

## OREGON REVISED STATUTES

### TITLE 98 COMMERCIAL TRANSACTIONS CHAPTER 84. UNIFORM ELECTRONIC TRANSACTIONS ACT

#### **84.031 Notarization and acknowledgment.**

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

[2001 c.535 §11]

### TITLE 19 MISCELLANEOUS MATTERS RELATED TO GOVERNMENT AND PUBLIC AFFAIRS CHAPTER 194. NOTARIES PUBLIC MISCELLANEOUS MATTERS NOTARIES PUBLIC

**194.005** [1967 c.541 §12; 1983 c.393 §12a; 1989 c.976 §1; repealed by 2013 c.219 §61]

**194.010** [Amended by 1961 c.498 §1; 1967 c.541 §1; subsection (2) enacted as 1967 c.541 §8; 1975 c.161 §3; 1977 c.128 §1; 1983 c.393 §13; 1985 c.487 §1; 1989 c.976 §2; repealed by 2013 c.219 §61]

**194.012** [1989 c.976 §6; repealed by 2013 c.219 §61]

**194.014** [1989 c.976 §4; repealed by 2013 c.219 §61]

**194.020** [Amended by 1957 s.s. c.7 §1; 1967 c.541 §3; 1983 c.393 §16; 1989 c.976 §9; 1993 c.66 §10; 2009 c.745 §17; repealed by 2013 c.219 §27 (194.365 enacted in lieu of 194.020)]

**194.022** [1989 c.976 §7; 2005 c.733 §3; repealed by 2013 c.219 §61]

**194.024** [1989 c.976 §8; 1993 c.188 §14; 2011 c.547 §39; repealed by 2013 c.219 §29 (194.370 enacted in lieu of 194.024)]

**194.028** [2005 c.733 §2; repealed by 2013 c.219 §61]

**194.030** [Amended by 1961 c.498 §2; repealed by 1967 c.541 §5 (194.031 enacted in lieu of 194.030)]

**194.031** [1967 c.541 §6 (enacted in lieu of 194.030); 1983 c.393 §17; 1989 c.976 §10; 2001 c.63 §1; repealed by 2013 c.219 §61]

**194.040** [Amended by 1967 c.541 §9; 1983 c.393 §18; 1989 c.976 §11; 2011 c.359 §7; repealed by 2013 c.219 §61]

- 194.043** [1989 c.976 §5; repealed by 2013 c.219 §61]
- 194.045** [1969 c.394 §§2,3,4; 1977 c.641 §1; 1983 c.393 §19; 1989 c.976 §16; repealed by 2005 c.68 §1]
- 194.047** [1989 c.976 §13; repealed by 2013 c.219 §61]
- 194.050** [Amended by 1961 c.498 §3; 1967 c.541 §4; repealed by 1983 c.393 §26]
- 194.052** [1989 c.976 §14; repealed by 2013 c.219 §61]
- 194.060** [Repealed by 1967 c.541 §22]
- 194.063** [1967 c.541 §11; 1977 c.128 §2; 1983 c.393 §21; 1985 c.487 §2; 1989 c.976 §17; 2005 c.733 §4; repealed by 2013 c.219 §61]
- 194.067** [1967 c.541 §18; repealed by 1989 c.976 §37]
- 194.070** [Amended by 1967 c.541 §13; 1993 c.545 §123; 2009 c.123 §1; repealed by 2013 c.219 §31 (194.375 enacted in lieu of 194.070)]
- 194.080** [Repealed by 1967 c.541 §22]
- 194.090** [Amended by 1967 c.541 §14; 1993 c.545 §124; 2009 c.123 §2; repealed by 2013 c.219 §33 (194.380 enacted in lieu of 194.090)]
- 194.100** [Amended by 1967 c.541 §15; 2009 c.123 §3; repealed by 2013 c.219 §35 (194.385 enacted in lieu of 194.100)]
- 194.110** [Repealed by 1989 c.976 §37]
- 194.120** [Amended by 1961 c.498 §4; repealed by 1989 c.976 §37]
- 194.130** [Amended by 1967 c.541 §19; repealed by 2013 c.219 §37 (194.390 enacted in lieu of 194.130)]
- 194.140** [Repealed by 1989 c.976 §37]
- 194.150** [Amended by 1967 c.541 §20; 1985 c.487 §3; repealed by 2013 c.219 §39 (194.395 enacted in lieu of 194.150)]
- 194.152** [1989 c.976 §15; 2009 c.123 §4; repealed by 2013 c.219 §61]
- 194.154** [1989 c.976 §19; repealed by 2013 c.219 §61]
- 194.156** [1989 c.976 §20; repealed by 2013 c.219 §61]
- 194.158** [1989 c.976 §§21,22; repealed by 2013 c.219 §61]

**194.160** [Amended by 1967 c.541 §16; repealed by 1989 c.976 §37]

**194.162** [1989 c.976 §23; repealed by 2013 c.219 §61]

**194.164** [1989 c.976 §24; 1997 c.631 §424; 2009 c.338 §2; repealed by 2013 c.219 §41 (194.400 enacted in lieu of 194.164)]

**194.166** [1989 c.976 §25; 2009 c.123 §5; 2009 c.338 §3; repealed by 2013 c.219 §61]

**194.168** [1989 c.976 §26; repealed by 2013 c.219 §61]

**194.170** [Amended by 1983 c.393 §20; repealed by 1989 c.976 §37]

**194.180** [1961 c.91 §1; repealed by 1971 c.250 §1]

**194.190** [1983 c.506 §3; repealed by 1989 c.976 §37]

**194.200** [1983 c.506 §4; 1989 c.976 §29; repealed by 2013 c.219 §43 (194.405 enacted in lieu of 194.200)]

## **REVISED UNIFORM LAW ON NOTARIAL ACTS**

### **194.205 Short title.**

This chapter may be cited as the Revised Uniform Law on Notarial Acts. [2013 c.219 §1]

**194.210** [Repealed by 1969 c.394 §5]

### **194.215 Definitions.**

As used in this chapter:

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

(2) “Clerk of a court of this state” means:

(a) The clerk, deputy clerk or court administrator of the Supreme Court, the Court of Appeals or the Oregon Tax Court;

(b) The trial court administrator or any other nonjudicial officer or employee of the circuit court for a county who is authorized by the presiding judge for the judicial district; or

(c) A nonjudicial officer or employee of a municipal court who is authorized by a judge of the municipal court.

(3) “Commercial paper” means instruments that are within the scope of ORS chapter 73, including drafts, checks, certificates of deposit and notes.

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

(5) “Electronic signature” means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

- (6) “In a representative capacity” means acting as:
- (a) An authorized officer, agent, partner, trustee or other representative of a person other than an individual;
  - (b) A public officer, personal representative, guardian, conservator, trustee or other representative, in the capacity stated in a record;
  - (c) An agent of or attorney-in-fact for a principal; or
  - (d) An authorized representative of another in any other capacity.
- (7) “Judge” means:
- (a) Any judge of the circuit court, the Oregon Tax Court, the Court of Appeals or the Supreme Court, any Oregon Tax Court magistrate, any justice of the peace or municipal judge or any county judge who exercises judicial functions; or
  - (b) Any judge or justice of the peace pro tempore.
- (8) “Notarial act” means:
- (a) Taking an acknowledgment;
  - (b) Administering an oath or affirmation;
  - (c) Taking a verification on oath or affirmation;
  - (d) Witnessing or attesting a signature;
  - (e) Certifying or attesting a copy;
  - (f) Making, noting or recording a protest of a negotiable instrument; or
  - (g) Any other act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state.
- (9) “Notarial officer” means a notary public or other individual authorized to perform a notarial act.
- (10) “Notary public” means an individual commissioned to perform a notarial act by the Secretary of State.
- (11) “Oath” and “affirmation” mean a notarial act or part of a notarial act in which a notary public certifies that a person made a vow in the presence of the notary public on penalty of perjury.
- (12) “Official stamp” means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.
- (13) “Person” means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.
- (14) “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.
- (15) “Sign” means, with present intent to authenticate or adopt a record:
- (a) To execute or adopt a tangible symbol; or
  - (b) To attach to or logically associate with the record an electronic symbol, sound or process.
- (16) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.
- (17) “Stamping device” means:
- (a) A physical device capable of affixing to a tangible record an official stamp; or
  - (b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.
- (18) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the

jurisdiction of the United States.

(19) “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true. [2013 c.219 §2]

**194.220** [Repealed by 1969 c.394 §5]

**194.225 Authority to perform notarial act.**

(1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(2) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer’s spouse is a party, or in which either the officer or the officer’s spouse has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable. [2013 c.219 §3]

(3) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record. [2013 c.219 § 3; 2020 c.12 § 21]

**194.230 Requirements for certain notarial acts.**

(1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who takes a verification on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the declaration has the identity claimed and that the signature on the record containing the statement verified is the signature of the individual.

