

**DELAWARE CODE**

**TITLE 6. COMMERCE AND TRADE  
SUBTITLE II. OTHER LAWS RELATING TO COMMERCE AND TRADE  
CHAPTER 12A. UNIFORM ELECTRONIC TRANSACTIONS ACT**

**§ 12A-111. Notarization and acknowledgment.**

If a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

**TITLE 9. COUNTIES  
PART IV. COUNTY OFFICERS  
CHAPTER 96. RECORDERS**

**§ 9611. Recordation of instruments containing certificate of notarial act.**

(a) Any document presented to the recorder for recording which contains a certificate of a notarial act as defined by §§ 4321(3) and 4327 of Title 29 (existing or as amended), shall, in addition to other matters which may be required by law, identify the name and title of the notarial officer who executed the certificate in a legible manner which is suitable for micrographic or electronic reproduction.

(b) The use of a typewriter, printer or rubber stamp which when applied to the instrument produces the printed information required by subsection (a) of this section shall also be authorized.

(c) The recorder may refuse to record any document that contains a certificate of a notarial act which does not comply with subsection (a) of this section unless the person recording the instrument pays a penalty equal to the authorized recording fee for said document.

(d) The recording of any instrument which does not comply with subsection (a) of this section shall not affect its validity or admissibility as a public record.

**TITLE 25. PROPERTY  
PART I. GENERAL PROVISIONS  
CHAPTER 1. DEEDS  
SUBCHAPTER V. ELECTRONIC RECORDING**

**§ 182. Validity of electronic documents.**

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or other tangible medium, or be in writing, an electronic document satisfying this subchapter satisfies the law.

(b) If a law requires, as a condition for recording, that a document be signed, an electronic signature satisfies the law.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal is not required to accompany an electronic signature.

**CHAPTER 43. TITLE 29 NOTARIES PUBLIC  
SUBCHAPTER I. OFFICE AND DUTIES**

**§ 4301. 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 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) An individual applying for a commission as a notary public must meet all of the following:

(1) Be at least 18 years of age.

(2) Be a citizen or permanent legal resident of the United States.

(3) 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)(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, and other documents 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 individual's place of employment or practice in this State. Substituted service is effectual if served on the Secretary of State, under § 376(b) of Title 8 if the place of employment or practice has been closed or the individual ceases to be regularly employed or regularly practice at the filed place of employment or practice address. The Secretary of State shall 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) 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 additional standards and guidelines governing applications, registrations, appointments, and the conduct of notaries public.

**§ 4302. Appointment of electronic notaries; term. Repealed.**

**§ 4303. Appointment of certain officers as notaries; term.**

The Governor shall appoint every person who is appointed to the office of justice of the peace and as Secretary of Finance also as a notary public. The Secretary of Finance shall only act as a notary public in connection with work performed in carrying out the duties of the office. The notary commission of any person appointed a notary public under this section shall terminate at the same time such person's term of office terminates.

**§ 4304. Appointment of notary for each bank or branch.**

The Governor shall appoint 1 notary public for each trust company, bank, banking association or branch or branches thereof in this State, whether state or national, chartered or organized under the laws of this State or of the United States.

**§ 4305. Appointment of court reporters as notaries public.**

The Governor may, upon the request of the Chief Justice of the Supreme Court, appoint any of the official court reporters as a notary public.

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

(a) The Governor may, upon the request of the department commander of a State-recognized veterans' organization, appoint 1 notary public for each requesting organization for a term of 4 years, without charge to any appointee, commander or organization. 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 any veteran, their families or dependents. The notaries public, so appointed, shall make no charge for any service rendered.

(b) The Governor may, upon the request of any administrative head of any volunteer fire company or volunteer ambulance and rescue company, appoint 1 notary public for each requesting organization for a term of 4 years, without charge to any appointee, chief or organization. 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 any members of the organizations listed herein to include their families or dependents. The notaries public, so appointed, shall make no charge for any service rendered.

(c) On the request of the administrative head of a qualified police agency, the Governor shall appoint a sufficient number of limited governmental notaries public as may be requested by the administrative head to facilitate the law-enforcement responsibilities of the qualified police agency. The appointments is to be for a term of 2 years, without charge to the appointee, administrative head, or police 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 limited governmental notary public an individual who otherwise meets the requirements of § 4301(b) of this title if all of the following apply:

a. The individual is an employee of a state governmental agency or unit or an employee of a qualified police agency.

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

1. An application form completed by the individual; and
2. An employer request and approval form.

(2) a. An appointment under paragraph (d)(1) of this section expires on the end of the individual's employment with a state governmental agency or unit or qualified police agency and is to be made without charge to the appointee or the agency or unit or qualified policy 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.

#### **§ 4307. Term of office; fees; resignation.**

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

(b) Repealed.

(c) Repealed.

(d) A notary public who wishes to resign from office or who no longer meets the qualifications for a commission during 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) 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, the person is guilty of perjury.

#### **§ 4308. Oath of office.**

A notary public shall severally take and subscribe the oath or affirmation prescribed by Article XIV of the Constitution of this State. A notary public is exempt from the recordation of the oath of office prescribed by § 9605(a) of Title 9. 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.

#### **§ 4309. Seal and powers. Repealed.**

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

#### **§ 4311. Fees for services.**

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

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

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

(d) A notary public may choose to waive any fee for any notarial act.

**§ 4312. Special fee provisions for certain services to members of the armed forces and to veterans; penalties; jurisdiction of justices of peace.**

(a) No notary public or other person who is authorized by law to take the acknowledgment of instruments or to administer oaths or affirmations shall charge any person serving in the armed forces of the United States, or a veteran of any war, or the widow or children of a soldier, or soldier's parents, or widower or other relative of any person in the armed services the fee provided by law when an acknowledgment, oath or affirmation is taken in connection with any paper or papers required to be executed by the Veterans Administration or in support of any claim or other papers connected with or referring to the service of any male or female now serving or who hereafter may serve or who, in the past, has served in the armed forces of the United States.

(b) Whoever violates subsection (a) of this section shall be fined not less than \$ 10 nor more than \$ 25 and, in default of the payment of such fine, shall be imprisoned for not more than 5 days.

(c) Justices of the peace shall have jurisdiction of offenses under this section.

**§ 4313. Commission; signature of Governor; seal.**

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

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

**§ 4314. Official electronic journal of notarial acts. Repealed.**

**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).