NEW YORK CONSOLIDATED LAWS

BANKING LAW
ARTICLE 8-A. SAFE DEPOSIT BUSINESS

§ 335. Special remedies where rental of safe deposit box is not paid or when safe deposit box is not vacated on termination of lease.

Every lessor shall be entitled to the following special remedies:

1. (a) If the amount due for the rental of any safe deposit box let by any lessor shall not have been paid for one year, or if the lessee thereof shall not have removed the contents thereof within thirty days from the termination of the lease therefor for any reason other than for non-payment of rent, the lessor may, at the expiration of such period, send to the lessee of such safe deposit box by registered or certified mail, return receipt requested, a notice in writing in a securely closed postpaid letter, directed to such person at his last known post-office address, as recorded upon the books of the lessor, notifying such lessee that if the amount due for the rental of such safe deposit box is not paid within thirty days from date, and/or if the contents thereof are not removed within thirty days from date, the lessor may, at any time thereafter, cause such safe deposit box to be opened, and the contents thereof to be inventoried and removed from such safe deposit box.

(b) At any time after the expiration of thirty days from the date of mailing such notice, and the failure of the lessee of the safe deposit box to pay the amount due for the rental thereof to the date of payment, and/or remove the contents thereof, the lessor may, in the presence of a notary public and of any officer of the lessor or any other employee of the lessor designated for such purpose by the lessor, cause such safe deposit box to be opened, and the contents thereof, if any, to be removed and inventoried. Such contents shall be retained by the lessor for safe-keeping for a period of not less than two years unless sooner removed by the lessee of the safe deposit box so opened. The charge for such safe-keeping shall not exceed the original rental of the safe deposit box so opened. The notary public shall file with the lessor a certificate under seal, which shall fully set out the date of the opening of such safe deposit box, the name of the lessee of such safe deposit box and a list of the contents, if any.

(c) A copy of such certificate shall within ten days after the opening be mailed by registered or certified mail, return receipt requested, to the lessee of the safe deposit box so opened, at his last known post-office address, in a securely closed postpaid letter, together with a notice that the contents will be kept, at the expense of the lessee, by the lessor for a period of not less than two years. Upon the payment of all rentals due at the time of the opening of the safe deposit box, the cost of the opening thereof, the fees of the notary public for issuing his certificate thereon, and the payment of all further charges and costs of safe-keeping such contents for the period since the opening of the safe deposit box, the lessee may require the delivery of such of the contents set out in such certificate as have not been sold pursuant to paragraph (d) of this subdivision or destroyed pursuant to paragraph (f) of this subdivision, or become abandoned property.

(d) At any time after the expiration of two years from the time of mailing the certificate herein provided for, the lessor may mail by registered or certified mail, return receipt requested, in a securely closed postpaid letter, addressed to the lessee at his last known post-office address, a notice stating that the lessor will sell all the property or articles of apparent value set out in such certificate, at a time and place stated in such notice, not less than thirty days after the time of mailing such notice and stating the

amount which shall have then been due for rental up to the time of opening such safe deposit box, the cost of the opening thereof, the fees of the notary public for issuing his certificate thereon and the further charges and costs of safe-keeping all of its contents for the period since the opening of the safe deposit box. Unless the lessee shall pay on or before the day mentioned all such sums and all the charges and costs accruing to the time of payment, including advertising, the lessor may sell all the property or articles of apparent value set out in such certificate, at public auction, at the time and place stated in such notice, provided a notice of the time and place of sale has been published once within ten days prior to the sale, in a newspaper published in the place where the sale is to be held or, if there be no newspaper published in such place, then in a newspaper published in the same or in an adjoining county and in general circulation in the place where the sale is to be held.

(e) From the proceeds of the sale, the lessor shall deduct all its charges and costs as stated in such notice, together with any further charges and costs that shall have accrued since the mailing thereof, including reasonable expenses for notice, advertising and sale. The balance, if any, may be used to pay from time to time the further costs and charges of safe-keeping and destroying the other contents, if any, of the safe deposit box. Unless sooner claimed by the lessee of the safe deposit box so opened, such balance or such part as shall remain after the payment of such further charges and costs shall, after the expiration of three years from the time of the opening of the safe deposit box, be deemed abandoned property subject to the provisions of article three of the abandoned property law.

(f) Any documents, letters or other papers of a private nature and any property or articles of no apparent value among the contents of any such safe deposit box shall not be sold, but shall be retained by the lessor for a period of at least ten years from the time of the opening of the safe deposit box, and, unless sooner claimed by the lessee of the safe deposit box, may thereafter be destroyed.

(g) United States coin or currency among the contents of any safe deposit box so opened need not be sold, but may be used by the lessor to pay the amount which shall have been due for rental up to the time of opening such safe deposit box, the cost of the opening thereof, the fees of the notary public for issuing his certificate thereon, and to pay from time to time the further charges and costs of safe-keeping, selling and destroying the contents of the safe deposit box so opened, including reasonable expenses for notices, advertising and sale and destruction. Unless sooner claimed by the lessee of the safe deposit box, such coin and currency or such part as shall remain after payment of the said charges and costs shall, after the expiration of three years from the time of the opening of the safe deposit box, be deemed abandoned property subject to the provisions of article three of the abandoned property law.

2. Whenever in subdivision one of this section, a lessor is given the power to sell the contents of a safe deposit box, such power shall be deemed to include the power to sell any bonds, stock certificates, promissory notes, choses in action or other securities and any other tangible and intangible properties found in such safe deposit box, regardless of whether or not it shall appear from such securities or properties that the lessee of the safe deposit box possesses title to or any interest in such securities, or other properties, or power to transfer such title or interest.

3. If the principal of or interest or dividends on any securities found in a safe deposit box opened pursuant to the provisions of this section, is due and payable at the time of the opening of such safe deposit box or thereafter while the same remains in the possession of the lessor shall become due and payable, the lessor may, at its election,

collect such principal and/or interest and/or dividends and from the proceeds thereof may deduct all sums due from the lessee of the safe deposit box for rental to the time of opening such safe deposit box and for the cost of opening thereof, the fees of the notary public for issuing his certificate thereon, and the further charges and costs of safe-keeping of the contents thereof from the time of the opening thereof including reasonable expenses for notices, advertising and sale and destruction. The balance, if any, of such collection shall, after the expiration of three years from the time of the opening of such safe deposit box, be deemed abandoned property subject to the provisions of article three of the abandoned property law.

4. A lessor holding a safe deposit box originally let by a predecessor in interest, or a lessor which has been dissolved, or a lessor holding the contents of such safe deposit box may have the remedies provided by this section as to such safe deposit box or the contents thereof in like manner and to the same extent as if such safe deposit box had been rented from such lessor in the first instance.

5. The provisions of this section shall not preclude any other remedy by action or otherwise for the enforcement of the claims of the lessor against the person to whom a safe deposit box shall have been let, nor bar the right of the lessor to recover the debt due it in any other lawful manner.

CIVIL PRACTICE LAW AND RULES
ARTICLE 31. DISCLOSURE

Rule 3113. Conduct of the examination.

(a) Persons before whom depositions may be taken. Depositions may be taken before any of the following persons except an attorney, or employee of an attorney, for a party or prospective party and except a person who would be disqualified to act as a juror because of interest in the event or consanguinity or affinity to a party:

1. within the state, a person authorized by the laws of the state to administer oaths;

2. without the state but within the United States or within a territory or possession subject to the jurisdiction of the United States, a person authorized to take acknowledgments of deeds outside of the state by the real property law of the state or to administer oaths by the laws of the United States or of the place where the deposition is taken; and

3. in a foreign country, any diplomatic or consular agent or representative of the United States, appointed or accredited to, and residing within, the country, or a person appointed by commission or under letters rogatory, or an officer of the armed forces authorized to take the acknowledgment of deeds. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed "To the Appropriate Authority in (here name the state or country)."

(b) Oath of witness; recording of testimony; objections; continuous examination; written questions read by examining officer. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction, record the testimony. The testimony shall be recorded by stenographic or other means, subject to such rules as may be adopted by the appellate division in the department where the action is pending. All objections made at the time of the examination to the qualifications of the officer taking the deposition or the person recording it, or to the manner of taking it, or to the testimony presented, or to the conduct of any person, and any other objection to the proceedings, shall be noted by the officer

upon the deposition and the deposition shall proceed subject to the right of a person to apply for a protective order. The deposition shall be taken continuously and without unreasonable adjournment, unless the court otherwise orders or the witness and parties present otherwise agree. In lieu of participating in an oral examination, any party served with notice of taking a deposition may transmit written questions to the officer, who shall propound them to the witness and record the answers.

(c) Examination and cross-examination. Examination and cross-examination of deponents shall proceed as permitted in the trial of actions in open court. When the deposition of a party is taken at the instance of an adverse party, the deponent may be cross-examined by his own attorney. Cross-examination need not be limited to the subject matter of the examination in chief.

EXECUTIVE LAW
ARTICLE 6. DEPARTMENT OF STATE

§ 130. Appointment of notaries public.

1. The secretary of state may appoint and commission as many notaries public for the state of New York as in his or her judgment may be deemed best, whose jurisdiction shall be co-extensive with the boundaries of the state. The appointment of a notary public shall be for a term of four years. An application for an appointment as notary public shall be in form and set forth such matters as the secretary of state shall prescribe. Every person appointed as notary public must, at the time of his or her appointment, be a resident of the state of New York or have an office or place of business in New York state. A notary public who is a resident of the state and who moves out of the state but still maintains a place of business or an office in New York state does not vacate his or her office as a notary public. A notary public who is a nonresident and who ceases to have an office or place of business in this state, vacates his or her office as a notary public. A notary public who is a resident of New York state and moves out of the state and who does not retain an office or place of business in this state shall vacate his or her office as a notary public. A non-resident who accepts the office of notary public in this state thereby appoints the secretary of state as the person upon whom process can be served on his or her behalf. Before issuing to any applicant a commission as notary public, unless he or she be an attorney and counsellor at law duly admitted to practice in this state or a court clerk of the unified court system who has been appointed to such position after taking a civil service promotional examination in the court clerk series of titles, the secretary of state shall satisfy himself or herself that the applicant is of good moral character, has the equivalent of a common school education and is familiar with the duties and responsibilities of a notary public; provided, however, that where a notary public applies, before the expiration of his or her term, for reappointment with the county clerk or where a person whose term as notary public shall have expired applies within six months thereafter for reappointment as a notary public with the county clerk, such qualifying requirements may be waived by the secretary of state, and further, where an application for reappointment is filed with the county clerk after the expiration of the aforementioned renewal period by a person who failed or was unable to re-apply by reason of his or her induction or enlistment in the armed forces of the United States, such qualifying requirements may also be waived by the secretary of state, provided such application for reappointment is made within a period of one year after the military discharge of the applicant under conditions other than dishonorable, or if the applicant has a qualifying condition, as defined in section one of the veterans' services law, within a period

of one year after the applicant has received a discharge other than bad conduct or dishonorable from such service, or if the applicant is a discharged LGBT veteran, as defined in section one of the veterans' services law, within a period of one year after the applicant has received a discharge other than bad conduct or dishonorable from such service. In any case, the appointment or reappointment of any applicant is in the discretion of the secretary of state. The secretary of state may suspend or remove from office, for misconduct, any notary public appointed by him or her but no such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him or her and have an opportunity of being heard. No person shall be appointed as a notary public under this article who has been convicted, in this state or any other state or territory, of a crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do not constitute a bar to appointment.

2. A person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the state, may be appointed a notary public and retain his office as such notary public although he resides in or removes to an adjoining state. For the purpose of this and the following sections of this article such person shall be deemed a resident of the county where he maintains such office.

§ 131. Procedure of appointment; fees and commissions; fee payment methods.

1. New Appointment. (a) Applicants for a notary public commission shall submit to the secretary of state with their application the oath of office, duly executed before any person authorized to administer an oath, together with their signature.

(b) Upon being satisfied of the competency and good character of applicants for appointment as notaries public, the secretary of state shall issue a commission to such persons; and the official signature of the applicants and the oath of office filed with such applications shall take effect.

(c) The secretary of state shall receive a non-refundable application fee of sixty dollars from applicants for appointment, which fee shall be submitted together with the application. No further fee shall be paid for the issuance of the commission.

(d) A notary public identification card indicating the appointee's name, address, county and commission term shall be transmitted to the appointee.

(e) The commission, duly dated, and a certified copy or the original of the oath of office and the official signature, and twenty dollars apportioned from the application fee shall be transmitted by the secretary of state to the county clerk of the county in which the appointee resides by the tenth day of the following month. Transmission may be accomplished by electronic means that results in a submission of such records and fees by the secretary of state to the county clerk. For purposes of this section, "electronic" shall have the same meaning as set forth in section three hundred two of the state technology law.

(f) The county clerk shall make a proper index of commissions and official signatures transmitted to that office by the secretary of state pursuant to the provisions of this section.

2. Reappointment. (a) Applicants for reappointment of a notary public commission shall submit to the secretary of state with their application the oath of office, duly executed before any person authorized to administer an oath, together with their signature.

(b) Upon being satisfied of the completeness of the application for reappointment, the secretary of state shall issue a commission to such persons; and the official signature of the applicants and the oath of office filed with such applications shall take effect.

(c) The secretary of state shall receive a non-refundable application fee of sixty

dollars from each applicant for reappointment, which fee shall be submitted together with the application. No further fee shall be paid for the issuance of the commission.

(d) The commission, duly dated, and a certified or original copy of the oath of office and the official signature, and twenty dollars apportioned from the application fee plus interest as may be required by statute shall be transmitted by the secretary of state to the county clerk of the county in which the appointee resides by the tenth day of the following month. Transmission may be accomplished by electronic means that results in a submission of such records and fees by the secretary of state to the county clerk.

(d) The county clerk shall make a proper record of commissions transmitted to that office by the secretary of state pursuant to the provisions of this section.

3. Electronic notarization. (a) After registration of the capability to perform electronic notarial acts pursuant to section one hundred thirty-five-c of this article, the secretary of state shall transmit to the county clerk the exemplar of the notary public's electronic signature and any change in commission number or expiration date of the notary public's commission. Transmission may be accomplished by electronic means.

(b) Registration of the capability to perform electronic notarizations shall be treated as a new appointment by the secretary of state.

4. Fees. (a) Except for changes made in an application for reappointment, the secretary of state shall receive a non-refundable fee of ten dollars for changing the name or address of a notary public.

(b) The secretary of state may issue a duplicate identification card to a notary public for one lost, destroyed or damaged upon application therefor on a form prescribed by the secretary of state and upon payment of a non-refundable fee of ten dollars. Each such duplicate identification card shall have the word “duplicate” stamped across the face thereof, and shall bear the same number as the one it replaces.

(c) The secretary of state shall accept payment for any fee relating to appointment or reappointment as a notary in the form of cash, money order, certified check, company check, bank check or personal check. The secretary of state may provide for accepting payment of any such fee due by credit or debit card, which may include payment through the internet.

§ 132. Certificates of official character of notaries public.

