

KANSAS STATUTES ANNOTATED

CHAPTER 16. CONTRACTS AND PROMISES ARTICLE 16. ELECTRONIC TRANSACTIONS

16-1611. Notarization and acknowledgment; electronic notarization, rules and regulations.

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.

History: L. 2000, ch. 120, § 11; L. 2004, ch. 126, § 2; July 1; 2021, ch. 64, § 32, January 1, 2022.

CHAPTER 53. NOTARIES PUBLIC AND COMMISSIONERS ARTICLE 1. NOTARIES PUBLIC

53-101. (Repealed).

History: G.S. 1868, ch. 71, § 1; L. 1903, ch. 373, § 1; R.S. 1923, 53-101; L. 1951, ch. 326, § 1; L. 1963, ch. 294, § 1; L. 1967, ch. 297, § 1; L. 1975, ch. 285, § 1; L. 1976, ch. 237, § 1; L. 1980, ch. 159, § 1; L. 1987, ch. 205, § 3; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-102. (Repealed).

History: G.S. 1868, ch. 71, § 2; R.S. 1923, 53-102; L. 1967, ch. 297, § 2; L. 1975, ch. 285, § 2; L. 1980, ch. 159, § 2; L. 1984, ch. 201, § 13; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-103. (Repealed).

History: G.S. 1868, ch. 71, § 3; R.S. 1923, 53-103; L. 1975, ch. 285, § 3; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-104. (Repealed).

History: G.S. 1868, ch. 71, § 4; R.S. 1923, 53-104; L. 1955, ch. 264, § 1; L. 1963, ch. 294, § 2; L. 1975, ch. 285, § 4; L. 1981, ch. 217, § 1; L. 2001, ch. 5, § 189; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-105. (Repealed).

History: G.S. 1868, ch. 71, § 5; L. 1881, ch. 116, § 1; R.S. 1923, 53-105; L. 1967, ch. 298, § 1; L. 1970, ch. 213, § 1; L. 1975, ch. 285, § 5; L. 1980, ch. 159, § 3; L. 1987, ch. 205, § 4; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-105a. (Repealed).

History: L. 1980, ch. 159, § 4; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-106. (Repealed).

History: L. 1881, ch. 116, § 2; R.S. 1923, 53-106; L. 1975, ch. 285, § 6; L. 1980, ch. 159, § 5; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-107. (Repealed).

History: G.S. 1868, ch. 71, § 6; L. 1905, ch. 311, § 1; R.S. 1923, 53-107; L. 1963, ch. 294, § 3; L. 1967, ch. 297, § 3; L. 1975, ch. 285, § 7; L. 1980, ch. 159, § 6; L. 1984, ch. 201, § 14; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-108 (Repealed)

History: L. 1905, ch. 311, § 2; R.S. 1923, 53-108; Repealed, L. 1980, ch. 159, § 12; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-109. (Repealed).

History: L. 1915, ch. 258, § 1; R.S. 1923, 53-109; L. 1980, ch. 159, § 7; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-110 (Repealed)

History: L. 1871, ch. 110 § 2; R.S. 1923, 53-110; Repealed, L. 1980, ch. 159, § 12; July 1.

53-111 (Repealed)

History: G.S. 1868, ch. 71, § 7; R.S. 1923, 53-111; Repealed, L. 1976, ch. 237, § 3; July 1.

53-112 (Repealed)

History: G.S. 1868, ch. 71, § 8; R.S. 1923, 53-112; Repealed, L. 1975, ch. 285, § 9; July 1.

53-113. (Repealed).

History: G.S. 1868, ch. 71, § 9; Oct. 31; R.S. 1923, 53-113; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-114. (Repealed).

History: L. 1975, ch. 285, § 8; L. 1980, ch. 159, § 8; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-115. (Repealed).

History: L. 1976, ch. 237, § 2; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-116. (Repealed).

History: L. 1980, ch. 159, § 9; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-117. (Repealed).

History: L. 1980, ch. 159, § 10; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-118. (Repealed).

History: L. 1980, ch. 159, § 11; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-119. (Repealed).

History: L. 1987, ch. 205, § 1; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-120. (Repealed).

History: L. 1987, ch. 205, § 2; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-121. Notaries advertising in foreign language; requirements; penalties for violations.

History: L. 2006, ch. 14, § 1; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

ARTICLE 3. – UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT

53-301 to 53-309 (Repealed)

History: L. 1970, ch. 214, §§ 1 to 9; Repealed, L. 1984, ch. 201, § 17; July 1.

ARTICLE 4. – FOREIGN PUBLIC DOCUMENTS

53-401. Accession to Hague convention; procedure for certification of document.

(a) The state of Kansas hereby declares its intent to accede to the Hague convention abolishing the requirement of legalization for foreign public documents.

(b) Upon presentation of a public document to which the convention applies, the secretary of state, or an assistant or deputy assistant secretary of state appointed pursuant to K.S.A. 75-412, shall affix to the document the certificate required by the convention. The secretary of state shall maintain a record of all documents certified under this section and shall charge \$5 for certification of any such document.

History: L. 1981, ch. 318, § 1; July 1.

ARTICLE 5. – NOTARIAL ACTS

53-501. (Repealed).

History: L. 1984, ch. 201, § 11; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-502. (Repealed).

History: L. 1984, ch. 201, § 1; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-503. (Repealed).

History: L. 1984, ch. 201, § 2; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-504. (Repealed).

History: L. 1984, ch. 201, § 3; L. 1998, ch. 81, § 3; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-505. (Repealed).

History: L. 1984, ch. 201, § 4; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-506. (Repealed).

History: L. 1984, ch. 201, § 5; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-507. (Repealed).

History: L. 1984, ch. 201, § 6; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-508. (Repealed).

History: L. 1984, ch. 201, § 7; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-509. (Repealed).

History: L. 1984, ch. 201, § 8; L. 1987, ch. 205, § 5; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-510. (Repealed).

History: L. 1984, ch. 201, § 9; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

53-511. (Repealed).

History: L. 1984, ch. 201, § 10; July 1; Repealed, L. 2021, ch. 64, § 43, January 1, 2022.

ARTICLE 5a. REVISED UNIFORM LAW ON NOTARIAL ACTS

53-5a01. Citation of act.

(a) K.S.A. 2021 Supp. 53-5a01 through K.S.A. 2021 Supp. 53-5a31, and amendments

thereto, shall be known and may be cited as the revised uniform law on notarial acts.

(b) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 2; July 1.

53-5a02. Definitions. As used in the revised uniform law on notarial acts:

(a) “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.

(b) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(c) “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.

(d) “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.

(e) “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. “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.

(f) “Notarial officer” means a notary public or other individual authorized to perform a notarial act.

(g) “Notary public” means an individual commissioned to perform a notarial act by the secretary of state.

(h) “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, including an official notary seal.

(i) “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.

(j) “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.

(k) “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.

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

(m) “Stamping device” means:

(1) A physical device capable of affixing to or embossing on a tangible record an official stamp; or

(2) an electronic device or process capable of attaching to or logically associating with an

electronic record an official stamp.

