

SENATE BILL 678

P1, P3

9lr1461

By: **Senators Jennings, Beidle, Benson, Cassilly, Eckardt, Edwards, Elfreth, Feldman, Griffith, Guzzone, Hayes, Hershey, Kelley, Kramer, Lam, Lee, McCray, Patterson, Peters, Pinsky, Ready, Reilly, Salling, Serafini, Smith, Waldstreicher, West, and Zirkin**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2019

CHAPTER _____

AN ACT concerning

State Government – Notarial Acts and Notaries Public

FOR the purpose of altering the qualifications an individual must have to be appointed as a notary public; requiring the Secretary of State regularly to offer a certain course of study and examination; altering the types of actions the Governor may take against a notary public applicant or notary public and the circumstances under which the actions may be taken; altering the authority of the Governor to delegate certain acts; providing that a certain notice and hearing opportunity is not required to be given to certain applicants regarding a certain matter; altering the conditions under which a certain notice and hearing opportunity is deemed satisfied; providing that action taken under certain provisions of this Act does not preclude a person from seeking and obtaining certain other remedies; altering the cap on the fee established by the Secretary of State for an original notarial act; authorizing certain persons to charge a certain fee for the performance of a certain notarial act; altering the fee a notary public may charge as compensation for travel; altering the authority of the Secretary of State to set by regulation certain fees; authorizing the Secretary of State to publish certain information; providing for the application of certain provisions of this Act; authorizing a notarial officer to perform certain notarial acts except under certain circumstances; establishing the duties and authority of notarial officers with respect to the performance of notarial acts; requiring that a certain individual personally appear before a notarial officer under certain circumstances; providing that a notarial officer has personal knowledge or satisfactory evidence of the identity of a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



certain individual under certain circumstances; prohibiting certain individuals from charging a fee to perform a notarial act; authorizing an individual to direct a certain individual to sign the individual's name on a record under certain circumstances; providing that notarial acts performed in certain other jurisdictions have the same effect under the laws of this State under certain circumstances; providing for the manner in which notarial acts for remotely located individuals are to be performed except under certain circumstances; requiring that each notarial act be evidenced by a certificate; providing for the contents of notarial certificates and official stamps; providing that a notary public's official stamp ~~and stamping device are~~ is a public seal ~~seal~~ seal for purposes of certain provisions of law; providing that a notary public's stamping device is a public seal; requiring a certain person to take certain actions with respect to a certain notary public's stamping device and journal; providing for the manner in which a notary public's journal is to be maintained; establishing certain prohibited acts; requiring a clerk of the circuit court to accept a certain copy of an electronic record for recording under certain provisions of law under certain circumstances; requiring the Secretary of State to maintain a certain electronic database; providing that, except under certain circumstances, the failure of a notarial officer to perform a duty or meet certain requirements does not invalidate a certain notarial act; authorizing the Secretary of State to adopt certain regulations; establishing requirements for identity proofing and credential analysis used by a notary public; requiring that, in applying and construing certain provisions of this Act, consideration be given to a certain need; providing that certain provisions of this Act modify, limit, and supersede certain provisions of federal law; providing that certain provisions of this Act do not modify, limit, or supersede certain provisions of federal law; establishing a certain short title; altering the circumstances under which a certain notary public may serve as a certain witness; repealing certain provisions of law regarding notaries public and acknowledgments that are rendered obsolete by certain provisions of this Act; making conforming changes; defining certain terms; making a technical correction; providing that a commission as notary public in effect on a certain date continues to be in effect until its date of expiration; providing that this Act does not affect the validity or effect of a notarial act performed before a certain date; providing for a delayed effective date; and generally relating to notarial acts.

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

Section 17–110(b)

Annotated Code of Maryland

(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 18–102, 18–103(d)(4), 18–104, 18–109, 18–110, 18–112, and 18–114 to be under the new subtitle “Subtitle 1. Notaries Public” and the amended title “Title 18. Notarial Acts”

Annotated Code of Maryland

(2014 Replacement Volume and 2018 Supplement)

BY repealing

Article – State Government

Section 18–105 through 18–108, 18–111, and 18–113; and 19–101 through 19–301
and the title “Title 19. Acknowledgments”

Annotated Code of Maryland

(2014 Replacement Volume and 2018 Supplement)

BY adding to

Article – State Government

Section 18–201 through 18–228 to be under the new subtitle “Subtitle 2. Revised
Uniform Law on Notarial Acts”

Annotated Code of Maryland

(2014 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Estates and Trusts

17–110.

(b) The notary public before whom the principal acknowledges the power of attorney may also serve as one of the two or more adult witnesses UNLESS THE NOTARY PUBLIC IS USING COMMUNICATION TECHNOLOGY UNDER § 18–214 OF THE STATE GOVERNMENT ARTICLE TO PERFORM THE NOTARIAL ACT FOR A REMOTELY LOCATED PRINCIPAL.

Article – State Government

Title 18. [Notaries Public] **NOTARIAL ACTS.**

SUBTITLE 1. NOTARIES PUBLIC.

18–102.

(A) [Each] ~~TO~~ **SUBJECT TO § 18–104 OF THIS SUBTITLE, TO BE APPOINTED AS A NOTARY PUBLIC, AN individual [appointed as a notary public shall] MUST:**

(1) be at least 18 years old;

[(2) be of good moral character and integrity;]

(2) **BE A CITIZEN OR PERMANENT LEGAL RESIDENT OF THE UNITED STATES;**

[(3) live or work in the State;]

(3) (I) BE A RESIDENT OF THE STATE; OR

(II) HAVE A PLACE OF EMPLOYMENT OR PRACTICE IN THE STATE;

(4) BE ABLE TO READ AND WRITE ENGLISH;

(5) (I) FOR AN INITIAL APPLICANT, HAVE COMPLETED THE COURSE AND PASSED THE EXAMINATION OFFERED UNDER SUBSECTION (B) OF THIS SECTION; OR

(II) FOR A RENEWAL APPLICANT, HAVE COMPLETED THE COURSE OFFERED UNDER SUBSECTION (B) OF THIS SECTION;

[(4) (6) if living in the State, be a resident of the senatorial district from which appointed; and

[(5) (7) if living outside the State, be a resident of a state that allows Maryland residents working in that state to serve as notaries public in that state.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS PARAGRAPH, THE SECRETARY OF STATE REGULARLY SHALL OFFER A COURSE OF STUDY AND AN EXAMINATION THAT COVER THE LAWS, REGULATIONS, PROCEDURES, AND ETHICS RELEVANT TO NOTARIAL ACTS.

(2) THE COURSE AND EXAMINATION MAY BE OFFERED THROUGH AN ENTITY APPROVED BY THE SECRETARY OF STATE.

18-103.

(d) (4) An out-of-state individual commissioned as a notary shall qualify before the clerk of the circuit court in any county [or Baltimore City] and pay the fees prescribed in subsection (e) of this section.

18-104.

(a) [(1) A notary public may be removed or suspended from office by the Governor for good cause either on the Governor's own initiative or on a request made to the Governor in writing by the Senator who approved the appointment.]

(1) ON THE GOVERNOR'S OWN INITIATIVE OR ON A REQUEST MADE TO THE GOVERNOR IN WRITING BY THE SENATOR FOR THE SENATORIAL DISTRICT IN WHICH THE APPLICANT OR NOTARY PUBLIC RESIDES, THE GOVERNOR MAY DENY,

REFUSE TO RENEW, REVOKE, SUSPEND, OR IMPOSE CONDITIONS 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:

(I) A FAILURE TO COMPLY WITH THIS TITLE OR REGULATIONS ADOPTED UNDER THIS TITLE;

(II) A FRAUDULENT, DISHONEST, OR DECEITFUL MISSTATEMENT OR OMISSION IN THE APPLICATION FOR A COMMISSION;

(III) A CONVICTION OF A FELONY OR CRIME INVOLVING FRAUD, DISHONESTY, OR DECEIT;

(IV) A FINDING AGAINST OR AN ADMISSION OF LIABILITY IN A LEGAL PROCEEDING OR DISCIPLINARY ACTION BASED ON FRAUD, DISHONESTY, OR DECEIT;

(V) FAILURE TO DISCHARGE ANY DUTY REQUIRED OF A NOTARY PUBLIC, WHETHER IMPOSED BY ANY FEDERAL OR STATE LAW OR REGULATIONS ADOPTED BY THE SECRETARY OF STATE;

(VI) 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; AND

(VII) DENIAL, REFUSAL TO RENEW, REVOCATION, SUSPENSION, OR CONDITIONS OF A NOTARY PUBLIC COMMISSION BY ANOTHER STATE.

(2) ~~After~~ SUBJECT TO SUBSECTION (C) OF THIS SECTION, AFTER notice to the notary and the opportunity for a hearing before the Secretary of State or the Secretary of State's designee, the Secretary of State shall submit a recommendation to the Governor for action as the Governor determines to be required in the case.

