

## KENTUCKY REVISED STATUTES

### TITLE VIII. OFFICES AND OFFICERS CHAPTER 62. OATHS AND BONDS

#### **62.010 Oath of office -- When to be taken.**

(1) No officer shall enter upon the duties of his office until he takes the oath required of him by law.

(2) Each person elected to an office shall take the oath of office on or before the day the term of office to which he has been elected begins.

(3) Each person appointed to an office shall take the oath of office within thirty (30) days after he receives notice of his appointment.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3753, 3755.

#### **62.020 Persons authorized to administer official oaths -- Certification and filing.**

(1) The official oath of any officer may be administered by:

(a) Any state or federal judge, with Kentucky jurisdiction; or

(b) Any county judge/executive, notary public, clerk of a court, or justice of the peace, within his district or county.

(2) For those officers listed in paragraphs (a), (b), (c), (d), and (e) of this subsection, the person administering the oath shall certify in writing that the oath of office was administered and the date of its administration. The person administering the oath shall file a written certification:

(a) In the Secretary of State's office for:

1. A member of the General Assembly;

2. An officer elected from the state at large;

3. An officer elected from a district greater than one (1) county; or

4. An officer elected from a city whose boundaries extend beyond those of a single county;

(b) In the Secretary of State's office for:

1. An officer appointed cabinet secretary; or

2. An officer appointed a deputy or assistant to an elected constitutional officer and who is required by separate statute to take the oath of office;

(c) In the Governor's office for the Secretary of State and the assistant Secretary of State;

(d) In the office of the county clerk for the county from which an officer is elected to countywide office or office for a district within the county. However, the requirements of this paragraph shall not apply when the requirements of paragraph (a) of this subsection apply; and

(e) In the office of a circuit clerk for a county clerk within the jurisdiction of that circuit clerk.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 164, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 454, sec. 1, effective July 15, 1994. -- Amended 1980 Ky. Acts ch. 184, sec. 1, effective July 15, 1980. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3754.

#### **62.050 Bonds, when to be given.**

(1) Except as otherwise provided by statute, no officer required by law to give bond shall enter upon the duties of his office until he gives the bond.

(2) Except as otherwise provided by statute, each person elected to an office who is

required to give bond shall give the bond on or before the day the term of office to which he has been elected begins.

(3) Each person appointed to an office who is required to give bond shall give the bond within thirty (30) days after he receives notice of his appointment.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 86, sec. 9, effective July 15, 1996. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3753, 3755.

### **62.990 Penalties.**

(1) Any person who violates subsection (1) of KRS 62.010 or subsection (1) of KRS 62.050 on or after the date thirty (30) days after January 27, 1995, shall be fined not less than five hundred (500) nor more than one thousand dollars (\$1,000).

(2) If any person violates subsection (2) or (3) of KRS 62.010, his office shall be considered vacant and he shall not be eligible for the same office for two (2) years.

(3) Any person convicted or removed from office under subsection (2) of this section prior to January 10, 1995, may apply to the Circuit Court for relief from the disability of being unable to serve in office. The Circuit Court, upon receipt of the application, shall modify the sentence to remove the disability of holding the office. This subsection shall not be construed to require the removal from office of a person who has been appointed to fill the remainder of the term of a person removed from office under KRS 62.050 and 62.990.

**Effective:** January 27, 1995, retroactive to November 1, 1991

**History:** Amended 1995 (2d Extra. Sess.) Ky. Acts ch. 4, sec. 3, effective January 27, 1995, retroactive to November 1, 1991.

**History through 1968:** Amended 1966 Ky. Acts ch. 255, sec. 66. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3753, 3755.

**Legislative Research Commission Note (1/27/95).** The change in the fine set out in subsection (2) of this statute is effective January 27, 1995, and the other changes to this statute made by 1995 (2d Extra. Sess.) Ky. Acts ch. 4, sec. 3 are retroactively effective to November 1, 1991, pursuant to 1Y95 (2d Extra. Sess.) ch. 4, sec. 5.

## **CHAPTER 64. FEES AND COMPENSATION OF PUBLIC OFFICERS AND EMPLOYEES**

**64.300 Exemption from fees of notaries public.** (1) No fee or compensation shall be allowed or paid for affixing the jurat of a notary public to any application, affidavit, certificate or other paper necessary to be filed in support of any claim for the benefits of federal legislation for any person or his dependents who has served as a member of the National Guard or a reserve component or as an active member of the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States.

**Effective:** July 16, 1916

**History:** Amended 2016 Ky. Acts ch. 46, sec. 1, effective July 15, 2016. Amended 1982 Ky. Acts ch. 360, sec. 13, effective July 15, 1982. -- Amended 1970 Ky. Acts ch. 89, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1746.

### **289.241. Association interest does not disqualify officer taking acknowledgment.**

No public officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgment or proof of any instrument in writing in which an association is interested by reason of his membership in or employment by an association so interested, and any such acknowledgment or proofs heretofore taken are valid.

**Effective:** June 18, 1964

**History:** Created 1964 Ky. Acts ch. 138, sec. 63(2), effective June 18, 1964.

**TITLE XXIX. COMMERCE AND TRADE  
CHAPTER 369. INFORMATION TECHNOLOGY  
UNIFORM ELECTRONIC TRANSACTIONS ACT**

**369.111. Notarization and acknowledgment.**

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record. (Enact. Acts 2000, ch. 301, § 11, effective August 1, 2000.)

**TITLE XXXII. OWNERSHIP AND CONVEYANCE OF PROPERTY  
CHAPTER 382. CONVEYANCES AND ENCUMBRANCES**

**KRS 382.075. Uniform Real Property Electronic Recording Act — Recording of electronic document — Electronic signature — Powers and duties of county clerk.**

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(3) 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 need not accompany an electronic signature.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 33, effective January 1, 2020.

**KRS 382.076. Paper copy of electronic record relating to real property — Certificate — Notice — Exception for plats, maps, and surveys.**

(1) If a law requires that an instrument relating to real property within the Commonwealth to be admitted to the public record and recorded, to be an original, to be on paper or another tangible medium, to be in writing, or to be signed, the requirement shall be satisfied by a paper copy of an electronic record, including an electronic record bearing an electronic signature, that a notary public has certified, pursuant to subsection (3) of this section, to be a true and correct copy of the record that was originally in electronic form and bearing an electronic signature.

(2) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a paper copy of an electronic document bearing an electronic signature of the person authorized to perform that act, and all other information required to be included, that a notary public has certified, pursuant to subsection (3) of this section, to be a true and correct copy of a document that was originally in electronic form and bearing an electronic signature of the person. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(3) A county clerk shall record a paper copy of a document that was originally in electronic form and that is otherwise entitled to be recorded under the laws of this state, if the paper copy has been certified to be a true and correct copy of the electronic record by a notary public as evidenced by a certificate attached to or made a part of the record. The certificate:

(a) Shall:

1. Be signed and dated by the notary public;

2. Identify the jurisdiction in which the certification is performed;
3. Contain the title of the notary public; and
4. Indicate the number and date of expiration, if any, of the notary public's commission; and

(b) May include an official stamp of the notary public affixed to or embossed on the certificate.

(4) The following form of certificate is sufficient for the purposes of this section, if completed with the information required by subsection (3) of this section:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

I certify that the foregoing and annexed document entitled \_\_\_\_\_ [document title], dated \_\_\_\_\_ [document date, if applicable], and containing \_\_\_\_\_ pages is a true and correct copy of an electronic document bearing one (1) or more electronic signatures.

Executed this \_\_\_\_\_ [date]

[Signature of notary public]

Stamp

Notary Public

[My commission expires: \_\_\_\_\_]

[My notary registration number is: \_\_\_\_\_]

(5) A notary public duly commissioned under the laws of this Commonwealth or of another state within the United States has the authority to make the certification provided in this section.

(6) A notary public making the certification provided in this section shall:

- (a) Personally print or supervise the printing of the electronic document onto paper;
- (b) Not make any changes or modifications to the electronic document other than the certification described in subsection (3) of this section; and
- (c) Confirm that the electronic document has been rendered tamper-evident.

(7) If a certificate is completed with the information required by subsection (3) of this section and is attached to or made a part of a paper record, the certificate shall be considered conclusive evidence that the requirements of this section have been satisfied with respect to the record.

(8) A record purporting to convey or encumber real property or any interest therein that has been recorded by a clerk for the jurisdiction in which the real property is located, although the record may not have been certified in accordance with the provisions of this section, shall import the same notice to third persons from the time of recording as if the record had been certified in accordance with the provisions of this section.

(9) This section shall not apply to a plat, map, or survey of real property if under another law of this state, or under a rule, regulation, or ordinance applicable to a clerk if:

(a) There are requirements of format or medium for the execution, creation, or recording of the plat, map, or survey beyond the requirements applicable to a deed to real property; or

(b) The plat, map, or survey must be recorded in a different location than a deed to real property.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 34, effective January 1, 2020.

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**382.130. When deeds executed in this state to be admitted to record. —**

Deeds executed in this state may be admitted to record:

- (1) On the acknowledgment, before the proper clerk, by the party making the deed;
- (2) By the proof of two (2) subscribing witnesses, or by the proof of one (1) subscribing witness, who also proves the attestation of the other;
- (3) By the proof of two (2) witnesses that the subscribing witnesses are both dead; and also like proof of the signature of one of them and of the grantor;
- (4) By like proof that both of the subscribing witnesses are out of the state, or that one (1) is so absent and the other is dead; and also like proof of the signature of one (1) of the witnesses and of the grantor; or
- (5) On the certificate of a county clerk of this state, or any notary public, that the deed has been acknowledged before him by the party making the deed or proved before him in the manner required by subsection (2), (3) or (4).

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky.Stat. sec. 501.