(n) “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.

(o) “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.

(p) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 1; July 1.

53-5a03. Applicability.

(a) This act applies to a notarial act performed on or after January 1, 2022.

(b) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 3; July 1.

53-5a04. Authority to perform notarial acts.

(a) A notarial officer may perform the following notarial acts:

- (1) Taking an acknowledgment;
- (2) administering an oath or affirmation;
- (3) taking a verification upon oath or affirmation;
- (4) witnessing or attesting a signature;
- (5) certifying or attesting a copy;
- (6) noting a protest of a negotiable instrument; and
- (7) performing a notarial act authorized by the law of this state.

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

(c) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 4; July 1.

53-5a05. 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.

(e) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters provided in K.S.A. 84-3-505(b), and amendments thereto.

(f) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 5; July 1.

53-5a06. Personal appearance required.

(a) 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) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 6; July 1.

53-5a07. 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:

(1) By means of:

(A) A passport, driver's license or government-issued nondriver identification card that is current or expired not more than three years before performance of the notarial act; or

(B) another form of government identification issued to an individual that is current or expired not more than three years before performance of the notarial act, contains the signature and a photograph of the individual and is satisfactory to the officer; or

(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 that is current or expired not more than three years 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.

(d) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 7; July 1.

53-5a08. 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 the:

(1) Individual executing the record is competent or has the capacity to execute the record; or

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

(b) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by the law of this state or by federal law.

(c) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 8; July 1.

53-5a09. Signature if individual unable to sign.

(a) 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 other than the individual) at the direction of (name of individual)" or similar words.

(b) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 1; July 1.

53-5a10. Notarial act in this state.

(a) A notarial act may be performed in this state by:

- (1) A notary public of this state;
- (2) a judge, clerk or deputy clerk of any court of this state;
- (3) a county clerk or deputy county clerk;
- (4) an election commissioner or assistant election commissioner; or
- (5) any other person 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 subsection (a)(1), (a)(2), (a)(3) or (a)(4) conclusively establish the authority of the officer to perform the notarial act.

(d) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 10; July 1.

53-5a11. 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:

- (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 the signature is genuine and that the individual holds the designated title.

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

(d) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 11; July 1.

53-5a12. 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 under the law 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 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 subsection (a)(1) or (a)(2) conclusively establish the authority of the officer to perform the notarial act.

(d) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 12; July 1.

53-5a13. 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:

- (1) A judge, clerk or deputy clerk 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 United States 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 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 subsection (a) (1), (a)(2) or (a)(3) conclusively establish the authority of the officer to perform the notarial act.

(d) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 13; July 1.

53-5a14. Foreign notarial act.

(a) 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.

(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) are prima facie evidence that the signature is genuine and 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 the signature of the notarial officer is genuine and that the officer holds the indicated office.

(e) 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.

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

(g) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 14; July 1.

53-5a15. Notarial act performed for remotely located individual.

(a) A remotely located individual may comply with K.S.A. 2021 Supp. 53-5a06, and amendments thereto, by using communication technology to appear before a notary public.

(b) 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:

(A) Has personal knowledge under K.S.A. 2021 Supp. 53-5a07(a), and amendments thereto, of the identity of the individual;

(B) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under this section or K.S.A. 2021 Supp. 53-5a7(b), and amendments thereto; or

(C) has obtained satisfactory evidence of the identity of the remotely located individual by

using at least two different types of identity proofing;

(2) the notary public is able reasonably 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 a person acting on behalf 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:

(A) The record:

(i) 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

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

(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.

(c) If a notarial act is performed under this section, the certificate of notarial act required by K.S.A. 2021 Supp. 53-5a16, and amendments thereto, and the short-form certificate provided in K.S.A. 2021 Supp. 53-5a17, and amendments thereto, shall indicate that the notarial act was performed using communication technology.

(d) A short-form certificate provided in K.S.A. 2021 Supp. 53-5a17, and amendments thereto, for a notarial act subject to this section is sufficient if it:

(1) Complies with rules and regulations adopted pursuant to K.S.A. 2021 Supp. 53-5a 27, and amendments thereto; or

(2) is in the form provided in K.S.A. 2021 Supp. 53-5a17, and amendments thereto, and contains a statement substantially as follows: “This notarial act involved the use of communication technology.”

(e) A notary public, a guardian, conservator or agent of a notary public or a personal representative of a deceased notary public, shall retain the audio-visual recording created under subsection (b)(3) or cause the recording to be retained by a designated by or on behalf of the person required to retain the recording. Unless a different period is required by rules and regulations adopted pursuant to K.S.A. 2021 Supp. 53-5a27, and amendments thereto, the recording shall be retained for a period of at least 10 years after the recording is made.

(f) Before a notary public performs the notary public’s initial notarial act under this section, the notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to remotely located individuals, identify the technologies the notary public intends to use and provide evidence of completion of the course of study and passing of the examination required by K.S.A. 2021 Supp. 53-5a23, and amendments thereto. If the secretary of state has established standards in rules and regulations adopted pursuant to K.S.A. 2021 Supp. 53-5a27, and amendments thereto, for approval of communication technology or identity proofing, the communication technology and identity proofing shall conform to the standards. A notary public notifying the secretary of state under this section shall pay an information and services fee in an amount to be determined by the secretary of state but not to exceed \$25. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund.

(g) As used in this section:

(1) “Communication technology” means an electronic device or process that:

(A) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(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 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.

(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 notary public who performs a notarial act under subsection (b).

(h) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 15; July 1.

53-5a16. Certificate of notarial act.

(a) A notarial act shall be evidenced by a certificate that shall:

(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; and

(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 shall 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 subsections (a)(2), (a)(3) and (a)(4), 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 subsections (a)(2), (a)(3), (a)(4) and (a)(5), 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) and:

(1) Is in a short form set forth in K.S.A. 2021 Supp. 53-5a17, and amendments thereto;

(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; or

(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 K.S.A. 2021 Supp. 53-5a05, K.S.A. 2021 Supp. 53-5a06 and K.S.A. 2021 Supp. 53-5a07, and amendments thereto, or the law of this state.

(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 K.S.A. 2021 Supp. 53-5a04, K.S.A. 2021 Supp. 53-5a05 and K.S.A. 2021 Supp. 53-5a06, and amendments thereto.

(e) A notarial officer shall 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 shall be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards in rules and regulations adopted pursuant to K.S.A. 2021 Supp. 53-5a27, and amendments thereto, for attaching, affixing or logically associating the certificate, the process shall conform to the standards.

(g) If a notary public willfully neglects or refuses to attach to a notarial certificate the date of expiration of the notary public's commission, as provided in subsection (a)(5), then the notary public is guilty of a class C nonperson misdemeanor.

(h) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 16; July 1.

53-5a17. Short-form certificates.

The secretary of state shall adopt rules and regulations providing short-form certificates of notarial acts that are sufficient for the purposes indicated if completed with the information required by law.