The secretary of state or the county clerk of the county in which the commission of a notary public is filed may certify to the official character of such notary public and any notary public may file their autograph signature and a certificate of official character in the office of any county clerk of any county in the state and in any register’s office in any county having a register and thereafter such county clerk may certify as to the official character of such notary public. The secretary of state shall collect for each certificate of official character issued the sum of one dollar. The county clerk and register of any county with whom a certificate of official character has been filed shall collect for filing the same the sum of ten dollars. For each certificate of official character issued, with seal attached, by any county clerk, the sum of five dollars shall be collected.

§ 133. Certification of notarial signatures.

The county clerk of a county in whose office any notary public has qualified or has filed their autograph signature and a certificate of official character, shall, when so requested and upon payment of a fee of three dollars, affix to any certificate of proof or acknowledgment or oath signed by such notary anywhere in the state of New York, a

certificate under their hand and seal, stating that a commission or a certificate of official character of such notary with their autograph signature has been filed in the county clerk's office, and that the county clerk was at the time of taking such proof or acknowledgment or oath duly authorized to take the same; that the county clerk is well acquainted with the handwriting of such notary public or has compared the signature on the certificate of proof or acknowledgment or oath with the autograph signature deposited in their office by such notary public and believes that the signature is genuine. An instrument with such certificate of authentication of the county clerk affixed thereto shall be entitled to be read in evidence or to be recorded in any of the counties of this state in respect to which a certificate of a county clerk may be necessary for either purpose. In addition to the foregoing powers, a county clerk of a county in whose office a notary public has qualified may certify the signature of an electronic notary public, registered with the secretary of state pursuant to section one hundred thirty-five-c of this article, provided such county clerk has received from the secretary of state, an exemplar of the notary public's registered electronic signature.

§ 134. Signature and seal of county clerk.
The signature and seal of a county clerk, upon a certificate of official character of a notary public or the signature of a county clerk upon a certificate of authentication of the signature and acts of a notary public or commissioner of deeds, may be a facsimile, printed, stamped, photographed or engraved thereon.

§ 135. Powers and duties; in general; of notaries public who are attorneys at law.
Every notary public duly qualified is hereby authorized and empowered within and throughout the state to administer oaths and affirmations, to take affidavits and depositions, to receive and certify acknowledgments or proof of deeds, mortgages and powers of attorney and other instruments in writing; to demand acceptance or payment of foreign and inland bills of exchange, promissory notes and obligations in writing, and to protest the same for non-acceptance or non-payment, as the case may require, and, for use in another jurisdiction, to exercise such other powers and duties as by the laws of nations and according to commercial usage, or by the laws of any other government or country may be exercised and performed by notaries public, provided that when exercising such powers he shall set forth the name of such other jurisdiction.

A notary public who is an attorney at law regularly admitted to practice in this state may, in his discretion, administer an oath or affirmation to or take the affidavit or acknowledgment of his client in respect of any matter, claim, action or proceeding.

For any misconduct by a notary public in the performance of any of his powers such notary public shall be liable to the parties injured for all damages sustained by them. A notary public shall not, directly or indirectly, demand or receive for the protest for the non-payment of any note, or for the non-acceptance or non-payment of any bill of exchange, check or draft and giving the requisite notices and certificates of such protest, including his notarial seal, if affixed thereto, any greater fee or reward than seventy-five cents for such protest, and ten cents for each notice, not exceeding five, on any bill or note. Every notary public having a seal shall, except as otherwise provided, and when requested, affix his seal to such protest free of expense.

§ 135-a. Notary public or commissioner of deeds; acting without appointment; fraud in office.

1. Any person who holds himself out to the public as being entitled to act as a notary public or commissioner of deeds, or who assumes, uses or advertises the title of notary public or commissioner of deeds, or equivalent terms in any language, in such a manner as to convey the impression that he is a notary public or commissioner of deeds without having first been appointed as notary public or commissioner of deeds, or

2. A notary public or commissioner of deeds, who in the exercise of the powers, or in the performance of the duties of such office shall practice any fraud or deceit, the punishment for which is not otherwise provided for by this act, shall be guilty of a misdemeanor.

§ 135-b. Advertising by notaries public.

1. The provisions of this section shall not apply to attorneys-at-law, admitted to practice in the state of New York.

2. A notary public who advertises his or her services as a notary public in a language other than English shall post with such advertisement a notice in such other language the following statement: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

3. A notary public shall not use terms in a foreign language in any advertisement for his or her services as a notary public that mean or imply that the notary public is an attorney licensed to practice in the state of New York or in any jurisdiction of the United States. The secretary shall designate by rule or regulation the terms in a foreign language that shall be deemed to mean or imply that a notary public is licensed to practice law in the state of New York and the use of which shall be prohibited by notary publics who are subject to this section.

4. For purposes of this section, "advertisement" shall mean and include material designed to give notice of or to promote or describe the services offered by a notary public for profit and shall include business cards, brochures, and notices, whether in print or electronic form.

5. Any person who violates any provision of this section or any rule or regulation promulgated by the secretary may be liable for civil penalty of up to one thousand dollars. The secretary of state may suspend a notary public upon a second violation of any of the provisions of this section and may remove from office a notary public upon a third violation of any of the provisions of this section, provided that the notary public shall have been served with a copy of the charges against him or her and been given an opportunity to be heard. The civil penalty provided for by this subdivision shall be recoverable in an action instituted by the attorney general on his or her own initiative or at the request of the secretary.

6. The secretary may promulgate rules and regulations governing the provisions of this section, including the size and type of statements that a notary public is required by this section to post.

§ 135-c. Electronic notarization.

1. Definitions.

(a) "Communication technology" means an electronic device or process that:

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

(ii) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(b) "Electronic" shall have the same meaning as set forth in subdivision one of

section three hundred two of the state technology law.

(c) “Electronic record” means information that is created, generated, sent, communicated, received or stored by electronic means.

(d) “Electronic notarial act” means an official act by a notary public, physically present in the state of New York, on or involving an electronic record and using means authorized by the secretary of state.

(e) “Electronic notary public” or “electronic notary” means a notary public who has registered with the secretary of state the capability of performing electronic notarial acts.

(f) “Electronic signature” shall have the same meaning as set forth in subdivision three of section three hundred two of the state technology law.

(g) “Principal” means an individual:

(i) whose signature is reflected on a record that is notarized;

(ii) who has taken an oath or affirmation administered by a notary public; or

(iii) whose signature is reflected on a record that is notarized after the individual has taken an oath or affirmation administered by a notary public.

(h) “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.

2.Any notary public qualified under this article is hereby authorized to perform an electronic notarial act by utilizing audio-video communication technology that allows the notary public to interact with a principal, provided that all conditions of this section are met.

(a) The methods for identifying document signers for an electronic notarization shall be the same as the methods required for a paper-based notarization; provided, however, an electronic notarial act conducted utilizing communication technology shall meet the standards which have been approved through regulation by the secretary of state as acceptable. Such regulations shall include, but not be limited to:

(i) that the signal transmission shall be secure from interception through lawful means by anyone other than the persons communicating;

(ii) that the communication technology shall permit the notary public to communicate with the principal live, in real time;

(iii) that the communication technology shall permit the notary to communicate with and identify the remotely located individual at the time of the notarial act; and

(iv) a standard that requires two or more different processes for authenticating the identity of a remotely located individual utilizing technology to detect and deter fraud, but which may allow a notary public’s personal knowledge of a document signer to satisfy such requirement.

(b) If video and audio conference technology has been used to ascertain a document signer’s identity, the electronic notary shall keep a copy of the recording of the video and audio conference and a notation of the type of any other identification used. The recording shall be maintained for a period of at least ten years from the date of transaction.

3. Registration requirements.

(a) Before performing any electronic notarial act or acts, a notary public shall register the capability to notarize electronically with the secretary of state on a form prescribed by the secretary of state and upon payment of a fee which shall be set by regulation.

(b) In registering the capability to perform electronic notarial acts, the notary public shall provide the following information to the secretary of state, notary processing unit:

(i) the applicant’s name as currently commissioned and complete mailing address;

(ii) the expiration date of the notary public’s commission and signature of the commissioned notary public;

(iii) the applicant's e-mail address;

(iv) the description of the electronic technology or technologies to be used in attaching the notary public's electronic signature to the electronic record; and

(v) an exemplar of the notary public's electronic signature, which shall contain the notary public's name and any necessary instructions or techniques that allow the notary public's electronic signature to be read.

4. Types of electronic notarial acts.

(a) Any notarial act authorized by section one hundred thirty-five of this article may be performed electronically as prescribed by this section if:

(i) for execution of any instrument in writing, under applicable law that document may be signed with an electronic signature and the notary public is reasonably able to confirm that such instrument is the same instrument in which the principal made a statement or on which the principal executed a signature; and

(ii) the electronic notary public is located within the state of New York at the time of the performance of an electronic notarial act using communication technology, regardless of the location of the document signer. If the principal is outside the United States, the record or subject of the notarial act:

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

(2) shall involve property located in the territorial jurisdiction of the United States or shall involve a transaction substantially connected with the United States.

(b) An electronic notarial act performed using communication technology pursuant to this section satisfies any requirement of law of this state that a document signer personally appear before, be in the presence of, or be in a single time and place with a notary public at the time of the performance of the notarial act.

5. Form and manner of performing the electronic notarial act.

(a) When performing an electronic notarial act relating to execution of instruments in writing, a notary public shall apply an electronic signature, which shall be attached to the electronic record such that removal or alteration of such electronic signature is detectable and will render evidence of alteration of the document containing the notary signature which may invalidate the electronic notarial act.

(b) The notary public's electronic signature is deemed to be reliable if the standards which have been approved through regulation by the secretary of state have been met. Such regulations shall include, but not be limited to, the requirements that such electronic signature be:

(i) unique to the notary public;

(ii) capable of independent verification;

(iii) retained under the notary public's sole control;

(iv) attached to the electronic record; and

(v) linked to the data in such a manner that any subsequent alterations to the underlying document are detectable and may invalidate the electronic notarial act.

(c) The notary public's electronic signature shall be used only for the purpose of performing electronic notarial acts.

(d) The remote online notarial certificate for an electronic notarial act shall state that the person making the acknowledgement or making the oath appeared through use of communication technology.

(e) The secretary shall adopt rules necessary to establish standards, procedures, practices, forms, and records relating to a notary public's electronic signature. The notary

public's electronic signature shall conform to any standards adopted by the secretary.

6. Recording of an electronic record.

(a) If otherwise required by law as a condition for recording that a document be an original document, printed on paper or another tangible medium, or be in writing, the requirement is satisfied by paper copy of an electronic record that complies with the requirements of this section.

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

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

(d) (i) A notary public may certify that a tangible copy of the signature page and document type of an electronic record notarized by such notary public is an accurate copy of such electronic record. Such certification must

(1) be dated and signed by the notary public in the same manner as the official signature of the notary public provided to the secretary of state pursuant to section one hundred thirty-one of this article, and

(2) comply with section one hundred thirty-seven of this article.

(ii) A county clerk, city registrar, or other recording officer where applicable shall accept for recording a tangible copy of an electronic record and that is otherwise eligible to be recorded under the laws of this state if the record has been certified by a notary public or other individual authorized to perform a notarial act.

(iii) A certification in substantially the following form is sufficient for the purposes of this subdivision:

CERTIFICATE OF AUTHENTICITY

State of New York)

) ss.:

County of .....)

On this ..... day of ..... in the year ....., I certify that the signature page of the attached record (entitled .....) (dated .....) is a true and correct copy of the signatures affixed to an electronic record printed by me or under my supervision. I further certify that, at the time of printing, no security features present on the electronic record indicated any changes or errors in an electronic signature in the electronic record after its creation or execution.

(Signature and title of notary public)

(official stamp or registration number, with the expiration date of the notary public's commission)

§ 136. Notarial fees.

A notary public shall be entitled to the following fees:

1. For administering an oath or affirmation, and certifying the same when required, except where another fee is specifically prescribed by statute, two dollars.

2. For taking and certifying the acknowledgment or proof of execution of a written instrument, by one person, two dollars, and by each additional person, two dollars, for

swearing each witness thereto, two dollars.

3. For electronic notarial services, established in section one hundred thirty-five-c of this chapter, a fee set through regulation by the secretary of state.

§ 137. Statement as to authority of notaries public.

In exercising powers pursuant to this article, a notary public, in addition to the venue of the act and signature of such notary public, shall print, typewrite, stamp, or affix by electronic means where performing an electronic notarial act in conformity with section one hundred thirty-five-c of the executive law, beneath their signature in black ink, the notary public's name, the words "Notary Public State of New York," the name of the county in which such notary public originally qualified, and the expiration date of such notary public's commission and, in addition, wherever required, a notary public shall also include the name of any county in which such notary public's certificate of official character is filed, using the words "Certificate filed ..... County." A notary public who is duly licensed as an attorney and counsellor at law in this state may substitute the words "Attorney and Counsellor at Law" for the words "Notary Public." A notary public who has qualified or who has filed a certificate of official character in the office of the clerk in a county or counties within the city of New York must also affix to each instrument such notary public's official number or numbers in black ink, as assigned by the clerk or clerks of such county or counties at the time such notary qualified in such county or counties and, if the instrument is to be recorded in an office of the register of the city of New York in any county within such city and the notary has been given a number or numbers by such register or his predecessors in any county or counties, when the notary public's autographed signature and certificate are filed in such office or offices pursuant to this chapter, the notary public shall also affix such number or numbers. No official act of such notary public shall be held invalid on account of the failure to comply with these provisions. If any notary public shall willfully fail to comply with any of the provisions of this section, the notary public shall be subject to disciplinary action by the secretary of state. In all the courts within this state the certificate of a notary public, over the signature of the notary public, shall be received as presumptive evidence of the facts contained in such certificate; provided, that any person interested as a party to a suit may contradict, by other evidence, the certificate of a notary public.

§ 138. Powers of notaries public or other officers who are stockholders, directors, officers or employees of a corporation.

A notary public, justice of the supreme court, a judge, clerk, deputy clerk, or special deputy clerk of a court, an official examiner of title, or the mayor or recorder of a city, a justice of the peace, surrogate, special surrogate, special county judge, or commissioner of deeds, who is a stockholder, director, officer or employee of a corporation may take the acknowledgment or proof of any party to a written instrument executed to or by such corporation, or administer an oath to any other stockholder, director, officer, employee or agent of such corporation, and such notary public may protest for non-acceptance or non-payment, bills of exchange, drafts, checks, notes and other negotiable instruments owned or held for collection by such corporation; but none of the officers above named shall take the acknowledgment or proof of a written instrument by or to a corporation of which he is a stockholder, director, officer or employee, if such officer taking such acknowledgment or proof be a party executing such instrument, either individually or as representative of such corporation, nor shall a notary public protest any negotiable instruments owned or

held for collection by such corporation, if such notary public be individually a party to such instrument, or have a financial interest in the subject of same. All such acknowledgments or proofs of deeds, mortgages or other written instruments, relating to real property heretofore taken before any of the officers aforesaid are confirmed. This act shall not affect any action or legal proceeding now pending.