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### **382.160. Certificate of acknowledgment or proof of deed. —**

(1) Where the acknowledgment of a deed is taken by an officer of this state or by an officer residing out of this state, he may simply certify that it was acknowledged before him, and when it was done.

(2) Where a deed is proved by persons other than the subscribing witnesses, the officer shall state the name and residence of each such person in his certificate.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 504, 507.

## **TITLE XXXVIII. WITNESSES, EVIDENCE, NOTARIES, COMMISSIONERS CHAPTER 423 NOTARIES PUBLIC AND COMMISSIONERS OF FOREIGN DEEDS**

### **423.010 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Appointment, term, and qualifications of notaries – County clerk has powers of notary when acting in capacity as clerk.

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020. -- Amended 2006 Ky. Acts ch. 186, sec. 1, effective July 11, 2006. -- Amended 2002 Ky. Acts ch. 231, sec. 1, effective July 15, 2002. -- Amended 1990 Ky. Acts ch. 486, sec. 1, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 204, sec. 12, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 384, sec. 524, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 235, sec. 1. -- Amended 1968 Ky. Acts ch. 100, sec. 22. -- Amended 1952 Ky. Acts ch. 45, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3721

### **423.020 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Notary may act in any county -- Certification of notary's authority.

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020 -- Amended 1990 Ky. Acts ch. 88, secs. 85 and 93, effective July 1, 1992. -- Amended 1946 Ky. Acts ch. 162, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3721a. **Note:** Amendment of this section by 1990 Ky. Acts ch. 88, secs. 85 and 93 became effective July 1, 1992, in compliance with 1992 Ky. Acts ch. 324, sec. 30.

### **423.030 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Protests to be recorded -- Copies as evidence.

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3723.

**423.040 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Notice of dishonor -- To whom sent.

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky.Stat. sec. 3725.

**423.050 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Records of notary to be delivered to county clerk, when.

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020. -- Amended 1990 Ky. Acts ch. 88, secs. 86 and 93, effective July 1, 1992. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky.Stat. sec. 3724. **Note:** Amendment of this section by 1990 Ky. Acts ch. 88, secs. 86 and 93 became effective July 1, 1992, in compliance with 1992 Ky. Acts ch. 324, sec. 30.

**423.060 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Foreign notary -- When protest by is evidence.

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3726.

**423.070 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Commissioners of foreign deeds -- Appointment, term.

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 389.

**423.080 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Powers of commissioners.

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020. -- Amended 1974 Ky. Acts ch. 386, sec. 99. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 390, 391.

**423.110 Recognition of notarial acts performed outside this state.**

For the purposes of KRS 423.110 to 423.190, “notarial acts” means acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

(1) A notary public authorized to perform notarial acts in the place in which the act is performed;

(2) A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;

(3) An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;

(4) A commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the Armed Forces to perform notarial acts if the notarial act is performed for one (1) of the following or his dependents: a merchant seaman of the United States, a member of the Armed Forces of the United States, or any other person serving with or accompanying the Armed Forces of the United States;

(5) Any other person authorized to perform notarial acts in the place in which the act is performed; or

(6) A person, either a resident or a nonresident of Kentucky, who is appointed by the Governor of Kentucky to perform notarial acts in or outside this state covering writings

prepared for recordation in this state.

**Effective:** July 15, 1982

**History:** Amended 1982 Ky. Acts ch. 144, sec. 1, effective July 15, 1982. – Amended 1976 Ky. Acts ch. 65, sec. 1. -- Created 1970 Ky. Acts ch. 131, sec. 1, effective July 1, 1970.

#### **423.120 Repealed, effective July 1, 1992.**

**Catchline at repeal:** Authentication of authority of officer.

**History:** Repealed 1990 Ky. Acts ch. 88, secs. 92 and 93, effective July 1, 1992. --Created 1970 Ky. Acts ch. 131, sec. 2, effective July 1, 1970.

**Note:** Repeal of this section became effective July 1, 1992, in compliance with 1992 Ky. Acts ch. 324, secs. 30 and 33.

#### **423.130 Certificate of person taking acknowledgment.**

The person taking an acknowledgment shall certify that:

(1) The person acknowledging appeared before him and acknowledged he executed the instrument; and

(2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

**Effective:** July 1, 1970

**History:** Created 1970 Ky. Acts ch. 131, sec. 3, effective July 1, 1970.

#### **423.140 Recognition of certificate of acknowledgment.**

The form of a certificate of acknowledgment used by a person whose authority is recognized under KRS 423.110 shall be accepted in this state if:

(1) The certificate is in a form prescribed by the laws or regulations of this state;

(2) The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

(3) The certificate contains the words “acknowledged before me,” or their substantial equivalent.

**Effective:** July 1, 1970

**History:** 1970 Ky. Acts ch. 131, sec. 4, effective July 1, 1970.

#### **423.150 Certificate of acknowledgment.**

The words “acknowledged before me” mean:

(1) That the person acknowledging appeared before the person taking the acknowledgment;

(2) That he acknowledged he executed the instrument;

(3) That, in the case of:

(a) A natural person, he executed the instrument for the purposes therein stated;

(b) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated;

(c) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purpose therein stated;

(d) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated;

(e) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he signed the instrument by proper authority and he executed the

instrument in the capacity and for the purposes therein stated; and

(4) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

**Effective:** July 1, 1970

**History:** Created 1970 Ky. Acts ch. 131, sec. 5, effective July 1, 1970.

**423.160 Short forms of acknowledgment.**

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this state. The forms shall be known as “Statutory Short Forms of Acknowledgment” and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

(1) For an individual acting in his own right:

State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(2) For a corporation:

State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(3) For a partnership:

State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(4) For an individual acting as principal by an attorney-in-fact:

State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of attorney in-fact) as attorney-in-fact on behalf of (name of principal).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)



(5) By any public officer, trustee, or personal representative:  
State of .....  
County of .....

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of person taking acknowledgment)  
(Title or rank)  
(Serial number, if any)

**Effective:** July 1, 1970

**History:** Created 1970 Ky. Acts ch. 131, sec. 6, effective July 1, 1970.

**423.170 Acknowledgments not affected by KRS 423.110 to 423.190.**

A notarial act performed prior to July 1, 1970, is not affected by KRS 423.110 to 423.190. KRS 423.110 to 423.190 provide an additional method of proving notarial acts. Nothing in KRS 423.110 to 423.190 diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this state.

**Effective:** July 1, 1970

**History:** Created 1970 Ky. Acts ch. 131, sec. 7, effective July 1, 1970.

**423.180 Uniformity of interpretation.**

KRS 423.110 to 423.190 shall be so interpreted as to make uniform the laws of those states which enact it.

**Effective:** July 1, 1970

**History:** Created 1970 Ky. Acts ch. 131, sec. 8, effective July 1, 1970.

**423.190 Short title.**

KRS 423.110 to 423.190 may be cited as the “Uniform Recognition of Acknowledgments Act.”

**Effective:** July 1, 1970

**History:** Created 1970 Ky. Acts ch. 131, sec. 9, effective July 1, 1970.

**423.200 Admission of documents to the public record.**

Notwithstanding any other provision of law, any certificate of an acknowledgment given and certified as provided by KRS 423.300 to 423.455 or as provided by those sections and other provisions of law, together with the instrument acknowledged, may be admitted to the public record provided for the type of instrument so acknowledged, and any instrument required to be sworn to or affirmed in order to be recorded may be admitted to record upon a jurat recognized under the provisions of KRS 423.300 to 423.455.

**Effective:** January 1, 2020

**History:** Amended 2019 Ky. Acts ch. 86, sec. 37, effective January 1, 2020. -- Created 1972 Ky. Acts ch. 170, sec. 1, effective March 25, 1972.

**423.300 Definitions for KRS 423.300 to 423.455.**

As used in KRS 423.300 to 423.455:

(1) “Acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record;

(2) “Acknowledged before me” or “appears before me” means being in:

(a) The same physical location as another individual person and close enough to see,

hear, communicate with, and exchange credentials with that person; or

(b) A different physical location from another person but able to see, hear, and communicate with that person by means of communication technology;

(3) “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 with a vision, hearing, or speech impairment;

(4) “Credential” means a non-expired record issued by a government which bears an individual’s photo and which evidences an individual’s identity;

(5) “Credential analysis” means a process or service that meets the standards adopted under KRS 423.355(7) to 423.415 by which a third person provides confidence as to the validity of a government-issued identification credential through review of public and proprietary data sources;

(6) “Dynamic knowledge-based authentication assessment” means an identity assessment that is based on a set of questions formulated from public or private data sources for which the signer of an electronic record has not provided a prior answer;

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

(8) “Electronic notarization” means a notarial act performed with respect to an electronic record by means of communication technology that meets the standards adopted under KRS 423.355(7) to 423.415;

(9) “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;

(10) “Foreign state” means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe;

(11) “Identity proofing” means, in the use of communication technology, a process or service that meets standards adopted under KRS 423.355(7) to 423.415 by which a third person provides confidence as to the identity of an individual through review of personal information from public or proprietary data sources;

(12) “In a representative capacity” means acting as:

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

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

(c) An agent or attorney-in-fact for a principal; or

(d) An authorized representative of another in any other capacity;

(13) “Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under KRS 423.310 and any other law of the Commonwealth;

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

(15) “Notary public” means an individual commissioned to perform a notarial act by the Secretary of State. This term does not include other notarial officers who may perform a notarial act in this state;

(16) “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;

(17) “Online notary public” means a notary public who has registered with the Secretary of State, pursuant to any standards and rules adopted under KRS 423.390 and 423.415, to perform electronic notarizations under KRS 423.300 to 423.455;

(18) “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;

(19) “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;

(20) “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;

(21) “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act or is appearing remotely before the notary;

(22) “Remote presentation” means transmission to an online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to identify the individual seeking the online notary public’s services and to perform credential analysis;

(23) “Sign” means, with present intent to authenticate or adopt a record, to:

(a) Execute or adopt a tangible symbol; or

(b) Attach to or logically associate with the record an electronic symbol, sound, or process;

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

(25) “Stamping device” means:

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

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

(26) “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; and

(27) “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.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 1, effective January 1, 2020.