History: L. 2021, ch. 64, § 17; July 1.

53-5a18. Official stamp.

(a) The official stamp of a notary public shall include the notary public's name exactly as it appears on the application for commission as a notary public, the words "notary public" and "State of Kansas", and other information required by the secretary of state, and be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated. No notary public shall use such stamp unless an impression thereof has been filed in the office of the secretary of state.

(b) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 18; July 1.

53-5a19. Stamping device.

(a) A notary public is responsible for the security of the notary public's stamping device and shall not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

(b) 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.

(c) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 19; July 1.

53-5a20. Journal.

(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 shall be created on a tangible medium or in an electronic format. A notary public shall maintain only one journal in a tangible medium or one or more journals in an electronic format to chronicle all notarial acts performed regarding electronic records. If the journal is maintained on a tangible medium, it shall be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format complying with the rules and regulations of the secretary of state.

(c) An entry in a journal shall be made contemporaneously with performance of the notarial act and contain 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; and
- (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) and inform the secretary of state where the journal is located.

(f) Instead of retaining a journal as provided in subsections (a) and (e), a current or former notary public may transmit the journal to 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:

- (1) Retain the notary public's journal in accordance with subsection (a) or transmit the journal to a repository approved by the secretary of state; and
- (2) inform the secretary of state where the journal is located.

(h) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 1; July 1.

53-5a21. Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record.

(a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person shall 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) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records, identify the technology the notary public intends to use and provide evidence of completion of the course of study and passing of the examination required by K.S.A. 2021 Supp. 53-5a23, and amendments thereto. If the secretary of state has established standards in rules and regulations for approval of technology pursuant to K.S.A. 2021 Supp. 53-5a 27, and amendments thereto, the technology shall conform

to such standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology. A notary public notifying the secretary of state pursuant to this section shall pay an information and services fee in an amount determined by the secretary of state adopted in rules and regulations, not to exceed \$25. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund.

(c) A register of deeds may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

(d) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 21; July 1.

53-5a22. Commission as notary public; qualifications; no immunity or benefit.

(a) An individual qualified under subsection (c) may apply to the secretary of state for a commission as a notary public. The applicant shall file with the secretary of state an application for appointment as a notary public that includes:

(1) An oath of office;

(2) an assurance in the form of a surety bond or its functional equivalent in the amount of \$12,000 that shall be issued by a surety or other entity licensed or authorized to do business in this state;

(3) evidence of completion of the course of study and passing of the examination required by K.S.A. 2021 Supp. 53-5a 23, and amendments thereto, if required;

(4) the official signature and an impression of the stamp to be used by the notary public; and

(5) an application fee in the amount of \$10.

(b) An application, oath of office and surety bond or its functional equivalent received pursuant to this section and a record of commission issued under this section shall be filed in the office of the secretary of state and properly indexed in that office. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(c) An applicant for a commission as a notary public shall:

(1) Be at least 18 years of age;

(2) be a citizen of the United States;

(3) be a resident of this state or be a resident of a state bordering on this state and have a regular place of employment or practice in this state;

(4) be able to read and write the English language; and

(5) not be disqualified to receive a commission by K.S.A. 2021 Supp. 53-5a24, and amendments thereto.

(d) The assurance required in subsection (a) shall cover acts performed during the term of the notary public's commission and shall be in the form prescribed by the secretary of state. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. No suit shall be instituted against a notary public or the surety or issuing entity under the notary public's assurance more than three years after the cause of action

accrues. The surety or issuing entity shall give notice to the secretary of state 30 days before canceling the assurance. The surety or issuing entity shall no longer be liable on such assurance 30 days after receipt of such notice by the secretary of state. Whenever the secretary of state receives such notice of intent to cancel a notary public's assurance, the secretary of state shall notify the affected notary public that unless such notary public files another assurance satisfying the requirements of this subsection with the secretary of state on or before the cancellation date, then such notary public will no longer be authorized to perform notarial acts within this state. The surety or issuing entity shall notify the secretary of state not later than 30 days after making a payment to a claimant under the assurance or the denial of a claim under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

(e) Any person injured by the failure of a notary public to faithfully perform any notarial act for which a bond or its functional equivalent is given under the laws of this state may sue in the person's own name in any court of competent jurisdiction to recover the damages the person may have sustained by such failure.

(f) The secretary of state shall issue a commission as a notary public to an applicant for a term of four years, unless sooner revoked under K.S.A. 2021 Supp. 53-5a24, and amendments thereto, if such applicant complies with the provisions of this section.

(g) 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. A notary public shall not be considered a state officer.

(h) If a notary public changes name by any legal action, such notary shall obtain a new official stamp that meets the requirements established by K.S.A. 2021 Supp. 53-5a18, and amendments thereto, and the stamp shall contain the new name of the notary public. Prior to performing any acts as a notary public after such change, the notary shall mail or deliver to the secretary of state notice of the change of name and shall include a specimen of the new stamp and a specimen of the notary's new official signature.

(i) If a notary public obtains a new stamp for any reason, the notary shall mail or deliver to the secretary of state notice of the change of stamp that shall include an impression of the new stamp.

(j) An individual may resign from the office of notary public by sending by mail or delivering to the secretary of state a notification of the individual's resignation or intent or desire to resign. The individual's commission as notary public shall terminate upon delivery of the notification.

(k) A notary public's commission may not be automatically renewed. A notary public who desires to renew a commission shall be qualified and apply for a new commission pursuant to this section.

(l) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 22; July 1.

53-5a23. Examination of notary public.

(a) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall pass an examination administered by the secretary of state or an entity approved by the secretary of state. The examination shall be based on the course of study described in subsection (b).

(b) The secretary of state or an entity approved by the secretary of state shall offer regularly a

course of study to notaries public in this state. The course shall cover the laws, rules, procedures and ethics relevant to notarial acts with respect to electronic records.

(c) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 23; July 1.

53-5a24. Grounds to deny, refuse to renew, revoke, suspend or impose a condition on a commission of notary public.

(a) The secretary of state 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:

(1) Failure to comply with this act;

(2) a fraudulent, dishonest, 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, including entering into a diversion agreement in lieu of further criminal proceedings for such crime;

(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 act, rules and regulations of 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 has a duty, right or privilege that the notary does not have;

(7) violation by the notary public of a rule and regulation of 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) failure of the notary public to maintain an assurance as provided in K.S.A. 2021 Supp. 53-5a22(d), and amendments thereto;

(10) denial, revocation or suspension of a professional license, if such denial, revocation or suspension was for fraud, dishonesty, deceit or any cause substantially relating to the duties or responsibilities of a notary public;

(11) cessation of United States citizenship;

(12) incapacitation to such a degree that the person is incapable of reading or writing the English language;

(13) violation of K.S.A. 2021 Supp. 53-5a25(b), (c) or (d), and amendments thereto; or

(14) violation of K.S.A. 2021 Supp. 53-5a25(a), (e), (f), (g) or (h), and amendments thereto.