§ 139. Commissioners of deeds within the state.

1. Commissioners of deeds in the cities of this state shall be appointed by the common councils of such cities respectively, and shall hold office for the term of two years from the date of their appointment, and until others are appointed in their places. A vacancy occurring during the term for which any commissioner shall be appointed, shall be filled by the common council. The common council of the several cities of this state, except in cities of this state situate in a county which has a population of not less than one hundred and eighty thousand, and not more than six hundred and fifty thousand, according to the last state or federal enumeration, shall at the end of every even numbered year, by resolution of the board, determine the number of commissioners of deeds to be appointed for such cities respectively.

2. The term of office of each commissioner of deeds appointed by the common council in cities of this state situate in a county which has a population of not less than one hundred and eighty thousand, and not more than six hundred and fifty thousand, according to the last state or federal enumeration, shall expire on the thirty-first of December of the even numbered year next after he shall be appointed. The common council of any such city shall in the month of November in every even numbered year, by resolution, determine the number of commissioners of deeds to be appointed in such cities, respectively, for the next succeeding two years.

3. Any person who resides in or maintains an office or other place of business in any such city and who resides in the county in which said city is situated shall be eligible to appointment. Such commissioners of deeds may be appointed by the common council by resolution, and the city clerk shall immediately after such appointment, file a certificate thereof with the county clerk of the county in which such city is situate, specifying the term for which the said commissioners of deeds shall have been appointed; the county clerk shall thereupon notify such persons of their appointment, and such persons so appointed shall qualify by filing with him his oath of office, duly executed before such county clerk or before any person authorized to administer an oath, together with his official signature, within thirty days from the date of such notice.

4. The county clerk shall make a proper index of certificates of appointment and official signatures filed with him. For filing and indexing the certificate of appointment and official signature, the county clerk shall be paid a fee of one dollar by the appointee, which fee shall include the administration of the oath by the county clerk, should he administer the same.

5. If a person appointed commissioner of deeds shall not file his oath of office as such commissioner of deeds, in the office of the clerk of the county of his residence, within thirty days after the notice of his appointment as above provided, his appointment is deemed revoked and the fee filed with his application forfeited.

6. A commissioner of deeds may file his autograph signature and certificate of appointment in the office of any county clerk, and the county clerk of the county in which such city is located, upon request of any commissioner appointed under the provisions of this section and upon payment of twenty-five cents for each certificate, must make and

deliver to such commissioner such number of certificates as may be required. Such certificates shall be issued under the hand and seal of the county clerk of the county in which such city is located, showing the appointment and term of office of such commissioner and stating the county in which he resides. Such a certificate may be filed in the office of any county clerk upon the payment of one dollar for such filing in each office. The clerks of the counties outside the city of New York, shall each keep a book or card index file in which shall be registered the signature of the commissioners so filing such certificates.

7. The county clerk of the county in which said city is located shall, upon demand and upon payment of the sum of fifty cents, authenticate a certificate of acknowledgment or proof of oath taken before such commissioner of deeds within such city, by subjoining or attaching to the original certificate of acknowledgment or proof of oath a certificate under his hand and official seal specifying that at the time of taking the acknowledgment or proof of oath the officer taking it was duly authorized to take the same; that the authenticating officer is acquainted with the former's handwriting, or has compared the signature on the certificate of acknowledgement or proof of oath with the autograph signature deposited in his office by such officer, and that he verily believes the signature is genuine.

8. Any instrument or paper sworn to, proved or acknowledged before a commissioner of deeds within a city and authenticated as hereinbefore provided by the clerk of a county within which such city is located shall be recorded and read in evidence in any county in this state without further proof; provided, however, that a county clerk's certificate of authentication shall not be necessary to entitle any deed or other instrument or paper so proved or acknowledged to be recorded in any office where such commissioner has filed his autograph signature and certificate of appointment or to be read in evidence in any county in which such commissioner has filed with the county clerk his autograph signature and certificate of appointment, as herein provided.

9. The foregoing provisions of this section shall not apply in the city of New York.

§ 140. Commissioners of deeds in the city of New York.

1. The council of the city of New York is hereby authorized and is empowered to appoint commissioners of deeds in such city from time to time, who shall hold their offices for two years from the date of their appointment.

2. No person shall be appointed a commissioner of deeds except an attorney-at-law unless such person shall have submitted with his application proof of his ability to perform the duties of the office. Applicants serving clerkships in the offices of attorneys, and whose clerkship certificate is on file with the proper officials, shall submit an affidavit to that effect. Other employees of attorneys shall submit an affidavit sworn to by a member of the firm of such attorneys that the applicant is a proper and competent person to perform the duties of a commissioner of deeds. Every other applicant shall furnish a certificate of the city clerk of such city stating that he has examined the applicant and believes such applicant to be competent to perform the duties of a commissioner of deeds; provided, however, that where a commissioner of deeds applies, before the expiration of his term, for a reappointment or where a person whose term as commissioner of deeds shall have expired applies within six months after such expiration for appointment as a commissioner of deeds, such examination shall not be required. Upon any such application for such renewal the city clerk shall furnish the applicant with a certificate stating that the applicant has theretofore qualified for appointment and indicate the date of the applicant's original appointment thereon. The fee for issuing each such certificate shall be fifty cents.

3. Such appointment shall not require the approval of the mayor, and hereafter, at the time of subscribing or filing the oath of office, the city clerk shall collect from each person appointed a commissioner of deeds the sum of twenty-five dollars, and he shall not administer or file such oath unless such fee has been paid.

4. The city clerk shall designate a commissioner of deeds clerk, whose duties shall be to enter the names of commissioners of deeds appointed in a book kept for that purpose, make out certificates of appointment and discharge such other duties as the city clerk may designate.

5. Any person hereafter appointed to the office of commissioner of deeds in and for the city of New York by the council, before entering upon the discharge of the duties of such office and within thirty days after such appointment, shall take and subscribe before the commissioner of deeds clerk in the office of the city clerk or before any person authorized to administer oaths the following oath of office: that the applicant is a citizen of the United States, and a resident of the state of New York, the city of New York and the county of (naming the county); that he will support the constitution of the United States and the constitution of the state of New York and faithfully discharge the duties of the office of commissioner of deeds. A person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the city of New York, may be appointed a commissioner of deeds in and for the city of New York and may retain his office as such commissioner of deeds although he resides in or removes to another city in this state or to an adjoining state. For the purposes of this and the following sections of this article such person shall be deemed a resident of the county where he maintains such office.

5-a. A person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the city of New York, may be appointed a commissioner of deeds in and for the city of New York and may retain his office as such commissioner of deeds although he resides in or removes to any other county in this state or to an adjoining state. For the purposes of this article such person shall be deemed a resident of the county where he maintains such office.

6. Any commissioner of deeds who may remove from the city of New York during his term of office vacates his office and is hereby required to notify the city clerk of such removal, and immediately upon the receipt of such notice of removal the city clerk shall cause the name of such commissioner to be stricken from the roll of commissioners of deeds of the city.

7. Any person appointed to the office of commissioner of deeds under the provisions of this section, upon qualifying as above provided, may administer oaths and take acknowledgments or proofs of deeds and other instruments in any part of the city of New York.

8. A commissioner of deeds may file his autograph signature and certificate of appointment in the office of any county clerk in the city; and the city clerk, upon request of any commissioner appointed under the provisions of this section and upon payment of twenty-five cents for each certificate, must make and deliver to such commissioner such number of certificates as such commissioner may require. Such certificates shall be issued under the hand and official seal of the city clerk, showing the appointment and term of office of such commissioner and stating the county in which he resides, which certificates may be filed in the office of the several county clerks in the city upon payment of one dollar in each office for filing.

9. The clerks of the counties of New York, Kings, Queens, Richmond and Bronx shall

each keep a book or card index file in which shall be registered the signature of the commissioners so filing such certificates; and the county clerk of any county in the city with whom such commissioner has filed a certificate of appointment shall, upon demand and upon payment of the sum of fifty cents, authenticate a certificate of acknowledgment or proof of [or] oath taken before such commissioner of deeds, without regard to the county in the city in which such acknowlgment [acknowledgment] or proof was taken or oath administered, by subjoining or attaching to the original certificate of acknowledgment or proof or oath a certificate under his hand and official seal specifying that at the time of taking the acknowledgment or proof or oath the officer taking it was duly authorized to take the same; that the authenticating officer is acquainted with the former's handwriting, or has compared the signature on the certificate of acknowledgment, proof or oath with the autograph signature deposited in his office by such officer, and that he verily believes the signature is genuine.

10. Any instrument or paper sworn to, proved or acknowledged before a commissioner of deeds within the city of New York and authenticated as hereinbefore provided by the clerk of any county within the city with whom such commissioner has filed his autograph signature and certificate of appointment shall be recorded and read in evidence in any county in this state without further proof; provided, however, that a county clerk's certificate of authentication shall not be necessary to entitle any deed or other instrument or paper so proved or acknowledged to be recorded or read in evidence in any office of the county clerks within the city of New York or the office of the register of the city of New York.

11. A commissioner of deeds must affix, in black ink, to each instrument sworn to, acknowledged or proved, in addition to his signature, the date when his term expires and his official number as given to him by the city clerk, and must print, typewrite or stamp his name in black ink beneath his signature.

12. The mayor of the city of New York may remove any commissioner of deeds appointed under the provisions of this section for cause shown; but no such commissioner shall be removed until charges have been duly made against him to the mayor and the commissioner shall have had an opportunity to answer the same. At any proceedings held before the mayor for the removal of such commissioner of deeds the mayor shall have power to subpoena witnesses and to compel the attendance of the same, and to administer oaths, and to compel the production of books and papers, and upon the termination of such proceedings shall make his decision thereon in writing, and cause the same to be filed in the office of the city clerk of the city of New York, provided, however, that the mayor may, whenever a hearing is granted by him on complaint against a commissioner of deeds, designate an assistant corporation counsel to preside who shall have power to subpoena witnesses and to compel the attendance of the same, administer oaths, compel the production of books and papers and receive exhibits; such assistant shall, upon the termination of such proceedings, certify a copy of the stenographer's minutes of such hearing and such exhibits as may be received in evidence, together with his recommendations on the issues presented, whereupon the mayor shall render a decision on all matters presented on such hearing.

13. In case such commissioner shall be removed from office the city clerk, immediately upon the receipt by him of the order of removal signed by the mayor, shall cause the name of such commissioner so removed to be stricken from the roll of commissioners of deeds of the city.

14. No person who has been removed from office as a commissioner of deeds for the city of New York, as hereinbefore provided, shall thereafter be eligible again to be

appointed as such commissioner nor, shall he be eligible thereafter to appointment to the office of notary public.

15. Any person who has been removed from office as aforesaid, who shall, after knowledge of such removal, sign or execute any instrument as a commissioner of deeds or notary public shall be deemed guilty of a misdemeanor.

16. In case of the removal for cause, or removal from the city or resignation of a commissioner of deeds, the city clerk shall immediately notify each county clerk and the register of the city of New York of such removal or resignation.

§ 141. Commissioners of deeds in other states, territories and foreign countries.
The secretary of state may, in his discretion, appoint and commission in any other state, territory or dependency, or in any foreign country, such number of commissioners of deeds as he may think proper, each of whom shall be a resident of or have his place of business in the city, county, municipality or other political subdivision from which chosen, and shall hold office for the term of four years, unless such appointment shall be sooner revoked by the secretary of state, who shall have power to revoke the same. A person applying for appointment as a commissioner of deeds shall state in his application the city, county, municipality or other political subdivision for which he desires to be appointed, and shall enclose with his application the sum of twenty-five dollars, which sum, if a commission shall be granted, shall be paid by the secretary of state into the state treasury, and if such commission shall not be granted, then the same shall be returned to the person making the application. Each commissioner, before performing any of the duties or exercising any of the powers of his office, shall take the constitutional oath of office, if appointed for a city or county within the United States, before a justice of the peace or some other magistrate in such city or county; and if for a territory or dependency, before a judge of a court of record in such territory or dependency; and if for a city, municipality or other political subdivision in a foreign country, before a person authorized by the laws of this state to administer an oath in such country, or before a clerk or judge of a court of record in such foreign country; and shall cause to be prepared an official seal on which shall be designated his name, the words, “commissioner of deeds for the state of New York,” and the name of the city or county, and the state, country, municipality or other political subdivision from which appointed, and shall file a clear impression of such seal, his written signature and his oath certified by the officer before whom it was taken, in the office of the department of state. The secretary of state upon receipt of such impression, signature and oath, shall forward to such commissioner instructions and forms, and a copy of the appropriate sections of this chapter.

§ 142. Powers of such commissioners
Every such commissioner shall have authority, within the city, county, municipality or other political subdivision for which he is appointed, and in the manner in which such acts are performed by authorized officers within the state:

1. To take the acknowledgment or proof of the execution of a written instrument, except a bill of exchange, promissory note or will, to be read in evidence or recorded in this state.

2. To administer oaths.

3. If such commissioner is also an attorney at law regularly admitted to practice in this state, in his discretion, to the extent authorized by this section, to administer an oath to or take the acknowledgment of or proof of the execution of an instrument by his client

with respect to any matter, claim, action or proceeding.

4. If appointed for a foreign country, to certify to the existence of a patent, record or other document recorded in a public office or under official custody in such foreign country, and to the correctness of a copy of such patent, record or document, or to the correctness of a copy of a certified copy of such patent, record or other document, which has been certified according to the form in use in such foreign country.

5. A written instrument acknowledged or proved, an oath administered, or a copy or a copy of a certified copy of a patent, record or other document certified, as heretofore provided in this section, may be read in evidence or recorded within this state, the same as if taken, administered or certified within the state before an officer authorized to take the acknowledgment or proof of a written instrument, to administer oaths, or to certify to the correctness of a public record, if there shall be annexed or subjoined thereto, or indorsed thereon a certificate of the commissioner before whom such acknowledgment or proof was taken, by whom the oath was administered, or by whom the correctness of such copy is certified, under his hand and official seal. Such certificate shall specify the day on which, and the city or other political subdivision, and the state or country or other place in which, the acknowledgment or proof was taken, or the oath administered, without which specification the certificate shall be void. Except as provided in subdivision five of this section, such certificate shall be authenticated by the certificate of the secretary of state annexed or subjoined to the certificate of such commissioner, that such commissioner was, at the time of taking such acknowledgment or proof, of administering such oath, or of certifying to such patent, record or document, or copy thereof, duly authorized therefor, that he is acquainted with the handwriting of such commissioner, or has compared the signature upon the certificate with the signature of such commissioner deposited in his office, that he has compared the impression of the seal affixed to such certificate with the impression of the seal of such commissioner deposited in his office, and that he believes the signature and the impression of the seal upon such certificate to be genuine. The certificate of a commissioner as to the correctness of a copy of a certified copy of a patent, record or other document, as provided by this section, shall be presumptive evidence that it was certified according to the form in use in such foreign country.