### **423.305 Application of KRS 423.300 to 423.455.**

KRS 423.300 to 423.455 applies to a notarial act performed on or after the effective date of this Act.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 2, effective January 1, 2020.

### **423.310 Notarial acts -- Tangible and electronic records -- Online notary -- Prohibited acts -- Tangible copy of electronic record.**

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

(a) Take acknowledgements;

- (b) Administer oaths and affirmations;
- (c) Take verifications of statements on oath or affirmation;
- (d) Certify that a copy of any document, other than a document is recorded or in the custody of any federal, state, or local governmental agency, office, or court, is a true copy;
- (e) Certify depositions of witnesses;
- (f) Make or note a protest of a negotiable instrument;
- (g) Witness or attest signatures; and
- (h) Perform any notarial act authorized by a law of the Commonwealth other than KRS 423.300 to 423.455.

(2) A notary public may perform any of the notarial acts listed in subsection (1) of this section with respect to tangible records and electronic records.

(3) Upon registration with the Secretary of State, an online notary may perform any of the notarial acts listed in subsection (1) of this section as an electronic notarization.

(4) A notarial officer shall not perform a notarial act with respect to a record to which the notarial officer or the notarial officer's spouse or other member of the notarial officer's immediate family is a party, or in which any of those individuals has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

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

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 3, effective January 1, 2020.

#### **423.315 Determination of individual's identity and signature -- Protest of negotiable instrument.**

A notarial officer who takes an acknowledgment of a record, takes a verification of a statement on oath or affirmation, or 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 notarial officer has the identity claimed and that the signature on the record is the signature of the individual. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters as set forth in KRS 355.3-505(2).

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 4, effective January 1, 2020.

#### **423.320 Personal appearance before notarial officer.**

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.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 5, effective January 1, 2020.

#### **423.325 Personal knowledge and satisfactory evidence of identity -- Use of communication technology -- Additional information.**

(1) 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.

(2) A notarial officer has satisfactory evidence of the identity of an individual

appearing before the officer if the officer can identify the individual by means of one (1) of the following credentials:

(a) A non-expired passport, driver's license, or government -issued identification card;

(b) Another current form of government identification issued to an individual, which contains the signature and a photograph of the individual, and is satisfactory to the notarial officer; or

(c) If the means presented in paragraphs (a) and (b) of this subsection are unavailable, verification on oath or affirmation of a credible witness personally appearing before the notarial officer and known to the notarial officer or whom the notarial officer can identify on the basis of a current passport, driver's license, or government -issued identification card.

(3) Notwithstanding subsection (2) of this section, in performing an electronic notarization, an online notary public has satisfactory evidence of the identity of an individual appearing before the online notary public if the online notary public can identify the individual through the use of communication technology that meets the requirements of this section and the administrative regulations promulgated by the Secretary of State under KRS 423.355(7) and 423.415, and by the following:

(a) The online notary public's personal knowledge of the individual; or

(b) Each of the following:

1. Remote presentation by the individual of a government-issued identification credential specified in this section that contains the signature and photograph of the individual;

2. Credential analysis of the identification credential described by subparagraph 1. of this paragraph; and

3. Identity proofing of the individual, which may include a dynamic knowledge-based authentication assessment; or

(c) A valid public key certificate that complies with the administrative regulations promulgated by the Secretary of State pursuant to KRS 423.415.

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

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 7, effective January 1, 2020.

#### **423.330 Refusal to perform notarial act.**

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

(a) The individual executing the record is competent or has the capacity to execute the record; or

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

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than KRS 423.300 to 423.455.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 1, effective January 1, 2020.

#### **423.335 Signature by proxy.**

If an individual is physically unable to sign a record, the individual may direct another individual, other than the notarial officer, to sign the individual's name on the record by

proxy, in the presence of two (2) witnesses unaffected by the record, one (1) of whom may be the individual who signs, by proxy, on behalf of the individual physically unable to sign. Both witnesses shall sign their own names beside the proxy signature, and the notarial officer shall insert “Signature affixed by (name of proxy signer) at the direction of (name of individual) and in the presence of (names and addresses of the two witnesses)” or words of similar import.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 8, effective January 1, 2020.

#### **423.340 Who may perform notarial act -- Effect of signature and title -- Powers of county clerk.**

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

(a) A notary public of this state; or

(b) A county clerk of this state.

(2) 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.

(3) The signature and title of a notarial officer described in this section conclusively establishes the authority of the notarial officer to perform the notarial act.

(4) A county clerk shall have the powers of a notarial officer in the exercise of the official functions of the office of clerk within his or her county, and the official actions of the county clerk shall not require the witness or signature of a notary public.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 9, effective January 1, 2020.

#### **423.345 Effect of notarial act performed in another state, under authority of tribe, or under authority of federal law.**

(1) (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 law of that state to perform the notarial act.

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

(c) The signature and title of a notarial officer described in paragraph(a) or

(b) of this subsection conclusively establish the authority of the officer to perform the notarial act.

(2) (a) A notarial act performed in another state has the same effect under the law of this state if the act performed is:

1. By a notary public of this state; and

2. In a civil action or legal proceeding originating in this state.

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

(c) The signature and title of a notarial officer described in paragraph (a) or (b) of this subsection shall conclusively establish the authority of the officer to perform the notarial act. (3) (a) A notarial act performed under the authority and in the jurisdiction of a

federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

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 and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

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

(4) (a) A notarial act performed under the authority of 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 paragraph (a) or

(b) of this subsection conclusively establish the authority of the officer to perform the notarial act.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 10, effective January 1, 2020; 2023 ch. 156, sec. 1.

### **423.350 Effect of notarial act performed under authority of foreign state or international governmental organization -- Establishing authority of officer and genuineness of signature.**

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

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

(3) 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.

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) 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.

(6) 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.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 11, effective January 1, 2020.

**423.355 Online notary public -- Electronic notarization -- Refusal to perform notarial act -- Use of communication technology -- Registration -- Administrative regulations -- Application of state law.**

(1) An online notary public:

(a) Shall be commissioned as a notary public pursuant to KRS 423.300 to 423.455 and has the powers and duties of a traditional notary public as provided by KRS 423.300 to 423.455;

(b) May perform notarial acts as provided by KRS 423.300 to 423.455 in addition to performing electronic notarizations; and

(c) May, upon registration with the Secretary of State as an online notary public pursuant to KRS 423.390, perform electronic notarizations authorized under this section.

(2) An online notary public may perform an electronic notarization provided the online notary public is physically located in this state while performing the notarial act and if:

(a) The online notary public has:

1. Personal knowledge of the identity of the individual pursuant to KRS 423.325; or
2. Satisfactory evidence of the identity of the individual pursuant to KRS 423.325(3);

and

(b) At the time of electronic notarization:

1. The individual appearing before the online notary public is located within this state, or elsewhere within the geographic boundaries of a state of the United States; or

2. The individual is located outside the United States and:

a. The individual confirms to the online notary public that the record is to be filed with or relates to a matter before a court, governmental entity, public official, or other entity located in the territorial jurisdiction of the United States, or relates to property located in the United States, or relates to a transaction substantially connected to the United States; and

b. To the online notary public's actual knowledge, the act of making the statement or signing the record is not prohibited by the jurisdiction in which the individual is located.

(3) In addition to the authority of a notary public to refuse to perform a notarial act pursuant to KRS 423.330, a notary public may refuse to perform a notarial act under this section if the notary public is not satisfied that a notarial act performed would conform with subsection (2)(b)2. of this section.

(4) If a notarial act involves a statement made in or a signature executed on an electronic record by an individual by means of communication technology, the certificate of notarial act required by KRS 423.360 shall indicate that the individual making the statement or signing the record appeared before the online notary public by means of communication technology.

(5) For each electronic notarization, the online notary public shall:

(a) Include, in addition to the journal entries required under KRS 423.380, an indication of whether an individual making a statement or executing a signature which is the subject of the notarial act appeared before the online notary public in the notary's physical presence or by means of communication technology;



(b) Create a complete recording of the conference session containing the audio- video communication between the online notary public and individual appearing before the online notary public, in accordance with the standards adopted under subsection (7) of this section and KRS 423.415; and

(c) Maintain the recording described by paragraph (b) of this subsection for at least ten (10) years after the date of the applicable transaction or proceeding or for the period of retention of a notary public's journal pursuant to KRS 423.380, whichever is longer.

(6) Before an online notary public performs any electronic notarizations under this section, the online notary public shall register with the Secretary of State pursuant to KRS 423.390.

(7) The Secretary of State may promulgate administrative regulations regarding the performance of electronic notarizations. The administrative regulations may:

(a) Prescribe the means of performing a notarial act involving communication technology;

(b) Establish standards for communication technology and the process of credential analysis and identity proofing;

(c) Establish procedures for the requirements of providers of communication technology; and

(d) Establish standards and requirements for the retention of a video and audio copy of the performance of a notarial act.

(8) Regardless of the physical location of the individual at the time of the notarial act, the validity of an electronic notarization performed by an online notary public commissioned in this state shall be determined by applying the laws of this state.