(b) (1) The Governor may delegate to the Secretary of State or the Assistant Secretary of State [or both] the authority to [remove or suspend a notary from office] **TAKE AN ACTION** under **SUBSECTION (A) OF** this section.

(2) ~~The~~ SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE Secretary of State or Assistant Secretary of State shall give the notary notice and an opportunity for a hearing as provided in subsection (a) of this section, but is not required to submit a recommendation to the Governor before acting under this subsection.

(C) NOTICE AND THE OPPORTUNITY FOR A HEARING UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION ARE NOT REQUIRED TO BE GIVEN TO AN APPLICANT FOR AN INITIAL COMMISSION AS A NOTARY PUBLIC REGARDING THE DENIAL OF THE COMMISSION.

~~(D)~~ **(D)** A hearing under this section is not a contested case under Title 10, Subtitle 2 of this article.

~~(E)~~ **(E)** The notice and hearing opportunity under subsections (a) and (b) of this section is deemed satisfied if a letter informing the **APPLICANT OR** notary of the impending [removal from office] **ACTION** and hearing opportunity is mailed to the **APPLICANT OR** notary **BY FIRST-CLASS MAIL** at the last address the **APPLICANT OR** notary has given to the Secretary of State[, and the letter is returned to the Secretary of State by the United States Postal Service].

~~(F)~~ **(F)** **AN ACTION TAKEN UNDER THIS SECTION AGAINST A NOTARY PUBLIC DOES NOT PRECLUDE A PERSON FROM SEEKING AND OBTAINING ANY OTHER CRIMINAL OR CIVIL REMEDY PROVIDED BY LAW FOR REDRESS OF HARM CAUSED BY THE NOTARY PUBLIC.**

[18-105.

(a) A notary public shall have the power to administer oaths according to law in all matters and cases of a civil nature in which a justice of the peace might have administered an oath on or before July 4, 1971, and with the same effect.

(b) A certificate under the notarial seal of a notary shall be sufficient evidence of the notary having administered the oath as notary public.]

[18-106.

A notary public may:

(1) receive the proof or acknowledgment of all instruments of writing relating to commerce or navigation and other writings as have been usually proved and acknowledged before notaries; and

(2) make protests and declarations and testify to the truth of the protests and declarations under the notary's notarial seal of office concerning all matters done by the notary in virtue of the notary's office.]

[18-107.

A notary public shall keep a fair register of all protests and other official acts done by the notary in virtue of the notary's office and shall, when required, give a certified copy

of any record in the notary's office to any person applying for the record on payment of the usual fees for the certified copy by the person applying for it.]

[18-108.

(a) A notary public shall provide a public notarial seal or stamp with which the notary shall authenticate the notary's acts, instruments, and attestations, on which seal or stamp shall be shown a device that the notary thinks proper and for legend shall have the name, surname, and office of the notary and the notary's place of residence, which shall be designated by the county of the notary's residence or if the notary is a resident of the City of Baltimore, by the City of Baltimore.

(b) If the notary is an out-of-state notary, the legend shall have the name, surname, office of the notary, and the county where the notary qualified.

(c) Each notary shall include on each act, instrument, or attestation the expiration date of the notary's commission as a notary.]

[18-109.] **18-105.**

A notary public may exercise all functions of the office of notary in any other county or city than the county or city for which the notary is appointed, with the same power and effect in all respects as if the same were exercised in the county or city for which the notary is appointed.

[18-110.] **18-106.**

It is unlawful for any notary public to sign and issue any protest except in the form prescribed by the Comptroller.

[18-111.

(a) Subject to subsection (b) of this section, it is lawful for any notary public who is a stockholder, director, officer, or employee of a bank or other corporation to:

(1) take the acknowledgment of any party to any written instrument executed to or by the corporation, or to administer an oath to any other stockholder, director, officer, employee, or agent of the corporation; or

(2) protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes, and other negotiable instruments that may be owned or held for collection of the corporation.

(b) It is unlawful for any notary public to:

(1) take the acknowledgment of an instrument by or to a bank or other corporation of which the notary is a stockholder, director, officer, or employee if the notary is a party to the instrument, either individually or as a representative of the corporation; or

(2) protest any negotiable instrument owned or held for collection by the corporation, where the notary is individually a party to the instrument.]

[18–112.] **18–107.**

(a) **(1)** The Secretary of State shall adopt regulations to establish fees, not to exceed ~~[\$4]~~ **\$25** for an original notarial act, and an appropriate lesser amount for the repetition of that original notarial act or to make a copy of the matter addressed by that original notarial act.

(2) A NOTARY PUBLIC OR PERSON ACTING ON BEHALF OF A NOTARY PUBLIC MAY CHARGE A FEE, NOT TO EXCEED \$25, FOR THE PERFORMANCE OF A NOTARIAL ACT UNDER § 18–214 OF THIS TITLE.

(b) **(1)** ~~A SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A~~ notary public may charge [19 cents per mile] **THE PREVAILING RATE FOR MILEAGE ESTABLISHED BY THE INTERNAL REVENUE SERVICE FOR BUSINESS TRAVEL PER MILE, or a higher amount set by regulation of the Secretary of State,** and a fee not to exceed \$5, as compensation for travel required for the performance of a notarial act.

(2) (I) THE SECRETARY OF STATE MAY SET BY REGULATION A DIFFERENT AMOUNT THAT A NOTARY PUBLIC MAY CHARGE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) AN AMOUNT SET UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY EXCEED THE AMOUNT ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

[18–113.

(a) If a document presented for notarization does not contain a notarial certificate reflecting the taking of an oath or acknowledgment, a notary may nevertheless witness the signing of the document in the notary's official capacity, in accordance with subsection (b) of this section.

(b) A notary acting as a witness in the notary's official capacity under subsection (a) of this section shall:

(1) obtain satisfactory proof of the identity of the person signing the document;

- (2) observe the signing of the document;
- (3) date, sign, and seal or stamp the document; and
- (4) record the act in the notary's fair register.]

[18–114.] **18–108.**

(a) **(1)** Subject to § 4–332 of the General Provisions Article, the Secretary of State may provide lists of public information in its records to those persons who request them if the Secretary of State approves of the purpose for which the information is requested.

(2) (I) THE SECRETARY OF STATE MAY PUBLISH INFORMATION RELATING TO THE STATUS OF THE COMMISSION OF A NOTARY PUBLIC OR FORMER NOTARY PUBLIC, INCLUDING THE DATE OF COMMENCEMENT AND EXPIRATION OF ANY SUSPENSION, NONRENEWAL, OR REVOCATION OF THE COMMISSION.

(II) THE DISCLOSURE OF INFORMATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS DEEMED COMPLIANT WITH § 4–332(B)(4) OF THE GENERAL PROVISIONS ARTICLE.

(b) (1) The Secretary of State shall charge a reasonable fee, not less than the cost of preparing the list, for any list furnished under this section.

(2) The Secretary of State may charge a reduced fee to persons requesting a list for governmental or not-for-profit purposes.

(c) A person furnished any information under this section may not distribute or otherwise use the information for any purpose other than that for which it was furnished.

(d) The Secretary of State may not disclose information under this section for use in telephone solicitations as defined in § 4–320(a) of the General Provisions Article.

SUBTITLE 2. REVISED UNIFORM LAW ON NOTARIAL ACTS.

18–201.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ACKNOWLEDGMENT” MEANS A DECLARATION BY AN INDIVIDUAL BEFORE A NOTARIAL OFFICER THAT:

(1) THE INDIVIDUAL HAS SIGNED A RECORD FOR THE PURPOSE STATED IN THE RECORD; AND

(2) IF THE RECORD IS SIGNED IN A REPRESENTATIVE CAPACITY, THE INDIVIDUAL SIGNED THE RECORD WITH PROPER AUTHORITY AND SIGNED IT AS THE ACT OF THE INDIVIDUAL OR ENTITY IDENTIFIED IN THE RECORD.

(C) “COMMUNICATION TECHNOLOGY” MEANS AN ELECTRONIC DEVICE OR PROCESS THAT:

(1) ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED INDIVIDUAL TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY SIGHT AND SOUND; AND

(2) WHEN NECESSARY UNDER AND CONSISTENT WITH OTHER APPLICABLE LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED INDIVIDUAL WHO HAS A VISION, HEARING, OR SPEECH IMPAIRMENT.

(D) “CREDENTIAL ANALYSIS” MEANS A PROCESS OR SERVICE BY WHICH A THIRD PARTY CONFIRMS THE VALIDITY OF AN IDENTIFICATION CREDENTIAL BY A REVIEW OF PUBLIC OR PRIVATE DATA SOURCES.

(E) “ELECTRONIC” MEANS TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

(F) “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.

(G) “FOREIGN STATE” MEANS A JURISDICTION OTHER THAN THE UNITED STATES, A STATE, OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

(H) “IDENTITY PROOFING” MEANS A PROCESS OR SERVICE BY WHICH A THIRD PARTY PROVIDES A NOTARY PUBLIC WITH A MEANS TO VERIFY THE IDENTITY OF A REMOTELY LOCATED INDIVIDUAL BY A REVIEW OF PERSONAL INFORMATION FROM PUBLIC OR PRIVATE DATA SOURCES.