(b) An individual whose commission as a notary public has been revoked for a reason described in subsections (a)(1) through (a)(13) may not apply for a new commission until the expiration of four years from the date of such revocation. An individual whose commission as a notary public has been revoked for the reason described in subsection (a)(14) may not apply for or receive a new commission for such individual's lifetime.

(c) The authority of the secretary of state 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.

(d) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 24; July 1.

53-5a25. Prohibited acts.

(a) A commission as a notary public does not authorize an individual to:

(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; or

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

(b) A notary public 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 financial or beneficial interest. A notarial act performed in violation of this subsection is voidable.

(c) For purposes of subsection (b), a notarial officer has a direct financial or beneficial interest in a transaction if the notarial officer:

(1) With respect to a financial transaction, is named in a record, individually, as a principal to the transaction; or

(2) with respect to a real property transaction, is named in a record, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor or lessee to the transaction.

(d) For purposes of subsection (b), a notarial officer has no direct financial or beneficial interest in a transaction when the notarial officer acts in the capacity of an agent, employee, insurer, attorney, escrow agent or lender for a person having a direct financial or beneficial interest in the transaction.

(e) A notary public shall not engage in false or deceptive advertising.

(f) A notary public, other than an attorney licensed to practice law in this state, may not use the term "notario" or "notario publico" or any equivalent non-English term in any business card, advertisement, notice or sign.

(g) A notary public, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation and in each language in which notarial services are offered: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media or the internet and does not permit inclusion of the statement required by this subsection because of size, it shall be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(h) Except as otherwise allowed by law, a notary public shall 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.

(i) Violation of subsections (f) or (g) is a class B nonperson misdemeanor.

(j) Violation of subsections (e), (f) or (g) constitutes a deceptive act or practice pursuant to K.S.A. 50-626, and amendments thereto, and shall be subject to the remedies and penalties provided by the Kansas consumer protection act.

(k) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 25; July 1.

53-5a26. Validity of notarial acts.

(a) Except as otherwise provided in K.S.A. 2021 Supp. 53-5a25(b), and amendments thereto, the failure of a notarial officer to perform a duty or meet a requirement specified in this act does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this act 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 state or federal law. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

(b) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 26; July 1.

53-5a27. Rules and regulations.

(a) The secretary of state shall adopt rules and regulations to implement this act. Rules and regulations adopted regarding the performance of notarial acts with respect to electronic records shall not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules and regulations may include, but are not limited to:

(1) Prescribing the manner of performing notarial acts regarding tangible and electronic records;

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

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

(4) prescribing 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) including provisions to prevent fraud or mistake in the performance of notarial acts;

(6) establishing the process for approving and accepting surety bonds and other forms of assurance as allowed by law; and

(7) providing for the administration of the examination and the course of study required by law.

(b) The secretary of state shall adopt rules and regulations regarding notarial acts using communication technology for a remotely located individual including, but not limited to:

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

(2) establishing standards for communication technology and identity proofing;

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

(4) establishing standards and a period for the retention of an audiovisual recording created when performing a notarial act using communication technology for a remotely located individual.

(c) In adopting rules and regulations about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with this act:

(1) The most recent standards regarding electronic records promulgated by national bodies,

such as the national association of secretaries of state; and

(2) standards, practices and customs of other jurisdictions that substantially enact this act.

History: L. 2021, ch. 64, § 27; July 1.

53-5a28. Notary public commission in effect.

(a) A commission or appointment as a notary public in effect on January 1, 2022, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after January 1, 2022, is subject to and shall comply with this act. A notary public, in performing notarial acts after January 1, 2022, shall comply with this act.

(b) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 28; July 1.

53-5a29. Savings clause.

(a) This act does not affect the validity or effect of a notarial act performed before January 1, 2022.

(b) A cause of action that has accrued against a notary public or the notary public's securities before January 1, 2022, are governed by any statute or other rule amended or repealed by this act as if amendment or repeal had not occurred.

(c) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 1; July 1.

53-5a30. Uniformity of application and construction.

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

(b) This section shall take effect on and after January 1, 2022.

53-5a31. Relation to electronic signatures in global and national commerce act.

(a) This act modifies, limits and supersedes the federal electronic signatures in global and national commerce act, 15 U.S.C. § 7001 et seq., except that nothing in this act modifies, limits or supersedes § 7001(c) of that act or authorizes electronic delivery of any of the notices described in § 7003(b) of that act.

(b) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 29; July 1.

ARTICLE 6. – UNSWORN DECLARATIONS

53-601. Unsworn declarations; written declaration sufficient, form; exceptions; relationship to notarial acts.

(a) Except as provided by subsection (b), whenever a law of this state or any rules and regulations, order or requirement adopted or issued thereunder requires or permits a matter to be supported, evidenced, established or proved by the sworn written declaration, verification, certificate, statement, oath or affidavit of a person, such matter may be supported, evidenced, established or proved with the same force and effect by the unsworn written declaration, verification, certificate or statement dated and subscribed by the person as true, under penalty of perjury, in substantially the following form:

(1) If executed outside this state: "I declare (or verify, certify or state) under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct. Executed on

(date).

_____ (Signature)”
(2) If executed in this state: “I declare (or verify, certify or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

_____ (Signature)”
(b) The provisions of subsection (a) do not apply to the following oaths:

(1) An oath of office.

(2) An oath required to be taken before a specified official other than a notary public.

(3) An oath of a testator or witnesses as required for wills, codicils, revocations of wills and codicils and republications of wills and codicils.

(c) A notarial act performed prior to the effective date of this act is not affected by this act. Nothing in this act diminishes or invalidates the recognition accorded to notarial acts by other laws of this state or rules and regulations adopted thereunder.

(d) On or after July 1, 1989, whenever an officer or partner listed in subsection (b) of K.S.A. 17-2718, subsection (c) of K.S.A. 17-7503, subsection (c) of K.S.A. 17-7504, subsection (c) of K.S.A. 17-7505, subsection (d) of K.S.A. 56-1a606 or subsection (d) of K.S.A. 56-1a607 and amendments thereto is required to execute a report before a notary or swear an oath before an officer authorized to administer oaths, in lieu thereof, such person may execute an unsworn declaration if such declaration is in substantial conformity with subsections (a), (b) and (c) of this section.

(e) On or after July 1, 1990, subsections (a), (b) and (c) of this section shall have general application.

History: L. 1989, ch. 93, § 1; July 1.

CHAPTER 54. – OATHS AND AFFIRMATIONS

ARTICLE 1. GENERAL PROVISIONS

54-101. Officers authorized to administer oaths.

Notaries public, judges of courts in their respective jurisdictions, mayors of cities and towns in their respective cities and towns, clerks of courts of record, county clerks, and registers of deeds, are hereby authorized to administer oaths pertaining to all matters wherein an oath is required.

History: G.S. 1868, ch. 72, § 1; R.S. 1923, 54-101; L. 1973, ch. 134, § 46; July 1, 1974.

54-102. How administered.

All oaths shall be administered by laying the right hand upon the Holy Bible, or by the uplifted right hand.