(9) An online notary public shall take reasonable steps to ensure that:

(a) Any registered device or credential used to create an electronic signature is current and has not been revoked or terminated by the device's or credential's issuing or registering authority;

(b) The audio-video communication used in an electronic notarization is secure from unauthorized interception or use;

(c) A backup exists for all information pertaining to an electronic notarization required to be kept by administrative regulations promulgated pursuant to subsection (7) of this section and KRS 423.415; and

(d) The backup described by paragraph (c) of this subsection is secure from unauthorized use.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 12, effective January 1, 2020.

#### **423.360 Certificate of notarial act.**

(1) A notarial act shall be evidenced by a certificate. The certificate shall:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State;

(c) Identify the jurisdiction in which the notarial act is performed;

(d) Contain the title of office and name of the notarial officer; and

(e) If the notarial officer is a notary public, indicate the commission number and date of expiration, if there is an expiration date, of the officer's commission.

(2) If a notarial act is performed regarding a tangible record by a notarial officer, including a notary public, the certificate shall contain the information specified in paragraphs (b), (c), and (d) of subsection (1) of this section, along with the additional information in paragraph (e) of subsection (1) of this section, if the certificate is

completed by a notary public. 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, the certificate shall contain the information specified in paragraphs (b), (c), and (d) of subsection (1) of this section, along with the additional information in paragraph (e) of subsection (1) of this section if the certificate is completed by a notary public. An official stamp may be attached to or logically associated with the certificate.

(3) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) and (2) of this section and:

(a) Is in a short form set forth in KRS 423.365;

(b) Is in a form otherwise permitted by the laws of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in KRS 423.300 to 423.455 or other law of this state other than KRS 423.300 to 423.455.

(4) 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 KRS 423.300 to 423.455.

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

(6) 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 pursuant to KRS 423.415 for attaching, affixing, or logically associating the certificate, the process shall conform to the standards.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 13, effective January 1, 2020.

#### **423.365 Short-form certificate.**

The Secretary of State shall promulgate short form certificates for notarial acts which shall contain space for the information by KRS 423.360(1) and (2), and include a space to indicate the manner of notarization of the document.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 14, effective January 1, 2020.

#### **423.370 Stamp.**

A notary public commissioned pursuant to KRS 423.300 to 423.455 is not required to use a stamp. If a notary public chooses to use a stamp, the notary public shall have an official stamp which shall:

(1) Include the notary public's name, title, jurisdiction, commission number, and expiration date; and

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

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 15, effective January 1, 2020.

#### **423.375 Security of stamping device -- Rendering unusable when no longer valid -- Lost or stolen device.**

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

(2) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the Secretary of State on discovering that the device is lost or stolen.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 16, effective January 1, 2020.

### **423.380 Journal of online notary public -- Entries -- Audio-visual recording -- Lost or stolen journal -- Retention and transmission -- Custodian.**

(1) An online notary public shall maintain a journal in which the online notary public chronicles all electronic notarizations that the online notary public performs. The online notary public shall retain the journal for ten (10) years after the performance of the last electronic notarization chronicled in the journal.

(2) The journal shall be created in an electronic format. An online notary public may maintain more than one (1) journal to chronicle electronic notarizations. The journal shall be maintained in an electronic format in a permanent, tamper-evident electronic format complying with administrative regulations promulgated pursuant to KRS 423.415.

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

(a) The date and time of the notarial act;

(b) A brief description of the record, if any, and type of notarial act as authorized in KRS 423.310;

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

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

(e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification and the means used as well as the date of issuance and expiration of any identification credential presented; and

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

(4) If a notarial act involves the use of communication technology, the notary public shall retain the audio-visual recording of the performance of the notarial act in compliance with both KRS 423.355(7) and the administrative regulations promulgated pursuant to KRS 423.415.

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

(6) 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 (1) of this section.

(7) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in

possession of the journal shall transmit it to the Secretary of State or otherwise as directed in administrative regulations promulgated by the Secretary of State pursuant to KRS 423.415.

(8) A notary public may designate a custodian to do any of the following:

(a) Maintain the journal required under subsection (1) of this section; or

(b) Retain an audio or visual recording of a notarial act required under subsection (4) of this section.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 17, effective January 1, 2020.

#### **423.385 Registration regarding electronic records and notarizations -- Tamper-evident technology -- Standards -- Tangible copy of electronic record.**

(1) A notary public shall register with the Secretary of State pursuant to KRS 423.390 if the notary public intends to perform notarial acts:

(a) With respect to electronic records where the individual will appear before the notary in the notary's physical presence; or

(b) As an online notary public to perform electronic notarizations by means of communication technology.

(2) A notary public may select one (1) or more tamper-evident technologies to perform notarial acts in the physical presence of the individual signer with respect to electronic records, or to perform electronic notarizations. A person may not require a notary public to perform any notarial act with a technology that the notary public has not selected.

(3) If the Secretary of State has established standards respecting technology to perform notarial acts in the physical presence of the individual signer with respect to electronic records, or to perform electronic notarizations, the technology chosen by the notary public shall conform to those standards.

(4) A tangible copy of an electronic record containing a notarial certificate may be accepted 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.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 18, effective January 1, 2020.

#### **423.390 Commission as notary public -- Requirements -- Oath and filing -- Surety bond -- Change of information -- Renewal of commission -- Administrative regulations -- Registration.**

(1) An individual qualified under subsection (2) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required by administrative regulations promulgated by the Secretary of State and be accompanied by payment of the specified fee.

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

(a) Be at least eighteen (18) years of age;

(b) Be a citizen or permanent legal resident of the United States;

(c) Be a resident of or have a place of employment or practice in the county within this Commonwealth where the application is made;

(d) Be able to read and write English;

(e) Not be disqualified to receive a commission under KRS 423.395;

(f) Submit to the Secretary of State any application forms, information, disclosures, and verifications as are required by administrative regulations promulgated by the Secretary of State;

(g) Submit to the Secretary of State proof of having obtained the requisite surety bond required under subsection (4) of this section;

(h) Take an oath of office as set forth in in subsection (4) of this section; and

(i) Submit a fee payment, as specified in KRS 423.430, made payable to the State Treasurer.

(3) On compliance with this section, the Secretary of State shall issue a commission as a notary public to an applicant for a term of four (4) years. The Secretary of State shall assign a unique commission number to each notary public, which same commission number shall continue to be assigned to the notary public in the event of the renewal or later issuance of another commission to the same individual notary public.

(4) Within thirty (30) days of receiving a notary public commission from the Secretary of State, the applicant shall appear in person to take an oath of office, submit an assurance in the form of a surety bond, and file the commission, all of which shall take place before the county clerk listed in the commission application. The applicant shall pay fees to the county clerk for filing the assurance and administering the oath as set forth in KRS 64.012.

(5) The assurance required by this section shall be in the amount of one thousand dollars (\$1,000) and shall be issued by a surety or other entity licensed or authorized to do business in this state. The assurance 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 the law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty (30) days' notice to the Secretary of State before canceling the assurance or of the assurance's expiration if such expiration is prior to the date of expiration of the notary's commission. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the county clerk.

(6) A notarial officer may perform a notarial act in any county of the Commonwealth after filing the commission and assurance and taking the oath required by this section, and for so long as the notary public's commission and surety bond are valid and in effect.

(7) If, at any time during his or her period of commission under this section, or period of registration under subsection (10) of this section, a notary public changes his or her mail or electronic mail address, county of residence, name, signature, electronic signature, or the technology or device used to perform notarial acts or to maintain his or her journal or to render electronic documents tamper-evident, the notary public shall, within ten (10) days after making the change, submit to the Secretary of State the changed information upon the form and containing all information required by the Secretary of State, along with a fee payment, as specified in KRS 423.430, payable to the State Treasurer.

(8)

(a) Prior to the expiration of his or her commission period, a notary public may apply to the Secretary of State to renew his or her commission, and shall comply with the qualifications, renewal application filings, and other requirements then applicable to obtaining an original commission from the Secretary of State. The application for commission renewal shall be accompanied by a fee payment, as specified in KRS 423.430, made payable to the State Treasurer.

(b) If approved, the Secretary of State shall issue a renewed commission to the notary public for an additional four (4) year term, using the same commission number as the notary public's original commission and indicating the new commission expiration date.

(c) Pursuant to the procedures set forth in subsections (4) and (5) of this section, the

commission along with the required assurance shall be filed with the county clerk listed in the renewal application, and a new oath of office administered by the county clerk and new fees paid by the notary public to the county clerk, as determined by KRS 64.012.

(d) A renewed commission shall be valid and effective only upon compliance with this subsection. A notary public shall have no authority to perform notarial acts during any period between the expiration of his or her current commission and the effective date of any renewal commission.

(9) A commission to act as a notary public shall authorize the notary public to perform notarial acts. The commission shall not provide the notary public with any immunity or benefit conferred by the law of this state on public officials or employees.

(10) Before performing an initial notarial act with respect to electronic records, or before performing an initial online notarial act, a notary public shall first register with the Secretary of State. The notary public shall:

(a) At the time of registration, be a commissioned notary public in this Commonwealth who has complied with the requirements set forth in subsections (1) to (8) of this section, and who has complied with all applicable notarial requirements set forth in this chapter;

(b) Register with the Secretary of State by submitting an electronic registration pursuant to this subsection;

(c) Pay to the Secretary of State a registration fee payment, as specified in KRS 423.430, which is in addition to the commission application fee required to be a notarial officer in this state and any fees required to be paid to the county clerk to file a commission and assurance and to take an oath pursuant to KRS 62.010;

(d) Submit to the Secretary of State any registration forms, information, disclosures, and verifications required by administrative regulations promulgated by the Secretary of State; and

(e) Submit to the Secretary of State with the registration proof satisfactory to the Secretary of State that the registrant has satisfied the requirement to post an assurance as a notary public, as set forth in subsections (4) and (5) of this section.