(3) A notarial officer who witnesses or attests a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(4) A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true and accurate transcription or reproduction of the record or item.

(5) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in ORS 73.0505. [2013 c.219 §4]

**194.235 Personal appearance required.**

If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer. [2013 c.219 §5]

**194.240 Identification of individual.**

(1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(A) A United States passport or an officially recognized passport of a foreign country, or a driver license or identification card issued under ORS 807.400 or a comparable provision in another state, that is current or that expired not more than three years before performance of the notarial act; or

(B) A military identification card, an identity card issued by a federally recognized Indian tribe or other document issued by the federal government or a state, county or local government that is current or that expired not more than three years before performance of the notarial act and that contains the signature and a photograph of the individual;

(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of:

(A) A United States passport or an officially recognized passport of a foreign country, or a driver license or identification card issued under ORS 807.400 or a comparable provision in another state, that is current or that expired not more than three years before performance of the notarial act; or

(B) A military identification card, an identity card issued by a federally recognized Indian tribe or other document issued by the federal government or a state, county or local government that is current or that expired not more than three years before performance of the notarial act and that contains the signature and a photograph of the individual; or

(c) Positively by examination or comparison of official government documents or records if the individual is confined in a correctional facility.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to confirm the identity of the individual. [2013 c.219 §6]

**194.245 Authority to refuse to perform notarial act.**

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

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

(b) The individual's signature is knowingly and voluntarily made; or

(c) The individual has provided sufficient information or identification credentials necessary to confirm the identity of the individual.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter. [2013 c.219 §7]

**194.250 Signature if individual unable to sign.**

If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import. [2013 c.219 §8]

**194.255 Notarial act in this state.**

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

(a) A notary public;

- (b) A judge of this state or a clerk of a court of this state;
  - (c) A county clerk or county employee with recording responsibilities designated by the county; or
  - (d) Any other individual authorized by the law of this state to perform the notarial act.
- (2) Notarial acts performed under ORS 194.260, 194.265, 194.270 or 194.275 have the same effect as if performed by a notarial officer of this state.
- (3) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (4) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act.  
[2013 c.219 §9]

**194.260 Notarial act in another state.**

- (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in the other state is performed by:
- (a) A notary public of the other state;
  - (b) A judge of the other state or a clerk of a court of the other state; or
  - (c) Any other individual authorized by the law of the other state to perform the notarial act.
- (2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (3) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act.  
[2013 c.219 §10]

**194.265 Notarial act under authority of federally recognized Indian tribe.**

- (1) A notarial act performed under the authority of and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:
- (a) A notarial officer of the tribe;
  - (b) A judge of the tribe or a clerk of a court of the tribe; or
  - (c) Any other individual authorized by the law of the tribe to perform the notarial act.
- (2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (3) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act.  
[2013 c.219 §11]

**194.270 Notarial act under federal authority.**

- (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:
- (a) A judge or a clerk of a court;
  - (b) An individual in military service, or performing duties under the authority of the

military service, who is authorized to perform notarial acts under federal law;

(c) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or

(d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under federal authority are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an individual described in subsection (1) of this section conclusively establish the authority of the individual to perform the notarial act. [2013 c.219 §12]

#### **194.275 Foreign notarial act.**

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

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

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

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

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office. [2013 c.219 §13]

#### **194.277 Notarial act performed for remotely located individual; rules.**

(1) As used in this section:

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

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

(B) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a visual, hearing or speech impairment.

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

(c) “Identity proofing” means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.



(d) “Outside the United States” means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States.

(e) “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection (3) of this section.

(2) A remotely located individual may comply with ORS 194.235 by using communication technology to appear before a notary public.

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

(a) The notary public:

(A) Has personal knowledge under ORS 194.240 (1) of the identity of the remotely located individual;

(B) Has satisfactory evidence of the identity of the remotely located individual by a verification on oath or affirmation from a credible witness appearing before and identified by the notary public as a remotely located individual under this section or in the physical presence of the notary public under ORS 194.240 (2); or

(C) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

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

(c) The notary public, or a person acting on behalf of the notary public, creates an audiovisual recording of the performance of the notarial act; and

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

(A) The record:

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

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

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

(4) If a notarial act is performed under this section, the certificate of notarial act required by ORS 194.280 and the short form certificate provided in ORS 194.285 must indicate that the notarial act was performed using communication technology.

(5) A short form certificate provided in ORS 194.285 for a notarial act subject to this section is sufficient if it:

(a) Complies with rules adopted under subsection (8)(a) of this section; or

(b) Is in the form provided in ORS 194.285 and contains a statement substantially as follows: “This notarial act involved the use of communication technology.”

(6) A notary public, a guardian, conservator, trustee or agent of a notary public, or a personal representative of a deceased notary public shall retain the audiovisual recording created under subsection (3)(c) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection (8)(d) of this section, the recording must be maintained for a period of at least 10 years after the recording is made.

(7) Before a notary public performs the notary public's initial notarial act under this section, the notary public shall notify the Secretary of State that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the Secretary of State has established standards under subsection (8) of this section or ORS 194.360 for approval of communication technology or identity proofing, the communication technology and identity proofing used by the notary public must conform to those standards.

(8) In addition to adopting rules under ORS 194.360, the Secretary of State may adopt rules under this section regarding the performance of a notarial act. The rules may:

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

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

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

(d) Establish standards and a period for the retention of an audiovisual recording created under subsection (3)(c) of this section.

(9) Before adopting, amending or repealing a rule governing the performance of a notarial act with respect to a remotely located individual, the Secretary of State shall consider:

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

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

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

#### **194.280 Certificate of notarial act.**

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

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

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

(c) Contain the title of office of the notarial officer;

(d) Contain the name of the person for whom the notarial act is performed; and

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

(2) The notarial officer may subsequently correct any information included on or omitted from the certificate.

(3) Except as provided in subsection (8) of this section, if a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to the certificate. If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(a) to (d) of this section, an official stamp may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection (1)(a) to (d) of this section, an official stamp may be attached to or logically associated with the certificate.

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

(a) Is in a short form set forth in ORS 194.285;

- (b) Is in a form otherwise permitted by the law of this state;
- (c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or
- (d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in ORS 194.230, 194.235 and 194.240 or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in ORS 194.225, 194.230, 194.235 and 194.240.

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

(7) If a notarial act is performed regarding a tangible record, a certificate of a notarial act must be part of or securely affixed to the record. If a notarial act is performed regarding an electronic record, the certificate must be attached to or logically associated with the electronic record. If the Secretary of State by rule has established standards pursuant to ORS 194.360 for affixing, attaching or logically associating the certificate, the process must conform to the standards.

(8) The imprint of the official stamp of a notary public is not required to effectuate a notarization of a subdivision or partition plat required under ORS 92.010 to 92.192 or a condominium plat required under ORS 100.115, or any replat, supplement or amendment thereto, if the following appear below the notary public’s signature:

- (a) The printed name of the notary public;
- (b) The words “NOTARY PUBLIC - OREGON”;
- (c) The words “COMMISSION NO.” immediately followed by the notary public’s commission number; and

(d) The words “MY COMMISSION EXPIRES” immediately followed by the date the notary public’s commission expires, expressed in terms of the month, by name not abbreviated, two-digit date and four-digit year. [2013 c.219 §14]

**194.285 Short form certificates.**

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by ORS 194.280 (1) to (3):

(1) For an acknowledgment in an individual capacity:

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

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_ by \_\_\_\_\_ (name(s) of individual(s))\_\_\_\_\_.

Signature of notarial officer: \_\_\_\_\_

Stamp (if required):

Title of office: \_\_\_\_\_

My commission expires: \_\_\_\_\_

(2) For an acknowledgment in a representative capacity:

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

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_ by (name(s) of individual(s)) \_\_\_\_\_ as (type of authority, such as officer or trustee) \_\_\_\_\_ of (name of party on behalf of whom record was executed).

Signature of notarial officer: \_\_\_\_\_

Stamp (if required):

Title of office: \_\_\_\_\_

My commission expires: \_\_\_\_\_

(3) For a verification on oath or affirmation:

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

County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me on (date) \_\_\_\_\_ by \_\_\_\_\_  
(name(s) of individual(s)) making statement.

Signature of notarial officer: \_\_\_\_\_

Stamp (if required):

Title of office: \_\_\_\_\_

My commission expires: \_\_\_\_\_

(4) For witnessing or attesting a signature:

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

County of \_\_\_\_\_

Signed (or attested) before me on (date) \_\_\_\_\_ by \_\_\_\_\_ (name(s) of  
individual(s)).