History: G.S. 1868, ch. 72, § 2; Oct. 31; R.S. 1923, 54-102.

54-103. Persons having conscientious scruples may affirm.

Any person having conscientious scruples against taking an oath, may affirm with like effect.

History: G.S. 1868, ch. 72, § 3; Oct. 31; R.S. 1923, 54-103.

54-104. Form of commencement and conclusion of oaths.

All oaths shall commence and conclude as follows: “You do solemnly swear,” etc.; “So help you God.” Affirmation shall commence and conclude as follows: “You do solemnly, sincerely and truly declare and affirm,” etc.; “And this you do under the pains and penalties of perjury.”

History: G.S. 1868, ch. 72, § 4; Oct. 31; R.S. 1923, 54-104.

54-105. Falsifying oaths or affirmations.

All oaths and affirmations alike subject the party who shall falsify them to the pains and penalties of perjury.

History: G.S. 1868, ch. 72, § 5; Oct. 31; R.S. 1923, 54-105.

54-106. Form of oath to be taken by officer.

All officers elected or appointed under any law of the state of Kansas shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation, as follows:

“I do solemnly swear [or affirm, as the case may be] that I will support the constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of _____ . So help me God.”

History: G.S. 1868, ch. 72, § 6; Oct. 31; R.S. 1923, 54-106. 54-107.

CHAPTER 58. – PERSONAL AND REAL PROPERTY
ARTICLE 22. – CONVEYANCES OF LAND

58-2205. How conveyances executed and acknowledged.

Conveyances of land, or of any other estate or interest therein, may be made by deed, executed by any person having authority to convey the same, or by that person’s agent or attorney, and may be acknowledged and recorded as herein directed, without any other act or ceremony whatever.

History: G.S. 1868, ch. 22, § 3; Oct. 31; R.S. 1923, 67-205.

58-2209. Conveyance of real estate; signature required.

All deeds or other conveyances of lands, or of any estate or interest therein, shall be subscribed by the party granting the same, or by the party’s lawful agent or attorney, and may be acknowledged or proved and certified in the manner prescribed by the uniform law on notarial acts and K.S.A. 58-2216 and amendments thereto.

History: G.S. 1868, ch. 22, § 7; R.S. 1923, 67-209; L. 1984, ch. 201, § 15; July 1.

58-2211. Acknowledgment of instrument relating to real estate.

All conveyances, and other instruments affecting real estate must be acknowledged before a person authorized by the uniform law on notarial acts to perform notarial acts or, if acknowledged within this state, by a county clerk, register of deeds or mayor or clerk of an incorporated city.

History: G.S. 1868, ch. 22, § 9; R.S. 1923, 67-211; L. 1973, ch. 134, § 47; L. 1984, ch. 201, § 16; July 1.

58-2214. Unacknowledged deed; proof of execution and delivery.

If the grantor die before acknowledging the deed, or if for any other reason the grantor’s attendance cannot be procured, in order to make the acknowledgment, or if, having appeared, the grantor refuses to acknowledge it, proof of the due execution and delivery of the deed may be made by any competent testimony.

History: G.S. 1868, ch. 22, § 12; Oct. 31; R.S. 1923, 67-214.

58-2215. Same; before whom proof made.

Such proof may be made before any court or officer authorized to take acknowledgments as aforesaid.

History: G.S. 1868, ch. 22, § 13; Oct. 31; R.S. 1923, 67-215.

58-2216. Same; certificate, contents.

The certificate endorsed upon the deed thus proved must state:

First. The title of the court or officer taking the proof.

Second. That it was satisfactorily proved that the grantor was dead, or that, for some other cause, the grantor's attendance could not be procured, in order to make the acknowledgment, or that, having appeared, he or she refused to acknowledge the deed.

Third. The names of the witnesses by whom the proof was made, and that it was proved by them that the instrument was executed by the person whose name is thereunto subscribed as a party.

History: G.S. 1868, ch. 22, § 14; Oct. 31; R.S. 1923, 67-216.

58-2218. False statement and certificate; penalty.

Any officer who knowingly states a material untruth, in either of the certificates herein contemplated, may be indicted, and fined in any sum not exceeding the value of the property conveyed or otherwise affected by the instrument on which such certificate is endorsed.

58-2237. Certain defective instruments validated after being on record ten years; instrument, record or copy as evidence.

When any instrument of writing shall have been on record in the office of the register of deeds in the proper county for the period of ten (10) years, and there is a defect in such instrument because it has not been signed by the proper officer of any corporation, or because of any discrepancy in the corporate name, or because the corporate seal of the corporation has not been impressed on such instrument, or because the record does not show such seal, or because such instrument is not acknowledged, or because of any defect in the execution, acknowledgment, recording or certificate of recording the same, such instrument shall, from and after the expiration of ten (10) years from the filing thereof for record, be valid as though such instrument had, in the first instance, been in all respects duly executed, acknowledged, and certified, and contained the true corporate name, and such instrument shall, after the expiration of ten (10) years from the filing of the same for record, impart to subsequent purchasers, encumbrancers and all other persons whomsoever, notice of such instrument of writing so far as and to the same extent that the same may then be recorded, copied or noted in such books of record, notwithstanding such defect.

Such instrument or the record thereof, or a duly authenticated copy thereof, shall be competent evidence without requiring the original to be produced or accounted for to the same extent that written instruments, duly executed and acknowledged, or the record thereof, are competent: *Provided,* That nothing herein contained shall be construed to affect any rights acquired by grantees, assignees or encumbrancers subsequent to the filing of such instrument for record and prior to the expiration of ten (10) years from the filing of such instrument for record.

History: L. 1905, ch. 324, § 1; R.S. 1923, 67-237; L. 1961, ch. 295, § 1; June 30.

CHAPTER 58. PERSONAL AND REAL PROPERTY

ARTICLE 44. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

58-4403. Requirement for original, on paper, in writing satisfied by electronic document; requirement for signature satisfied by electronic signature.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this act.

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

(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.
History: L. 2006, ch. 145, § 3; July 1; 2021, ch. 64, § 42.

**KANSAS ADMINISTRATIVE REGULATIONS
AGENCY 7. SECRETARY OF STATE
ARTICLE 43. NOTARIES PUBLIC**

7-43-1. (Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005; revoked, T-7-6-30- 22, June 30, 2022.)

7-43-2. (Authorized by and implementing K.S.A. 2004 Supp. 16-1611 and 75-438; effective Dec. 30, 2005; revoked, T-7-6-30-22, June 30, 2022.)

7-43-3. (Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005; revoked, T-7-6-30-22, June 30, 2022.)

7-43-4. (Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005; revoked, T-7-6-30-22, June 30, 2022.)

7-43-5. (Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005; revoked, T-7-6-30-22, June 30, 2022.)

7-43-6. (Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005; revoked, T-7-6-30-22, June 30, 2022.)

7-43-7. (Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005; revoked, T-7-6-30-22, June 30, 2022.)