(I) “IN A REPRESENTATIVE CAPACITY” MEANS ACTING AS:

(1) AN AUTHORIZED OFFICER, AGENT, PARTNER, TRUSTEE, OR OTHER REPRESENTATIVE FOR A PERSON OTHER THAN AN INDIVIDUAL;

(2) A PUBLIC OFFICER, PERSONAL REPRESENTATIVE, GUARDIAN, OR OTHER REPRESENTATIVE, IN THE CAPACITY STATED IN A RECORD;

(3) AN AGENT OR ATTORNEY-IN-FACT FOR A PRINCIPAL; OR

(4) AN AUTHORIZED REPRESENTATIVE OF ANOTHER IN ANY OTHER CAPACITY.

(J) (1) “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 THE STATE.

(2) “NOTARIAL ACT” INCLUDES:

(I) TAKING AN ACKNOWLEDGMENT;

(II) ADMINISTERING AN OATH OR AFFIRMATION;

(III) TAKING A VERIFICATION ON OATH OR AFFIRMATION;

(IV) WITNESSING OR ATTESTING A SIGNATURE;

(V) CERTIFYING OR ATTESTING A COPY; AND

(VI) NOTING A PROTEST OF A NEGOTIABLE INSTRUMENT.

(K) “NOTARIAL OFFICER” MEANS A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED TO PERFORM A NOTARIAL ACT.

(L) “NOTARY PUBLIC” MEANS AN INDIVIDUAL APPOINTED AND COMMISSIONED TO PERFORM A NOTARIAL ACT.

(M) “OFFICIAL STAMP” MEANS:

(1) A PHYSICAL IMAGE AFFIXED TO OR EMBOSSSED ON A TANGIBLE RECORD; OR

(2) AN ELECTRONIC IMAGE ATTACHED TO OR LOGICALLY ASSOCIATED WITH AN ELECTRONIC RECORD.

(N) “RECORD” MEANS INFORMATION THAT IS:

(1) INSCRIBED ON A TANGIBLE MEDIUM; OR

(2) STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(O) “REMOTE PRESENTATION” MEANS TRANSMISSION TO A NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE OF AN IDENTIFICATION CREDENTIAL THAT IS OF SUFFICIENT QUALITY TO ENABLE THE NOTARY PUBLIC TO REASONABLY IDENTIFY THE INDIVIDUAL AND TO PERFORM CREDENTIAL ANALYSIS.

(P) “REMOTELY LOCATED INDIVIDUAL” MEANS AN INDIVIDUAL WHO IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT.

(Q) “SIGN” MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD, TO:

(1) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

(2) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

(R) “SIGNATURE” MEANS A TANGIBLE SYMBOL OR AN ELECTRONIC SIGNATURE THAT EVIDENCES THE SIGNING OF A RECORD.

(S) “STAMPING DEVICE” MEANS:

(1) A PHYSICAL DEVICE CAPABLE OF AFFIXING AN OFFICIAL STAMP TO OR EMBOSSING AN OFFICIAL STAMP ON A TANGIBLE RECORD; OR

(2) AN ELECTRONIC DEVICE OR PROCESS CAPABLE OF ATTACHING AN OFFICIAL STAMP TO OR LOGICALLY ASSOCIATING AN OFFICIAL STAMP WITH AN ELECTRONIC RECORD.

(T) “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 OR THAT A REMOTELY LOCATED INDIVIDUAL HAS THE IDENTITY CLAIMED.

18-202.

THIS SUBTITLE APPLIES ONLY TO A NOTARIAL ACT PERFORMED ON OR AFTER OCTOBER 1, ~~2019~~ 2020.

18-203.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A NOTARIAL OFFICER MAY PERFORM A NOTARIAL ACT AUTHORIZED BY THE LAWS OF THE STATE.

(B) (1) A NOTARIAL OFFICER MAY NOT PERFORM A NOTARIAL ACT WITH RESPECT TO A RECORD TO WHICH THE NOTARIAL OFFICER OR THE SPOUSE OF THE NOTARIAL OFFICER IS A PARTY, OR IN WHICH EITHER THE NOTARIAL OFFICER ~~OR~~ OR THE SPOUSE OF THE NOTARIAL OFFICER HAS A DIRECT BENEFICIAL INTEREST.

(2) A NOTARIAL ACT PERFORMED IN VIOLATION OF PARAGRAPH (1) 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.

18-204.

(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 IN ACCORDANCE WITH § 18-206 OF THIS SUBTITLE, THAT:

(1) THE INDIVIDUAL APPEARING BEFORE THE NOTARIAL OFFICER AND MAKING THE ACKNOWLEDGMENT HAS THE IDENTITY CLAIMED; AND

(2) THE SIGNATURE ON THE RECORD IS THE SIGNATURE OF THE INDIVIDUAL.

(B) A NOTARIAL OFFICER WHO TAKES A VERIFICATION ON OATH OR AFFIRMATION OF A STATEMENT SHALL DETERMINE, FROM PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF THE IDENTITY OF THE INDIVIDUAL IN ACCORDANCE WITH § 18-206 OF THIS SUBTITLE, THAT:

(1) THE INDIVIDUAL APPEARING BEFORE THE NOTARIAL OFFICER AND MAKING THE VERIFICATION HAS THE IDENTITY CLAIMED; AND

(2) 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 IN ACCORDANCE WITH § 18-206 OF THIS SUBTITLE, THAT THE INDIVIDUAL APPEARING BEFORE THE NOTARIAL 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.

(E) (1) A NOTARIAL OFFICER WHO CERTIFIES THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD IS AN ACCURATE COPY OF THE ELECTRONIC RECORD SHALL:

(I) REASONABLY DETERMINE WHETHER THE ELECTRONIC RECORD IS IN A TAMPER-EVIDENT FORMAT; AND

(II) PERSONALLY PRINT OR SUPERVISE THE PRINTING OF THE ELECTRONIC RECORD ONTO PAPER OR OTHER TANGIBLE MEDIUM.

(2) A NOTARIAL OFFICER WHO CERTIFIES THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD IS AN ACCURATE COPY OF THE ELECTRONIC RECORD MAY NOT MAKE THE CERTIFICATION IF THE NOTARIAL OFFICER HAS DETECTED A CHANGE OR AN ERROR IN AN ELECTRONIC SIGNATURE OR OTHER INFORMATION IN THE ELECTRONIC RECORD.

(F) A NOTARIAL OFFICER WHO MAKES OR NOTES A PROTEST OF A NEGOTIABLE INSTRUMENT SHALL MAKE OR NOTE THE PROTEST IN ACCORDANCE WITH § 3-505(B) OF THE COMMERCIAL LAW ARTICLE.

18-205.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, 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.

(B) A REMOTELY LOCATED INDIVIDUAL MAY COMPLY WITH SUBSECTION (A) OF THIS SUBTITLE BY USING COMMUNICATION TECHNOLOGY TO APPEAR BEFORE A NOTARY PUBLIC.

18-206.

(A) A NOTARIAL OFFICER HAS PERSONAL KNOWLEDGE OF THE IDENTITY OF AN INDIVIDUAL PERSONALLY APPEARING BEFORE THE NOTARIAL OFFICER IF THE INDIVIDUAL IS PERSONALLY KNOWN TO THE NOTARIAL 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 PERSONALLY APPEARING BEFORE THE NOTARIAL OFFICER IF THE NOTARIAL OFFICER CAN IDENTIFY THE INDIVIDUAL:

(1) BY MEANS OF:

(I) A PASSPORT, DRIVER'S LICENSE, OR GOVERNMENT-ISSUED NONDRIVER IDENTIFICATION CARD THAT IS CURRENT AND UNEXPIRED AT THE TIME OF PERFORMANCE OF THE NOTARIAL ACT; OR

(II) ANOTHER FORM OF GOVERNMENT IDENTIFICATION ISSUED TO THE INDIVIDUAL THAT:

1. IS CURRENT AND UNEXPIRED AT THE TIME OF PERFORMANCE OF THE NOTARIAL ACT;

2. CONTAINS THE SIGNATURE AND PHOTOGRAPH OF THE INDIVIDUAL; AND

3. IS SATISFACTORY TO THE NOTARIAL OFFICER; OR

(2) BY A VERIFICATION ON OATH OR AFFIRMATION OF A CREDIBLE WITNESS WHO IS:

(I) PERSONALLY APPEARING BEFORE THE NOTARIAL OFFICER; AND

(II) KNOWN TO THE NOTARIAL OFFICER OR WHOM THE NOTARIAL OFFICER CAN IDENTIFY ON THE BASIS OF A PASSPORT, DRIVER'S LICENSE, OR GOVERNMENT-ISSUED NONDRIVER IDENTIFICATION CARD THAT IS CURRENT AND UNEXPIRED AT THE TIME OF PERFORMANCE OF THE NOTARIAL ACT.