Signature of notarial officer: \_\_\_\_\_

Stamp (if required):

Title of office: \_\_\_\_\_

My commission expires: \_\_\_\_\_

(5) For certifying or attesting a copy of a record:

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

County of \_\_\_\_\_

I certify (or attest) that this is a true and correct copy of a record in the possession  
of \_\_\_\_\_.

Dated \_\_\_\_\_

Signature of notarial officer: \_\_\_\_\_

Stamp (if required):

Title of office: \_\_\_\_\_

My commission expires: \_\_\_\_\_

[2013 c.219 §15]

### **194.290 Official stamp.**

(1) The official stamp of a notary public must:

(a) Include the notary public's name, jurisdiction, commission expiration date and other information required by the Secretary of State by rule; and

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

(2) The official stamp of a notary public is an official notarial seal for all purposes under the laws of this state. [2013 c.219 §16; 2020, c.12 §23]

### **194.295 Stamping device.**

(1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device in performing a notarial act.

(2) On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration date set forth in the notary public's official stamp, the

notary public shall disable the notary public's stamping device by destroying, defacing, damaging, erasing or securing the device against use.

(3) On the death or adjudication of incompetency of a notary public, the notary public's personal representative, guardian, conservator or trustee or any other person knowingly in possession of the notary public's stamping device shall render the device unusable by destroying, defacing, damaging, erasing or securing the device against use.

(4) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative, guardian, conservator or trustee shall notify promptly the Secretary of State on discovering that the device is lost or stolen. [2013 c.219 §17]

### **194.300 Journal.**

(1) Except as provided in subsection (11) of this section, a notary public shall maintain one or more journals in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

(2) A journal may be created on a tangible medium or in an electronic format to chronicle all notarial acts, regardless of whether those notarial acts are performed for tangible or electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the Secretary of State.

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

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

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

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

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

(e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of expiration of any identification credential;

(f) The signature of each individual for whom the notarial act is performed; and

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

(4)(a) If a notary public performs notarial acts involving duplicate originals of a single statement or document for the same individual on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsection (3) of this section for each duplicate original, record a single entry in the journal for all notarial acts involving the statement or document. The entry shall set forth all the information required by subsection (3) of this section and the total number of duplicates of the statement or document notarized.

(b) If a notary public performs notarial acts involving different statements or documents for the same individual on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsection (3) of this section for each statement or document, record a single entry in the journal for all notarial acts involving the statements or documents. The entry shall set forth the number of statements or documents and the information required by subsection (3)(c) to (g) of this

section and for each statement or document the information required by subsection (3)(a) and (b) of this section. If there are duplicate originals of any statement or document, the entry shall set forth the total number of duplicates of the statement or document notarized.

(c) If a notary public performs notarial acts involving more than one statement, signature or document for the same individual but not on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsection (3)(c) to (e) of this section for each notarial act performed for that individual, record a reference to a prior entry in the notarial journal for that person. The reference shall identify the page and line numbers of the prior entry. The prior entry shall set forth the information required by subsection (3)(c) to (e) of this section.

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

(6) On expiration of, resignation from, or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section.

(7) On revocation of a notary public's commission, the notary public shall transmit the journal to the Secretary of State not later than 30 days after the date of revocation.

(8) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative, guardian, conservator or trustee or any other person knowingly in possession of the notary public's journal shall transmit the journal to the Secretary of State.

(9) A journal in the possession of a notary public who is not a public official or public employee is exempt from disclosure under ORS 192.410 to 192.505. A journal in the possession of the Secretary of State, or in the possession of a notary public who is a public official or public employee, is not exempt from disclosure under ORS 192.410 to 192.505 unless the secretary or other custodian determines that the public interest in disclosure is outweighed by the interests of the parties to a notarial act in keeping the journal record of the notarial act confidential. A determination by the secretary or other custodian under this subsection is subject to review under ORS 192.410 to 192.505.

(10) A notary public who is an employee may enter into an agreement with the employer under which the journal or journals of the notary public are retained by the employer upon termination of employment.

(11) A notary public may, but is not required to, record in a journal any information about the following notarial acts performed by, or documents notarized by, the notary public:

- (a) Recording a protest of commercial paper required under ORS 194.380;
- (b) Administering an oath or affirmation;
- (c) Certifying or attesting a copy of a document;
- (d) Taking an affidavit;
- (e) Verifying a billing statement for media advertising; and
- (f) Taking a verification upon oath or affirmation. [2013 c.219 §18]

### **194.305 Notification regarding performance of notarial act with respect to electronic records; selection of technology.**

(1) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the

notary public has not selected.

(2) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the Secretary of State that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the Secretary of State, by rule, has established standards pursuant to ORS 194.360 for approval of technology, the technology must conform to the standards. If the technology conforms to the standards, the Secretary of State shall approve the use of the technology.

(3) A county clerk may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record. [2013 c.219 §19; 2020 c. 12 §25]

**194.310** [Amended by 1961 c.498 §5; 1981 c.11 §4; 1983 c.506 §1; repealed by 1989 c.976 §37]

**194.315 Commission as notary public; qualifications; no immunity or benefit.**

(1) An individual qualified under subsection (2) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required under rules adopted by the secretary and pay the application fee described in ORS 194.365.

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

(a) Be at least 18 years of age;

(b) Be a resident of this state or have a place of employment or practice in this state;

(c) Be able to read and write English;

(d) Not have been convicted of a felony or any crime involving fraud, dishonesty or deceit during the 10-year period preceding the date of application;

(e) Not have been convicted of:

(A) Acting as or otherwise impersonating a notary public as described in ORS 194.990(1)(b);

(B) Obstructing governmental or judicial administration under ORS 162.235 (1)(b);  
or

(C) Engaging in the unlawful practice of law as described in ORS 9.160;

(f) Not have been found by a court to have:

(A) Practiced law without a license in a suit under ORS 9.166; or

(B) Engaged in an unlawful trade practice described in ORS 646.608 (1)(vvv);

(g) Not have entered into an assurance of voluntary compliance, pursuant to ORS 646.632, based on an alleged violation of ORS 646.608 (1)(vvv);

(h) Not have had a commission as a notary public revoked during the 10-year period preceding the date of application;

(i) Not be disqualified under ORS 194.340 to receive a commission;

(j) Complete the course of study described in ORS 194.325; and

(k) Have passed the examination required under ORS 194.325.

(3) Before the Secretary of State may issue a commission as a notary public, the applicant shall execute an oath of office and submit it to the secretary.

(4) Upon the applicant's compliance with this section, the Secretary of State shall issue a commission as a notary public to the applicant for a term of four years.

(5) A commission as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees of this state.

(6) Each notary public may file with the Secretary of State a statement waiving the fees specified under ORS 194.400. If a notary public files the statement waiving the fees, the office of that notary public is not considered a lucrative office.

(7) The functions of a notary public are not considered official duties under Article III, section 1, of the Oregon Constitution.

(8) A commission as a notary public is not considered a commission under Article V, section 18, of the Oregon Constitution. [2013 c.219 §20; amended by 2016 c 47 §3]

**194.320** [Amended by 1981 c.11 §5; repealed by 1989 c.976 §37]

**194.325 Examination of notary public.**

(1) An applicant for a commission as a notary public must pass an examination administered by the Secretary of State or an entity approved by the secretary. The examination must be based on the course of study described in subsection (3) of this section.

(2) Before taking the examination required under subsection (1) of this section, an applicant for a commission as a notary public who does not hold a commission in this state must complete a course of study offered by the Secretary of State or an entity approved by the secretary.