6. A commissioner of deeds appointed pursuant to the preceding section may during his term of office procure from the secretary of state, on payment to him of a fee of two dollars, a certificate of his appointment, prescribed by the secretary of state, stating among other things, the date of his appointment, the date of expiration thereof and the city, county, municipality or other political subdivision for which he is appointed, and containing the signature of the commissioner in his own handwriting and his official seal, and certifying that he has compared the signature on such certificate with the signature of such commissioner deposited in his office, that he has compared the impression of the seal affixed to such certificate with the impression of the seal of such commissioner deposited in his office and that he believes the signature and the impression of the seal upon such certificate to be genuine. Such a certificate may be filed by such commissioner in the office of any county clerk or register in the state upon the payment to such county clerk or register of a fee of two dollars. Upon the filing of such certificate in the office of a county clerk or register in this state, a written instrument acknowledged or proved, an oath administered, or a copy or copy of a certified copy of a patent, record or other document certified, by a commissioner pursuant to this section, shall be entitled to be read in evidence and shall be accepted for filing or recording and filed or recorded, as the case may be, in the office of such county clerk or register, on tender or payment of the lawful fees therefor, without having annexed or subjoined to the

certificate of such commissioner contained thereon the authenticating certificate of the secretary of state as required by subdivision five of this section or by subdivision one of section three hundred eleven of the real property law or by any other provision of law.

§ 142-a. Validity of acts of notaries public and commissioners of deeds notwithstanding certain defects.

1. Except as provided in subdivision three of this section, the official certificates and other acts heretofore or hereafter made or performed of notaries public and commissioners of deeds heretofore or hereafter and prior to the time of their acts appointed or commissioned as such shall not be deemed invalid, impaired or in any manner defective, so far as they may be affected, impaired or questioned by reason of defects described in subdivision two of this section.

2. This section shall apply to the following defects:

(a) ineligibility of the notary public or commissioner of deeds to be appointed or commissioned as such;

(b) misnomer or misspelling of name or other error made in his appointment or commission;

(c) omission of the notary public or commissioner of deeds to take or file his official oath or otherwise qualify;

(d) expiration of his term, commission or appointment;

(e) vacating of his office by change of his residence, by acceptance of another public office, or by other action on his part;

(f) the fact that the action was taken outside the jurisdiction where the notary public or commissioner of deeds was authorized to act.

3. No person shall be entitled to assert the effect of this section to overcome a defect described in subdivision two if he knew of the defect or if the defect was apparent on the face of the certificate of the notary public or commissioner of deeds; provided however, that this subdivision shall not apply after the expiration of six months from the date of the act of the notary public or commissioner of deeds.

4. After the expiration of six months from the date of the official certificate or other act of the commissioner of deeds, subdivision one of this section shall be applicable to a defect consisting in omission of the certificate of a commissioner of deeds to state the date on which and the place in which an act was done, or consisting of an error in such statement.

5. This section does not relieve any notary public or commissioner of deeds from criminal liability imposed by reason of his act, or enlarge the actual authority of any such officer, nor limit any other statute or rule of law by reason of which the act of a notary public or commissioner of deeds, or the record thereof, is valid or is deemed valid in any case.

GENERAL BUSINESS LAW
ARTICLE 28-C. IMMIGRANT ASSISTANT SERVICES

§ 460-d. Prohibited acts.

No provider shall:

1. Give legal advice, or otherwise engage in the practice of law.

2. Assume, use or advertise the title of lawyer or attorney at law, or equivalent terms in the English language or any other language, or represent or advertise other titles or credentials, including but not limited to “notary public”, “accredited representative of the board of immigration appeals,” “notario public”, “notario”, “immigration specialist” or “immigration consultant,” that could cause a customer to believe that the person possesses special

professional skills or is authorized to provide advice on an immigration matter; provided that a notary public licensed by the secretary of state may use the term "notary public."

3. State or imply that the provider can or will obtain special favors from or has special influence with the United States citizenship and immigration services, the United States department of Homeland Security, the executive office for Immigration review or any other governmental entity.

4. Threaten to report the customer to immigration or other authorities or threaten to undermine in any way the customer's immigration status or attempt to secure lawful status.

5. Demand or retain any fees or compensation for services not performed, services to be performed in the future, or costs that are not actually incurred.

6. Advise, direct or permit a customer to answer questions on a government document, or in a discussion with a government official, in a specific way where the provider knows or has reasonable cause to believe that the answers are false or misleading.

7. Disclose any information to, or file any forms or documents with, immigration or other authorities on behalf of a customer without the knowledge or consent of the customer except where required by law. A provider shall promptly notify the customer in writing when such provider has disclosed any information to or filed any form or document with immigration or other authorities when such disclosure or filing was required by law and done without the knowledge and consent of the customer.

8. Fail to provide customers with copies of documents filed with a governmental entity or refuse to return original documents supplied by, prepared on behalf of, or paid for by the customer, upon the request of the customer, or upon termination of the contract. Original documents must be returned promptly upon request and upon cancellation of the contract, even if there is a fee dispute between the immigration assistance service provider and the customer.

9. Make any misrepresentation or false statement, directly or indirectly.

10. Make any guarantee or promise to a customer, unless there is a basis in fact for such representation, and the guarantee or promise is in writing.

11. Represent that a fee may be charged, or charge a fee for the distribution, provision or submission of an official document or form issued or promulgated by a state or federal governmental entity, or for a referral of the customer to another person or entity that is qualified to provide services or assistance which the immigrant assistance service provider will not provide.

12. For a fee or other compensation refer a customer to an attorney or any other individual or entity that can provide services that the immigrant assistance service provider cannot provide.

13. Give advice on the determination of a person's immigration status, including advising him or her as to answers on a government form regarding such determination.

14. Promise to expedite immigration or other immigration related governmental benefit processes, through claims to have special relationships with or special access to government employees who will expedite applications or issue favorable decisions for any reason other than the merits of the application.

15. Knowingly provide misleading or false information to a noncitizen about his or her individual or family's eligibility for immigration benefits or status, or to noncitizens or citizens about their individual or family's eligibility for other government benefits, with the intent to induce an individual to employ the services of the service provider to obtain such immigration benefits or status, or such other government benefits.

GENERAL CONSTRUCTION LAW
ARTICLE 2. MEANING OF TERMS

§ 10. Acknowledge and acknowledgment
The terms acknowledge and acknowledgment, when used with reference to the execution of an instrument or writing other than a deed of real property, include a compliance with the provisions of the next section by either such proof or acknowledgment.

§ 11. Acknowledgment or proof of instrument
When the execution of any instrument or writing is authorized or required by law to be acknowledged, or to be proven so as to entitle it to be filed or recorded in a public office, the acknowledgment may be taken or the proof made before any officer then and there authorized to take the acknowledgment or proof of the execution of a deed of real property to entitle it to be recorded in a county clerk's office, and shall be made and certified in the same manner as such acknowledgment or proof of such deed.

§ 12. Affidavit
When an affidavit is authorized or required it may be sworn to before any officer authorized by law to take the acknowledgment of deeds in this state, unless a particular officer is specified before whom it is to be taken.

§ 22. Gender
Whenever words of the masculine or feminine gender appear in any law, rule or regulation, unless the sense of the sentence indicates otherwise, they shall be deemed to refer to both male or female persons. This construction shall apply to gender indicative suffixes or prefixes as well as to gender indicative words. Whenever the reference is to a corporation, board, body, group, organization or other entity comprising more than one person or to an assemblage of persons or to an inanimate object the reference shall be construed to be neuter in gender.

§ 23. Heretofore and hereafter
Each of the terms, heretofore, and hereafter, in any provision of a statute, relates to the time such provision takes effect.

§ 36. Oath, affidavit and swear
The terms oath and affidavit include every mode authorized by law of attesting the truth of that which is stated. The term swear includes every mode authorized by law for administering an oath.

§ 44-a. Seal on written statement
Except as otherwise expressly provided by statute, the presence or absence of a seal upon a written instrument executed after August thirty-first, nineteen hundred forty-one shall be without legal effect.

§ 46. Signature
The term signature includes any memorandum, mark or sign, written, printed, stamped, photographed, engraved or otherwise placed upon any instrument or writing with intent to execute or authenticate such instrument or writing.

ARTICLE 7. APPLICATION OF CHAPTER

§ 110. Application of chapter

This chapter is applicable to every statute unless its general object, or the context of the language construed, or other provisions of law indicate that a different meaning or application was intended from that required to be given by this chapter.

JUDICIARY LAW
ARTICLE 15. ATTORNEYS AND COUNSELLORS

§ 484. None but attorneys to practice in the state.

No natural person shall ask or receive, directly or indirectly, compensation for appearing for a person other than himself as attorney in any court or before any magistrate, or for preparing deeds, mortgages, assignments, discharges, leases or any other instruments affecting real estate, wills, codicils, or any other instrument affecting the disposition of property after death, or decedents' estates, or pleadings of any kind in any action brought before any court of record in this state, or make it a business to practice for another as an attorney in any court or before any magistrate unless he has been regularly admitted to practice, as an attorney or counselor, in the courts of record in the state; but nothing in this section shall apply

(1) to officers of societies for the prevention of cruelty to animals, duly appointed, when exercising the special powers conferred upon such corporations under section fourteen hundred three of the not-for-profit corporation law; or

(2) to law students who have completed at least two semesters of law school or persons who have graduated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization, when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities prohibited by this statute; or

(3) to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities.

§ 485. Violation of certain preceding sections a misdemeanor.
Any person violating the provisions of sections four hundred seventy-eight, four hundred seventy-nine, four hundred eighty, four hundred eighty-one, four hundred eighty-two, four hundred eighty-three or four hundred eighty-four, shall be guilty of a misdemeanor.

ARTICLE 19. CONTEMPTS

§ 750. Power of courts to punish for criminal contempts.

A. A court of record has power to punish for a criminal contempt, a person guilty of any of the following acts, and no others:

1. Disorderly, contemptuous, or insolent behavior, committed during its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

2. Breach of the peace, noise, or other disturbance, directly tending to interrupt its proceedings.

3. Wilful disobedience to its lawful mandate.

4. Resistance wilfully offered to its lawful mandate.

5. Contumacious and unlawful refusal to be sworn as a witness; or, after being sworn, to answer any legal and proper interrogatory.

6. Publication of a false, or grossly inaccurate report of its proceedings. But a court can not punish as a contempt, the publication of a true, full, and fair report of a trial, argument, decision, or other proceeding therein.

7. Wilful failure to obey any mandate, process or notice issued pursuant to articles sixteen, seventeen, eighteen, eighteen-a or eighteen-b of the judiciary law, or to rules adopted pursuant thereto, or to any other statute relating thereto, or refusal to be sworn as provided therein, or subjection of an employee to discharge or penalty on account of his absence from employment by reason of jury or subpoenaed witness service in violation of this chapter or section 215.11 of the penal law. Applications to punish the accused for a contempt specified in this subdivision may be made by notice of motion or by order to show cause, and shall be made returnable at the term of the supreme court at which contested motions are heard, or of the county court if the supreme court is not in session.

B. In addition to the power to punish for a criminal contempt as set forth in subdivision A, the supreme court has power under this section to punish for a criminal contempt any person who unlawfully practices or assumes to practice law; and a proceeding under this subdivision may be instituted on the court’s own motion or on the motion of any officer charged with the duty of investigating or prosecuting unlawful practice of law, or by any bar association incorporated under the laws of this state.

C. A court not of record has only such power to punish for a criminal contempt as is specifically granted to it by statute and no other.

PENAL LAW
PART 2. SENTENCES
TITLE E. SENTENCES

§ 70.15 Sentences of imprisonment for misdemeanors and violation.

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed one year; provided, however, that a sentence of imprisonment

imposed upon a conviction of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 must be for a period of no less than one year when the conviction was the result of a plea of guilty entered in satisfaction of an indictment or any count thereof charging the defendant with the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02, except that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.

2. Class B misdemeanor. A sentence of imprisonment for a class B misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three months.

3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime.

4. Violation. A sentence of imprisonment for a violation shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed fifteen days. In the case of a violation defined outside this chapter, if the sentence is expressly specified in the law or ordinance that defines the offense and consists solely of a fine, no term of imprisonment shall be imposed.

PART 3. SPECIFIC OFFENSES
TITLE K. OFFENSES INVOLVING FRAUD

§ 170.10 Forgery in the second degree.

A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed:

1. A deed, will, codicil, contract, assignment, commercial instrument, credit card, as that term is defined in subdivision seven of section 155.00, or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

2. A public record, or an instrument filed or required or authorized by law to be filed in or with a public office or public servant; or

3. A written instrument officially issued or created by a public office, public servant or governmental instrumentality; or

4. Part of an issue of tokens, public transportation transfers, certificates or other articles manufactured and designed for use as symbols of value usable in place of money for the purchase of property or services; or

5. A prescription of a duly licensed physician or other person authorized to issue the same for any drug or any instrument or device used in the taking or administering of drugs for which a prescription is required by law. Forgery in the second degree is a class D felony.

§ 175.40 Issuing a false certificate.

A person is guilty of issuing a false certificate when, being a public servant authorized by

law to make or issue official certificates or other official written instruments, and with intent to defraud, deceive or injure another person, he issues such an instrument, or makes the same with intent that it be issued, knowing that it contains a false statement or false information. Issuing a false certificate is a class E felony.

§195.00 Official misconduct.
A public servant is guilty of official misconduct when, with intent to obtain a benefit or to injure or deprive another person of a benefit:

1. He commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized; or

2. He knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.

Official misconduct is a class A misdemeanor.

PUBLIC OFFICERS LAW
ARTICLE 2. APPOINTMENT AND QUALIFICATION OF PUBLIC OFFICERS

§ 3. Qualifications for holding office.

1. No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, have attained the age of eighteen years, except that in the case of youth boards, youth commissions or recreation commissions only, members of such boards or commissions may be under the age of eighteen years, but must have attained the age of sixteen years on or before appointment to such youth board, youth commission or recreation commission, be a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised, or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred seventeen, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of nineteen hundred forty or the acts amendatory thereof or supplemental thereto.

3.-Nothing herein contained shall operate to prevent a person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the state, from accepting or retaining an appointment as a notary public, as provided in section one hundred thirty of the executive law, although he resides in or removes to an adjoining state. For the purposes of accepting and retaining an appointment as a notary public such person shall be deemed a resident of the county where he maintains such office for the practice of law.

3-a. Nothing herein contained shall operate to prevent a person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the city of New York, from accepting or retaining an appointment as a commissioner of deeds in and for the city of New York, as provided in section one hundred forty of the executive law, although he resides in or removes to another city in this state or to an adjoining state. For the purposes of accepting and retaining an appointment as a commissioner of deeds in and for the city of New York, such person shall be deemed a resident of the county where he maintains such office.

7. Nothing herein contained shall operate to prevent a person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office

for the practice of law is within the state, from accepting or retaining an appointment as a commissioner of deeds in and for the city of New York, as provided in section one hundred forty of the executive law, although he resides in or removes to any other county in the state or an adjoining state. For the purposes of accepting and retaining an appointment as a commissioner of deeds such person shall be deemed a resident of the county where he maintains such office for the practice of law.