(C) A NOTARIAL OFFICER MAY REQUIRE AN INDIVIDUAL TO PROVIDE ADDITIONAL INFORMATION OR IDENTIFICATION CREDENTIALS NECESSARY TO ASSURE THE NOTARIAL OFFICER OF THE IDENTITY OF THE INDIVIDUAL.

18-207.

UNLESS OTHERWISE PROHIBITED BY LAW, A NOTARIAL OFFICER MAY REFUSE TO PERFORM A NOTARIAL ACT IF THE OFFICER IS NOT SATISFIED THAT:

(1) THE INDIVIDUAL EXECUTING THE RECORD IS COMPETENT OR HAS THE CAPACITY TO EXECUTE THE RECORD; OR

(2) THE INDIVIDUAL'S SIGNATURE IS KNOWINGLY AND VOLUNTARILY MADE.

18-208.

(A) IF AN INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN A RECORD, THE INDIVIDUAL MAY APPEAR BEFORE THE NOTARIAL OFFICER AND DIRECT ~~AN~~ ANOTHER INDIVIDUAL OTHER THAN THE NOTARIAL OFFICER WHO IS CONCURRENTLY APPEARING WITH THE INDIVIDUAL BEFORE THE NOTARIAL OFFICER TO SIGN THE INDIVIDUAL'S NAME ON THE RECORD.

(B) IF ANOTHER INDIVIDUAL IS DIRECTED TO SIGN AN INDIVIDUAL'S NAME UNDER SUBSECTION (A) OF THIS SECTION, THE NOTARIAL OFFICER SHALL INSERT ON THE RECORD THE FOLLOWING WORDS OR WORDS OF SIMILAR IMPORT: "SIGNATURE AFFIXED BY (NAME OF OTHER INDIVIDUAL) AT THE DIRECTION OF (NAME OF INDIVIDUAL)".

18-209.

(A) A NOTARIAL ACT MAY BE PERFORMED IN THE STATE BY:

(1) A NOTARY PUBLIC OF THE STATE;

(2) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THE STATE;

OR

(3) A MAGISTRATE APPOINTED BY A COURT OF THE STATE.

(B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A NOTARIAL ACT IN THE STATE ARE PRIMA FACIE EVIDENCE THAT:

(1) THE SIGNATURE IS GENUINE; AND

(2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(C) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER LISTED IN SUBSECTION (A) OF THIS SECTION CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE NOTARIAL OFFICER TO PERFORM THE NOTARIAL ACT.

(D) A JUDGE OF THE COURT OF THE STATE OR A MAGISTRATE APPOINTED BY A COURT OF THE STATE MAY NOT CHARGE A FEE TO PERFORM A NOTARIAL ACT.

18-210.

(A) 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 THE OTHER STATE IS PERFORMED BY:

(1) A NOTARY PUBLIC OF THAT STATE;

(2) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THAT STATE;

OR

(3) ANY OTHER INDIVIDUAL AUTHORIZED BY THE LAWS 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:

(1) THE SIGNATURE IS GENUINE; AND

(2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(C) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER LISTED IN SUBSECTION (A)(1) OR (2) OF THIS SECTION CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE NOTARIAL OFFICER TO PERFORM THE NOTARIAL ACT.

18-211.

(A) A NOTARIAL ACT PERFORMED UNDER THE AUTHORITY AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED INDIAN TRIBE 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 THE JURISDICTION OF THE TRIBE IS PERFORMED BY:

(1) A NOTARY PUBLIC OF THE TRIBE;

(2) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THE TRIBE;

OR

(3) ANY OTHER INDIVIDUAL AUTHORIZED BY THE LAWS OF THE TRIBE TO PERFORM THE NOTARIAL ACT.

(B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A NOTARIAL ACT UNDER THE AUTHORITY AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED INDIAN TRIBE ARE PRIMA FACIE EVIDENCE THAT:

- (1) THE SIGNATURE IS GENUINE; AND
- (2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(C) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER LISTED IN SUBSECTION (A)(1) OR (2) OF THIS SECTION CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE NOTARIAL OFFICER TO PERFORM THE NOTARIAL ACT.

18-212.

(A) 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:

- (1) A NOTARY PUBLIC OF A 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 U.S. DEPARTMENT OF STATE FOR PERFORMING NOTARIAL ACTS OVERSEAS; OR
- (4) ANY OTHER INDIVIDUAL AUTHORIZED BY FEDERAL LAW TO PERFORM THE NOTARIAL ACT.

(B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A NOTARIAL ACT UNDER FEDERAL LAW ARE PRIMA FACIE EVIDENCE THAT:

- (1) THE SIGNATURE IS GENUINE; AND
- (2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(C) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER LISTED IN SUBSECTION (A)(1), (2), OR (3) OF THIS SECTION CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE NOTARIAL OFFICER TO PERFORM THE NOTARIAL ACT.

18-213.

(A) IF A NOTARIAL ACT IS PERFORMED UNDER THE 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 LAWS OF THIS STATE AS IF PERFORMED BY A NOTARIAL OFFICER OF THIS STATE.

(B) 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.

(C) THE SIGNATURE AND OFFICIAL STAMP OF AN INDIVIDUAL HOLDING AN OFFICE DESCRIBED IN SUBSECTION (B) OF THIS SECTION ARE PRIMA FACIE EVIDENCE THAT:

- (1) THE SIGNATURE IS GENUINE; AND
- (2) THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

(D) 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:

- (1) THE SIGNATURE OF THE NOTARIAL OFFICER IS GENUINE; AND
- (2) THE NOTARIAL OFFICER HOLDS THE INDIVIDUAL OFFICE.

(E) A CONSULAR AUTHENTICATION ISSUED BY AN INDIVIDUAL DESIGNATED BY THE U.S. DEPARTMENT OF STATE AS NOTARIZING OFFICER FOR PERFORMING NOTARIAL ACTS OVERSEAS AND ATTACHED TO THE RECORD WITH RESPECT TO WHICH THE NOTARIAL ACT IS PERFORMED CONCLUSIVELY ESTABLISHES THAT:

- (1) THE SIGNATURE OF THE NOTARIAL OFFICER IS GENUINE; AND
- (2) THE NOTARIAL OFFICER HOLDS THE INDIVIDUAL OFFICE.

18-214.

(A) ~~A~~ EXCEPT FOR A NOTARIAL ACT BEING PERFORMED WITH RESPECT TO A WILL, AS DEFINED IN § 1-101 OF THE ESTATES AND TRUSTS ARTICLE, OR A TRUST INSTRUMENT, AS DEFINED IN § 14.5-103 OF THE ESTATES AND TRUSTS ARTICLE, A NOTARY PUBLIC LOCATED IN THIS STATE MAY PERFORM A NOTARIAL ACT USING COMMUNICATION TECHNOLOGY FOR A REMOTELY LOCATED INDIVIDUAL IF:

- (1) THE NOTARY PUBLIC:

(I) HAS PERSONAL KNOWLEDGE UNDER § 18-206(A) OF THIS SUBTITLE OF THE IDENTITY OF THE REMOTELY LOCATED INDIVIDUAL;

(II) HAS SATISFACTORY EVIDENCE OF THE IDENTITY OF THE REMOTELY LOCATED INDIVIDUAL BY VERIFICATION ON OATH OR AFFIRMATION FROM A CREDIBLE WITNESS APPEARING BEFORE AND IDENTIFIED BY THE NOTARY PUBLIC UNDER § 18-206(B) OF THIS SUBTITLE OR AS A REMOTELY LOCATED INDIVIDUAL UNDER THIS SECTION; OR

(III) HAS OBTAINED SATISFACTORY EVIDENCE OF THE IDENTITY OF THE REMOTELY LOCATED INDIVIDUAL BY:

1. REMOTE PRESENTATION OF AN IDENTIFICATION CREDENTIAL DESCRIBED IN § 18-206(B) OF THIS SUBTITLE;

2. CREDENTIAL ANALYSIS OF THE IDENTIFICATION CREDENTIAL; AND

3. IDENTITY PROOFING OF THE INDIVIDUAL;

(2) THE NOTARY PUBLIC IS REASONABLY ABLE TO CONFIRM THAT A RECORD BEFORE THE NOTARY PUBLIC IS THE SAME RECORD IN WHICH THE REMOTELY LOCATED INDIVIDUAL MADE A STATEMENT OR ON WHICH THE INDIVIDUAL EXECUTED A SIGNATURE;

(3) THE NOTARY PUBLIC, OR PERSON ACTING ON BEHALF AND AT THE DIRECTION OF THE NOTARY PUBLIC, CREATES AN AUDIO-VISUAL RECORDING OF THE PERFORMANCE OF THE NOTARIAL ACT; AND

(4) FOR A REMOTELY LOCATED INDIVIDUAL LOCATED OUTSIDE THE UNITED STATES:

(I) THE RECORD:

1. 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

2. INVOLVES PROPERTY LOCATED IN THE TERRITORIAL JURISDICTION OF THE UNITED STATES OR INVOLVES A TRANSACTION SUBSTANTIALLY CONNECTED WITH THE UNITED STATES; AND

(II) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE ACT OF MAKING THE STATEMENT OR SIGNING THE RECORD IS PROHIBITED BY THE FOREIGN STATE IN WHICH THE REMOTELY LOCATED INDIVIDUAL IS LOCATED.