(3) The Secretary of State or an entity approved by the secretary shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures and ethics relevant to notarial acts. [2013 c.219 §21]

**194.330** [1983 c.393 §23; 1989 c.976 §30; 1993 c.66 §11; repealed by 2013 c.219 §45 (194.415 enacted in lieu of 194.330)]

**194.335** [1989 c.976 §32; repealed by 2013 c.219 §61]

**194.340 Grounds to deny, revoke, suspend or condition commission of notary public.**

(1) The Secretary of State may deny, revoke, suspend or impose a condition on a commission as a notary public for:

(a) Failure of the applicant or notary public to comply with any provision of this chapter, any rule adopted by the Secretary of State under this chapter or any other state or federal law relating to any duty required of a notary public;

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

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

(d) A conviction of the applicant or notary public for:

(A) Acting as or otherwise impersonating a notary public as described in ORS 194.990(1)(b);

(B) Obstructing governmental or judicial administration under ORS 162.235 (1)(b);  
or



- (C) Engaging in the unlawful practice of law as described in ORS 9.160;
  - (e) A finding by a court that the applicant or notary public:
    - (A) Practiced law without a license in a suit under ORS 9.166; or
    - (B) Engaged in an unlawful trade practice described in ORS 646.608 (1)(vvv);
  - (f) Entering into an assurance of voluntary compliance, pursuant to ORS 646.632, based on an alleged violation of ORS 646.608 (1)(vvv);
  - (g) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;
  - (h) Use of false or misleading advertising or representation by the notary public representing that the notary public has powers, qualifications, rights or privileges that the notary public does not have, including the power to counsel on immigration matters;
  - (i) Denial, revocation, suspension or conditioning of a commission as a notary public in another state; or
  - (j) Execution of any certificate as a notary public containing a statement known to the notary public to be false.
- (2) If the Secretary of State denies, revokes, suspends or imposes a condition on a commission as a notary public, opportunity for hearing shall be accorded as provided in ORS chapter 183 for a contested case.
- (3) The authority of the Secretary of State to deny, revoke, suspend or impose a condition on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law. [2013 c.219 §22; amended by 2016 c 47 §4]

**194.345 Database of notaries public.** The Secretary of State shall maintain an electronic database of notaries public:

- (1) Through which a person may verify the authority of a notary public to perform notarial acts; and
- (2) That indicates whether a notary public has notified the secretary that the notary public will be performing notarial acts with respect to electronic records. [2013 c.219 §23]

**194.350 Prohibited acts.**

- (1) A commission as a notary public does not authorize an individual to:
  - (a) Assist persons in drafting legal records, give advice on legal matters or otherwise practice law;
  - (b) Act as an immigration consultant as defined in ORS 9.280 or an expert on immigration matters;
  - (c) Represent an individual in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or
  - (d) Receive compensation for performing any of the activities listed in this subsection.
- (2) A notary public may not engage in false or deceptive advertising.
- (3) A notary public, other than an attorney licensed to practice law, may not use the term "notario" or "notario publico."
- (4)(a) A notary public, other than an attorney licensed to practice law, may not advertise or represent that the notary public may assist persons in drafting legal records, give advice on legal matters or otherwise practice law.

(b) If a notary public who is not an attorney licensed to practice law advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the Internet, the notary public shall include in the advertisement or representation, the following:

(A) A statement, or an alternate statement authorized or required by the Secretary of State, prominently and in each language used in the advertisement or representation: “I am not an attorney licensed to practice law. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.”

(B) The fees for notarial acts specified under ORS 194.400.

(c) If the advertisement or representation is not in the form of broadcast media, print media or the Internet and does not permit inclusion of the statement required by this subsection because of size, the statement must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(5) A notary public may not engage in the unauthorized practice of law.

(6) A notary public may not commit any act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another.

(7) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public. [2013 c.219 §24]

#### **194.355 Validity of notarial acts.**

(1) Except as otherwise provided in ORS 194.225 (2), the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer.

(2) The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the law of this state other than this chapter or federal law.

(3) This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts. [2013 c.219 §25]

#### **194.360 Rules.**

(1) Subject to ORS chapter 183, the Secretary of State may adopt rules to implement this chapter. Rules regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification.

(2) The rules may:

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

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

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

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

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

(f) Provide for the administration of the examination and the course of study under ORS 194.325; and

(g) Otherwise carry out the purposes of this chapter.

(3) In adopting, amending or repealing rules regarding the performance of notarial acts with respect to electronic records, the Secretary of State shall consider, so far as is consistent with this chapter:

(a) The most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;

(b) Standards, practices and customs of other jurisdictions that substantially enact the Revised Uniform Law on Notarial Acts; and

(c) The views of governmental officials and entities and other interested persons.  
[2013 c.219 §26]

#### **194.365 Application fee.**

(1) To defray costs incurred by the Secretary of State to process the application made under ORS 194.315, each applicant for a commission as a notary public shall pay in advance to the secretary a nonrefundable application fee not to exceed \$40.

(2) Any fee received by the Secretary of State under subsection (1) of this section shall be deposited in the State Treasury and credited to the Operating Account under ORS 56.041, and is in lieu of any fee charged under ORS 177.130. [2013 c.219 §28 (enacted in lieu of 194.020)]

#### **194.370 Investigation of applicant; consent.**

(1) For purposes described in subsection (2) of this section, upon consent of the applicant for a commission as a notary public and upon request of the Secretary of State, the Department of State Police shall furnish to the secretary any information regarding the applicant that the department may have in its possession and any information to which the department may have access, including but not limited to the Law Enforcement Data System established in ORS 181.730.

(2) The department shall provide the information described in subsection (1) of this section to assist in:

(a) Verifying the identity of an applicant for a commission as a notary public; or

(b) Determining whether the applicant has been convicted of a felony or of a lesser offense incompatible with the duties of a notary public.

(3) For purposes of receiving the information described in this section, the Secretary of State is a criminal justice agency under ORS 181.010 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555.

(4) An individual applying for a commission as a notary public is considered, upon signing the application filed under ORS 194.315, to have given the consent necessary for purposes of subsection (1) of this section. [2013 c.219 §30 (enacted in lieu of 194.024)]

#### **194.375 Protest of commercial paper.**

(1) A notary public may protest commercial paper if the notary public is:

(a) An officer or employee of a financial institution or trust company;

(b) An officer or employee of an investment company;

(c) An individual serving under the direct supervision of an officer or employee of a financial institution, trust company or investment company; or

(d) An active member of the Oregon State Bar, or an individual serving under the direct supervision of an active member of the Oregon State Bar.

(2) Each notary public who protests commercial paper shall take the actions required by ORS 73.0505.

(3) A notary public may not protest commercial paper owned or held for collection by a financial institution, trust company or investment company if the notary public is individually a party to the commercial paper.

(4) As used in this section:

(a) "Financial institution" has the meaning given that term in ORS 706.008.

(b) "Investment company" means an entity that is registered as an investment company under the federal investment company laws.

(c) "Trust company" has the meaning given that term in ORS 706.008. [2013 c.219 §32 (enacted in lieu of 194.070)]

#### **194.380 Record of protest; effect as evidence.**

Each notary public described in ORS 194.375 shall keep a record of all protests of commercial paper made by the notary public under ORS 73.0505. The record is competent evidence to prove notice of dishonor for purposes of ORS 73.0505. [2013 c.219 §34 (enacted in lieu of 194.090)]

#### **194.385 Powers of notary public connected with corporation; limitations.**

(1) A notary public who is a shareholder, director, officer, employee, member or partner of a business entity may:

(a) Take the acknowledgment of any party to any written instrument executed to or by the business entity; or

(b) Administer an oath to any other shareholder, director, officer, employee, member or partner of the business entity or to any agent of the business entity.

(2) A notary public may not take the acknowledgment of an instrument executed to or by a business entity of which the notary public is a shareholder, director, officer, employee, member or partner, if the notary public is a party to the instrument, either individually or as a representative of the business entity.

(3) As used in this section:

(a) "Business entity" means a financial institution, trust company, corporation, professional corporation, cooperative, limited liability company, nonprofit corporation, partnership, limited liability partnership or limited partnership.

(b) "Financial institution" has the meaning given that term in ORS 706.008.

(c) "Trust company" has the meaning given that term in ORS 706.008. [2013 c.219 §36 (enacted in lieu of 194.100)]

#### **194.390 Disposition of records on vacancy in office; penalty for failure to properly dispose of records or for destroying or altering records.**

(1) Whenever the office of a notary public becomes vacant, the record referred to in ORS 194.380 kept by the notary public, together with all the papers relating to such record, shall be delivered to the Secretary of State.

(2) A former notary public, or an individual designated personal representative or administrator for a deceased notary public, shall deliver the record and papers described in subsection (1) of this section to the Secretary of State not later than three months after the date the office becomes vacant or after the individual is designated personal representative or administrator.

(3) Violation of subsection (2) of this section is subject to a fine of not more than

\$500 for each violation.

(4) If any individual knowingly destroys, defaces, materially alters or conceals any record or paper of a notary public, the individual is subject to a fine of not more than \$500 and shall be liable to an action for damages by the party injured. [2013 c.219 §38 (enacted in lieu of 194.130)]

#### **194.395 Recovery and disposition of fines.**

All fines imposed under ORS 194.390 shall be recovered in a civil action in any court having jurisdiction of the action in the county where the notary public resides, is employed or is carrying on business. One-half of the amount of the fine shall be paid to the person bringing the action and one-half shall be paid to the State Treasurer to be deposited in the General Fund. [2013 c.219 §40 (enacted in lieu of 194.150)]

#### **194.400 Fees for notarial acts; collection of fees.**

(1) (1) The fee that a notary public may charge for performing a notarial act may not exceed \$10 per notarial act, except that a notary public may charge a fee not to exceed \$25 per notarial act for a notarial act performed under section 20 of this 2020 special session Act.