(11) The Secretary of State shall promulgate administrative regulations to establish forms and procedures applicable to the registrations governed by subsection (10) of this section, and shall obtain at least the following information in connection with each registration:

(a) The registrant's commission number and full legal name as it appears on the registrant's commission, and the name to be used for registration, if different;

(b) The county in this state in which the registrant resides or has his or her place of employment or practice;

(c) The electronic mail and resident address of the registrant;

(d) Whether the registrant is registering to perform one (1) or both of the following:

1. Notarial acts with respect to electronic records in which the individual will appear before the notary in the notary's physical presence; or

2. As an online notary public to perform electronic notarizations;

(e) A description of the technologies or devices that the registrant intends to use to perform notarial acts with respect to electronic records or electronic notarizations, to maintain the journal required by KRS 423.380, and to render electronic records tamper-evident after a notarial act is completed, each of which technologies or devices shall comply with any standards established by the Secretary of State;

(f) The digital certification of the registrant; and

(g) Any other information, evidence, disclosures, or declarations required or deemed

beneficial by the Secretary of State pursuant to any administrative regulations promulgated by the Secretary of State.

(12) The Secretary of State may reject a registration if the applicant fails to comply with any provision of KRS 423.300 to 423.455.

(13) Thirty (30) days after compliance with all registration requirements and payment of the required registration fee, a notary public will be registered with the Secretary of State to perform notarial acts in the physical presence of an individual signer with respect to electronic records, or to perform electronic notarizations as an online notary public, or as both.

(14) The Secretary of State may at any time cancel the registration of a notary public to perform notarial acts with respect to electronic records, or as an online notary public to perform electronic notarizations, if the notary public fails to comply with any of the requirements of KRS 423.300 to 423.455 or based upon any of the grounds for revocation or suspension of a notary public's commission.

(15) Registration of a notary public under this section is suspended by operation of law when the notary public is no longer commissioned as a notary public in this state. If the commission of a notary public has expired or been revoked or suspended, the Secretary of State shall immediately notify the notary public in writing that his or her registration under this section will be suspended by operation of law until he or she is appointed as a notary public in this Commonwealth.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 19, effective January 1, 2020.

#### **423.395 Denial, revocation, or limitation of commission -- Other remedies.**

(1) 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:

(a) Failure to comply with KRS 423.300 to 423.455;

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

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

(d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(e) Failure by the notary public to discharge any duty required of a notary public, whether by KRS 423.300 to 423.455, administrative regulations promulgated by the Secretary of State, or any federal or state law;

(f) 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;

(g) Violation by the notary public of an administrative regulation of the Secretary of State regarding a notary public;

(h) Denial, refusal to renew, revocation, or suspension of a notary public commission in another state; or

(i) Failure of the notary public to maintain an assurance.

(2) 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.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 20, effective January 1, 2020.

#### **423.400 Electronic database of notaries public -- County clerk to record filing and oath.**

(1) The Secretary of State shall maintain an electronic database of notaries public:

(a) Through which a person may verify the authority of a notary public to perform notarial acts; and

(b) Which indicates whether a notary public has registered with the Secretary of State in order to perform notarial acts on electronic records or to act as an online notary public.

(2) Each county clerk who files a notary public's assurance and administers the oath of office to a notary public shall promptly record the fact and date in the database described in subsection (1) of this section.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 21, effective January 1, 2020.

#### **423.405 Unauthorized actions.**

(1) A commission as a notary public does not authorize an individual to engage in the practice of law.

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

(3) 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 engage in the unauthorized practice of law as defined by rule of the Supreme Court.

(4) 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.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 22, effective January 1, 2020.

#### **423.410 Validity of notarial act.**

Except as otherwise provided in KRS 423.310(4), the failure of a notarial officer to perform a duty or meet a requirement specified in KRS 423.300 to 423.455 does not invalidate a notarial act performed by the notarial officer. The validity of a notarial 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 other laws of this state. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 23, effective January 1, 2020.

#### **423.415 Administrative regulations.**

The Secretary of State may promulgate administrative regulations to implement KRS 423.300 to 423.455. Promulgated administrative regulations regarding the performance of notarial acts with respect to electronic records or electronic notarizations shall not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The administrative regulations may:

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

(2) Establish requirements for notarial training or education as a condition of



obtaining or renewing a commission or before registering to perform notarial acts with respect to electronic records or to perform electronic notarizations;

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

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

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

(6) Include provisions to prevent fraud or mistake in the performance of notarial acts; and

(7) Establish the process for approving and accepting surety bonds and other forms of assurance under KRS 423.390.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 24, effective January 1, 2020.

#### **423.420 Commission in effect on January 1, 2020 -- Renewal -- Registration as online notary public.**

(1) A commission as a notary public in effect on January 1, 2020, shall continue until its date of expiration. A notary public who applies to renew a commission as a notary public on or after January 1, 2020, shall be subject to and comply with KRS 423.300 to 423.455. A notary public, in performing notarial acts after January 1, 2020, shall comply with KRS 423.300 to 423.455.

(2) An existing commission as a notary public does not constitute authority to act as an online notary public. Registration pursuant to KRS 423.390, and compliance with KRS 423.300 to 423.455, is required before a notary public with an existing commission may act as an online notary public.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 25, effective January 1, 2020.

#### **423.425 Validity of notarial act performed before January 1, 2020.**

KRS 423.300 to 423.455 does not affect the validity or effect of a notarial act performed before January 1, 2020.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 26, effective January 1, 2020.

#### **423.430 Fees.**

(1) For a notarial act relating to a tangible or electronic record, or for an electronic notarization, a notary public may charge a fee:

(a) In compliance with KRS 64.300; and

(b) Which has been clearly disclosed to the person requesting the service in advance.

(2) Compensation for services provided by a notary public which do not constitute notarial acts is not governed by this section.

(3) The Secretary of State may charge the following fees in relation to notaries public:

(a) Application for a commission or renewal as a notary public \$10

(b) Issuance of a replacement commission upon loss or destruction of the original \$10

(c) Update to commission or registration information upon a change of name or address or other specified information \$10

(d) Issuance of an electronic certificate of authority or apostille \$5 per document

(4) In accordance with KRS 64.012, county clerks may assess fees for services required to fulfill obligations set forth in KRS 423.300 to 423.455.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 27, effective January 1, 2020.

**423.435 Electronic record or paper printout relating to real property deemed to be lawfully recorded or filed.**

(1) If an electronic record or paper printout of an electronic record relating to real property located in this state contains an acknowledgement performed by electronic means, notwithstanding any omission or error in the certificate of acknowledgement or failure of the record to show an acknowledgement in compliance with applicable law, upon the record being recorded with the county clerk of the county in which the real property is located or filed with the Secretary of State:

(a) The electronic record or paper printout of an electronic record shall be deemed to be lawfully recorded or filed; and

(b) All persons, including without limitation any creditor, encumbrancer, mortgagee, subsequent purchaser for valuable consideration, or any other subsequent transferee thereof or of any interest therein, are deemed to have notice of its contents.

(2) For the purposes of this section, a record is deemed to comply with all applicable requirements upon the recording by the county clerk of the county in which the real property is located or the filing of the record with the Secretary of State, as required by law.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 28, effective January 1, 2020.

**423.440 Presumption of proper notarization -- Immunity of county clerk.**

(1) A writing or record that appears on its face to have been properly notarized in accordance with KRS 423.300 to 423.455 shall be presumed to have been notarized properly and may be recorded by the clerk.

(2) A writing or record notarized outside this state by a notary public or other person referenced in KRS 423.345 or 423.350 that appears on its face to be properly notarized shall be presumed to have been notarized properly in accordance with the laws and regulations of the jurisdiction in which the document was notarized.

(3) The county clerk shall be immune from suit arising from any acts or omissions relating to recording records that have been notarized by electronic means as set forth in KRS 423.300 to 423.455 unless the clerk was grossly negligent or engaged in willful misconduct.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 29, effective January 1, 2020.

**423.445 Application of Uniform Electronic Transactions Act.**

(1) KRS 423.300 to 423.455 are to be construed and applied in a manner consistent with KRS 369.101 to 369.120. In accordance with KRS 369.105, nothing in KRS 423.300 to 423.455 shall affirmatively require any person to create, generate, send, communicate, receive, store, or otherwise process or use electronic records or complete a transaction using electronic means, and in accordance with KRS 369.118, nothing shall require any governmental agency to send and accept electronic records and electronic signatures to and from other persons, or to otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures, except as may be otherwise required by law.

(2) A requirement that a record or a signature associated with a record be notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a paper printout of an electronic record bearing an electronic signature of the person authorized to perform that act and all other information required to be included pursuant to KRS 369.111.

(3) In accordance with KRS 369.118, a governmental agency that accepts paper printouts of electronic records may establish rules, procedures, or requirements governing this acceptance.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 30, effective January 1, 2020.

#### **423.450 Certificate verifying notary public's signature -- Electronic certificate of authority.**

(1) With respect only to notarial acts performed in relation to tangible records, the county clerk of a county in whose office any notary public has so filed his or her signature and surety bond shall when requested subjoin to any certificate of proof or acknowledgement signed by the notary a certificate under his or her hand and seal stating that such notary public's written signature is on file in the clerk's office, and was at the time of taking such proof or acknowledgement duly authorized to take the same, that the clerk is well acquainted with the handwriting of the notary public, and believes that the signature to the proof or acknowledgement is genuine.

(2) For all notarial acts performed in relation to electronic records that are transmitted to another state or nation, electronic evidence of the authenticity of the official signature and seal of a notary public of this state, if required, shall be attached to, or logically associated with, the record and shall be in the form of an electronic certificate of authority signed by the Office of the Secretary of State in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the United States.