§ 10. Official oaths.

Every officer shall take and file the oath of office required by law, and every judicial officer of the unified court system, in addition, shall file a copy of said oath in the office of court administration, before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by a judge of the court of appeals, the attorney general, or by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed or by his duly designated assistant, or may be administered to any member of a body of officers, by a presiding officer or clerk, thereof, who shall have taken an oath of office. An oath of office may be administered to any state or local officer who is a member of the armed forces of the United States by any commissioned officer, in active service, of the armed forces of the United States. In addition to the requirements of any other law, the certificate of the officer in the armed forces administering the oath of office under this section shall state

(a) the rank of the officer administering the oath, and

(b) that the person taking the oath was at the time, enlisted, inducted, ordered or commissioned in or serving with, attached to or accompanying the armed forces of the United States. The fact that the officer administering the oath was at the time duly commissioned and in active service with the armed forces, shall be certified by the secretary of the army, secretary of the air force or by the secretary of the navy, as the case may be, of the United States, or by a person designated by him to make such certifications, but the place where such oath was administered need not be disclosed. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state; of every officer of a municipal corporation, including a school district, with the clerk thereof; and of every other officer, including the trustees and officers of a public library and the officers of boards of cooperative educational services, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof.

ARTICLE 4. POWERS AND DUTIES OF PUBLIC OFFICERS

§ 67. Fees of public officers.

1. Each public officer upon whom a duty is expressly imposed by law, must execute the same without fee or reward, except where a fee or other compensation therefor is expressly allowed by law.

2. An officer or other person, to whom a fee or other compensation is allowed by law, for any service, shall not charge or receive a greater fee or reward, for that service, than is so allowed.

3. An officer, or other person, shall not demand or receive any fee or compensation, allowed to him by law for any service, unless the service was actually rendered by him;

except that an officer may demand in advance his fee, where he is, by law, expressly directed or permitted to require payment thereof, before rendering the service.

4. Money received by a public officer, or which shall come into his possession or custody, in the performance of his official duties or in connection therewith or incidental thereto, shall be held by him in trust for the person or persons entitled thereto or for the purposes provided by law and all interest or increments which shall accrue or attach to such money while in his possession or custody shall be added to, and become a part of, the money so held and no part of such interest or increments shall be retained by such officer to his personal use or benefit, except legal fees allowed by law for receiving and disbursing the same, notwithstanding the provisions of any general or special law. An officer or other person, who violates either of the provisions contained in this section, is liable, in addition to the punishment prescribed by law for the criminal offense, to an action in behalf of the person aggrieved, in which the plaintiff is entitled to treble damages.

§ 68-a. Fees for oath or acknowledgment.

Any officer, authorized to perform the services specified in this section, and to receive fees therefor, is entitled to the following fees:

1. For administering an oath or affirmation, and certifying the same when required, except where another fee is specially prescribed by statute, two dollars.

2. For taking and certifying the acknowledgment or proof of the execution of a written instrument; by one person, two dollars; and by each additional person, two dollars; for swearing each witness thereto, two dollars.

§ 69. Fee for administering certain official oaths prohibited.

An officer is not entitled to a fee, for administering the oath of office to a member of the legislature, to any military officer, to an inspector of election, clerk of the poll, or to any other public officer or public employee.

§ 534. County clerk; appointment of notaries public.

Each county clerk shall designate from among the members of his or her staff at least one notary public to be available to notarize documents for the public in each county clerk's office during normal business hours free of charge. Each individual appointed by the county clerk to be a notary public pursuant to this section shall be exempt from the examination fee and application fee required by §131 of the Executive Law.

REAL PROPERTY LAW
ARTICLE 9. RECORDING INSTRUMENTS AFFECTING REAL PROPERTY

§ 290. Definitions; effect of article.

1. The term "real property," as used in this article, includes lands, tenements and hereditaments and chattels real, except a lease for a term not exceeding three years.

2. The term "purchaser" includes every person to whom any estate or interest in real property is conveyed for a valuable consideration, and every assignee of a mortgage, lease or other conditional estate.

3. The term "conveyance" includes every written instrument, by which any estate or interest in real property is created, transferred, mortgaged or assigned, or by which the title to any real property may be affected, including an instrument in execution of a power, although the power be one of revocation only, and an instrument postponing or

subordinating a mortgage lien; except a will, a lease for a term not exceeding three years, an executory contract for the sale or purchase of lands, and an instrument containing a power to convey real property as the agent or attorney for the owner of such property.

4. The term "recording officer" means the county clerk of the county, except in a county having a register, where it means the register of the county.

5. "Recording" or "recorded" means the entry, at length, upon the pages of the proper record books in a plain and legible hand writing, or in print or in symbols of drawing or by photographic process or partly in writing, partly in printing, partly in symbols of drawing or partly by photographic process or by any combination of writing, printing, drawing or photography or either or any two of them, or by an electronic process by which a record or instrument affecting real property, after delivery is incorporated into the public record. "Recording" or "recorded" also means the reproduction of instruments by microphotography or other photographic process on film which is kept in appropriate files.

6. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

7. "Electronic record" means information evidencing any act, transaction, occurrence, event or other activity, produced or stored by electronic means and capable of being accurately reproduced in forms perceptible by human sensory capabilities.

8. "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record.

9. "Paper document" means a document in a form that is not electronic.

10. "Digitized paper document" means a digitized image of a paper document that accurately depicts the information on the paper document in a format that cannot be altered without detection.

11. "Wet signature" means a signature affixed in ink or pencil or other material to a paper document.

12. This article does not apply to leases for life or lives, or for years, heretofore made, of lands in either of the counties of Albany, Ulster, Sullivan, Herkimer, Dutchess, Columbia, Delaware or Schenectady.

§ 291-i. Validity of electronic recording.

1. Notwithstanding any law to the contrary,

(a) where a law, rule or regulation requires, as a condition for recording, that an instrument affecting real property be an original, be on paper or another tangible medium or be in writing, the requirement is satisfied by a digitized paper document or an electronic record of such instrument;

(b) where a law, rule or regulation requires, as a condition for recording, that an instrument affecting real property be signed, the requirement is satisfied, where the instrument exists as a digitized paper document, if the digitized image of a wet signature of the person executing such instrument appears on such digitized paper document or, where the instrument exists as an electronic record, if the instrument is signed by use of an electronic signature;

(c) where a law, rule or regulation requires, as a condition of recording, that an instrument affecting real property or a signature associated with such an instrument be notarized, acknowledged, verified, witnessed or made under oath, the signature requirement is satisfied if:

(i) the digitized image of a wet signature of the person authorized to perform that act

and any stamp, impression or seal required by law to be included, appears on a digitized paper document of such instrument; or ‘

(ii) 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 an electronic record of such instrument, provided, however that no physical or electronic image of a stamp, impression or seal shall be required to accompany such electronic signature.

(d) where a law, rule or regulation requires, as a condition of recording an instrument affecting real property, that any accompanying document be filed therewith, the requirement is satisfied if, in the case of recording by electronic means, a digitized paper document or electronic record of any such accompanying document is presented to the recording officer at the same time as such instrument is recorded by electronic means; provided that each such document or record shall be presented to the recording officer as a separate digitized paper document or electronic record unto itself.

2. A digitized paper document or documents shall be created using a software application or other electronic process which stores an image of the original paper document or documents, and which does not permit additions, deletions or other changes to the digitized image, or if additions, deletions or changes are permitted, a media trail exists which creates an electronic record which makes it possible to identify these changes.

3. Nothing in this section or any other provision of law shall be construed to require the recording by electronic means of instruments affecting real property. The decision by each county clerk to participate in electronic recording is discretionary. Once a county clerk permits electronic recording, the county shall accept such electronic recordings.

4. Where any recording officer permits instruments affecting real property and any accompanying documents to be presented for recording or filing as digitized paper documents or electronic records pursuant to this section, such recording by electronic means shall be in accordance with the rules and regulations established by the electronic facilitator pursuant to subdivision five of this section.

5. In order to ensure consistency in the standards and practices of, and the technology used by recording officers in the state, the electronic facilitator, as described in section three hundred three of the state technology law, shall, consistent with the provisions of article three of the state technology law, promulgate rules and regulations, and amendments thereto, as appropriate governing the use and acceptance of digitized paper documents, electronic records and electronic signatures under this article. Such authority shall address and be limited to standards requiring adequate information security protection to ensure that electronic records of instruments affecting real property documents are accurate, authentic, adequately preserved for long-term electronic storage and resistant to tampering. When promulgating rules and regulations, the electronic facilitator may take into consideration:

(a) the most recent standards promulgated by national standard-setting bodies such as, without limitation, the property records industry association;

(b) the views of interested persons and governmental officials and entities, including but not limited to recording officers and representatives of the state title, legal and banking industries; and

(c) the needs of counties of varying size, population, and resources.

6. Nothing contained in this section shall be construed to authorize a recording officer to furnish digitized paper documents of the reports required by section five hundred

seventy-four of the real property tax law. Such reports shall be furnished as paper documents with the requisite notations thereon, except where the state board of real property services has agreed to accept data submissions in lieu thereof or has provided for the electronic transmission of such data pursuant to law.

§ 298. Acknowledgments and proofs within the state.

The acknowledgment or proof, within this state, of a conveyance of real property situate in this state may be made:

1. At any place within the state, before

(a) a justice of the supreme court;

(b) an official examiner of title;

(c) an official referee; or

(d) a notary public.

2. Within the district wherein such officer is authorized to perform official duties, before

(a) a judge or clerk of any court of record;

(b) a commissioner of deeds outside of the city of New York, or a commissioner of deeds of the city of New York within the five counties comprising the city of New York;

(c) the mayor or recorder of a city;

(d) a surrogate, special surrogate, or special county judge; or

(e) the county clerk or other recording officer of a county.

3. Before a justice of the peace, town councilman, village police justice or a judge of any court of inferior local jurisdiction, anywhere within the county containing the town, village or city in which he is authorized to perform official duties.

§ 299. Acknowledgments and proofs without the state, but within the United States or any territory, possession, or dependency thereof.

The acknowledgment or proof of a conveyance of real property situate in this state, if made

(a) without the state but within the United States,

(b) within any territory, possession, or dependency of the United States, or

(c) within any place over which the United States, at the time when such acknowledgment or proof is taken, has or exercises jurisdiction, sovereignty, control, or a protectorate, may be made before any of the following officers acting within his territorial jurisdiction or within that of the court of which he is an officer:

1. A judge or other presiding officer of any court having a seal, or the clerk or other certifying officer thereof.

2. A mayor or other chief civil officer of any city or other political subdivision.

3. A notary public.

4. A commissioner of deeds appointed pursuant to the laws of this state to take acknowledgments or proofs without this state.

5. Any person authorized, by the laws of the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof is made, to take the acknowledgment or proof of deeds to be recorded therein.

§ 299-a. Acknowledgment to conform to law of New York or of place where taken; certificate of conformity.

1. An acknowledgment or proof made pursuant to the provisions of section two

hundred ninety-nine of this chapter may be taken in the manner prescribed either by the laws of the state of New York or by the laws of the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof is taken. The acknowledgment or proof, if taken in the manner prescribed by such state, District of Columbia, territory, possession, dependency, or other place, must be accompanied by a certificate to the effect that it conforms with such laws. Such certificate may be made by

(a) An attorney-at-law admitted to practice in the state of New York, resident in the place where the acknowledgment or proof is taken, or by

(b) An attorney-at-law admitted to practice in the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof is taken, or by

(c) Any other person deemed qualified by any court of the state of New York, if, in any action, proceeding, or other matter pending before such court, it be necessary to determine that such acknowledgment or proof conforms with the laws of such state, District of Columbia, territory, possession, dependency, or other place; or by the supreme court of the state of New York, on application for such determination. The justice, judge, surrogate, or other presiding judicial officer shall append to the instrument so acknowledged or proved his signed statement that he deemed such person qualified to make such certificate.

2. (a) The signature to such a certificate of conformity shall be presumptively genuine, and the qualification of the person whose name is so signed as a person authorized to make such certificate shall be presumptively established by the recital thereof in the certificate.

(b) The statement of a judicial officer appended to the instrument that he deemed the person making such certificate qualified shall establish the qualification of the person designated therein to make such certificate; and the recording, filing, registering or use as evidence of the instrument shall not depend on the power of the court to make the statement and proof shall not be required of any action, proceeding, matter or application in which or in connection with which the statement is made.

(c) When an instrument so acknowledged or proved is accompanied by the certificate of conformity and the statement of a judicial officer, if any be required, the acknowledgment or proof of the instrument, for the purpose of recording, filing or registering in any recording or filing office in this state or for use as evidence, shall be equivalent to one taken or made in the form prescribed by law for use in this state; and if the acknowledgment or proof is properly authenticated, where authentication is required by law, and if the instrument be otherwise entitled to record, filing or registering, such instrument, together with the acknowledgment or proof, the certificate of conformity and any certificate of authentication or statement of a judicial officer, may be recorded, filed or registered in any recording or filing office in this state, and shall be so recorded, filed or registered upon payment or tender of lawful fees therefor. In fixing the fees of a recording, filing or registering officer, the certificate of conformity and the statement of a judicial officer appended, if any, shall be treated as certificates of authentication required by other provisions of this chapter.

§ 300. Acknowledgments and proofs by persons in or with the armed forces of the United States.

The acknowledgment or proof of a conveyance of real property situate in this state, if made by a person enlisted or commissioned in or serving in or with the armed forces of the United States or by a dependent of any such person, wherever located, or by a person

attached to or accompanying the armed forces of the United States, whether made within or without the United States, may be made before any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the Army, Air Force or Marine Corps, or ensign or higher in the Navy or Coast Guard, or with equivalent rank in any other component part of the armed forces of the United States. In addition to the requirements of sections three hundred and three, three hundred and four, and three hundred and six of this chapter, the certificate of an acknowledgment or proof taken under this section shall state

(a) the rank and serial number of the officer taking the same, and the command to which he is attached,

(b) that the person making such acknowledgment or proof was, at the time of making the same, enlisted or commissioned in or serving in or with the armed forces of the United States or the dependent of such a person, or a person attached to or accompanying the armed forces of the United States, and

(c) the serial number of the person who makes, or whose dependent makes the acknowledgment or proof if such person is enlisted or commissioned in the armed forces of the United States. The place where such acknowledgment or proof is taken need not be disclosed. No authentication of the officer's certificate of acknowledgment or proof shall be required. Notwithstanding any of the provisions of this section, the acknowledgment or proof of a conveyance of real property situate in this state may also be made as provided in sections two hundred ninety-eight, two hundred ninety-nine, two hundred ninety-nine-a, three hundred one, and three hundred one-a, of this chapter.

§ 301. Acknowledgments and proofs in foreign countries.