(2) A notary public may charge an additional fee for traveling to perform a notarial act if:

(a) The notary public explains to the person requesting the notarial act that the fee is in addition to a fee specified in subsection (1) of this section and is in an amount not determined by law; and

(b) The person requesting the notarial act agrees in advance upon the amount of the additional fee.

(3) If a notary public charges fees under this section for performing notarial acts, the notary public shall display, in English, a list of the fees the notary public will charge.

(4) A notary public who is employed by a private entity may enter into an agreement with the entity under which fees collected by the notary public under this section are collected by and accrue to the entity.

(5) A public body as defined in ORS 174.109 may collect the fees described in this section for notarial acts performed in the course of employment by notaries public who are employed by the public body. [2013 c.219 §42 (enacted in lieu of 194.164); 2020, c. 12 §30]

#### **194.405 Action for damages or injunction; attorney fees and costs; employer's liability. In addition to other remedies provided by law:**

(1) A person injured by a violation of ORS 194.350 may bring an individual action in an appropriate court to enjoin the violation and may also recover actual damages or \$200, whichever is greater. The court or the jury, as the case may be, may award punitive damages and the court may provide such equitable relief as it deems necessary or proper. In addition to any other remedies awarded by the court, the prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

(2) If the person has not brought a civil action under subsection (1) of this section, the Secretary of State or Attorney General may bring a civil action on behalf of a person injured by a violation of ORS 194.350 to enjoin the violation and may also recover actual damages or \$200, whichever is greater. The court may provide such equitable relief as it deems necessary or proper. In addition to any other remedies awarded by the court, the

prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

(3) An employer of a notary public is liable to the notary public for all damages recovered from the notary public as a result of a violation of any provision of this chapter or any rule adopted by the Secretary of State under this chapter that was coerced by threat of the employer, if the threat, such as that of demotion or dismissal, was made in reference to the particular notarial act that was the subject of the action.

(4) An action under this section must be commenced within six years after the cause of action has accrued. [2013 c.219 §44 (enacted in lieu of 194.200)]

**194.410** [Amended by 1963 c.428 §1; repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.410)]

**194.415 Attorney General to investigate or prosecute violation; payment of expenses.**

(1) If the Secretary of State believes that an alleged violation of any provision of this chapter is not being investigated or prosecuted, the secretary may direct the Attorney General to take full charge of the investigation or prosecution.

(2) If directed under subsection (1) of this section, the Attorney General shall take full charge of the investigation or prosecution and the provisions of ORS 180.070, 180.080 and 180.090 shall apply.

(3) Notwithstanding ORS 180.070 (3), expenses associated with the Attorney General's investigation or prosecution shall be paid from the Operating Account under ORS 56.041. [2013 c.219 §46 (enacted in lieu of 194.330)]

**194.420** [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.420)]

**194.425 Disposition of moneys.**

All moneys received by the Secretary of State under this chapter shall be paid into the State Treasury and credited to the Operating Account under ORS 56.041. [2013 c.219 §48 (enacted in lieu of 194.700)]

**194.430** [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.430)]

**194.435 Uniformity of application and construction.**

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact the Revised Uniform Law on Notarial Acts. [2013 c.219 §49]

**194.440 Relation to Electronic Signatures in Global and National Commerce Act.**

(1) Except as provided in subsection (2) of this section, this chapter modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq.

(2) This chapter does not:

(a) Modify, limit or supersede section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(c); or

(b) Authorize electronic delivery of any of the notices described in section 103(b) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7003(b).

[2013 c.219 §50]

**194.500** [1977 c.404 §11 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.505** [1983 c.393 §2; 1989 c.976 §33; 1997 c.185 §1; repealed by 2013 c.219 §61]

**194.510** [1977 c.404 §10 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.515** [1983 c.393 §3; 1993 c.545 §125; 1997 c.185 §2; 1999 c.59 §49; 2003 c.533 §1; 2009 c.338 §1; repealed by 2013 c.219 §61]

**194.520** [1977 c.404 §3 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.525** [1983 c.393 §4; repealed by 2013 c.219 §61]

**194.530** [1977 c.404 §4 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.535** [1983 c.393 §5; repealed by 2013 c.219 §61]

**194.540** [1977 c.404 §5 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.545** [1983 c.393 §6; repealed by 2013 c.219 §61]

**194.550** [1977 c.404 §6 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.555** [1983 c.393 §7; repealed by 2013 c.219 §61]

**194.558** [2007 c.63 §4; repealed by 2013 c.219 §61]

**194.560** [1977 c.404 §7 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.565** [1983 c.393 §8; repealed by 2013 c.219 §61]

**194.570** [1977 c.404 §8 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.575** [1983 c.393 §9; repealed by 2013 c.219 §61]

**194.578** [1999 c.333 §2; 2007 c.70 §53; repealed by 2013 c.219 §61]

**194.580** [1977 c.404 §9 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500,

93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

**194.582** [1999 c.718 §5; 2001 c.535 §29; repealed by 2013 c.219 §61]

**194.585** [1983 c.393 §11; repealed by 2013 c.219 §61]

**194.595** [1983 c.393 §12; repealed by 2013 c.219 §61]

**194.700** [1983 c.393 §15; 1993 c.66 §9; repealed by 2013 c.219 §47 (194.425 enacted in lieu of 194.700)]

## **OREGON ADMINISTRATIVE RULES**

### **DIVISION 100 NOTARIES PUBLIC**

#### **SECRETARY OF STATE, CORPORATION DIVISION DIVISION 100. NOTARIES PUBLIC**

##### **160-100-0000. Definitions**

As used in ORS 194.205 to 194.990, and OAR 160-100-0000 to 160-100-0850:

(1) “Public Records Address” shall mean postal or street address.

(2) “Days” means calendar days.

(3) “Electronic notarial signature” means an electronic signature, as defined in ORS 194.215, used by the notary to officially sign electronic records.

(4) “Notary,” as used in these rules, means “notary public.”

(5) “Oath of Office” in accordance with ORS 194.315(3), a notary public shall keep on file an Oath of Office with the Secretary of State, affirming the notary’s intent to follow the laws and constitutions of the United States of America and the State of Oregon.

(6) “Official Misconduct” means the grounds to deny, revoke, suspend, or condition the commission of a notary public, as stated in ORS 194.340.

(7) “Official Stamp” or “Official Notary Stamp” means a physical image affixed to a tangible record that can be legibly reproduced by a photographic method, and that meets the description of OAR 160-100-0100; or information required under 160-100-0100(3) that is attached to or logically associated with an electronic record. An official stamp does not include a stamping device, as defined in ORS 194.215(17). The official stamp of a notary public is an official notarial seal for all purposes under the law of this state.

(8) “Practice” means conducting a course of repeated notarizations in Oregon beyond a 30-day period.

(9) “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.

(10) “Remote online notarization” means a notarial act performed for a remotely located individual by means of communication technology.

(11) “Remote online notarization vendor” means a third-party that offers the services of a tamper-evident technology approved for remote online notarization acts.

(12) “Secretary of State” means the Corporation Division of the Secretary of State’s office.



(13) “Tamper-evident” means in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic record evident.

(14) “Venue” shall include both the jurisdiction of the Oregon notary public and the county in which the notarial act was performed.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.315, HB 4212 (2020), ORS 194.215 & ORS 194.340

History:

CORP 1-2021, amend filed 02/18/2021, effective 02/18/2021

CORP 1-2020, temporary amend filed 07/01/2020, effective 07/01/2020 through 12/27/2020

CORP 2-2014, f. 3-4-14, cert. ef. 3-6-14

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0000

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0010. Date of Mailing**

Whenever ORS Chapter 194.205 to 194.990 and OAR 160-100-0000 to 160-100-1150 require or permit a record or object to be mailed to the Secretary of State, the date of mailing shall be the date the record or object was actually received by the Secretary of State.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-2007, f. 2-15-07, cert. ef. 3-1-07

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0010

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0020. Name of Notary Public**

(1) Whenever ORS Chapter 194 and OAR 160-100-0000 to 160-100-1150 refer to the name of a notary public, the name shall be the legal name of the notary public as it appears on the notary public’s current oath of office.

(2) For the purposes of this chapter, the legal name on the applicant’s oath of office must be proven with satisfactory evidence per ORS 194.240(2). Unless proven otherwise, the name shall consist of the applicant’s first personal name (first name), additional name(s) (middle name), and surname (family or last name).

Examples: (a) Oregon Driver License reads, “John Alexander Smith” Applicant’s name on the oath must read, “John Alexander Smith.”

The applicant name may not read, “John A. Smith;” “J. Alexander Smith;” “John Smith;” “J.A. Smith;” “John Alexander;” “Smith;” “John;” “JAS;” “Alexander;” or some nickname, such as “Jack.”