(B) IF A NOTARIAL ACT IS PERFORMED UNDER SUBSECTION (A) OF THIS SECTION, THE CERTIFICATE OF NOTARIAL ACT REQUIRED BY § 18-215 OF THIS SUBTITLE MUST INDICATE THAT THE NOTARIAL ACT INVOLVED A REMOTELY LOCATED INDIVIDUAL AND WAS PERFORMED USING COMMUNICATION TECHNOLOGY.

(C) A SHORT-FORM CERTIFICATE PROVIDED IN § 18-216 OF THIS SUBTITLE FOR A NOTARIAL ACT PERFORMED UNDER SUBSECTION (A) OF THIS SECTION IS SUFFICIENT IF IT:

(1) COMPLIES WITH ANY REGULATIONS ADOPTED UNDER § 18-223 OF THIS SUBTITLE; OR

(2) CONTAINS A STATEMENT SUBSTANTIALLY AS FOLLOWS: “THIS NOTARIAL ACT INVOLVED A REMOTELY LOCATED INDIVIDUAL AND THE USE OF COMMUNICATION TECHNOLOGY.”.

(D) (1) A NOTARY PUBLIC, A GUARDIAN, A CONSERVATOR, OR AN AGENT OF A NOTARY PUBLIC OR A PERSONAL REPRESENTATIVE OF A DECEASED NOTARY PUBLIC SHALL:

(I) RETAIN THE AUDIO-VISUAL RECORDING CREATED UNDER SUBSECTION (A)(3) OF THIS SECTION; OR

(II) CAUSE THE AUDIO-VISUAL RECORDING TO BE RETAINED BY A REPOSITORY DESIGNATED BY OR ON BEHALF OF THE PERSON REQUIRED TO RETAIN THE RECORDING.

(2) A GUARDIAN, A CONSERVATOR, OR AN AGENT OF A NOTARY PUBLIC OR PERSONAL REPRESENTATIVE OF A DECEASED NOTARY PUBLIC WHO ASSUMES AUTHORITY OVER AUDIO-VISUAL RECORDINGS CREATED UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL:

(I) NOTIFY THE SECRETARY OF STATE WITHIN 30 DAYS AFTER ASSUMING AUTHORITY; AND

(II) COMPLY WITH ALL REQUIREMENTS IN THIS SUBTITLE REGARDING THE MAINTENANCE AND STORAGE OF THE AUDIO-VISUAL RECORDINGS.

~~(2)~~ (3) UNLESS A DIFFERENT PERIOD IS REQUIRED BY REGULATIONS ADOPTED UNDER § 18-223 OF THIS SUBTITLE, AN AUDIO-VISUAL RECORDING CREATED UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL BE RETAINED FOR A PERIOD OF AT LEAST 10 YEARS AFTER THE RECORDING IS MADE.

(E) (1) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S INITIAL NOTARIAL ACT UNDER SUBSECTION (A) OF THIS SECTION, THE NOTARY PUBLIC SHALL NOTIFY THE SECRETARY OF STATE:

(I) THAT THE NOTARY PUBLIC WILL BE PERFORMING NOTARIAL ACTS FACILITATED BY COMMUNICATION TECHNOLOGY; AND

(II) OF THE TECHNOLOGIES THE NOTARY PUBLIC INTENDS TO USE.

(2) IF THE SECRETARY OF STATE ESTABLISHES BY REGULATION THE STANDARDS FOR APPROVAL OF COMMUNICATION TECHNOLOGY, CREDENTIAL ANALYSIS, OR IDENTITY PROOFING UNDER § 18-223 OF THIS SUBTITLE, THE COMMUNICATION TECHNOLOGY, CREDENTIAL ANALYSIS, AND IDENTITY PROOFING USED BY A NOTARY PUBLIC MUST COMPLY WITH THE STANDARDS.

(F) THE VALIDITY OF A NOTARIAL ACT PERFORMED UNDER THIS SECTION SHALL BE DETERMINED UNDER THE LAWS OF THIS STATE REGARDLESS OF THE PHYSICAL LOCATION OF THE REMOTELY LOCATED INDIVIDUAL AT THE TIME OF THE NOTARIAL ACT.

(G) THIS SECTION SHALL BE CONSTRUED AND APPLIED IN A MANNER CONSISTENT WITH TITLE 21 OF THE COMMERCIAL LAW ARTICLE.

(H) (1) NOTHING IN THIS SECTION SHALL REQUIRE ANY PERSON TO ACCEPT, AGREE TO, CONDUCT, OR COMPLETE A TRANSACTION WHERE A NOTARIAL ACT IS PERFORMED USING COMMUNICATION TECHNOLOGY FOR A REMOTELY LOCATED INDIVIDUAL.

(2) A PERSON THAT AGREES TO ACCEPT, AGREE TO, CONDUCT, OR COMPLETE A TRANSACTION WHERE A NOTARIAL ACT IS PERFORMED USING COMMUNICATION TECHNOLOGY FOR A REMOTELY LOCATED INDIVIDUAL MAY REFUSE TO DO SO IN ANY OTHER TRANSACTION.

18-215.

(A) (1) EACH NOTARIAL ACT SHALL BE EVIDENCED BY A CERTIFICATE.

(2) THE CERTIFICATE SHALL:

(I) BE EXECUTED CONTEMPORANEOUSLY WITH THE PERFORMANCE OF THE NOTARIAL ACT;

(II) 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~~ CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE NOTARY PUBLIC RESIDES OR WAS QUALIFIED;

(III) IDENTIFY THE JURISDICTION IN WHICH THE NOTARIAL ACT IS PERFORMED;

(IV) CONTAIN THE TITLE OF OFFICE OF THE NOTARIAL OFFICER;
AND

(V) IF THE NOTARIAL OFFICER IS A NOTARY PUBLIC, INDICATE THE DATE OF EXPIRATION, IF ANY, OF THE NOTARIAL OFFICER'S COMMISSION.

(B) (1) IF A NOTARIAL ACT REGARDING A TANGIBLE RECORD IS PERFORMED BY A NOTARY PUBLIC, THE NOTARY PUBLIC SHALL AFFIX AN OFFICIAL STAMP TO OR EMBOSS AN OFFICIAL STAMP ON THE CERTIFICATE.

(2) IF A NOTARIAL ACT IS PERFORMED REGARDING A TANGIBLE RECORD BY A NOTARIAL OFFICER OTHER THAN A NOTARY PUBLIC, THE NOTARIAL OFFICER MAY AFFIX AN OFFICIAL STAMP TO OR EMBOSS AN OFFICIAL STAMP ON THE CERTIFICATE.

(3) IF A NOTARIAL ACT REGARDING AN ELECTRONIC RECORD IS PERFORMED BY A NOTARIAL OFFICER, THE NOTARIAL OFFICER MAY ATTACH AN OFFICIAL STAMP TO OR LOGICALLY ASSOCIATE AN OFFICIAL STAMP 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:

(1) IS IN A SHORT FORM PROVIDED IN § 18-216 OF THIS SUBTITLE;

(2) IS IN A FORM OTHERWISE ALLOWED BY THE LAWS OF THIS STATE;

(3) IS IN A FORM ALLOWED BY THE LAWS APPLICABLE IN THE JURISDICTION IN WHICH THE NOTARIAL ACT WAS PERFORMED; OR

(4) SETS FORTH THE ACTIONS OF THE NOTARIAL OFFICER AND THE ACTIONS ARE SUFFICIENT TO MEET THE REQUIREMENTS OF THE LAWS OF THE STATE.

(D) BY EXECUTING A CERTIFICATE OF A NOTARIAL ACT, A NOTARIAL OFFICER CERTIFIES THAT THE NOTARIAL OFFICER HAS COMPLIED WITH §§ 18-203, 18-204, AND 18-205, AND, IF APPLICABLE, § 18-214 OF THIS SUBTITLE.

(E) A NOTARIAL OFFICER MAY NOT AFFIX THE NOTARIAL OFFICER'S SIGNATURE TO, OR LOGICALLY ASSOCIATE IT WITH, A CERTIFICATE UNTIL THE NOTARIAL ACT HAS BEEN PERFORMED.

(F) (1) IF A NOTARIAL ACT IS PERFORMED REGARDING A TANGIBLE RECORD, A CERTIFICATE SHALL BE PART OF, OR SECURELY ATTACHED TO, THE RECORD.

(2) IF A NOTARIAL ACT IS PERFORMED REGARDING AN ELECTRONIC RECORD, THE CERTIFICATE SHALL BE AFFIXED TO, OR LOGICALLY ASSOCIATED WITH, THE ELECTRONIC RECORD.