(3) An electronic certificate of authority evidences the authenticity of the official signature and seal of an online notary public of this state and shall contain substantially the following:

“Certificate of Authority for a Notarial Act

I, (name), Secretary of State of the Commonwealth of Kentucky, certify that (name of electronic notary), the person named as a Notary Public in the attached or associated electronic document, was indeed commissioned as a Notary Public for the Commonwealth of Kentucky and authorized to act as such at the time of the document's electronic notarization. To verify this Certificate of Authority for a Notarial Act, I have included herewith my electronic signature this day of , (year).

(Electronic signature and seal of the Kentucky Secretary of State)”

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 31, effective January 1, 2020.

#### **423.455 Notarial act for remotely located individual facilitated by communication technology -- Certificate -- Retention of audio-visual recording -- Notification of Secretary of State -- Administrative regulations -- Service of process.**

(1) A remotely located individual may comply with KRS 423.320 by appearing before a notary public by means of communication technology.

(2) A notary public located in this state may perform a notarial act facilitated by communication technology for a remotely located individual if:

(a) The notary public:

1. Has personal knowledge pursuant to KRS 423.325(1) of the identity of the

individual;

2. 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 KRS 423.325(2); or

3. Reasonably can identify the individual by at least two (2) different types of identity-proofing processes or services;

(b) The notary public is able reasonably to identify a record before the notary public as the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature;

(c) 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

(d) For a remotely located individual who is located outside the United States:

1. The record:

a. Is to be filed with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of the United States; or

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

2. The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(3) If a notarial act is performed pursuant to this section, the certificate of notarial act required by KRS 423.360 and the short-form certificate provided in KRS 423.365 shall indicate that the notarial act was performed by means of communication technology.

(4) A short-form certificate provided in KRS 423.365 for a notarial act subject to this section is sufficient if it:

(a) Complies with administrative regulations promulgated pursuant to subsection (7)(a) of this section; or

(b) Is in the form provided by KRS 423.365 and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(5) A notary public, a guardian, a 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 (2)(c) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by administrative regulations promulgated under subsection (7)(d) of this section, the recording shall be retained for no less than ten (10) years after the recording is made.

(6) 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 facilitated by communication technology and identify the technology. If the Secretary of State has established standards for approval of communication technology or identity proofing under subsection (7) of this section, the communication technology and identity proofing shall conform to those standards.

(7) In addition to promulgating administrative regulations under KRS 423.415, the Secretary of State may promulgate administrative regulations regarding performance of a notarial act. The administrative regulations may:

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

(b) Establish standards for communication technology and identity proofing;

(c) Establish requirements or procedures to approve providers of communication

technology and the process of identity proofing; and

(d) Establish standards and a period of the retention of an audio-visual recording created under subsection (2)(c) of this section.

(8) Before promulgating administrative regulations governing performance of a notarial act with respect to a remotely located individual, the Secretary of State shall consider:

(a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard- setting organizations and the National Association of Secretaries of State;

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

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

(9) By allowing its communication technology or identity proofing technology to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording created under subsection (2)(c) of this section, the provider of the technology appoints the Secretary of State as the provider's agent for service of process in any civil action in this state related to the notarial act.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 32, effective January 1, 2020.

#### **423.460 Relation of KRS 382.075, 382.076, and 423.300 to 423.455 to Electronic Signatures in Global and National Commerce Act.**

KRS 382.075, 382.076, and 423.300 to 423.455 modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et seq., but do not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. sec. 7003(b).

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 35, effective January 1, 2020.

#### **423.465. Conflict between laws.**

In the event of a conflict between the provisions of this chapter and any other law in this state, the provisions of this chapter shall control.

**Effective:** January 1, 2020.

**History:** Created 2019 Ky. Acts ch. 86, sec. 36, effective January 1, 2020.

#### **423.990 Repealed, 2020. (Effective January 1, 2020)**

**Catchline at repeal:** Penalties

**History:** Repealed 2019 Ky. Acts ch. 86, sec. 50, effective January 1, 2020. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 427, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3727.

## **KENTUCKY ADMINISTRATIVE REGULATIONS TITLE 30. SECRETARY OF STATE CHAPTER 8.**

### **Section 1. Definitions.**

(1) "Digital Certificate" means an electronic record, issued by a third-party certificate authority, which certifies the ownership of a public key, rendering an electronic document as tamper-evident.

(2) “Electronic record” means information contained in or on a medium that requires electricity to be perceived.

(3) “Notary technology” means an electronic device or process that allows a notary public to perform notarial acts with regard to electronic documents with or without the use of communication technology.

(4) “Online notary public” means a notary public who has registered to perform electronic notarizations.

(5) “Tangible record” means information contained in or on a medium, whether an original or duplicate, that can be perceived without the requirement of electricity.

## **Section 2. Notary Public Application, Approval or Denial of Application, Voluntary Termination, and Required Notice of Change of Information.**

(1) Application. An application for a commission as a notary public shall be submitted on a form provided for that purpose by the Office of the Secretary of State or submitted on an electronic portal established by the Office of the Secretary of State for that purpose. A person who executes an application for filing with the Secretary of State shall be deemed to have declared under penalty of perjury that to the person’s knowledge, the contents of the application are true. Every application for a notarial commission shall include:

(a) The full legal name of the applicant;

(b) The email address of the applicant;

(c) A telephone number for the applicant;

(d) The signature of the applicant;

(e) The county for which the application is being made;

(f) The physical and mailing address within the county of application where the applicant resides or is employed;

(g) A statement of whether the applicant has previously held a notary commission, the name under which the applicant was previously commissioned, and the date at which the most recent commission expired;

(h) A statement that the applicant is at least eighteen years of age;

(i) A statement that the applicant is a citizen or permanent legal resident of the United States;

(j) A statement that the applicant is able to read and write English;

(k) A statement identifying the surety provider from which the applicant intends to obtain surety;

(l) A statement that the applicant is not disqualified from becoming a notary public under the provision of KRS Chapter 423 or this administrative regulation;

(m) A statement that the applicant is not disqualified for any reason under Section 2(3)(a)-(f) of this administrative regulation; and

(n) Payment of the required fee.

(2) Approval or Denial of Application. Approval of Application. If the applicant has complied with the provisions of KRS Chapter 423 and this administrative regulation, the application shall be approved. A notary commission shall be effective as of the date of entry of that commission in the database of notaries public on the website of the Secretary of State.

(3) Disapproval of Application. The Secretary of State may disapprove the application for the following reasons:

(a) The applicant’s failure to comply with KRS Chapter 423 or the provisions of this administrative regulation or the existence of a pending inquiry regarding the applicant’s

failure to comply with KRS Chapter 423 or this administrative regulation;

(b) Any information required under this administrative regulation is missing, inaccurate, incomplete, or cannot be independently verified;

(c) A fraudulent, dishonest, or deceitful misstatement or omission of fact in the submitted application;

(d) A finding against, or admission of liability by, the applicant in any legal proceeding or disciplinary action based on the applicant's fraud, dishonesty, or deceit;

(e) The denial, refusal to renew, revocation, or suspension of an applicant's notary commission or registration in another state; or

(f) Failure of the applicant to maintain the required surety bond.

(4) If the application or registration is disapproved, the Secretary of State shall state the reasons for the disapproval.

(5) Voluntary Termination of Notary Commission. A notary public may terminate his or her commission by notifying the Office of the Secretary of State of that intent, in writing at: Secretary of State, Division of Corporations, Notary Commissions, P.O. Box 821, Frankfort, Kentucky 40602 or on any electronic portal created by the Office of the Secretary of State for that purpose. Submission of a notification of termination of a notary commission shall automatically terminate any notary registration.

(6) Change of Information. A notary public shall notify the Office of the Secretary of State, in writing at: Secretary of State, Division of Corporations, Notary Commissions, P.O. Box 821, Frankfort, Kentucky 40602, on a form promulgated by the Office of the Secretary of State for that purpose or on any electronic portal created by the Office of the Secretary of State for that purpose, during the period of the notary's commission and within ten (10) days of the change in any of the following information:

(a) The notary's mailing, physical or electronic mail address;

(b) The notary's county of residence;

(c) The notary's legal name;

(d) The notary's signature;

(e) The notary's electronic signature, if any; or

(f) The notary technology used by the notary public.

### **Section 3. Registration to Perform Notarial Acts with Respect to Electronic Records and Electronic Notarizations.**

(1) Authority to perform electronic and online notarial acts. A notary public shall register to perform notarial acts with respect to electronic records by: submitting the following information to the Secretary of State:

(a) The registrant's full legal name;

(b) The county in which the registrant resides or has his or her place of employment or practice in this Commonwealth;

(c) The registrant's date of birth;

(d) The registrant's notary identification number and the expiration date of the registrant's notary commission;

(e) The electronic mail address and mailing address where the registrant resides or is employed;

(f) An indication of whether the registrant is registering to perform notarial acts with respect to electronic records or electronic notarizations, or both;

(g) A description of the notary technology that the registrant intends to use to perform notarial acts with respect to electronic records or electronic notarizations, or both,

including the technologies or devices to maintain the journal required under KRS 423.380 and to render electronic records tamper-evident after a notarial act is completed;

(h) A copy of the registrant's electronic signature, the digital certificate required under Section 4 of this administrative regulation, the official stamp, if any, along with any necessary instructions or techniques supplied by a vendor or notary that allows the signature and stamp to be read and authenticated in a portable document format (.pdf);

(i) The name, address, and Web site URL of any vendors or other persons that shall directly supply the registrant with technology that he or she intends to use;

(j) A statement of whether the notary technology provider has registered with the Secretary of State;

(k) A copy of any necessary instructions or techniques supplied by a vendor that allow the registrant to conduct identity proofing and credential analysis;

(l) An explanation of the methods or technology by which the registrant shall maintain and store the journal required by KRS 423.380;

(m) A statement that the technologies or devices named in the registration are compliant with KRS Chapter 423 and this administrative regulation;

(n) A copy of the registrant's surety bond in the amount of \$1,000; and

(o) A disclosure of any convictions, professional license or commission revocations, professional disciplinary actions, or other disqualifying actions or proceedings taken under the laws of any state against the registrant.