(b) U.S. Passport reads, “Susan M. Jones Smith.”

Applicant’s name must read, “Susan M. Jones Smith.”

The applicant name may not read, “Susan M. J. Smith;” “Susan Jones Smith;” “Sue M Jones Smith;” or other variant.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 5-2008, f. 9-15-08 cert. ef. 10-15-08

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0020

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0030. Signature of Notary Public**

(1) Whenever ORS 194 and OAR 160-100-0000 to 160-100-1150 require or permit a notary public to sign his or her name, the notary public shall use the signature that is evidenced on the notary public's current oath of office, or, for electronic records, the electronic signature on file with the Secretary of State.

(2) For the purposes of this chapter, the legal signature on the notary public's oath of office must be proven with satisfactory evidence per ORS 194.240(2).

Statutory/Other Authority: ORS 194.240

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 5-2008, f. 9-15-08 cert. ef. 10-15-08

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0030

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0040. Administrative Services Fees**

The Secretary of State shall charge the following fees for performing the administrative services indicated:

(1) \$10 for each apostille or authentication certificate for a public official, including a notary public.

(2) \$10 for each notary public certificate of good standing.

(3) \$10 for each notarial act performed by a Corporation Division notary public.

(4) \$50 for each list of new notaries public.

(5) \$50 for each standard list of all active notaries public.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 6-2010, f. 4-27-10, cert. ef. 5-3-10

CORP 7-2009, f. 12-22-09, cert. ef. 1-1-10

CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0040

Reverted to SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

Suspended by SOS-AD 2-1992(Temp), f. & cert. ef. 2-14-92

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0100. Description of Imprint of Official Stamp**

(1) The reasonably legible imprint of an official stamp of a notary public shall contain:

(a) The state seal, as described in ORS 186.020;

(b) The following words, in descending order, centered in the official stamp to the right of the state seal:

(A) The words "Official Stamp";

(B) The printed name of the notary public;

(C) The words "Notary Public — Oregon";

(D) The words "Commission No." immediately followed by the notary public's commission number;

(E) The words "My Commission Expires", immediately followed by the notary public's commission expiration date, expressed in terms of the month (spelled-out), two-digit date, and complete year.

(2) The imprint of an official stamp of a notary public on a tangible record shall be an

imprint capable of being photocopied or reproduced.

(3) The official stamp of a notary public on an electronic record shall contain:

(a) The printed name of the notary public;

(b) The words “Notary Public — Oregon”;

(c) The words “Commission No.” immediately followed by the notary public’s commission number;

(d) The words “My Commission Expires”, immediately followed by the notary public’s commission expiration date, expressed in terms of the month (spelled-out), two-digit date, and complete year.

EXAMPLES: [Examples not included. See ED. NOTE.]

[ED. NOTE: Examples referenced are available from the agency.]

Statutory/Other Authority: ORS 194.290

Statutes/Other Implemented: ORS 194.290

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 10-2010, f. 8-30-10, cert. ef. 9-1-10

CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10

CORP 2-2010, f. 1-22-10 cert. ef. 2-3-10

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0100

Renumbered from 165-027-0010, SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

SD 7-1978, f. & ef. 8-10-78

### **160-100-0110. Use of Official Stamp**

(1) A notary public shall use the notary public’s official stamp to perform a notarial act.

(2) A notary public shall use the notary public’s official stamp

(a) For a tangible record, by placing a legible imprint of the official stamp on a notarial certificate at the time of the performance of the notarial act.

(b) For an electronic record, by attaching or logically associating it with the electronic record.

(3) A notary public shall not place an imprint of the notary public’s official stamp over any signature in a record to be notarized or in a notarial certificate, or over any writing in a notarial certificate.

(4) When a notarial certificate is on a separate piece of paper attached to the tangible record to be notarized, or when there are attachments to the tangible record to be notarized, a notary public may use one additional imprint of the notary public’s official stamp to mark for identification the tangible record or attachment, if the imprint does not make any part of the record or attachment illegible. The additional stamp will be partially stamped on the notarial certificate, and partially on the record or attachment to the notarized record.

(5) A notary public shall not use the notary public’s official stamp for any purpose other than to perform a notarial act.

(6) A notary public shall not permit any other person to use the notary public’s official stamp for any purpose.

(7) A notary public shall not use any other notary public’s official stamp or any other object in lieu of the notary public’s official stamp to perform a notarial act.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.280 & 194.360

History:

CORP 1-2020, temporary amend filed 07/01/2020, effective 07/01/2020 through 12/27/2020

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 10-2010, f. 8-30-10, cert. ef. 9-1-10  
CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10  
CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0110  
SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0120. Description of Official Stamping Device**

(1) Stamping device, as used in ORS 194.215(17) and 194.295, does not include an ink-less embosser or crimper.

(2) A stamping device must be capable of affixing or logically associating the official stamp such that the record to which the official stamp is so affixed or associated may be copied, filmed, scanned, or otherwise legibly reproduced.

Statutory/Other Authority: ORS 194.290-295

Statutes/Other Implemented: ORS 194.290-295

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 10-2010, f. 8-30-10, cert. ef. 9-1-10

CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0120

Renumbered from 165-027-0005, SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

SD 7-1978, f. & ef. 8-10-78

### **160-100-0125. Certificate of Authorization**

(1) Upon appointment as a notary public, the Secretary of State shall send to the person appointed a notarial commission certificate and a Certificate of Authorization with which the person appointed shall obtain an official stamp.

(2) Only upon presentation by the notary public of the Certificate of Authorization is a vendor authorized to provide the notary with the official stamp described in 160-100-0120 or an electronic stamp in described in 160-100-0146 .

(3) Subject to the procedures set forth under ORS 194.980, any vendor of official stamps who furnishes an official stamp to any person in violation of section (2) of this rule may incur a civil penalty in the amount of \$500 per offense.

Statutory/Other Authority: ORS 194.360, ORS 194.980

Statutes/Other Implemented: ORS 194.360

History:

CORP 1-2020, temporary amend filed 07/01/2020, effective 07/01/2020 through 12/27/2020

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

### **160-100-0130. Use of an Embosser**

(1) A notary public may use an embosser in the performance of a notarial act but only in addition to the notary public's official stamp.

(2) A notary public shall not place the embossment over any signature in a record to be notarized, or in a notarial certificate or over any writing in a notarial certificate.

(3) When a notarial certificate is on a separate piece of paper attached to the record to be notarized or when there are attachments to the record to be notarized, such as pictures, a notary public may use an embossment to mark for identification the record or attachment, if the embossment does not make any part of the record or attachment illegible.

(4) A notary public shall not use any other notary public's embosser or any other object in lieu of the notary public's official stamp to perform a notarial act.

Statutory/Other Authority: ORS 194.290 & 194.360

Statutes/Other Implemented: ORS 194.290 & 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

**160-100-0140. Notification of Secretary of State of the Use of Electronic Notarization**

(1) A notary public who wishes to perform notarial acts with respect to electronic records shall file the following information using the prescribed form with the Secretary of State before such notarization:

- (a) Commission name;
- (b) Commission number;
- (c) Public records address;
- (d) Email address;
- (e) Name of electronic notarization technology vendor;
- (f) Contact information for electronic notarization vendor;
- (g) Website for electronic notarization vendor;

(h) A statement under penalty of perjury that the method of electronic notarization meets the July 13, 2011, National Electronic Notarization Standards adopted by the National Association of Secretaries of State. For the purposes of this statement, the notary may rely on an electronic notarization vendor's declaration that the technology does meet these standards; and

(i) An exemplar of a notarized record that includes the notary's official stamp, the electronic notarial signature, and the electronic notarial certificate. The exemplar shall be a generic sample and not an actual notarized private record.

(2) The example provided in section (1) of this rule must be an electronic file submitted in a PDF format.

(3) In addition to any other technologies used in attaching the electronic notarial signature, the signature must include a graphic reproduction of the notary's handwritten signature on file with the Secretary of State.

(4) In addition to any other technologies and information the notary's official stamp, as evidenced by an official Certificate of Authorization issued by the Secretary of State, shall be logically associated with the notarial certificate and underlying record.

(5) The notice under this rule shall be emailed to the Secretary of State using the form provided to the notary public.

(6) Once information is received and approved by the Secretary of State, a confirmation will be sent to the notary to verify approval.

Statutory/Other Authority: ORS 194.305 & ORS 194.360

Statutes/Other Implemented: ORS 194.305 & HB 4212 (2020)

History:

CORP 1-2021, amend filed 02/18/2021, effective 02/18/2021

CORP 1-2020, temporary amend filed 07/01/2020, effective 07/01/2020 through 12/27/2020

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0140

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

**160-100-0146. Notification of Secretary of State of the Use of Remote Online Notarization**

A commissioned Notary Public may apply to the Secretary of State to perform remote online notarizations using communication technology after completing the required Remote Online Notarization training and receiving acknowledgment from the Secretary of State.