(3) IF THE SECRETARY OF STATE HAS ADOPTED REGULATIONS UNDER § 18-223 OF THIS SUBTITLE TO ESTABLISH STANDARDS FOR ATTACHING, AFFIXING, OR LOGICALLY ASSOCIATING THE CERTIFICATE, THE NOTARIAL OFFICER SHALL USE A PROCESS FOR ATTACHING, AFFIXING, OR LOGICALLY ASSOCIATING THE CERTIFICATE THAT CONFORMS TO THE STANDARDS.

18-216.

(A) THE SHORT FORM CERTIFICATES OF NOTARIAL ACTS IN SUBSECTIONS (B), (C), (D), (E), (F), AND (G) OF THIS SECTION ARE SUFFICIENT FOR THE PURPOSES INDICATED IF:

(1) THE CERTIFICATE IS COMPLETED WITH THE INFORMATION REQUIRED BY § 18-215(A) OF THIS SUBTITLE; AND

(2) IF REQUIRED UNDER § 18-215(B) OF THIS SUBTITLE, THE OFFICIAL STAMP OF THE NOTARY PUBLIC IS AFFIXED TO OR EMBOSSED ON THE CERTIFICATE.

(B) FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

STATE OF COUNTY OF

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON THE ... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(C) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

STATE OF COUNTY OF

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON THE ... DAY OF ..., 20... BY ... AS (TYPE OF AUTHORITY, SUCH AS AN OFFICER OR TRUSTEE) OF (NAME OF PARTY ON BEHALF OF WHOM RECORD WAS EXECUTED).

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(D) FOR A VERIFICATION ON OATH OR AFFIRMATION:

STATE OF COUNTY OF

SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME ON THE ... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(E) FOR WITNESSING OR ATTESTING A SIGNATURE:

STATE OF COUNTY OF

SIGNED (OR ATTESTED) BEFORE ME ON THE ... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP

MY COMMISSION EXPIRES:_____

(F) 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 THE ... DAY OF ..., 20... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

(G) FOR CERTIFYING A TANGIBLE COPY OF AN ELECTRONIC RECORD:

STATE OF COUNTY OF

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ELECTRONIC RECORD ENTITLED ..., DATED THE ... DAY OF ..., 20..., CONTAINING ... PAGES.

DATED THE DAY OF, 20.... BY ...

.....
SIGNATURE OF NOTARIAL OFFICER
TITLE OF OFFICE
STAMP
MY COMMISSION EXPIRES:_____

18-217.

(A) THE OFFICIAL STAMP OF A NOTARY PUBLIC SHALL:

(1) INCLUDE:

(I) THE NOTARY PUBLIC'S NAME, JURISDICTION, AND OFFICE, ~~AND COUNTY OF RESIDENCE; AND;~~

(II) THE COUNTY IN WHICH THE NOTARY PUBLIC RESIDES OR WAS QUALIFIED; AND

~~(H)~~ (III) ANY OTHER INFORMATION REQUIRED BY THE SECRETARY OF STATE; AND

(2) BE CAPABLE OF BEING COPIED TOGETHER WITH THE RECORD TO WHICH IT IS AFFIXED OR ATTACHED OR WITH WHICH IT IS LOGICALLY ASSOCIATED.

(B) A NOTARY PUBLIC COMMISSIONED UNDER THE LAWS OF THIS STATE SHALL INCLUDE IN THE NOTARY PUBLIC'S OFFICIAL STAMP OR WITHIN A CERTIFICATE OF NOTARIAL ACT THE EXPIRATION DATE OF THE NOTARY PUBLIC'S COMMISSION AS A NOTARY PUBLIC.

(C) A NOTARY PUBLIC'S OFFICIAL STAMP IS A PUBLIC SEAL ~~FOR PURPOSES OF § 8-607 OF THE CRIMINAL LAW ARTICLE.~~

18-218.

(A) (1) (I) EACH NOTARY PUBLIC IS RESPONSIBLE FOR THE SECURITY OF THE NOTARY PUBLIC'S STAMPING DEVICE.

(II) A NOTARY PUBLIC MAY NOT ALLOW ANOTHER INDIVIDUAL TO USE THE STAMPING DEVICE TO PERFORM A NOTARIAL ACT.

(2) 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.

(3) 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 DISABLE THE STAMPING DEVICE BY DESTROYING, DEFACING, DAMAGING, ERASING, OR SECURING IT AGAINST USE IN A MANNER THAT RENDERS IT UNUSABLE.

(B) IF A NOTARY PUBLIC'S STAMPING DEVICE IS LOST OR STOLEN, THE NOTARY PUBLIC OR THE NOTARY PUBLIC'S PERSONAL REPRESENTATIVE OR GUARDIAN PROMPTLY SHALL NOTIFY THE SECRETARY OF STATE ON DISCOVERING THAT THE DEVICE IS LOST OR STOLEN.

(C) A NOTARY PUBLIC'S STAMPING DEVICE IS A PUBLIC SEAL FOR PURPOSES OF § 8-607 OF THE CRIMINAL LAW ARTICLE.

18-219.

(A) (1) SUBJECT TO SUBSECTION (F) OF THIS SECTION, EACH NOTARY PUBLIC SHALL MAINTAIN A JOURNAL IN WHICH THE NOTARY PUBLIC CHRONICLES ALL NOTARIAL ACTS THAT THE NOTARY PUBLIC PERFORMS.

(2) THE NOTARY PUBLIC SHALL RETAIN THE JOURNAL FOR 10 YEARS AFTER THE PERFORMANCE OF THE LAST NOTARIAL ACT CHRONICLED IN THE JOURNAL.

(B) (1) A JOURNAL MAY BE CREATED ON A TANGIBLE MEDIUM OR IN AN ELECTRONIC FORMAT.

(2) A NOTARY PUBLIC 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.

(3) (I) IF THE JOURNAL IS MAINTAINED ON A TANGIBLE MEDIUM, THE JOURNAL MUST BE A PERMANENT, BOUND REGISTER WITH NUMBERED PAGES.

(II) IF THE JOURNAL IS MAINTAINED IN AN ELECTRONIC FORMAT, THE JOURNAL MUST BE IN A PERMANENT, TAMPER-EVIDENT ELECTRONIC FORMAT THAT COMPLIES WITH ANY REGULATIONS ADOPTED BY THE SECRETARY OF STATE UNDER § 18-223 OF THIS SUBTITLE.

(C) EACH ENTRY IN A JOURNAL SHALL:

(1) BE MADE CONTEMPORANEOUSLY WITH PERFORMANCE OF THE NOTARIAL ACT; AND

(2) CONTAIN THE FOLLOWING INFORMATION:

(I) THE DATE AND TIME THE NOTARIAL ACT WAS PERFORMED;

(II) A DESCRIPTION OF THE RECORD, IF ANY, AND TYPE OF NOTARIAL ACT;

(III) THE FULL NAME AND ADDRESS OF EACH INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED;

(IV) IF THE IDENTITY OF THE INDIVIDUAL IS BASED ON PERSONAL KNOWLEDGE, A STATEMENT TO THAT EFFECT;

(V) IF THE 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;

(VI) THE FEE, IF ANY, CHARGED BY THE NOTARY PUBLIC; AND

(VII) AN INDICATION OF WHETHER AN INDIVIDUAL MAKING A STATEMENT OR EXECUTING A SIGNATURE WHICH IS THE SUBJECT OF THE NOTARIAL ACT APPEARED IN THE NOTARY PUBLIC'S PHYSICAL PRESENCE OR BY MEANS OF COMMUNICATION TECHNOLOGY.

(D) IF A NOTARY PUBLIC'S JOURNAL IS LOST OR STOLEN, THE NOTARY PUBLIC PROMPTLY SHALL NOTIFY THE SECRETARY OF STATE ON DISCOVERING THAT THE JOURNAL IS LOST OR STOLEN.

(E) SUBJECT TO SUBSECTION (F) OF THIS SECTION, ON RESIGNATION FROM, OR THE REVOCATION OR SUSPENSION OF, A NOTARY PUBLIC'S COMMISSION, THE NOTARY PUBLIC SHALL:

(1) RETAIN THE NOTARY PUBLIC'S JOURNAL IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION; AND

(2) INFORM THE SECRETARY OF STATE WHERE THE JOURNAL IS LOCATED.

(F) INSTEAD OF RETAINING A JOURNAL AS REQUIRED UNDER SUBSECTION (A) OR (E) OF THIS SECTION, A CURRENT OR FORMER NOTARY PUBLIC MAY:

(1) TRANSMIT THE JOURNAL TO ~~THE SECRETARY OF STATE OR~~ A REPOSITORY APPROVED BY THE SECRETARY OF STATE; OR

(2) STORE THE JOURNAL IN ANY OTHER MANNER AS APPROVED BY THE SECRETARY OF STATE IN REGULATIONS.