(2) Submission of registration form. The registration form shall be submitted electronically to the Secretary of State as provided by information posted on the Secretary of State's Web site at <https://sos.ky.gov/>.

(3) Use of additional vendors. If, during the term of his or her commission, a notary public intends to use the technologies of a vendor or person other than those identified in subsection (1)(i) of this Section, then an additional notification identifying the other vendors or persons shall be submitted to the Secretary of State as provided in this Section and in accordance with the manner established by the Secretary of State as posted on the Secretary of State's Web site at <https://sos.ky.gov/>.

(4)(a) Approval or disapproval by the Secretary of State. Approval of registration. If the registrant has complied with the provisions of KRS Chapter 423 and this administrative regulation, the registration to perform notarial acts with respect to electronic records shall be approved within thirty (30) days of its submission. A registration shall be effective as of the date of entry of that registration in the database of the Secretary of State.

(b) Disapproval of registration. The Secretary of State may disapprove and reject a registration for the following reasons:

1. The registrant's failure to comply with KRS Chapter 423 or the provisions of this administrative regulation or a pending inquiry regarding the registrant's failure to comply with KRS Chapter 423 or this administrative regulation;

2. Any information required under this Section is missing, inaccurate, or incomplete;

3. A fraudulent, dishonest, or deceitful misstatement or omission in the submitted registration;

4. A finding against, or admission of liability by, the registrant in any legal proceeding or disciplinary action based on the registrant's fraud, dishonesty, or deceit;

5. Denial, refusal to renew, revocation, or suspension of a notary commission or registration in another state; or

6. Failure of the registrant to maintain a surety bond in the amount of \$1,000.



(5) If the registration is disapproved, the Secretary of State shall state the reasons for the disapproval.

(6) Termination of electronic registration. A notary public may terminate an electronic registration by notifying the Office of the Secretary of State of that intent, in writing at: Secretary of State, Division of Corporations, Notary Commissions, P.O. Box 821, Frankfort, Kentucky 40602 or on any electronic portal created by the Office of the Secretary of State for that purpose. Termination of a notary's electronic registration shall not terminate his or her commission.

(7) Renewal of commission. The renewal of the commission of a notary public who has previously registered to perform notarial acts with regard to electronic records or online notarizations under this Section constitutes renewal of his or her registration without the necessity of submitting another registration pursuant to this Section.

(8) Updated technology. Nothing in this Section shall be construed to prohibit a notary public from receiving, installing, or using a hardware or software update to the technologies that he or she identified under this Section if the hardware or software update does not result in technologies that are materially different from the technologies that the notary public identified.

#### **Section 4. Standards for the Performance of Notarial Acts with Respect to Electronic Records.**

(1) Tamper-evident technology requirements. A notary public shall select one (1) or more tamper-evident technologies to perform notarizations with regard to electronic records. No person shall require a notary public to use a technology that the notary public has not selected. The tamper-evident technology shall consist of a digital certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology. A notary public shall attach or logically associate his or her electronic signature and official stamp, if any, to an electronic record that is the subject of a notarial act by use of the digital certificate. A notary public shall not perform an electronic notarization if the digital certificate:

- (a) Has expired;
- (b) Has been revoked or terminated by the issuing or registering authority;
- (c) Is invalid; or
- (d) Is incapable of authentication.

(2)(a) Requirements of official stamp. A notary public shall not be required to use an official stamp when performing notarial acts with respect to electronic records.

(b) A notary public who uses an official stamp shall use the same unique official stamp for all notarial acts with respect to electronic records that are performed for an individual that is not remotely located. An official stamp under this Section is an official seal of office of the notary public for all purposes. An official stamp shall conform to the following requirements:

1. Required information. An official stamp shall substantially conform to a rectangular or circular seal design and shall include the name of the notary public as it appears on his or her commission, the notary's commission number, the commission expiration date, and the words "Commonwealth of Kentucky" and "Notary Public".

2. Format and size. When affixed to an electronic record, an official stamp 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.

(3) If a notary public elects not to use an official stamp when performing notarial acts with respect to electronic records, the certificate of the notarial act on the electronic record shall:

(a) Contain the name of the notary public as it appears on his or her commission;

(b) Indicate the title “Notary Public” for any notarial act with respect to electronic records; and

(c) Indicate the notary’s commission number and commission expiration date.

(4) Use of electronic signature and stamping device. A notary public shall be responsible for the security of his or her stamping device and shall not allow another individual to use the device to perform a notarial act. A notary public shall take reasonable steps to maintain the security of the notary signature and stamping device and shall not disclose any access information used to affix his or her electronic signature or official stamp to electronic records, except:

(a) When requested by the Secretary of State or a law enforcement officer;

(b) When required by court order or subpoena; or

(c) Pursuant to an agreement to facilitate notarial acts with a vendor or other technology provider identified in Section 5(6)(a) of this administrative regulation.

(5)(a) Protection against theft, alteration, or misuse. A notary public shall not allow any other individual to alter or use his or her electronic signature, notary technology, official stamp, or stamping device to perform a notarial act.

(b) Upon resignation, revocation, or expiration of the notary’s commission, his or her notary technology and electronic stamping device (including any coding, disk, digital certificate, card, software, or password that enables the notary public to attach or logically associate the notary’s electronic signature or official stamp to an electronic record) shall be destroyed or disabled to prohibit its use by any other person. A former notary public whose commission terminated for a reason other than revocation or denial of renewal is not required to destroy his or her notary technology or electronic stamping device if the former notary public is recommissioned as a notary public within thirty (30) days after the termination of his or her former commission.

(c) A notary public shall promptly notify the Secretary of State on actual knowledge of the theft or vandalism of the notary’s notary technology or electronic stamping device. A notary public shall promptly notify the Secretary of State on actual knowledge of the unauthorized use by another person of the notary’s electronic signature, notary technology, or electronic stamping device.

(6) Tangible copies of an electronic record. A notary public may certify that a tangible copy of an electronic record is an accurate copy of the electronic record if the notary has taken reasonable steps to confirm the accuracy of that certification.

## **Section 5. Standards for Electronic Notarizations.**

(1) Notarial acts with respect to electronic records. In performing electronic notarizations, an online notary public shall comply with the registration requirements in Section 3 and the standards for notarial acts with respect to electronic records in Section 4 of this administrative regulation.

(2) If used for electronic notarizations, an online notary public may use an official stamp that shall contain the words “Online Notary Public” in lieu of the words “Notary Public.” A stamp that contains the words “Online Notary Public” shall only be used to perform notarizations with regard to remotely located individuals.

(3) Physical location. An online notary public shall be physically located in this

Commonwealth at the time of the performance of the online notarization.

(4) Identity proofing. An online notary public shall have satisfactory evidence of the identity of a remotely located individual if the online notary public has personal knowledge of the identity of the individual. If an online notary public does not have personal knowledge of the identity of a remotely located individual, the online notary public shall reasonably verify the individual's identity through at least two (2) different types of identity proofing processes or services. Those processes shall include remote presentation of an appropriate government-issued identification card that contains the signature and photograph of the remotely located individual, credential analysis of that government-issued identification card by a service or process that analyzes the person's identity credential, binds the individual's identity to the individual following a successful dynamic knowledge-based authentication assessment, and permits the notary to visually compare the identity credential and the individual. The analysis of the government-issued identification card and the dynamic knowledge-based authentication assessment shall conform to the following requirements:

(a) Credential analysis. The analysis of a government-issued identification card shall use public or private data sources to confirm the validity of the identity that is the subject of remote presentation by a remotely located individual and, at a minimum, shall:

1. Use automated software processes to aid the online notary public in verifying the identity of each remotely located individual;
2. Require that the identity credential passes an authenticity test, consistent with sound commercial practices that use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identity credential is not fraudulent or inappropriately modified;
3. 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 identity credential details; and
4. Enable the online notary public to visually compare for consistency the information and photograph on the identity credential and the remotely located individual as viewed by the online notary public in real time through communication technology.

(b) Dynamic knowledge-based authentication. A dynamic knowledge-based authentication assessment shall be successful if it meets the following requirements:

1. The remotely located individual shall answer a minimum of five (5) questions related to the individual's personal history or identity formulated from public or private data sources;
2. Each question shall have a minimum of five (5) possible answer choices;
3. At least eighty (80) percent of the questions shall be answered correctly;
4. All questions shall be answered within two (2) minutes;
5. If the remotely located individual fails the first attempt, the individual may attempt the authentication assessment one (1) additional time within twenty-four (24) hours;
6. During the second authentication assessment, a minimum of forty (40) percent of the prior questions shall be replaced;
7. If the remotely located individual fails the second authentication assessment, the individual shall not be allowed to attempt identity authentication with the same online notary public within twenty-four (24) hours of the second failed authentication assessment; and

8. The online notary public shall not be able to see or record the questions or answers.

(c)1. Public key certificate. The identity of the individual appearing before the online

notary public may be verified by use of a valid public key certificate that meets the requirements of a digital certificate, complies with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology, and is issued by a technology provider or digital certificate service registered with the Secretary of State pursuant to this administrative regulation.

2. A public key certificate shall not be valid for identity verification if the public key certificate has expired, has been revoked or terminated by the issuing or registering authority, is invalid, or is incapable of authentication.

(5) Requirements for communication technology. The communication technology used by an online notary public in the performance of online notarizations shall conform to the following requirements:

(a) Audio-video feeds. Communication technology shall provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the online notary public and remotely located individual to see and speak with each other. The process shall provide a means for the online notary public reasonably to confirm that a record before the online 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.