The acknowledgment or proof of a conveyance of real property situate in this state may be made in foreign countries before any of the following officers acting within his territorial jurisdiction or within that of the court of which he is an officer:

1. An ambassador, envoy, minister, charge d'affaires, secretary of legation, consul-general, consul, vice-consul, consular agent, vice-consular agent, or any other diplomatic or consular agent or representative of the United States, appointed or accredited to, and residing within, the country where the acknowledgment or proof is taken.

2. A judge or other presiding officer of any court having a seal, or the clerk or other certifying officer thereof.

3. A mayor or other chief civil officer of any city or other political subdivision.

4. A notary public.

5. A commissioner of deeds appointed pursuant to the laws of this state to take acknowledgments or proofs without this state.

6. A person residing in, or going to, the country where the acknowledgment or proof is to be taken, and specially authorized for that purpose by a commission issued to him under the seal of the supreme court of the state of New York.

7. Any person authorized, by the laws of the country where the acknowledgment or proof is made, to take acknowledgments of conveyances of real estate or to administer oaths in proof of the execution thereof.

§ 302. Acknowledgments and proofs by married women.

The acknowledgment or proof of a conveyance of real property, within the state, or of any other written instrument, may be made by a married woman the same as if unmarried.

§ 303. Requisites of acknowledgments.
An acknowledgment must not be taken by any officer unless he knows or has satisfactory evidence, that the person making it is the person described in and who executed such instrument.

§ 304. Proof by subscribing witness.
When the execution of a conveyance is proved by a subscribing witness, such witness must state his own place of residence, and if his place of residence is in a city, the street and street number, if any thereof, and that he knew the person described in and who executed the conveyance. The proof must not be taken unless the officer is personally acquainted with such witness, or has satisfactory evidence that he is the same person, who was a subscribing witness to the conveyance.

§ 305. Compelling witnesses to testify.
On the application of a grantee in a conveyance, his heir or personal representative, or a person claiming under either of them, verified by the oath of the applicant, stating that a witness to the conveyance, residing in the county where the application is made, refuses to appear and testify concerning its execution, and that such conveyance can not be proved without his testimony, any officer authorized to take, within the state, acknowledgment or proof of conveyance of real property may issue a subpoena, requiring such witness to attend and testify before him concerning the execution of the conveyance. A subpoena issued under this section shall be regulated by the civil practice law and rules.

§ 306. Certificate of acknowledgment or proof.
A person taking the acknowledgement or proof of a conveyance must indorse thereupon or attach thereto, a certificate, signed by himself, stating all the matters required to be done, known, or proved on the taking of such acknowledgement or proof; together with the name and substance of the testimony of each witness examined before him, and if a subscribing witness, his place of residence. Any conveyance which has heretofore been recorded, or which may hereafter be recorded, shall be deemed to have been duly acknowledged or proved and properly authenticated, when ten years have elapsed since such recording; saving, however, the rights of every purchaser in good faith and for a valuable consideration deriving title from the same vendor or grantor, his heirs or devisees, to the same property or any portion thereof, whose conveyance shall have been duly recorded before the said period of ten years shall have elapsed.

§ 307. When certificate to state time and place.
When the acknowledgment or proof is taken by a commissioner of deeds appointed pursuant to the laws of this state to take acknowledgments or proofs without this state, whether within or without the United States, the certificate must also state the day on which, and the city or other political subdivision, and the state or country or other place in which, the same was taken.

§ 308. When certificate must be under seal.
1. When a certificate of acknowledgment or proof is made without this state, whether within or without the United States,

(a) if made by a judge or other presiding officer of a court having a seal, or by the clerk or other certifying officer thereof, such certificate must be under the seal of such court;

(b) if made by a commissioner of deeds appointed pursuant to the laws of this state to take acknowledgments or proofs without this state, such certificate must be under his seal of office;

(c) if made by any officer specified in subdivision one of section three hundred one of this chapter, such certificate must be under the seal of the legation or consulate to which such officer is attached.

2. Any certificate, required by the provisions of section three hundred eleven of this chapter to be authenticated, must be so authenticated, in addition to being under seal as provided in this section.

§ 309. Acknowledgment by corporation and form of certificate.

1. The acknowledgment of a conveyance or other instrument by a corporation, must be made by an officer or attorney in fact duly appointed, or in case of a dissolved corporation, by an officer, director or attorney in fact duly appointed thereof authorized to execute the same by the board of directors of said corporation.

2. The certificate of acknowledgment must conform substantially with one of the following alternative forms, the blanks being properly filled:

State of New York) ss.:

County of.....)

On the..... day of..... in the year..... before me personally came..... to me known, who, being by me duly sworn, did depose and say that he/she/they reside(s) in..... (if the place of residence is in a city, include the street and street number, if any, thereof); that he/she/they is (are) the (president or other officer or director or attorney in fact duly appointed) of the (name of corporation), the corporation described in and which executed the above instrument; that he/she/they know(s) the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the board of directors of said corporation, and that he/she/they signed his/her/their name(s) thereto by like authority.

(Signature and office of person taking acknowledgment.)

State of New York) ss.:

County of.....)

On the..... day of..... in the year..... before me personally came..... to me known, who, being by me duly sworn, did depose and say that he/she/they reside(s) in..... (if the place of residence is in a city, include the street and street number, if any, thereof); that he/she/they is (are) the (president or other officer or director or attorney in fact duly appointed) of the (name of corporation), the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by authority of the board of directors of said corporation.

(Signature and office of person taking acknowledgment.)

3. Subdivision two of this section shall be inapplicable to the acknowledgment, within this state, of a conveyance or other instrument in respect to real property situate in this state executed on or after the first day of September, nineteen hundred ninety-nine. A certificate of such an acknowledgment shall be subject to the provisions of section three hundred nine-a of this article.

§ 309-a. Uniform forms of certificates of acknowledgment or proof within this state.

1. The certificate of an acknowledgment, within this state, of a conveyance or other instrument in respect to real property situate in this state, by a person, must conform

substantially with the following form, the blanks being properly filled:

State of New York) ss.:

County of .....)

On the ..... day of ..... in the year ..... before me, the undersigned, personally appeared ....., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Signature and office of individual taking acknowledgement.)

2. The certificate for a proof of execution by a subscribing witness, within this state, of a conveyance or other instrument made by any person in respect to real property situate in this state, must conform substantially with the following form, the blanks being properly filled:

State of New York) ss.:

County of .....)

On the ..... day of ..... in the year .... before me, the undersigned, personally appeared ....., the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in .....(if the place of residence is in a city, include the street and street number, if any, thereof); that he/she/they know(s).....to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said .....execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto.

(Signature and office of individual taking proof.)

3. A certificate of an acknowledgement or proof taken under section three hundred of this article shall include the additional information required by that section.

4. For the purposes of this section, the term “person” means any corporation, joint stock company, estate, general partnership (including any registered limited liability partnership or foreign limited liability partnership), limited liability company (including a professional service limited liability company), foreign limited liability company (including a foreign professional service limited liability company), joint venture, limited partnership, natural person, attorney in fact, real estate investment trust, business trust or other trust, custodian, nominee or any other individual or entity in its own or any representative capacity.

§ 309-b. Uniform forms of certificates of acknowledgement or proof without this state.

1. The certificate of an acknowledgement, without this state, of a conveyance or other instrument with respect to real property situate in this state, by a person, may conform substantially with the following form, the blanks being properly filled:

State, District of Columbia, Territory, Possession, or Foreign Country) ss.:

On the _____ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the

_____. (insert the city or other political subdivision and the state or country or other place the acknowledgement was taken).

(Signature and office of individual taking acknowledgement.)

2. The certificate for a proof of execution by a subscribing witness, without this state, of a conveyance or other instrument made by any person in respect to real property situate in this state, may conform substantially with the following form, the blanks being properly filled:

State, District of Columbia, Territory, Possession, or Foreign Country) ss.:

On the _____ day of _____ in the year _____ before me, the undersigned, personally appeared _____, the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she resides in _____ (if the place of residence is in a city, include the street and street number, if any, thereof); that he/she knows _____ to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said _____ execute the same; that said witness at the same time subscribed his/her name as a witness thereto; and that said subscribing witness made such appearance before the undersigned in _____. (insert the city or other political subdivision and the state or country or other place in which the proof was taken).

(Signature and office of individual taking proof.)

3. No provision of this section shall be construed to:

(a) modify the choice of laws afforded by sections two hundred ninety-nine-a and three hundred one-a of this article pursuant to which an acknowledgement or proof may be taken;

(b) modify any requirement of section three hundred seven of this article;

(c) modify any requirement for a seal imposed by subdivision one of section three hundred eight of this article;

(d) modify any requirement concerning a certificate of authentication imposed by section three hundred eight, three hundred eleven, three hundred twelve, three hundred fourteen, or three hundred eighteen of this article; or

(e) modify any requirement imposed by any provision of this article when the certificate of acknowledgment or proof purports to be taken in the manner prescribed by the laws of another state, the District of Columbia, territory, possession, or foreign country.

4. A certificate of an acknowledgement or proof taken under section three hundred of this article shall include the additional information required by that section.

5. For the purposes of this section, the term “person” means a person as defined in subdivision four of section three hundred nine-a of this article.

§ 310. Authentication of acknowledgments and proofs made within the state.

1. When a certificate of acknowledgment or proof is made, within this state, by a commissioner of deeds, a justice of the peace, town councilman, village police justice, or a judge of any court of inferior local jurisdiction, such certificate does not entitle the conveyance so acknowledged or proved to be read in evidence or recorded in any county of this state except a county in which the officer making such certificate is authorized to act at the time of making the same, unless such certificate is authenticated by a certificate of the clerk of such county; provided, however, that all certificates of acknowledgment or proof, made by a commissioner of deeds of the city of New York residing in any part therein, shall be authenticated by the clerk of any county within said city, in whose office

such commissioner of deeds shall have filed a certificate under the hand and seal of the city clerk of said city, showing the appointment and term of office of such commissioner; and no other certificates shall be required from any other officer to entitle such conveyance to be read in evidence or recorded in any county of this state.

2. Except as provided in this section, no certificate of authentication shall be required to entitle a conveyance to be read in evidence or recorded in this state when acknowledged or proved before any officer designated in section two hundred ninety-eight of this article to take such acknowledgment or proof, nor shall such authentication be required for recording in the office of the city register of the city of New York of such acknowledgment or proof by a commissioner of deeds of the city of New York.

§ 311. Authentication of acknowledgments and proofs made without the state.

1. When a certificate of acknowledgment or proof is made, either within or without the United States, by a commissioner of deeds appointed pursuant to the laws of this state to take acknowledgments or proofs without this state, the conveyance so acknowledged or proved is not entitled to be read in evidence or recorded in this state, except as provided in subdivision five of section one hundred eight of the executive law, unless such certificate is authenticated by the certificate of the secretary of state of the state of New York.

2. When a certificate of acknowledgment or proof is made by a notary public in a foreign country other than Canada, the conveyance so acknowledged or proved is not entitled to be read in evidence or recorded in this state unless such certificate is authenticated

(a) by the certificate of the clerk or other certifying officer of a court in the district in which such acknowledgment or proof was made, under the seal of such court, or

(b) by the certificate of the clerk, register, recorder, or other recording officer of the district in which such acknowledgment or proof was made, or

(c) by the certificate of the officer having charge of the official records of the appointment of such notary, or having a record of the signature of such notary, or

(d) by the certificate of a consular officer of the United States resident in such country.

3. When a certificate of acknowledgment or proof, made by the mayor or other chief civil officer of a city or other political subdivision, is not under the seal of such city or other political subdivision, the conveyance so acknowledged or proved is not entitled to be read in evidence or recorded in this state unless such certificate is authenticated by the certificate of the clerk of such city or other political subdivision, or by the certificate of a consular officer of the United States resident in the country where the acknowledgment or proof was made.

4. When a certificate of acknowledgment or proof is made pursuant to the provisions of subdivision five of section two hundred ninety-nine or of subdivision seven of section three hundred one of this chapter by an officer or person not elsewhere in either of said sections specifically designated to take acknowledgments or proofs, the conveyance so acknowledged or proved is not entitled to be read in evidence or recorded within this state unless such certificate is authenticated

(a) by the certificate of the secretary of state of a state, or of the secretary of a territory, of the United States, or

(b) by the certificate of any officer designated in subdivision three of this section to authenticate certificates of acknowledgment or proof, or

(c) by the certificate of any officer designated in clauses (a) or (b) of subdivision two of this section to authenticate certificates of acknowledgment or proof, or

(d) by the certificate of the officer having charge of the official records showing that

the person taking the acknowledgment or proof is such officer as he purports to be, or having a record of the signature of such person.

5. Except as provided in this section, no certificate of authentication shall be required to entitle a conveyance to be read in evidence or recorded in this state when acknowledged or proved before any officer designated in section two hundred ninety-nine or in section three hundred one of this chapter to take such acknowledgment or proof.

§ 312. Contents of certificate of authentication.

1. An officer authenticating a certificate of acknowledgment or proof must subjoin or attach to the original certificate a certificate under his hand.

2. When the certificate of acknowledgment or proof is made by a notary public, without the state but within the United States or within any territory, possession, or dependency of the United States, or within any place over which the United States, at the time when such acknowledgment or proof is taken, has or exercises jurisdiction, sovereignty, control, or a protectorate, the certificate of authentication must state in substance that, at the time when such original certificate purports to have been made, the person whose name is subscribed to the certificate was such officer as he is therein represented to be. In every other case the certificate of authentication must state in substance

(a) that, at the time when such original certificate purports to have been made, the person whose name is subscribed to the original certificate was such officer as he is therein represented to be;

(b) that the authenticating officer is acquainted with the handwriting of the officer making the original certificate, or has compared the signature of such officer upon the original certificate with a specimen of his signature filed or deposited in the office of such authenticating officer, or recorded, filed, or deposited, pursuant to law, in any other place, and believes the signature upon the original certificate is genuine; and

(c), if the original certificate is required to be under seal, that the authenticating officer has compared the impression of the seal affixed thereto with a specimen impression thereof filed or deposited in his office, or recorded, filed, or deposited, pursuant to law, in any other place, and believes the impression of the seal upon the original certificate is genuine.

3. When such original certificate is made pursuant to subdivision five of section two hundred ninety-nine of this chapter, such certificate of authentication must also specify that the person making such original certificate, at the time when it purports to have been made, was authorized, by the laws of the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof was made, to take the acknowledgment or proof of deeds to be recorded therein.

4. When such original certificate is made pursuant to subdivision seven of section three hundred one of this chapter, such certificate of authentication must also specify that the person making such original certificate, at the time when it purports to have been made, was authorized, by the laws of the country where the acknowledgment or proof was made, to take acknowledgments of conveyances of real estate or to administer oaths in proof of the execution thereof.

§ 313. Notary public.

The term “notary public,” as used in sections two hundred ninety-nine, three hundred one, three hundred eight, and three hundred eleven, of this chapter, includes any person appointed to perform notarial functions.

§ 313-a. Deputies.
When any officer, designated by the provisions of this article to take acknowledgments or proofs of conveyances of real estate to be read in evidence or recorded in this state, or to authenticate certificates of such acknowledgment or proof, is authorized by law to appoint a deputy, or when such officer has by law a deputy, such deputy may take such acknowledgments or proofs, or may authenticate such certificates.