(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:

(1) TRANSMIT IT TO ~~THE SECRETARY OF STATE OR~~ A REPOSITORY APPROVED BY THE SECRETARY OF STATE; OR

(2) STORE THE JOURNAL IN ANY OTHER MANNER AS REQUIRED OR APPROVED BY THE SECRETARY OF STATE IN REGULATIONS.

18-220.

(A) (1) A NOTARY PUBLIC MAY SELECT ONE OR MORE TAMPER-EVIDENT TECHNOLOGIES TO PERFORM NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS.

(2) A PERSON MAY NOT REQUIRE A NOTARY PUBLIC TO PERFORM A NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD WITH A TECHNOLOGY THAT THE NOTARY PUBLIC HAS NOT SELECTED.

(B) (1) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S INITIAL NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD, A NOTARY PUBLIC SHALL:

(I) NOTIFY THE SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE PERFORMING NOTARIAL ACTS WITH RESPECT TO THE ELECTRONIC RECORDS; AND

(II) IDENTIFY THE TECHNOLOGY THE NOTARY PUBLIC INTENDS TO USE.

(2) IF THE SECRETARY OF STATE ADOPTS REGULATIONS UNDER § 18-223 OF THIS SUBTITLE TO ESTABLISH STANDARDS FOR APPROVAL OF TECHNOLOGY USED TO PERFORM A NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD, THE NOTARY PUBLIC SHALL USE TECHNOLOGY THAT CONFORMS TO THE STANDARDS.

(3) IF STANDARDS AND REGULATIONS ADOPTED BY THE SECRETARY OF STATE UNDER THIS SUBTITLE REQUIRE TECHNOLOGY USED TO PERFORM NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS, THE SECRETARY OF STATE SHALL APPROVE THE USE OF THE TECHNOLOGY.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO A PLAT RECORDED UNDER TITLE 3 OF THE REAL PROPERTY ARTICLE.

(2) A CLERK OF THE CIRCUIT COURT SHALL ACCEPT FOR RECORDING UNDER TITLE 3 OF THE REAL PROPERTY ARTICLE A TANGIBLE COPY OF AN ELECTRONIC RECORD CONTAINING A NOTARIAL CERTIFICATE IN A FORM SUFFICIENT UNDER § 18-216(G) OF THIS SUBTITLE AS SATISFYING ANY REQUIREMENT THAT A RECORD ACCEPTED FOR RECORDING BE AN ORIGINAL, IF THE NOTARIAL OFFICER EXECUTING THE CERTIFICATE CERTIFIES THAT THE TANGIBLE COPY IS AN ACCURATE COPY OF THE ELECTRONIC RECORD UNDER § 18-203(C) OF THIS SUBTITLE.

(D) (1) A NOTARIAL CERTIFICATE IS PRIMA FACIE EVIDENCE THAT THE REQUIREMENTS OF § 18-204(E) OF THIS SUBTITLE HAVE BEEN SATISFIED WITH RESPECT TO AN ELECTRONIC RECORD IF THE CERTIFICATE:

(I) IS COMPLETED WITH THE INFORMATION REQUIRED BY § 18-215(A) OF THIS SUBTITLE;

(II) INCLUDES AN AFFIXED OR EMBOSSED OFFICIAL STAMP AS REQUIRED BY § 18-215(B) OF THIS SUBTITLE; AND

(III) IS ATTACHED TO OR MADE A PART OF A TANGIBLE COPY OF AN ELECTRONIC RECORD.

(2) A TANGIBLE COPY OF AN ELECTRONIC RECORD PURPORTING TO CONVEY OR ENCUMBER REAL PROPERTY OR ANY INTEREST IN REAL PROPERTY THAT HAS BEEN RECORDED BY A CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE REAL PROPERTY AFFECTED BY THE RECORD LIES SHALL IMPART THE SAME NOTICE TO THIRD PARTIES AND BE EFFECTIVE FROM THE TIME OF RECORDING AS IF THE TANGIBLE COPY HAD BEEN CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE EVEN IF THE TANGIBLE COPY MAY NOT HAVE BEEN CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

18-221.

THE SECRETARY OF STATE SHALL MAINTAIN AN ELECTRONIC DATABASE OF NOTARIES PUBLIC:

(1) THROUGH WHICH A PERSON MAY VERIFY THE AUTHORITY OF A NOTARY PUBLIC TO PERFORM NOTARIAL ACTS; AND

(2) 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 BY MEANS OF COMMUNICATION TECHNOLOGY.

18-222.

(A) EXCEPT AS PROVIDED IN § 18-203(B) OF THIS SUBTITLE, THE FAILURE OF A NOTARIAL OFFICER TO PERFORM A DUTY OR MEET A REQUIREMENT SPECIFIED IN THIS SUBTITLE DOES NOT INVALIDATE A NOTARIAL ACT PERFORMED BY THE NOTARIAL OFFICER.

(B) THE VALIDITY OF A NOTARIAL ACT UNDER THIS SUBTITLE DOES NOT PREVENT AN AGGRIEVED PERSON FROM SEEKING:

(1) TO INVALIDATE THE RECORD OR TRANSACTION THAT IS THE SUBJECT OF THE NOTARIAL ACT UNDER ANOTHER LAW; OR

(2) OTHER REMEDIES ALLOWED UNDER FEDERAL OR STATE LAW.

(C) THIS SECTION DOES NOT VALIDATE A PURPORTED NOTARIAL ACT PERFORMED BY AN INDIVIDUAL WHO DOES NOT HAVE THE AUTHORITY TO PERFORM NOTARIAL ACTS.

18-223.

(A) (1) THE SECRETARY OF STATE MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

(2) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION 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.

(3) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION REGARDING PERFORMANCE OF A NOTARIAL ACT MAY:

(I) PRESCRIBE THE MEANS OF PERFORMING A NOTARIAL ACT INVOLVING A REMOTELY LOCATED INDIVIDUAL USING COMMUNICATION TECHNOLOGY;

(II) ESTABLISH STANDARDS FOR COMMUNICATION TECHNOLOGY, CREDENTIAL ANALYSIS, AND IDENTITY PROOFING;

(III) ESTABLISH REQUIREMENTS OR PROCEDURES TO APPROVE PROVIDERS OF COMMUNICATION TECHNOLOGY AND THE PROCESSES OF CREDENTIAL ANALYSIS AND IDENTITY PROOFING; AND

(IV) ESTABLISH STANDARDS AND A PERIOD OF RETENTION OF AN AUDIO-VISUAL RECORDING CREATED UNDER § 18-214(A)(3) OF THIS SUBTITLE.

(4) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY:

(I) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS REGARDING TANGIBLE AND ELECTRONIC RECORDS;

(II) INCLUDE PROVISIONS TO ENSURE THAT ANY CHANGE TO OR TAMPERING WITH A RECORD BEARING A CERTIFICATE OF A NOTARIAL ACT IS SELF-EVIDENT;

(III) INCLUDE PROVISIONS TO ENSURE INTEGRITY IN THE CREATION, TRANSMITTAL, STORAGE, OR AUTHENTICATION OF ELECTRONIC RECORDS OR SIGNATURES;

(IV) IF THE GOVERNOR HAS DELEGATED AUTHORITY UNDER § 18-104(B) OF THIS TITLE, 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 A NOTARY PUBLIC; AND

(V) INCLUDE PROVISIONS TO PREVENT FRAUD OR MISTAKE IN THE PERFORMANCE OF NOTARIAL ACTS.

(B) IN ADOPTING REGULATIONS UNDER SUBSECTION (A) OF THIS SECTION REGARDING NOTARIAL ACTS PERFORMED WITH RESPECT TO ELECTRONIC RECORDS OR FOR A REMOTELY LOCATED INDIVIDUAL, THE SECRETARY OF STATE SHALL CONSIDER, SO FAR AS IS CONSISTENT WITH THIS SUBTITLE:

(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 SUBTITLE; AND

(3) THE VIEWS OF GOVERNMENT OFFICIALS AND ENTITIES AND OTHER INTERESTED PERSONS.

18-224.

(A) (1) UNLESS THE SECRETARY OF STATE ADOPTS AN APPLICABLE AND SUPERSEDING REGULATION UNDER § 18-223 OF THIS SUBTITLE IN THE MANNER PROVIDED IN THIS SUBSECTION, A NOTARY PUBLIC SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION WHEN PERFORMING A NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD OR A REMOTELY LOCATED INDIVIDUAL.

(2) A REGULATION ADOPTED BY THE SECRETARY OF STATE MAY SUPERSEDE A REQUIREMENT OF THIS SECTION IF THE REGULATION REFERENCES THIS SECTION AND SPECIFIES THE REQUIREMENT TO BE SUPERSEDED.

(B) IDENTITY PROOFING AND CREDENTIAL ANALYSIS SHALL BE PERFORMED BY A REPUTABLE THIRD PARTY WHO HAS PROVIDED EVIDENCE TO THE NOTARY PUBLIC OF THE ABILITY TO SATISFY THE REQUIREMENTS OF THIS SECTION.