(1) A notary public who wishes to perform notarial acts with respect to remote online notarization shall file the following information using the prescribed form with the

Secretary of State before such notarization:

- (a) Commission name;
- (b) Commission number;
- (c) Public records address;
- (d) Email address;
- (e) Name of remote online notarization vendor(s);
- (f) Contact information for remote online notarization vendor(s);
- (g) Website for remote online notarization vendor(s);
- (h) Attached copy of electronic stamp and signature as generated by the remote online notarization vendor; and

(i) A statement under penalty of perjury that the technology and method of remote online notarization meets the system requirements in this chapter. For the purposes of this statement, the notary may rely on a remote online notarization vendor's declaration that the technology and method does meet these standards.

(2) Once information is received and approved by the Secretary of State, a confirmation will be sent to the notary to verify approval.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: HB 4212 (2020)

History:

CORP 1-2021, adopt filed 02/18/2021, effective 02/18/2021

### **160-100-0150. Certificate of Authorization**

(1) A Certificate of Authorization to obtain a stamp will be emailed to the notary in PDF form upon the acceptance of the notary's Oath of Office by the Secretary of State.

(a) In order to obtain a stamp for tangible and electronic records, the Certificate of Authorization shall be submitted by the notary to the stamp vendor, so that the vendor will know:

- (A) The notary is commissioned by the State of Oregon
- (B) The requirements of the stamp, and
- (C) The commission information required to be on the stamp.

(b) Except as provided in (1)(a), the notary public shall be required to keep the Certificate of Authorization secure from access by non-authorized persons.

(2) A notary public whose Certificate of Authorization to Obtain a Stamp is lost, misplaced, destroyed or otherwise unavailable may file with the Secretary of State a written request, under oath or affirmation, for a replacement Certificate of Authorization.

(3) The request shall set forth:

- (a) A statement of whether the Certificate of Authorization is lost, misplaced, destroyed or in some other manner made unavailable;
- (b) An explanation of how the Certificate of Authorization became unavailable;
- (c) The date the notary public discovered that the Certificate of Authorization was unavailable;

(d) If lost or misplaced, a statement that the notary public does not possess the Certificate of Authorization and does not know who possesses it or where it is located;

(e) A request that the Secretary of State issue a new Certificate of Authorization to the notary public.

(4) The Secretary of State shall issue a replacement Certificate of Authorization to the notary public.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0150

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

**160-100-0160. Notification of Secretary of State That Stamping Device is Unavailable**

(1) A notary public whose stamping device is lost, misplaced or stolen shall personally deliver or mail to the Secretary of State a written statement, under oath or affirmation, within ten days after the date the notary public discovers that the stamping device was lost, misplaced, stolen or is otherwise unavailable.

(2) The statement shall include:

(a) A statement of whether the stamping device is lost, misplaced, stolen or is otherwise unavailable;

(b) The date the notary public discovered that the official stamping device was unworkable;

(c) A statement that the notary public does not possess the stamping device and does not know who possesses it or where it is located;

(d) A statement that if the notary public subsequently reacquires possession of the lost, misplaced or stolen stamping device, then the notary public shall file a statement with the Secretary of State within ten days after the date the notary public reacquires possession of the lost, misplaced, or stolen stamping device;

(e) A request that the Secretary of State issue a replacement Certificate of Authorization to the notary public.

(3) If a notary public subsequently reacquires possession of a lost, misplaced, or stolen stamping device, then the notary public shall file with the Secretary of State a written statement of explanation within ten days after the date the notary public reacquires possession of the lost, misplaced or stolen stamping device.

Statutory/Other Authority: ORS 194.295 & 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0160

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

**160-100-0170. Notification of Secretary of State of Change in Information**

(1) A notary public must notify the Secretary of State within 30 days of any change in the information on file with the Secretary of State, including the notary's:

(a) Legal Name

(b) Official Signature

(c) Public Records Address

(d) Electronic notarization technology, in accordance with OAR 160-100-0140.

(e) State of residency

(f) Place of employment or practice in Oregon, if not a resident.

(2) When a notary public changes the Legal Name on file with the Secretary of State, a notarized statement evidencing the name change must be submitted, using the form prescribed by the Secretary of State.

(3) When a notary public changes the Legal Signature on file with the Secretary of State, a notarized statement evidencing the signature change must be submitted, using the form prescribed by the Secretary of State.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2020, minor correction filed 07/20/2020, effective 07/20/2020

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2005, f. & cert. ef. 11-1-05

### **160-100-0200. Form and Content of Notarial Journal**

A paper notarial journal of a notary public may be in any form that meets the physical requirements set out in this rule and the entry requirements set out in section 18(3), chapter 219, Oregon Laws 2013:

(1) The cover and pages inside the cover shall be bound together by any binding method that is designed to prevent the insertion or removal of the cover or a page;

(2) Each page shall be consecutively numbered from the beginning to the end of the journal. If a journal provides two pages on which to record the required information about the same notarial act, then both pages may be numbered with the same number or each page may be numbered with a different number. A page number shall be preprinted;

(3) Each line(or entry if the journal is designed with numbered entry blocks) shall be consecutively numbered from the beginning to the end of the page. If a line extends across two pages, the line shall be numbered with the same number on both pages. A line or entry number shall be preprinted;

(4) A notarial journal of a notary public shall contain on the inside of the front cover or on the first page the following information in any order:

(a) The name of the notary public;

(b) The notary public's commission number;

(c) The notary public's commission expiration date;

(d) The notary public's residence or business street or mailing address;

(e) The earliest date the journal may be destroyed, which shall be ten years after the date of the last act chronicled in the journal;

(f) One of the following statements:

(A) That, in the event of the decease of this notary public, the journal shall be delivered or mailed to the Secretary of State; or

(B) That, in the event the notary public has entered into a written agreement with his/her employer pursuant to OAR 160-100-0360, the date such written agreement was entered into, the name and address of the employer and instructions that the journal shall be delivered or mailed to the employer in the event of the decease of the notary public.

(g) The meaning of any not commonly abbreviated word or symbol used in recording a notarial act in the notarial journal;

(h) The signature of the notary public;

(i) At the respective time of entry, the dates of the first and last notarial acts recorded in the notarial journal.

EXAMPLE: First entry on July 6, 2009, last entry on January 7, 2013.

(5) If a notary public's name, commission number, commission expiration date, or address that is written in the notarial journal changes before the notary public ceases to use the notarial journal, the notary public shall draw a single line through the old information and write the new information to the side of the old information.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 2-2007, f. 12-14-07 cert. ef. 1-15-08



### **160-100-0210. Form and Content of an Electronic Notarial Journal**

- (1) A notary may record an electronic notarization in a paper notarial journal, an electronic notarial journal, or both.
- (2) In an electronic notarial journal, the signature of the signer must be:
  - (a) Attached to or logically associated with the electronic notarial journal.
  - (b) Linked to the data in such a manner that any subsequent alterations to the electronic notarial journal entry are detectable and may invalidate the electronic notarial journal entry.
- (3) Entries from the notarial journal must be available upon demand by the Secretary of State in a PDF format.
- (4) If submission of the notarial journal is required under these rules, the electronic notarial journal must be submitted in a single PDF file.
- (5) Actions completed as part of a remote online notarization act must be recorded in an electronic notary journal, which may be provided by the remote online notarization vendor.
- (6) Each entry in any electronic journal shall meet the requirements under ORS 194.300.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300 & HB 4212 (2020)

History:

CORP 1-2021, amend filed 02/18/2021, effective 02/18/2021

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2008, f. 4-15-08, cert. ef. 5-1-08

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0210

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0215. Storage of Electronic Notarial Journal**

- (1) The records of a notary public shall remain within the exclusive control of the notary public at all times. The notary must ensure that records of remote online notarizations are retained in compliance with ORS 194.300.
- (2) Records of a remote online notarization shall be maintained electronically in devices that are capable of recording the information required by OAR 160-100-0210 and OAR 160-100-0850.
- (3) A remote online notary public may contract with a remote online notarization vendor to provide such storage if the remote online notarization vendor:
  - (a) has provided reasonable evidence to the remote online notary public that it is capable of providing such services; and
  - (b) provides complete access to the remote online notary public of all the remote online notary's records for an agreed period of time. If the contract between the remote online notary public and the remote online notarization vendor is terminated, all records must be transferred to the remote online notary public.