7-43-7. Definitions. For purposes of this article of the secretary’s regulations, each of the following terms shall have the meaning specified in this regulation:

- (a) “Digital certificate” has the meaning specified for “certificate” in K.A.R. 7-41-1.
- (b) “Notarial certificate” means the certificate evidencing the performance of a notarial act.
- (c) “Secretary” means secretary of state.
- (d) “Sole control” means being in the direct physical custody of the notary public or safeguarded by the notary public with a password or other secure means of authentication.

(Authorized by and implementing K.S.A. 2022 Supp. 53-5a27; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-8. Notary public authorization with respect to notarial acts for electronic records and for remotely located individuals. (a) Any applicant submitting an initial application for a notary commission and any notary public at any time during the notary public’s commission may notify the secretary that the applicant or notary public intends to perform notarizations of electronic records or for remotely located individuals. The notification shall be provided on forms

prescribed by the secretary along with the fee specified in K.A.R. 7-43-11.

(b) Upon the notification and receipt of the required fee, an authorization reflecting the notification to perform notarial acts on electronic records or for remotely located individuals shall be provided by the secretary.

(c) The authorization to perform notarial acts on electronic records or for remotely located individuals shall be concurrent with, and shall expire on the same date as, the notary public's commission.

(d) Any notary public who is authorized to perform notarial acts on electronic records or for remotely located individuals may terminate the authorization at any time during the notary public's commission by submitting to the secretary a form prescribed by the secretary. (Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a15, 53-5a21, and 53-5a22; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-9. Course of study and examination. (a) Each notary public who provides notification to the secretary that the individual intends to perform notarizations of electronic records or notarizations for remotely located individuals shall complete a course of study approved by the secretary and shall be required to pass an examination approved by the secretary with at least a minimum score that is specified at the beginning of the examination. Any notary public may take the examination as many times as needed to achieve a passing score.

(b) Each notary public shall provide the secretary with proof of successful completion of the examination as part of the notification to perform notarial acts on electronic records or for remotely located individuals. (Authorized by K.S.A. 2021 Supp. 53-5a27; implementing K.S.A. 2021 Supp. 53-5a23; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022.)

7-43-10. Surety bond. Each surety bond for a notary public shall be a commercial surety bond from an insurance company licensed to do business in Kansas. The surety bond shall be written for a term of four years, covering the dates of the notary public's commission. (Authorized by K.S.A. 2021 Supp. 53-5a27; implementing K.S.A. 2021 Supp. 53-5a22; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022.)

7-43-11. Fees to perform notarial acts with respect to electronic records and for remotely located individuals. (a) Each applicant or notary public who provides notification to the secretary that the individual intends to perform notarial acts with respect to electronic records shall pay an information and services fee of \$20.

(b) Each applicant or notary public who provides notification to the secretary that the individual intends to perform notarial acts for remotely located individuals shall pay an information and services fee of \$20. (Authorized by K.S.A. 2021 Supp. 53-5a27; implementing K.S.A. 2021 Supp. 53-5a15 and 53-5a21; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022.)

7-43-12. Renewal of notary public commission. (a) Any notary public commission and any notification to perform notarial acts on electronic records or for remotely located individuals may be renewed in the manner and on the form used to file an initial application for a notary commission and notification to perform notarial acts on electronic records or for remotely located individuals, along with payment of the prescribed fees.

(b) Any application for renewal of a notary public commission may be submitted to the secretary no sooner than 90 days before the expiration of the notary public's commission. Upon the receipt of a completed application and approval by the secretary, a notary commission shall be issued to the applicant.

(c) After the secretary approves the notary public commission renewal, if the notary public intends to continue performing notarial acts on electronic records or for remotely located individuals, the notary public shall submit a notification and the fee pursuant to K.A.R. 7-43-11. (Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a22; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-13. Stamping device; official stamp for a tangible record. (a) Each notary public's stamping device shall be retained under the notary public's sole control. Each notary public who obtains a new stamping device for use on a tangible record shall destroy or render unusable any previous stamping device, if the previous stamping device will no longer be used. Nothing in this subsection shall be construed to prohibit a notary public from using multiple stamping devices. When replacing a stamping device that has been lost or stolen, the notary public shall use a different style of official stamp to ensure that the new official stamp looks different from the prior official stamp.

(b) In addition to the requirements of state law, each notary public's official stamp for a tangible record shall provide a space for the notary public to record the notary public's commission expiration date. (Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a18 and 53-5a19; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-14. Official stamp for an electronic record. (a) Any notary public shall affix an official stamp to a notarial certificate that is affixed to or logically associated with the electronic record.

(b) When affixed to an electronic record, the official stamp on a notarial certificate shall be clear, legible, and photographically reproducible. An official stamp shall not be required to be within a minimum or maximum size when photographically reproduced on an electronic record. Each official stamp used shall include the following:

- (1) The notary public's name exactly as indicated on the notary public's commission;
- (2) the words "State of Kansas" and "Notary Public";
- (3) the notary public's commission number; and
- (4) the date of expiration of the notary public's commission.

(c) Each notary public's stamping device shall be retained under the notary public's sole control and shall be secured by the notary public by means of a password or other secure method of authentication. A notary public shall not disclose any access information used to affix the notary public's electronic signature or official stamp to electronic records, except when required by a court order or subpoena.

(d) Each notary public shall promptly notify the secretary on actual knowledge of the theft, vandalism, or unauthorized use by another person of the notary public's stamping device.

(e) When a notary public resigns a commission or a notary public's commission is revoked, the notary public shall request the provider of the notary public's digital certificate to revoke the digital certificate and provide evidence of the revocation to the secretary. (Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a16, 53-5a18, and 53-5a19; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-15. Notary public’s journal. (a) Each notary public shall retain that notary public’s records of notarial acts in a journal under the notary public’s sole control.

(b) Each notary public’s records of notarial acts shall be capable of being produced in a tangible medium when requested. (Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a20; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-16. Fee for performing a notarial act. (a) Any notary public may charge a fee for performing a notarial act with respect to a tangible record or an electronic record or a notarial act for a remotely located individual. If the notary public charges a fee, the notary public shall ensure that all the following requirements are met:

(1) The fee shall be disclosed to the signer and agreed to by the signer before the notarial act is performed.

(2) The fee shall be collected when the notarial act is performed.

(3) The fee shall be recorded in the notary public’s journal.

(b) The notary public shall disclose to the signer that the fee is permitted but is not required by state law or regulation. (Authorized by K.S.A. 2021 Supp. 53-5a27; implementing K.S.A. 2021 Supp. 53-5a20; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022.)