§ 314. Recording of conveyances acknowledged or proved without the state, when parties and certifying officer are dead.
When the execution of a conveyance of real property within this state is acknowledged or proved according to the laws of any other state of the United States, and a certificate of the acknowledgment or proof signed by the officer taking it is annexed to or indorsed upon the instrument, if such officer and the grantor or mortgagor be dead and the death of all of them be proved by affidavit, sworn to in such state before an officer authorized by its laws to administer an oath therein, the conveyance, with the affidavit or affidavits annexed thereto, on being authenticated as required by this section, may be read in evidence and recorded in the same manner, and with like effect, as if the conveyance was acknowledged or proved and certified as required by the laws of this state. To entitle such conveyance and affidavits to be read in evidence, or recorded, a certificate of the clerk, recorder, register or prothonotary of the county in which the deceased officer resided, authenticating his signature, and also certifying that the conveyance is acknowledged or proved in all respects, as required by the laws of such state, must be annexed to the original certificate; and a like certificate of such clerk, recorder, register or prothonotary, authenticating the signature of the officer, before whom the affidavits proving the deaths were taken, must be annexed to such affidavits. The affidavits on being recorded, are presumptive evidence of the matters of fact, required to be stated therein.

§ 314-a. Proof when witnesses are dead.
When the witnesses to a conveyance, authorized to be recorded, are dead, its execution may be proved before any officer authorized to take within the state the acknowledgment and proof of conveyances, other than a commissioner of deeds, a notary public, or a justice of the peace. The proof of the execution must be made by satisfactory evidence of the death of all the witnesses thereto, and of the handwriting of such witnesses, or any one of them, and of the grantor, which evidence, with the name and residence of each witness examined, must be set forth by the officer taking the same, in his certificate of proof. A conveyance so proved, and certified, may be recorded in the proper office, if the original conveyance be at the same time deposited in the same office, there to remain for the inspection of all persons desiring to examine the same. If the conveyance affects real property in two or more counties, a certified copy of the conveyance, with the proof and certificates, may be recorded in each of such counties. Such recording and deposit are constructive notice of the execution of such conveyance to all purchasers of the same real property, or any part thereof, from the same vendor, his heirs or assigns, subsequent to such recording, but do not entitle the conveyance or the record thereof, or a transcript of the record, to be read in evidence.

§ 330. Officers guilty of malfeasance liable for damages.
An officer authorized to take the acknowledgment or proof of a conveyance or other instrument, or to certify such proof or acknowledgment, or to record the same, who is

guilty of malfeasance or fraudulent practice in the execution of any duty prescribed by law in relation thereto, is liable in damages to the person injured.

§ 333. When conveyances of real property not to be recorded.

1. After September thirtieth, nineteen hundred and ten, a recording officer shall not record or accept for record any conveyance of real property executed subsequent to said September thirtieth, nineteen hundred and ten, unless the residence of the purchaser and if in a city of over five hundred thousand inhabitants according to the last federal census the street number of the residence of the purchaser shall be stated therein and such residence and street number shall be recorded with the conveyance. After May first, nineteen hundred and fourteen, a recording officer shall not record or accept for record any conveyance of real property executed subsequent to said first day of May, nineteen hundred and fourteen, if in a city of over two hundred thousand inhabitants according to the last federal census, unless the street number of the residence of the purchaser shall be stated therein and such residence and street number shall be recorded with the conveyance; provided, however, that this section shall not operate to invalidate any conveyance of real property, heretofore or hereafter executed, in which the residence or street number of the purchaser shall not have been stated, nor affect the record of any such conveyance accepted for record and recorded, heretofore or hereafter, contrary to the provisions of this section, nor impair any title founded on such a conveyance or record. After July first, nineteen hundred thirty-five, a recording officer of the county of Nassau shall not record or accept for record any conveyance of real property executed subsequent to said first day of July, nineteen hundred thirty-five, unless the city or incorporated village in which such real property is located be stated therein, and if not located in a city or incorporated village, then the township in which located shall be stated therein; provided, however, that this section shall not operate to invalidate any conveyance of real property, heretofore or hereafter executed, in which the description fails to designate the city or incorporated village in which the real property is located, nor affect the record of any such conveyance accepted for record and recorded, heretofore or hereafter contrary to the provisions of this section, nor impair any title founded on such a conveyance or record.

1-a. After September first, nineteen hundred forty, a recording officer shall not record or accept for record any conveyance of real property executed subsequent to said first day of September, nineteen hundred forty, unless the residence of the seller and of the purchaser, including the street and street number of the residence if any there be, shall be stated therein and such residences, including street and street number if any, shall be recorded with the conveyance; provided, however, that the provisions of this subdivision shall not operate to invalidate any conveyance of real property, executed subsequent to said first day of September, nineteen hundred forty, in which the residence, including street and street number if any, of the seller and of the purchaser shall not have been stated, nor affect the record contrary to the provisions of this subdivision, nor impair any title founded on such a conveyance or record.

1-b. With respect to instruments executed after September first, nineteen hundred forty-four, the terms seller and purchaser, as used in this section, shall include any party to a conveyance of real property.

1-c. With respect to instruments executed after September first, nineteen hundred forty-four, the term conveyance of real property as used in this section shall include any conveyance as defined in subdivision three of section two hundred ninety of the real property law and any instrument entitled to be recorded under section two hundred

ninety-four of the real property law.

1-d. After September first, nineteen hundred fifty-five a recording officer shall not record or accept for record any deed transferring title to real property executed subsequent to September first, nineteen hundred fifty-five, unless the city, town and village in which such real property is located be stated therein; provided, however, that this section shall not operate to invalidate any such deed, heretofore or hereafter executed, in which the description fails to designate the city, town and village in which the real property is located, nor affect the record of any such deed accepted for record and recorded, heretofore or hereafter contrary to the provisions of this section, nor impair any title founded on such deed or record.

1-e. i. A recording officer shall not record or accept for record any conveyance of real property affecting land in New York state unless accompanied by a transfer report form prescribed by the state board of real property services and a fee of twenty-five dollars pursuant to subdivision three of this section.

ii. Such transfer report form shall contain information as required by such board including:

(1) the mailing address of the new owner;

(2) the tax billing address, if different from the owner's mailing address;

(3) the appropriate tax map designation, if any;

(4) a statement of the full sales price relating thereto;

(5) a statement whether the parcel is located in an agricultural district and, if so, whether a disclosure notice has been provided pursuant to section three hundred thirty-three-c of this article and section three hundred ten of the agriculture and markets law;

(6) a statement whether the property described in such deed is the entire parcel owned by the transferor or transferors;

(7) that in the event the parcel conveyed by such deed is a portion of the parcel owned by the transferor or transferors, a statement whether the city, town or village in which such property is situated has a planning board or other entity empowered to approve subdivisions; and

(8) that in the event such planning board or other entity is empowered to approve subdivisions, a statement whether the parcel conveyed by such deed is

(a) not subject to such subdivision approval or

(b) such subdivision has been approved by the respective city, town or village planning board or other entity empowered to approve subdivisions. iii. Such transfer report form shall not constitute part of nor be retained with the record of conveyance. For the purposes of this subdivision, the term "tax billing address" means the address designated by the owner to which tax bills shall be sent, and the term "full sales price" means the price actually paid or required to be paid for the real property or interest therein, whether paid or required to be paid by money, property, or any other thing of value, including the cancellation or discharge of an indebtedness or obligation, and the amount of any lien or encumbrance on the real property or interest therein which existed before the delivery of the deed and which remains thereon after the delivery of the deed, but excluding the fair market value of any personal property received by the buyer. iv. The provisions of this subdivision shall not operate to invalidate any conveyance of real property where one or more of the items designated as subparagraphs one through eight of paragraph ii of this subdivision, have not been reported or which has been erroneously reported, nor affect the record contrary to the provisions of this subdivision, nor impair any title founded on such conveyance or record. Such form shall be certified as to the accuracy of the contents by the transferor or transferors and the transferee or transferees.

Provided, however, if the conveyance of real property occurs as a result of a taking by eminent domain, tax foreclosure, or other involuntary proceeding such form may be certified only by either the condemnor, tax district, or other party to whom the property has been conveyed, or by that party's attorney. The provisions of this subdivision shall not apply to a county wholly within the boundaries of a city. Any deed executed and delivered prior to July first, nineteen hundred ninety-four may nevertheless be recorded in the office of the county clerk providing there is submitted therewith, and in place of such form, a separate statement signed by the transferor or transferors and the transferee or transferees or any person having sufficient knowledge to sign such form which contains the same information required by the state board of equalization and assessment as set forth in subparagraphs one through four of paragraph ii of this subdivision.

1-f. Each conveyance of real property affecting land in Suffolk county presented to the recording officer of such county for recording shall, in addition to complying with the requirements of subdivision one-e of this section, contain in the body thereof or have endorsed thereon the map designation or designations of the property maps of the real property tax service agency of such county. The recording officer of such county shall not record or accept for record, any conveyance of real property affecting land in such county unless said instrument of conveyance is accompanied by a three dollar certification fee for each parcel of real property conveyed, to defray the cost of verifying the tax map designation prior to recording. This certification fee shall be payable to the Suffolk county clerk and shall be in addition to any other applicable recording fees or charges. The provisions of this subdivision shall not operate to invalidate any conveyance of such real property on which the appropriate map designation or designations shall not have been stated or which may have been erroneously stated nor affect the record contrary to the provisions of this subdivision, nor impair any title founded on such conveyance or record.

2. A recording officer shall not record or accept for record any conveyance of real property, unless said conveyance in its entirety and the certificate of acknowledgment or proof and the authentication thereof, other than proper names therein which may be in another language provided they are written in English letters or characters, shall be in the English language, or unless such conveyance, certificate of acknowledgment or proof, and the authentication thereof be accompanied by and have attached thereto a translation in the English language duly executed and acknowledged by the person or persons making such conveyance and proved and authenticated, if need be, in the manner required of conveyances for recording in this state, or, unless such conveyance, certificate of acknowledgment or proof, and the authentication thereof be accompanied by and have attached thereto a translation in the English language made by a person duly designated for such purpose by the county judge of the county where it is desired to record such conveyance or a justice of the supreme court and be duly signed, acknowledged and certified under oath or upon affirmation by such person before such judge, to be a true and accurate translation and contain a certification of the designation of such person by such judge.

3. The recording officer of every county shall impose a fee of twenty-five dollars for every sales reporting form submitted for recording as required under subdivision one-e of this section. In the city of New York, the recording officer shall impose a fee of twenty-five dollars for each real property transfer tax form filed in accordance with chapter twenty-one of title eleven of the administrative code of the city of New York. The recording officer shall return eighty-eight percent of the revenue collected to the state office of real property services every month. All revenue collected and returned to the state office of real property services shall be deposited in the improvement of real

property tax administration account established pursuant to section ninety-seven-ll of the state finance law. The remainder of the revenue collected shall be retained by the county or by the city of New York.

NEW YORK CODES, RULES AND REGULATIONS

TITLE 9. EXECUTIVE
SUBTITLE N. OFFICE FOR TECHNOLGY
PART 540. ELECTRONIC SIGNATURES AND RECORDS ACT

9 NYCRR 540.7. Electronic Recording of Instruments Affecting Real Property.

***

(e) A notary shall perform a notarization of an instrument affecting real property that exists as an electronic record only where the signatory appears in person before the notary at the time of notarization to execute the record or to affirm a prior execution, as permitted by New York State law. The methods that a notary uses to identify a signatory shall comply with the regulations issued by the New York Department of State found in 19 NYCRR Part 182. Electronic signatures used by a notary on an instrument affecting real property shall comply with section 291-i (c) of the Real Property Law, and shall be:

(1) unique to the notary;

(2) capable of independent verification;

(3) under the notary's sole control;

(4) attached to, or logically associated with, the electronic record in such a manner that it can be determined if any data contained in the electronic record has been changed subsequent to the electronic notarization; and

(5) implemented in compliance with the regulations issued by the New York Department of State found in 19 NYCRR Part 182.

(f) A recording officer is not required to verify or authenticate electronic signatures or notarizations on an instrument affecting real property.

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Added 540.7 on 9/19/12; amended 540.7(e) on 1/10/24.

TITLE 19. DEPARTMENT OF STATE
CHAPTER V. DIVISION OF LICENSING SERVICES
SUBCHAPTER E. NOTARIES PUBLIC
PART 182. NOTARIES PUBLIC

§ 182.1 Advertising

(a) A notary public who is not an attorney licensed to practice law in the State of New York shall not falsely advertise that he or she is an attorney licensed to practice law in the State of New York or in any jurisdiction of the United States by using foreign terms including, but not limited to: abogado, mandataire, procuratore, Адвокат, 律師, and avoca.

(b) A notary public who is not an attorney licensed to practice law in the State of New York and who advertises his or her services as a notary public in a language other than English shall include in the advertisement the following disclaimer: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any

other legal matter or accept fees for legal advice." The disclaimer shall be printed clearly and conspicuously and shall be made in the same language as the advertisement. The translated disclaimer, in some but not all languages, is as follows:

(1) Simplified Chinese:

我不是有执照的律师，不能出庭辩护，不能提供有关移民事务或其他法律事务的法律建议，也不能收取法律咨询的费用。

(2) Traditional Chinese:

本人不是持牌執業律師，因此不能出庭辯護,不能向閣下提供移民及其他法律事務方面的法律意見，也不能收取法律諮詢費

(3) Spanish:

"No estoy facultado para ejercer la profesión de abogado y no puedo brindar asesoría legal sobre inmigración o ningún otro asunto legal como tampoco puedo cobrar honorarios por la asesoría legal."

(4) Korean:

저는 법을 집행할 수 있는 자격이 있는 변호사가 아니며, 이민이나 또는 다른 적법한 문제나 혹은 적법한 조언에 대한 수수료를 받을 수 있는지에 대한 법률상의 조언을 드릴수 가 없을지도 모릅니다.

(5) Haitian Creole:

MWEN PA AVOKA KI GEN LISANS POU PRATIKE LWA E MWEN PA KA BAY KONSÈY LEGAL SOU ZAFÈ IMIGRASYON OSWA NENPÒT KI LÒT ZAFÈ LEGAL OSWA AKSEPTE LAJEN POU BAY KONSÈY LEGAL.

19 CRR-NY 182.1

Current through May 15, 2021

182.2 Definitions

For purposes of this Part, the following terms have the following meanings:

(a) "Notary Public" or "Notary" means an individual who meets the qualifications set forth in section 130 of the Executive Law and has been appointed by the secretary of state pursuant to section 131 of the Executive Law to perform notarial acts in accordance with procedures outlined in article 6 of the Executive Law and this Part.

(b) "Electronic notary public" or "electronic notary" means a notary public or notary who has registered with the secretary of state the capability of performing electronic notarial acts in accordance with section 135-c of the Executive Law and this Part.