(C) IDENTITY PROOFING SHALL BE PERFORMED THROUGH A DYNAMIC KNOWLEDGE-BASED AUTHENTICATION THAT MEETS THE FOLLOWING REQUIREMENTS:

(1) EACH REMOTELY LOCATED INDIVIDUAL MUST ANSWER A QUIZ CONSISTING OF A MINIMUM OF FIVE QUESTIONS RELATED TO THE INDIVIDUAL'S PERSONAL HISTORY OR IDENTITY, FORMULATED FROM PUBLIC OR PRIVATE DATA SOURCES;

(2) EACH QUESTION MUST HAVE A MINIMUM OF FIVE POSSIBLE ANSWER CHOICES;

(3) AT LEAST 80% OF THE QUESTIONS MUST BE ANSWERED CORRECTLY;

(4) ALL QUESTIONS MUST BE ANSWERED WITHIN 2 MINUTES;

(5) IF THE REMOTELY LOCATED INDIVIDUAL FAILS THE FIRST ATTEMPT, THE INDIVIDUAL MAY RETAKE THE QUIZ ONE TIME WITHIN 24 HOURS;

(6) DURING A RETAKE OF THE QUIZ, A MINIMUM OF 40% OF THE PRIOR QUESTIONS MUST BE REPLACED;

(7) IF THE REMOTELY LOCATED INDIVIDUAL FAILS THE SECOND ATTEMPT, THE INDIVIDUAL IS NOT ALLOWED TO RETRY WITH THE SAME NOTARY PUBLIC WITHIN 24 HOURS OF THE SECOND FAILED ATTEMPT; AND

(8) THE NOTARY PUBLIC MUST NOT BE ABLE TO SEE OR RECORD THE QUESTIONS OR ANSWERS.

(D) CREDENTIAL ANALYSIS MUST USE PUBLIC OR PRIVATE DATA SOURCES TO CONFIRM THE VALIDITY OF AN IDENTIFICATION CREDENTIAL PRESENTED BY A REMOTELY LOCATED INDIVIDUAL AND SHALL, AT A MINIMUM:

(1) USE AUTOMATED SOFTWARE PROCESSES TO AID THE NOTARY PUBLIC IN VERIFYING THE IDENTITY OF EACH REMOTELY LOCATED INDIVIDUAL;

(2) ENSURE THAT THE IDENTIFICATION CREDENTIAL PASSES AN AUTHENTICITY TEST, CONSISTENT WITH SOUND COMMERCIAL PRACTICES THAT:

(I) USE APPROPRIATE TECHNOLOGIES TO CONFIRM THE INTEGRITY OF VISUAL, PHYSICAL, OR CRYPTOGRAPHIC SECURITY FEATURES;

(II) USE APPROPRIATE TECHNOLOGIES TO CONFIRM THAT THE IDENTIFICATION CREDENTIAL IS NOT FRAUDULENT OR INAPPROPRIATELY MODIFIED;

(III) USE INFORMATION HELD OR PUBLISHED BY THE ISSUING SOURCE OR AN AUTHORITATIVE SOURCE, AS AVAILABLE, TO CONFIRM THE VALIDITY OF PERSONAL DETAILS AND IDENTIFICATION CREDENTIAL DETAILS; AND

(IV) PROVIDE OUTPUT OF THE AUTHENTICITY TEST TO THE NOTARY PUBLIC; AND

(3) ENABLE THE NOTARY PUBLIC VISUALLY TO COMPARE FOR CONSISTENCY THE INFORMATION AND PHOTO ON THE IDENTIFICATION CREDENTIAL AND THE REMOTELY LOCATED INDIVIDUAL AS VIEWED BY THE NOTARY PUBLIC IN REAL TIME THROUGH COMMUNICATION TECHNOLOGY.

(E) (1) COMMUNICATION TECHNOLOGY SHALL PROVIDE REASONABLE SECURITY MEASURES TO PREVENT UNAUTHORIZED ACCESS TO:

(I) THE LIVE TRANSMISSION OF THE AUDIO-VISUAL FEEDS;

(II) THE METHODS USED TO PERFORM CREDENTIAL ANALYSIS AND IDENTITY PROOFING; AND

(III) THE ELECTRONIC RECORD THAT IS THE SUBJECT OF THE NOTARIAL ACT.

(2) IF A REMOTELY LOCATED INDIVIDUAL MUST EXIT THE WORKFLOW, THE REMOTELY LOCATED INDIVIDUAL MUST MEET THE CRITERIA OF THIS SECTION AND RESTART CREDENTIAL ANALYSIS AND IDENTITY PROOFING FROM THE BEGINNING.

(F) (1) A NOTARY PUBLIC SHALL ATTACH OR LOGICALLY ASSOCIATE THE NOTARY PUBLIC'S ELECTRONIC SIGNATURE AND OFFICIAL STAMP TO AN ELECTRONIC RECORD BY USE OF A DIGITAL CERTIFICATE COMPLYING WITH THE X.509 STANDARD ADOPTED BY THE INTERNATIONAL TELECOMMUNICATION UNION OR A SIMILAR INDUSTRY-STANDARD TECHNOLOGY.

(2) A NOTARY PUBLIC MAY NOT PERFORM A NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD IF THE DIGITAL CERTIFICATE:

(I) HAS EXPIRED;

(II) HAS BEEN REVOKED OR TERMINATED BY THE ISSUING OR REGISTERING AUTHORITY;

(III) IS INVALID; OR

(IV) IS INCAPABLE OF AUTHENTICATION.

(G) (1) A NOTARY PUBLIC SHALL RETAIN A JOURNAL REQUIRED UNDER § 18-219 OF THIS SUBTITLE AND ANY AUDIO-VISUAL RECORDINGS REQUIRED UNDER § 18-214 OF THIS SUBTITLE IN A COMPUTER OR OTHER ELECTRONIC STORAGE DEVICE THAT PROTECTS THE JOURNAL OR AUDIO-VISUAL RECORDINGS AGAINST UNAUTHORIZED ACCESS BY PASSWORD OR CRYPTOGRAPHIC PROCESS.

(2) (I) A NOTARY PUBLIC MAY, BY WRITTEN CONTRACT, ENGAGE A THIRD PARTY TO ACT AS A REPOSITORY TO PROVIDE THE STORAGE REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION.

(II) THE CONTRACT SHALL:

1. ENABLE THE NOTARY PUBLIC TO COMPLY WITH THE RETENTION REQUIREMENTS OF THIS SUBTITLE EVEN IF THE CONTRACT IS TERMINATED; OR

2. PROVIDE THAT THE INFORMATION WILL BE TRANSFERRED TO THE NOTARY PUBLIC IF THE CONTRACT IS TERMINATED.

(3) A THIRD PARTY UNDER CONTRACT WITH A NOTARY PUBLIC UNDER THIS SUBSECTION SHALL BE DEEMED A REPOSITORY APPROVED BY THE SECRETARY OF STATE UNDER § 18-219 OF THIS SUBTITLE.

18-225.

(A) A COMMISSION AS NOTARY PUBLIC DOES NOT AUTHORIZE AN INDIVIDUAL TO:

(1) ASSIST A PERSON 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; OR

(4) RECEIVE COMPENSATION FOR PERFORMING ANY OF THE ACTIVITIES LISTED IN ITEMS (1) THROUGH (3) OF THIS SUBSECTION.

(B) A NOTARY PUBLIC MAY NOT ENGAGE IN FALSE OR DECEPTIVE ADVERTISING.

(C) A NOTARY PUBLIC MAY NOT USE THE TERM “NOTARIO” OR “NOTARIO PUBLICO” UNLESS THE NOTARY PUBLIC IS AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE.

(D) (1) A NOTARY PUBLIC MAY NOT ADVERTISE OR REPRESENT THAT THE NOTARY PUBLIC MAY ASSIST PERSONS IN DRAFTING LEGAL RECORDS, GIVE LEGAL ADVICE, OR OTHERWISE PRACTICE LAW UNLESS THE NOTARY PUBLIC IS AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE.

(2) (I) IF A NOTARY PUBLIC WHO IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE 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: “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.”.

(II) THE STATEMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE INCLUDED PROMINENTLY AND IN EACH LANGUAGE USED IN THE ADVERTISEMENT OR REPRESENTATION.

(III) IF THE FORM OF ADVERTISEMENT OR REPRESENTATION IS NOT BROADCAST MEDIA, PRINT MEDIA, OR THE INTERNET AND DOES NOT ALLOW INCLUSION OF THE STATEMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH BECAUSE OF SIZE, THE STATEMENT SHALL BE PROMINENTLY DISPLAYED 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.

18-226.

IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

18-227.

THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101(C) OF THAT ACT, 15 U.S.C. SECTION 7001(C), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15 U.S.C. 7003(B).

18-228.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND REVISED UNIFORM LAW ON NOTARIAL ACTS.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 19-101 through 19-301 and the title “Title 19. Acknowledgments” of Article – State Government of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That a commission as a notary public in effect on the effective date of this Act continues to be in effect until its date of expiration.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act does not affect the validity or effect of a notarial act performed before the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2019~~ 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.