7-43-17. Short form notarial certificates; statement for notarial act for a remotely located individual. (a) The following short form notarial certificates shall be sufficient for the purposes indicated, if completed in conformance with the procedures required for a notarial act:

(1) For an acknowledgment in an individual capacity:

“State of _____

County of _____

This record was acknowledged _____ by _____
before me on _____

Date

Name(s) of person(s)

Signature of notarial officer
[Official Stamp]

Title of office
My commission expires: _____”

(2) For an acknowledgment in a representative capacity:

“State of _____

County of _____

This record was acknowledged _____ by _____
before me on _____

Date

Name(s) of person(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
[Official 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) _____ by _____
before me on _____

Date

Name(s) of person(s)
making statement

Signature of notarial officer

[Official 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 person(s)

Signature of notarial officer

[Official 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

[Official Stamp]

Title of office

My commission expires: _____”

(6) For power of attorney in a representative capacity:

“State of _____

County of _____

This instrument was signed before _____ by _____
me on _____

Date

Name(s) of designee(s)

as power of attorney of _____

name of party on behalf of

whom instrument was executed.

Signature of notarial officer
[Official Stamp]

Title of office

My commission expires: _____”

(b) When a notary public performs a notarial act for a remotely located individual, the notarial certificate shall contain a statement substantially as follows: “This notarial act involved the use of audiovisual communication technology.”

(Authorized by K.S.A. 2022 Supp. 53-5a17; implementing K.S.A. 2022 Supp. 53-5a15 and 53-5a17; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-18. Standards for identity verification of a remotely located individual. (a) If a notary public does not have personal knowledge of a remotely located individual pursuant to K.S.A. 2022 Supp. 53-5a07(a) or satisfactory evidence of the identity of a remotely located individual pursuant to K.S.A. 2022 Supp. 53-5a07(b)(2) and amendments thereto, the notary public shall obtain satisfactory evidence of the identity of the remotely located individual through a multifactor authentication procedure as follows:

(1) Analyze the identification credential presented by the remotely located individual against trusted third-person data sources using a process that shall, at a minimum, meet the following requirements:

(A) Use public or private data sources to confirm the validity of the identification credential;

(B) use automated software processes to aid the notary public in verifying the identity of each remotely located individual;

(C) require that the identification credential pass an authenticity test, consistent with sound commercial practices that use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features; confirm that the identification credential is not fraudulent or inappropriately modified; and provide the results of the authenticity test to the notary public; and

(D) use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credential details; and

(2) verify the remotely located individual’s identity by requiring the individual to answer a quiz consisting of at least five questions related to the individual’s personal history or identity and formulated from public or private data sources, as follows:

(A) The quiz shall meet the following requirements:

(i) Each question shall have at least five possible answer choices;

(ii) at least 80 percent of the questions shall be answered correctly; and

(iii) all questions shall be answered within two minutes;

(B) if the remotely located individual fails to answer at least 80 percent of the questions correctly on the first attempt, the individual may retake the quiz one time within 24 hours. During a retake of the quiz, at least 40 percent of the prior questions shall be replaced;

(C) if the remotely located individual fails the second attempt, the individual shall not be allowed to retake the quiz with the same notary public within 24 hours of the second failed

attempt; and

(D) the notary public shall not be able to see or record the questions or answers. However, the results indicating passage or failure of the quiz shall be provided to the notary public.

(3) The notary public shall visually compare for consistency the information and photo presented on the identification credential presented by the remotely located individual when viewed by the notary public in real time through communication technology. The image resolution of the communication technology being used shall be sufficient to enable visual inspection by the notary public, including legible text and the clarity of identification credential features.

(b) Any notary public may obtain satisfactory evidence of the identity of a remotely located individual by oath or affirmation of a credible witness by means of one of the following:

(1) Having personal knowledge of the identity of the credible witness by the notary public;

(2) presenting an identification credential to the notary public, as required by K.S.A. 2022 Supp. 53-5a07(b)(2) and amendments thereto, if the credible witness is in the same location as the notary public; or

(3) utilizing the multifactor authentication procedure required by this regulation for verifying the identity of a remotely located individual and visually inspecting the identification credential presented by the credible witness if the witness is not in the same location as the notary public.

(d) If a remotely located individual must exit the notarization session at any point, the notary public shall reverify the identity of the remotely located individual as required by this regulation. (Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a15; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-19. Security of records bearing a notarial certificate.

(a) For each tangible record, the notary public shall affix the notarial certificate directly on the record to be notarized, except as provided in this subsection.

(b) If a notarial certificate cannot be affixed to a record to be notarized because the record lacks adequate space for a notarial certificate, the notary public shall:

(1) provide the notarial certificate on a separate page and attach the notarial certificate to the record by staple or other secure method so that the removal of the record or notarial certificate is discernible; and

(2) include in the notarial certificate a description of the record to which the notarial certificate is attached.

(c) For each electronic record, the notary public shall attach or logically associate the notary public's electronic signature by use of a digital certificate to a notarial certificate that is affixed to or logically associated with the electronic record that is the subject of a notarial act.

(d) The notary public's digital certificate shall have tamper-evident technology meeting the following requirements:

(1) Be attributed or uniquely linked to the notary public;

(2) be capable of independent verification;

(3) be retained under the notary public's sole control by use of passphrase protection; and

(4) be attached to or logically associated with the electronic record to which it relates in such a manner that any subsequent change of the electronic record is detectable.

(e) A notary public shall not perform a notarial act with respect to an electronic record if the digital certificate meets any of the following conditions:

(1) Has expired;

- (2) has been revoked or terminated by the issuing or registering authority;
- (3) is invalid; or
- (4) is incapable of authentication.

(Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a16, 53-5a18, and 53-5a27; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-20. Notarial acts for remotely located individuals. (a) Any notary public may perform notarial acts for remotely located individuals only after being authorized as a notary public and notifying the secretary that the notary public will be performing notarial acts for remotely located individuals.

(b) A notary public shall not perform a notarial act for a remotely located individual if the notary public is not physically located in Kansas at the time of the notarization.

(c) Upon performing a notarial act for a remotely located individual, the notary public shall electronically attach a notarial certificate to the document being notarized. Each notarial certificate for a notarial act for a remotely located individual shall meet the following requirements:

- (1) State the name of the remotely located individual;
- (2) provide the date the notarial act occurred;
- (3) identify the state and county in which the notarial act was performed;
- (4) include a description of the type of notarial act performed, which shall be sufficient if the description is substantially similar to a short form specified in K.A.R. 7-43-17;
- (5) include a statement regarding the use of communication technology as specified in K.A.R. 7-43-17; and
- (6) contain the notary public's official stamp that is attached to the record and signed by the notary public with the notary public's digital certificate.

(d) Each notary public who performs a notarial act for a remotely located individual shall maintain an audiovisual recording of all notarial acts in addition to a journal of notarial acts that contains the entries required under K.S.A. 2022 Supp. 53-5a20(c), and amendments thereto. The audiovisual recording shall include the following, at a minimum:

- (1) Confirmation by the notary public that the individual has successfully completed identity proofing and credential analysis;
- (2) visual confirmation of the identity of the individual through visual inspection of the credential used during credential analysis; and
- (3) the actual notarial act performed.