(c) "Notarial act" means any official act that a notary public is authorized to perform by law, including, but not limited to:

(1) administering oaths and affirmations;

(2) taking affidavits and depositions;

(3) receiving and certifying acknowledgments or proof of such written instruments as deeds, mortgages, powers of attorney and other instruments in writing;

(4) demanding acceptance or payment of foreign and inland bills of exchange, promissory notes and obligations in writing, and protesting the same for non-acceptance or non-payment, as the case may require;

(5) preparation of a certificate of authenticity in accordance with paragraph (d) of subdivision six of section 135-c of the Executive Law or

(6) an electronic notarial act.

(d) "Electronic notarial act" means an official act by a notary public, physically present in the state of New York, on or involving an electronic record and using

communication technology authorized by this Part.

(e) "Record" means information that is inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form. The term "record" includes an electronic record.

(f) "Electronic record" means information that is created, generated, sent, communicated, received, or stored by electronic means.

(g) "Identity verification" means the use of an authentication process by which a notary public validates the identity of any principal and/or individual present for a notarial act.

(h) "Credential analysis" means a process or service operating according to the standards adopted in this Part, through which a third-party affirms the validity of government-issued identification through review of public and proprietary data sources.

(i) "Credential service provider" means a third party trusted entity that issues or registers subscriber authenticators and issues electronic credentials to subscribers.

(j) "Identity proofing" means a process by which a credential service provider collects, validates, and verifies information about a person.

(k) "Personal appearance" means presence at a transaction for which a notarial act is required, either physically or electronically, in a manner that meets all requirements imposed by this Part.

(l) "Communication technology" means an electronic device or process that:

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

(2) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(m) "Electronic signature" has the same meaning set forth in subdivision 3 of section 302 of the State Technology Law, except that any electronic signature affixed by an electronic notary in the performance of an electronic notarial act must also meet the additional requirements outlined in this Part.

(n) "Public key infrastructure" means the architecture, organization, techniques, practices, and procedures that collectively support the implementation and operation of a certificate-based asymmetric or public/private key cryptographic system.

(o) "Public/private key or asymmetric cryptographic system" means a system by which two mathematically linked keys are generated, one a publicly available validation key and the other a private key that cannot be deduced from the public key.

(p) "Principal" means an individual:

(1) whose signature is reflected on a record that is notarized;

(2) who has taken an oath or affirmation administered by a notary public;

(3) whose signature is reflected on a record that is notarized after the individual has taken an oath or affirmation administered by a notary public; or

(4) for purposes of this Part, any individual who intends to engage in any of these acts.

182.3 Requirements for Notaries

(a) All notaries public who wish to perform notarial acts in New York State, must:

(1) satisfy the requirements of sections 130 and 131 of the Executive Law;

(2) obtain satisfactory evidence of the identity of any principal or other individual appearing before the notary in a manner authorized by this Part;

(3) require the personal appearance of all parties to any transaction for which a

notarial act is required for the duration of any such transaction, except acts performed as authorized and in conformity with this Part and section 135-c of Executive Law unless a law expressly excludes such authorization;

(4) administer any oath or affirmation as required by the law governing the transaction for which the notarial act is required and, regardless of the county of qualification, include and affix to each instrument requiring an oath or affirmation such notary public's official number;

(5) disqualify themselves from performing notarial acts for transactions in which the notary is a party or directly and pecuniarily interested in the transaction;

(6) refuse to perform a notarial act when the requirements of this Part are not met, or if the notary is not satisfied that the official record or the presented record evidences the individual's capacity to act as the representative on the record presented for notarization;

(7) maintain records as required by this Part; and

(8) within five days after a change of name, address, or e-mail address, transmit to the secretary of state a notice of the change, signed with the notary public's official signature.

(b) A notary may refuse to perform a notarial act if the notary public is not satisfied that:

(1) the principal is competent or has the capacity to execute a record; and/or

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

182.4 Additional Requirements for Electronic Notaries

(a) In addition to the requirements set forth in section 182.3 of this Part, all notaries public who wish to perform electronic notarial acts in New York State must:

(1) register the capability to notarize electronically with the secretary of state in compliance with this Part;

(2) use only those vendors or providers who comply with the standards outlined in this Part and any communication or reporting relating to those standards as required by the secretary of state;

(3) be physically located within the boundaries of New York when performing electronic notarial acts;

(4) use a network that permits location detection when performing an electronic notarial act, meaning that no action, process or device shall be used to disguise or hide the actual location from which the electronic notary is performing the electronic notarial act, and that no function on any system or device used by an electronic notary that permits location detection shall be disabled or otherwise interfered with during the performance of an electronic notarial act;

(5) affix a reliable electronic signature to electronic records. An electronic signature is reliable if it is:

(i) unique to the notary public;

(ii) attached or logically associated with an electronic record by use of a digital certificate that utilizes public key infrastructure as defined in this Part and is capable of independent verification;

(iii) retained under the notary's sole control; and

(iv) linked to the data in such a manner that any subsequent alterations to the underlying record are detectable and may invalidate the electronic notarial act;

(6) use their designated electronic signature only for the purpose of performing electronic notarial acts or as otherwise specified in this Part;

(7) ensure the remote online notarial certificate for an electronic notarial act clearly

states that the person making the acknowledgement or making the oath appeared using communication technology;

(8) for execution of any instrument in writing, if under applicable law the record may be signed with an electronic signature, confirm that such instrument is the same instrument in which the principal made a statement or on which the principal executed a signature;

(9) if the principal is located outside of the United States, verify, through verbal confirmation made by the principal in the course of the recorded electronic notarial act, that the record or subject of the notarial act:

(i) is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

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

(10) In complying with paragraph (8) of subdivision (a) of section 182.3 of this Part ensure that the notice of change is electronically transmitted to the secretary of state, signed with the notary public's designated electronic signature;

(11) for any update to the information required to be submitted by a notary public to register the capability to perform an electronic notarial act, make such update prior to performance of any electronic notarial act; and

(b) The notary public shall not disclose any access information used to affix the electronic notary's signature and seal except when requested by the secretary of state or a designee, or judicial subpoena, and with reasonable precautions, electronic document preparation and transmission vendors. Control of security aspects such as but not limited to passwords, token devices, biometrics, PINS, phrases, software on protected hardware shall remain under the sole control of the notary public.

182.5 Satisfactory Evidence of Identity

(a) For any individual signing a document who makes a personal appearance before a notary public, including but not limited to any principal seeking a notarial act, and any witness thereto, the notary must obtain satisfactory evidence of the identity of each such individual that complies with the requirements of this Part.

(b) For any individual signing a document who physically appears before a notary public, satisfactory evidence of identity requires identity verification through:

(1) presentation of the back and front of an identification card issued by a governmental agency provided the card:

(i) is valid and current;

(ii) contains the photographic image of the bearer;

(iii) has an accurate physical description of the bearer, if applicable; and

(iv) includes the signature of the bearer;

(2) at least two current documents issued by an institution, business entity, or federal or state government with at least the individual's signature;

(3) attestation by the notary that the individual is personally known to them;

(4) the oath or affirmation of a witness who is personally known to both the individual and notary; or

(5) the oath or affirmation of two witnesses who know the individual personally and provide identification that meets the requirements of paragraph (1) of subdivision (b) of this section.

(c) For any individual signing a document who appears before an electronic notary

public using communication technology, and who is not personally known to the notary public, satisfactory evidence of identity requires all of the following:

(1) identity verification as outlined in subdivision (b) of this section, utilizing communication technology that meets the requirements set forth in this Part;

(2) credential analysis that meets the requirements set forth in this Part; and

(3) identity proofing by a third-party service provider that meets the requirements set forth in this Part.

(d) Provided that all other requirements of this Part are met, attestation by an electronic notary public that an individual appearing through communication technology is personally known to them is satisfactory evidence of identity for electronic notarial acts.

182.6 Credential Analysis

Credential analysis must conform to all standards set forth in this section.

(a) Credential analysis must be performed by a third-party service provider who has provided evidence to the online notary public of the provider's ability to satisfy the requirements set forth in this rule.

(b) Credential analysis must utilize public or private data sources to confirm the validity of an identification credential and must, at a minimum:

(1) use automated software processes to aid the online notary public in verifying the identity of a remotely located individual;

(2) ensure that the identification credential passes an authenticity test, consistent with sound commercial practices that:

(i) uses technologies consistent with the requirements of this Part to confirm the integrity of visual, physical, or cryptographic security features;

(ii) uses technologies consistent with the requirements of this Part to confirm that the identification credential is not fraudulent or inappropriately modified;

(iii) uses information held or published by the issuing source or an authoritative source, as available, to confirm the validity of identification credential details; and

(iv) provides output of the authenticity test to the online notary public.

182.7 Identity Proofing

(a) Identity proofing must meet, at minimum, the Identity Assurance Level 2 standard as outlined in the Digital Identity Guidelines of the National Institute of Standards and Technology, as referenced in subdivision (b) of this section, or any industry accepted standard that is at least as secure, or more secure, than that standard.

(b) Incorporation by reference. The Identity Assurance Level 2 standard, as outlined in the Digital Identity Guidelines of the National Institute of Standards and Technology, United States Department of Commerce, document SP 800-63-3, Revision 3, dated June 2017 and includes updates as of 03-02-2020, is hereby incorporated by reference. This publication is available free of charge from: https://doi.org/10.6028/NIST.SP.800-63-3

Copies of said publication may be obtained from the publisher at the following address:

National Institute of Standards and Technology

Attn: Applied Cybersecurity Division, Information Technology Laboratory

100 Bureau Drive (Mail Stop 2000) Gaithersburg, MD 20899-2000

Email: dig-comments@nist.gov

Copies of said publication are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

182.8 Communication Technology

(a) The communication technology used to perform electronic notarial acts must:

(1) permit sufficient audio and visual clarity to enable the notary and the person(s) for whom a notarial act is requested to see and speak to each other simultaneously through live, real-time transmission throughout the duration of the notarial act, through and including identity verification, identity proofing, the signature of any parties present during the transaction and the application of the notary's signature and seal without interruption;

(2) permit sufficient visual clarity to enable the notary to view, read, and capture the front and back of any identification card presented as verification of identity;

(3) include a signal transmission secure from interception through lawful means by anyone other than the parties to the notarial act;

(4) include a process of reproduction that does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes;

(5) provide some manner of ensuring that the electronic record that is presented for electronic notarization is the same record electronically signed by the principal; and

(6) permit recording and archiving of the audio-video communication session as required by subdivision (b) of this section.

(b) The electronic notary shall keep a copy of the recording of the video and audio conference that includes at minimum:

(1) the complete notarial act, including the verification required by paragraph 9 of subdivision (a) of section 182.4 of this Part;

(2) any signatures required for completion of the notarial act; and

(3) a verbal description of the type of identification used.

The recording shall not include the discussion or display of any personally identifiable information not subject to recordkeeping requirements set forth in section 182.9 of this Part, and must be maintained for a period of at least ten years from the date of transaction.

182.9 Recordkeeping and Reporting

(a) In addition to any required video and audio conference recording, all notaries public must maintain records sufficient to document compliance with the requirements of sections 130 and 135-c of the Executive Law and the duties and responsibilities of a notary public and/or electronic notary public as outlined in this Part. Record storage may be made through a third party if safeguarded through a password or other secure means of authentication or access. Such records shall be made contemporaneously with the performance of the notarial act and must include:

(1) the date, approximate time, and type of notarial acts performed;

(2) the name and address of any individuals for whom a notarial act was performed;

(3) the number and type of notarial services provided;

(4) the type of credential used to identify the principal, including, for verification made in accordance with paragraphs (4) or (5) of subdivision (b) of section 182.5, the names of the witnesses and, if applicable, the type of credential used;

(5) the verification procedures used for any personal appearance before the notary public; and

(6) for electronic notarial acts, identification of the communication technology and, if not included as part of the communication technology used by the electronic notary, the certification authority and verification providers used.

(b) Any records maintained by a notary public pursuant to this Part must be retained

by the notary public for at least ten years.

(c) Any records retained by a notary public pursuant to this Part must be capable of being produced to the secretary of state and others as necessary in relation to the performance of the notary public's obligations pursuant to the Executive Law and this Part.

182.10 Applications, Registrations and Renewals

(a) Prior to performing any notarial acts, a notary public must be appointed and commissioned by the secretary of state for a four-year term in accordance with the requirements and procedures set forth in Executive Law sections 130 and 131 and must provide all information required by the application form prescribed by the secretary of state.

(b) No commissioned notary public may perform electronic notarial acts until they have registered the capability to notarize electronically on a form prescribed the secretary of state, including, in addition to any other information prescribed by the secretary of state, the following information:

(1) the notary's name as currently commissioned and complete mailing address:

(2) the expiration date of the notary's commission and signature of the commissioned notary;

(3) the notary's email address;

(4) the description of the electronic technology or technologies to be used in attaching the notary's electronic signature to the electronic record, which may be effectuated by registration of vendor account information from a vendor who meets the requirements of this Part, in the manner required by the department of state;

(5) an exemplar of the notary's electronic signature, which shall be provided through and in the manner required by the department of state's registration system using the notary's selected signature vendor and shall contain the notary's name and any necessary instructions, authorizations, or techniques that allow the notary's electronic signature to be read and verified.

(c) A notary public may apply for reappointment within 90 days of expiration of their commission, provided that the notary public continues to meet the requirements set forth in sections 130 and 131 of the Executive Law and this Part.

(d) When any notary public who has registered to perform electronic notarial acts applies for reappointment, the electronic notary public must provide verification of the accuracy of all information on file with the secretary of state and affirm that such notary public is otherwise in compliance with all requirements of this Part.

(e) Any notary public who has failed to comply with any of the requirements of this Part relating to notarial or electronic notarial acts shall not be eligible for reappointment.

(f) All applications for appointment and reappointment of notaries public, and all registrations of capability to perform electronic notarial acts, shall be in the form and manner prescribed by the secretary of state and provided through the department of state's division of licensing.

182.11 Fees

(a) Applicants for a notary public commission must submit a non-refundable application fee of sixty dollars, which fee shall be used and distributed in accordance with section 131 of the Executive Law.

(b) Registrants for electronic notarial acts must submit a non-refundable registration fee of sixty dollars to the secretary of state with their registration.

(c) Notaries public who wish to renew their notary public commission must pay a non-refundable fee of sixty dollars, which fee shall be used and distributed in accordance with section 131 of the Executive Law.

(d) Notary Public applicants who must take a written exam must submit a fee of fifteen dollars for each examination taken, payable on the date of the examination.

(e) The fee for change requests and Duplicate License/Registration Requests shall be ten dollars, payable to the secretary of state at the time of submission of the request.

(f) A notary public shall be entitled to a fee for notarial acts as set forth in section 136 of the Executive Law.

(g) An electronic notary public shall be entitled to a fee of twenty-five dollars for each electronic notarial act performed, which shall be inclusive of all costs incurred by the notary public.

(h) All application, renewal, and registration fees required to be paid pursuant to this section shall be transmitted in a manner prescribed by the secretary of state.