Notary public commission in effect.

A commission as a notary public in effect on [the effective date of this Act] continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after [the effective date of this Act] is subject to and shall comply with this chapter. A notary public, in performing notarial acts after [the effective date of this Act], shall comply with this chapter.

§ 4340. Applicability; savings clause.

(a) This subchapter applies to a notarial act performed on or after [the effective date of this Act].

(b) This subchapter does not affect the validity or effect of a notarial act performed before [the effective date of this Act].

§ 4341. Uniformity of application and construction.

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

§ 4342. Relation to Electronic Signatures in Global and National Commerce Act.

This subchapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. § 7003(b).

Section 12. Amend § 3156, Title 20 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3156. Notarization.

The provisions of Paragraph B of the Eleventh Modification of the State of Emergency Declaration, dated April 15, 2020, shall continue in full force and effect until ~~June 30, 2022.~~ July 31, 2023.

Section 13. Amend § 3156, Title 20 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3156. Notarization.

~~The provisions of Paragraph B of the Eleventh Modification of the State of Emergency Declaration, dated April 15, 2020, shall continue in full force and effect until July 31, 2023.~~ [Repealed.]

Section 14. Sections 1 through 11 and Section 13 of this Act take effect on August 1, 2023.

Section 15. Section 12 of this Act takes effect on enactment.