(b) Security measures. Communication technology shall provide reasonable security measures to prevent unauthorized access to:

1. The live transmission of audio-visual feeds;

2. The methods used to perform the identify verification process under subsection 4 of this Section; and

3. The record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

(c) Work flow. If a remotely located individual exits the workflow, the individual shall restart the identify verification process under subsection 4 of this Section from the beginning.

(d) Recording. All notarial acts performed using communication technology shall be electronically recorded. The recording shall contain a recitation that the notary has informed the individuals participating in the notarial act that it shall be electronically recorded.

(6)(a) Notary technology provider registration. A provider of technology used in the process of electronic or online notarization shall register with Secretary of State in the manner directed by the Secretary of State and provide the following information:

1. The legal name of the technology provider;

2. The mailing address of the technology provider;

3. The physical address of the technology provider;

4. A designated contact person for that provider;

5. The phone number, physical address, and email address of the contact person;

6. The name of the technology provided;

7. The name of the provider or providers of the knowledge-based authentication, credential analysis, or digital certificate services, if different from the technology provider;

8. A description of the technology used and the manner in which it complies with KRS Chapter 423 and this administrative regulation;

9. The process by which the technology provider verifies the identity of the notary public or digital certificate holder using the technology;

10. A plan for the retention and disposition of records created, generated, or retained in conjunction with the use of the technology, including any electronic journal, recordings, or records created or retained during an electronic or online notarization, in the event the technology provider no longer engages in the business of providing

electronic or online notary technology; and

11. An authorized certification that the technology provided complies with KRS Chapter 423 and this administrative regulation.

(b) A registration in compliance with this subsection is non-transferable and shall not be conveyed to any other notary technology provider.

(7)(a) Complaint Against a Notary Technology Provider. A written complaint may be made against a notary technology provider registered with the Office of the Secretary of State. A complaint that does not comply with the requirements of this subsection shall not be filed, responded to, or acted upon by the Secretary of State.

(b) The Office of the Secretary of State may commence an investigation of a registered notary technology provider as a result of a complaint or upon its own initiative.

(c) An investigation under this subsection may include:

1. An initial request for information from the accused provider;

2. A copy of the complaint forwarded to the registration provider; and

3. A request for supporting documentation and other sources of information.

(d) A provider shall provide true, accurate, and complete copies of all information requested by the Office of the Secretary of State.

(e) Failure of a provider to comply with an investigation directive may result in revocation of the provider's registration.

(f) A finding that the provider has failed to comply with the provisions of KRS Chapter 423 or this administrative regulation may result in revocation of the provider's registration.

(8) Duties of Notary Technology Provider. A notary technology provider shall:

(a) Respond to a request for information from the Office of the Secretary of State within the time directed. Any request for information shall be sent to the addresses provided upon registration;

(b) Take reasonable steps to ensure that a notary public or digital certificate holder is able to use the technology provided in accordance with this administrative regulation; and

(c) Suspend the use of any technology for any notary or digital certificate holder whose commission, registration, or digital certificate has expired, been revoked, or suspended.

## **Section 6. Record Retention Requirements for Notarial Acts with Respect to Electronic Records and Electronic Notarizations. Record retention.**

(1) A notary public that is registered to perform notarial acts with respect to electronic records or electronic notarizations shall maintain one (1) or more journals in a permanent, tamper-evident electronic format to chronicle those notarizations.

(2) A journal entry shall be made contemporaneously with the performance of the notarial act and shall contain:

(a) The date and time of the notarial act;

(b) A brief description of the record, if any, and the type of notarial act;

(c) The full name and address of each individual for whom a notarial act is performed;

(d) A statement of how identification was established and a description of any identification credential presented including the type of credential and dates of issuance and expiration of the credential;

(e) The fee charged, if any; and

(f) For a notarial act involving remotely located individuals using communication technology, an audio-visual recording (or a link thereto) of the performance of the notarial act that complies with KRS Chapter 423 and this administrative regulation.

(3) A journal shall be created and stored in a computer or other electronic storage

device or process that protects the electronic journal and any audio-visual recording against unauthorized access by password or cryptographic process. A recording shall be created in an industry-standard audio-visual file format and shall not include images of any record in which a remotely located individual made a statement or on which the remotely located individual executed a signature.

(4) An electronic journal shall be retained for at least ten (10) years after the last notarial act chronicled in the journal. An audio-visual recording shall be retained for at least ten (10) years after the recording is made.

(5) A journal entry shall not record identification numbers assigned to an individual by a governmental agency or any biometric identifier.

(6) A notary public shall take reasonable steps to ensure that a backup of the journal and audio-visual recording exists and is secure from unauthorized use.

(7) On the death or adjudication of incompetency of a current or former notary public who is registered to perform notarial acts with respect to electronic records or notarial acts involving remotely located individuals, the online notary's personal representative or guardian or any other person knowingly in possession of a journal or audio-visual recording shall:

(a) Comply with the retention requirements of this subsection;

(b) Transmit the journal and recording to one (1) or more repositories under this Section; or

(c) Transmit the journal and recording in an industry-standard readable data storage device to his or her notary technology provider.

(8) Repositories. A notary public who is registered to perform notarial acts with respect to electronic records or electronic notarizations, a guardian, conservator, or agent of the notary public, or a personal representative of a deceased online notary public may, by written contract, engage a third person to act as a repository to provide the storage required by this Section. A third person under contract under this Section shall be deemed a repository or custodian under KRS 423.380(8) or KRS 423.455(5), as applicable. The contract shall:

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

(b) Provide that the information shall be transferred to the registered notary public, the guardian, conservator, or agent of the registered notary public, or the personal representative of the deceased registered notary public if the contract is terminated.

(9)(a) Lost, Stolen, or Improperly Accessed Journal.

(b) A notary public shall promptly notify the Secretary of State of a lost or stolen journal upon discovering the journal is lost or stolen.

(10) Disposition of Notarial Records upon Termination of Commission or Registration. Upon the revocation, resignation, termination, or suspension of the commission of a notary public or the revocation, resignation, termination, or suspension of the registration of a notary public to perform notarial acts with respect to electronic records and notarial acts involving remotely located individuals using communication technology, the notary public shall retain the journal in accordance with the provisions of this Section.

## **Section 7. Prior Notice to the Secretary of State and Standards for the Use of Communication Technology in the Performance of Notarial Acts with Respect to**

### **Tangible Records.**

(1) A notary public shall, prior to the initial use of communication technology in the performance of notarial acts with respect to tangible records, notify the Office of the Secretary of State in writing by email or regular U.S. mail. The notice shall identify the communication technology the notary public has selected that is capable of creating an audio-visual recording of the performance of the notarial act. The Office of the Secretary of State shall make an entry of the information provided in the notice.

(2) In using communication technology in the performance of notarial acts with respect to tangible records, a notary public shall have satisfactory evidence of the identity of a remotely located individual if:

(a) The notary public has personal knowledge of the identity of the remotely located individual;

(b) The remotely located individual is identified by oath or affirmation of a credible witness appearing in person or by means of communication technology before the notary public; or

(c) The notary public is reasonably able to identify the remotely located individual by at least two (2) different types of identity-proofing processes or services as provided in Section 5(4) of this administrative regulation.

(3) A notary public who performs notarial act with respect to tangible records shall create and maintain for a period of not less than ten (10) years, an audio-visual recording of the performance of the notarial act.

(4) A certificate executed by a notary public for the performance of a notarial act using communication technology with respect to tangible records shall contain the statement, "This notarial act involved the use of communication technology."

### **Section 8. Notary Discipline.**

(1) Failure to comply with the provisions of KRS 423.395 or this administrative regulation may result in the denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission but shall not invalidate a notarial act performed by a notary public.

(2) Denial, refusal to renew, revocation, suspension, or conditioning of a notary commission shall result upon notification to the Secretary of State of:

(a) A conviction of a felony or a crime involving fraud, dishonesty, or deceit;

(b) A finding against, or admission of liability by, the notary public in any legal proceeding or disciplinary action alleging fraud, dishonesty, or deceit by the notary; or

(c) Judicial determination of liability in a suit for fraud, misrepresentation, or failure to discharge the duties of a notary public.

(3) A notary public shall promptly notify the Secretary of State, in writing, of a conviction, finding, admission of liability, or judicial determination of liability as established in this Section.

(4) A person who knows of a violation may file a complaint against a notary public with the Secretary of State.

(5) A complaint shall be in writing, dated, and signed by the person making the complaint. A complaint that does not comply with the requirements of this subsection shall not be filed, responded to, or acted upon by the Secretary of State.

(6) Any condition, restriction, suspension, or revocation of a notary commission shall have the same effect on the electronic or online registration the notary public holds.

(7) The Secretary of State shall cause a review of any complaint filed against a notary

public to determine whether the allegations in the complaint would establish a violation by a notary public, and any appropriate disciplinary action, which shall be informed by the following factors:

(a) Nature and severity of the act, violation, or crime committed;  
(b) Number and variety of current violations;  
(c) Evidence pertaining to the requisite honesty, credibility, truthfulness, and integrity of the notary public;

(d) Actual or potential harm to the general public, group, individual or customer;

(e) History of complaints; and

(f) Prior disciplinary record or warning;

(8) The Secretary of State shall inform the notary public of any disciplinary action by mailing a notice of disciplinary action to the home address of the notary public on file. The notice shall inform the notary public of the basis for the disciplinary action and the right to a hearing. Administrative proceedings under this Section shall be governed by the provisions of KRS Chapter 13B.

(9) The Secretary of State shall certify any disciplinary action to the clerk of the county in which the notary public received his or her commission.

(46 Ky.R. 2349, 2943; 47 Ky.R. 35; eff. 8-20-2020)