(e) Each notary public shall attach that individual's electronic signature to the notarial certificate on an electronic record in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic record tamper-evident. (Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a15, 53-5a16, and 53-5a21; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-21. Notarial acts for a remotely located individual; communication technology standards. (a) The communication technology standards for notarial acts performed for remotely located individuals shall meet the following requirements, and the provider shall submit evidence of compliance to the secretary under penalty of perjury:

(1) Provide for continuous, synchronous audiovisual feeds of sufficient video resolution and audio clarity to enable the notary public and the remotely located individual to see and speak with each other;

(2) provide a means for the notary public reasonably to confirm that the electronic record before the notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature;

(3) utilize a means of authentication that reasonably ensures that only the proper parties have access to the audiovisual recording;

(4) be capable of securely creating and storing or transmitting securely to be stored the recording of the audiovisual communication;

(5) keep confidential the questions asked as part of any identity proofing quiz and the means and methods used to generate the results of the credential analysis; and

(6) provide reasonable security measures to prevent unauthorized access to the following:

(A) The live transmission of the audiovisual communication;

(B) the recording of the audiovisual communication; and

(C) the electronic records presented for electronic notarization.

(b) A notary public shall not be prohibited from receiving, installing, or using a hardware or software update to the technologies that the notary public identified in a notification form to perform notarial acts for remotely located individuals if the hardware or software update is not materially different from the technologies that the notary public identified on the notification form to perform notarial acts for remotely located individuals. If the provider of the technology notifies the notary public that the hardware or software update is materially different, the notary public shall notify the secretary of the updated technology.

(c) All communication technology that is verified by the provider of the communication technology under penalty of perjury as meeting the requirements in this regulation shall be approved by the secretary. (Authorized by K.S.A. 2021 Supp. 53-5a27; implementing K.S.A. 2021 Supp. 53-5a15; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022.)

7-43-22. Notarial acts for remotely located individuals; providers of communication technology.

(a)(1) Any notary public authorized to perform notarial acts for remotely located individuals may use a provider of communication technology and identity proofing if the provider has submitted evidence under penalty of perjury to the secretary and to the notary public that the provider meets the requirements in K.A.R. 7-43-18 and 7-43-19(b), in addition to the following:

(A) Allowing the notary public sole control of the journal entry and audiovisual recording of the notarial act using audiovisual communication, subject to the authorized access granted by the notary public; and

(B) providing the notary public with access to the journal entry and audiovisual recording of the notarial act using audiovisual communication technology.

(2) The provider shall make and retain a secure backup of any audiovisual recording that is related to a notarial act for a remotely located individual.

(A) If the provider of communication technology and the provider of the backup are the same entity and the provider ceases business operations, the provider shall notify the notary public in advance of the cessation of business operations and, at the notary public's request, shall release any audiovisual recording related to a notarial act performed for a remotely located individual by the notary public.

(B) If the provider of communication technology and the provider of the backup are separate entities, the provider of communication technology shall sign an agreement with the provider of the backup that includes both of the following requirements:

(i) If the provider of communication technology or the provider of the backup ceases business operations, the entity ceasing business operations shall notify the other entity and the notary public in advance of the cessation of business operations.

(ii) At the notary public's request, the provider of the backup shall release to the notary public any audiovisual recording related to a notarial act for a remotely located individual performed by the notary public.

(b) Each provider of communication technology shall protect from unauthorized access the audiovisual recording of each notarial act and any "personal information," as defined in K.S.A. 50-7a01 and amendments thereto, disclosed during the performance of a notarial act using communication technology. The audiovisual recording shall be created in an industry-standard file format and shall not include images of any electronic record on which the remotely located individual made a statement or on which the remotely located individual executed a signature.

(c) Each notary public shall take reasonable steps to ensure that the communication technology used to perform a notarial act for a remotely located individual is secure from unauthorized interception.

(d) Any provider of communication technology may provide a hardware or software update to the technologies that the notary public identified in the notification form to perform notarial acts for remotely located individuals if the hardware or software update is not materially different from the technologies that the notary public identified on the notification form to perform notarial acts for remotely located individuals. The provider of communication technology shall offer an assurance to the notary public that the update does not represent a material difference from the technology that the notary public identified on the notification form provided to the secretary. If the provider of the technology notifies the notary public that the hardware or software update is materially different from the hardware or software identified on the notification form to perform notarial acts for remotely located individuals provided to the secretary, the notary public shall update the technology information with the secretary.

(Authorized by K.S.A. 2022 Supp. 53-5a27; implementing K.S.A. 2022 Supp. 53-5a15; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022; amended Dec. 29, 2023.)

7-43-23. Record retention and repositories. (a) Each journal shall be retained for at least 10 years after the last notarial act chronicled in the journal. Each audiovisual recording shall be retained for at least 10 years after the recording is made.

(b) Each notary public who maintains a notary public journal in an electronic format shall meet the following requirements:

(1) Retain the journal and any audiovisual recordings in a way that protects the journal and recordings against unauthorized access by means of a password or other secure means; and

(2) take reasonable steps to ensure that a backup of the journal and audiovisual recordings exists and is secure from unauthorized use.

(c) 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 a journal or an audiovisual recording shall perform one of the following:

(1) Comply with the retention requirements of this regulation;

(2) transmit each journal and audiovisual recording to one or more repositories under

subsection (d); or

(3) transmit each journal and audiovisual recording in an industry-standard readable data storage device to the secretary.

(d) A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public may, by written contract, engage a third party to act as a repository to provide the storage required by this regulation if a third party has verified to the secretary under penalty of perjury that the party meets the requirements specified in this regulation. The contract shall meet either of the following requirements:

(1) Enable the notary public, the guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public to comply with the retention requirements of this regulation even if the contract is terminated; or

(2) provide that the information will be transferred to the notary public, the guardian, conservator, or agent of the notary public, the personal representative of the deceased notary public, or the secretary if the contract is terminated. (Authorized by K.S.A. 2021 Supp. 53-5a27; implementing K.S.A. 2021 Supp. 53-5a15 and 53-5a20; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022.)

7-43-24. Alleged complaints and errors by notaries public. (a)(1) Any person may file a complaint, in writing, against a notary public with the secretary.

(2) Each filed written complaint shall be reviewed by the secretary to determine the validity of the complaint. If the secretary determines the complaint to be valid, written notification outlining the complaint and providing the notary public with 30 days from the date of the notification to respond shall be provided by the secretary to the notary public. If the secretary identifies an error in a notarization submitted to the secretary's office, written notification outlining the error and providing the notary public with 30 days from the date of the notification to respond shall be provided by the secretary to the notary public.

(3) Each response provided by a notary public shall be reviewed by the secretary before any action is taken regarding the notary public's commission. Written notification shall be provided by the secretary to the notary public, stating any action taken regarding the notary public's commission as the result of a complaint received or error identified by the secretary.

(b) If the secretary suspends a notary public's commission, the notary public shall, within 30 days before the end of the suspension, notify the secretary of any changes to the notary public's commission that occurred during the suspension period. Failure to comply with this requirement may result in revocation of the notary public's commission. (Authorized by K.S.A. 2021 Supp. 53-5a27; implementing K.S.A. 2021 Supp. 53-5a24; effective, T-7-6-30-22, June 30, 2022; effective Oct. 28, 2022.)