Statutory/Other Authority: ORS 194.360 & ORS 194.300

Statutes/Other Implemented: HB 4212 (2020)

History:

CORP 1-2021, adopt filed 02/18/2021, effective 02/18/2021

### **160-100-0220. Notification of Secretary of State of Lost or Stolen Journal**

- (1) A notary public whose notarial journal is lost, misplaced, destroyed or otherwise

unusable may file a written notice, under oath or affirmation, with the Secretary of State.

(2) The notice shall set forth:

(a) A statement of whether the notarial journal is lost, misplaced, destroyed or in some other manner made unusable;

(b) An explanation of how the notarial journal became unusable.

(c) The date the notary public discovered that the notarial journal was unusable.

(d) A statement that the notary public does not possess the notarial journal and does not know who possesses it or where it is located.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0220

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0230. Additional Notarial Acts That May Be Recorded in Notarial Journal**

A notary public may, but is not required to, record in a notarial journal any information about the following notarial acts performed or records notarized by the notary public:

(1) Administering an oath or affirmation;

(2) Certifying or attesting a copy of a record;

(3) Affidavits;

(4) Billing statements for media advertising;

(5) Protests of commercial paper (to be recorded as provided in ORS 194.090 and 73.0505).

(6) Verifications upon oath or affirmation.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0230

SOS-AD 1-1991, f. & cert. ef. 1-7-91

Reverted to SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

SOS-AD 3-1990(Temp), f. & cert. ef. 7-2-90

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0240. Information Required to Be Recorded in Record of Protests**

A notary public shall maintain a record of information about each protest of commercial paper performed by the notary public consisting of copies of source originals.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0240

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0301. Disposition of Notarial Records Upon Suspension of Commission**

(1) A notary public whose commission was suspended shall arrange for the storage of his/her notarial records, except records of protests of commercial paper (see OAR 160-100-0350), in any form and at any location. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall store such records for a period of ten years after the date of

the last act chronicled in the journal. After the ten-year period, the notary public may destroy such records.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 4-2010, f. 2-22-10, cert. ef. 3-1-10

### **160-100-0310. Disposition of Notarial Records Upon Termination of Commission Due to Resignation**

(1) A notary public whose commission was terminated because of resignation shall arrange for the storage of his/her notarial records, except records of protests of commercial paper (see OAR 160-100-0350), in any form and at any location. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall store such records for a period of 10 years after the performance of the last Notarial act. After the ten-year period, the notary public may destroy such records.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0310

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0320. Disposition of Notarial Records Upon Termination of Commission Due to Expiration**

(1) A notary public whose commission was terminated because of expiration, and who has not applied for a new commission within 30 days after the date of termination, shall arrange for the storage of his/her notarial records, except records of protests of commercial paper (see OAR 160-100-0350), in any form and at any location. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall store such records for a period of 10 years after the performance of the last Notarial act. After the ten-year period, the notary public may destroy such records.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0320

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0330. Disposition of Notarial Records Upon Termination of Commission Due to Revocation**

(1) A notary public whose commission was terminated because of revocation shall file his/her notarial records with the Secretary of State within 30 days after the date of revocation.

(2) At the same time that the notary public files such records with the Secretary of State, a notary public shall file with the Secretary of State the notary public's official stamping device.

(3) The Secretary of State shall store such records for a period of ten years after the date of revocation. After the ten-year period, the Secretary of State may destroy such records. The Secretary of State shall destroy the official stamping device.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0330

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0340. Disposition of Notarial Records Upon Termination of Commission Due to Death or Incompetency**

(1) After the termination of a notary public's commission as a result of death, or the adjudication of incompetency, the notary public's personal representative, guardian, conservator, or trustee shall file the notary public's notarial records with the Secretary of State, unless the notary public entered into a written agreement with his/her employer pursuant to OAR 160-100-0360.

(2) The personal representative, guardian, conservator, or trustee may file a statement with the Secretary of State. The statement may include:

(a) The name of the notary public;

(b) The notary public's commission number;

(c) The notary public's commission expiration date;

(d) The cause of termination of the notary public's commission, i.e., the notary public is deceased;

(e) The notary public's date of death.

(3) At the same time that the notary public's personal representative, guardian, conservator, or trustee files such record and statement with the Secretary of State, the notary public's personal representative, guardian, conservator, or trustee shall render the notary public's official stamping device unusable by destroying, defacing, damaging, erasing the device or securing it against use.

(4) The Secretary of State shall store such records for a period of ten years after the date of the last act chronicled in the journal. After the ten-year period, the Secretary of State may destroy such records.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0340

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0350. Record of Protests of Commercial Paper**

(1) A notary public whose commission terminates because of expiration, resignation or revocation, shall file his/her records of protests of commercial paper and any other notarial record relating only to protests of commercial paper with the Secretary of State within 30 days after the date of termination.

(2) At the same time that the notary public files such records with the Secretary of State, a notary public shall file a statement with the Secretary of State. The statement shall include:

(a) The name of the notary public;

(b) The notary public's commission number;

- (c) The notary public's commission expiration date;
  - (d) The cause of termination of the notary public's commission, i.e., expiration, resignation or revocation;
  - (e) The notary public's commission termination date.
- (3) The Secretary of State shall store such records for a period of ten years after the date of termination. After the ten-year period, the Secretary of State may destroy such records.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0350

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0360. Notary Public's Responsibilities When Agreement Has Been Entered Into with Employer**

A notary public who has entered into an agreement with his or her employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.300 shall retain a written copy of the agreement which may be examined by the Secretary of State upon request. The agreement shall contain at least the following information:

- (1) Date agreement was entered into;
- (2) Names of parties to agreement;
- (3) Terms of agreement, including retention of records by the employer for a period not less than ten years after the date of the last act chronicled in the journal;
- (4) Signatures of all parties to agreement.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0360

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0400. Maximum Amount of Notary Fees Permitted to be Charged**

(1) Notwithstanding section 2 of this rule, a notary public shall not charge, attempt to charge, or receive a notary fee that is more than \$10 per notarial act.

(2) In accordance with ORS 194.400(2)(a)(b) and 194.400(3), a notary may also charge a fee for traveling to perform a notarial act.

(3) A notary public performing a remote online notarization shall not charge, attempt to charge, or receive a notary fee that is more than \$25 per notarial act.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.400 & HB 4212 (2020)

History:

CORP 1-2021, amend filed 02/18/2021, effective 02/18/2021

CORP 1-2020, temporary amend filed 07/01/2020, effective 07/01/2020 through 12/27/2020

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 7-2009, f. 12-22-09, cert. ef. 1-1-10

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0400

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0410. Displaying List of Notary Fees**

A notary public who charges a fee for a notarial act shall either display a list, in English,

of notary fees specified in OAR 160-100-0400 in a conspicuous location in the notary public's place of business or give a copy of the notice to any person requesting a notarial act to read before having the notarial act performed. A place of business is the notary public's residence, business office or any other location in which the notary public performs a notarial act.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300 & 194.400

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0410

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0420. Filing Statement of Waiver of Notary Fees; Withdrawing Statement of Waiver**

(1) A notary public may file with the Secretary of State a statement waiving the right to charge a notary fee.

(2) If a notary public files a written statement of waiver, then the notary public shall:

(a) Not charge, attempt to charge or receive any notary fee for a notarial act performed after the date the notary public filed the statement of waiver;

(b) Not display a list of notary fees otherwise required by OAR 160-100-0410.

(3) If a notary public who has filed a statement of waiver wants to charge a fee to perform a notarial act, then notary public shall file with the Secretary of State a written statement withdrawing the statement of waiver and shall comply with the requirements of OAR 160-100-0400 and 160-100-0410.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300 & 194.400

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0420

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0430. Filing Complaint Against Notary Public; Investigation of Notary Public by Secretary of State**

(1) A person may file a complaint against a notary public with the Secretary of State. A complaint shall be submitted on the standard form provided by the Secretary of State, signed and dated by the person filing the complaint. A complaint that does not comply with the requirements of this section shall not be filed, responded to or acted upon by the Secretary of State.

(2) The Secretary of State may commence an investigation of a notary public as a result of information received from any source.

(3) Complaint forms received by the Secretary of State are not exempt from disclosure under Public Records Law, and shall be available to the accused notary public and others under ORS 192.410 to 192.505.

(4) Notwithstanding section (3), personal information of the complainant revealed in a notary public complaint shall not be disclosed if:

(a) The complainant can show that public disclosure thereof would constitute an unreasonable invasion of privacy, unless;

(b) In the determination of the Secretary of State, the public interest by clear and convincing evidence requires disclosure in the particular instance.

(c) "Personal information" shall, in this context, include but not be limited to the

residence address, phone number and identifying information, such as Social Security Number, or driver's license. The name of the complainant and incidental information do not fall within the definition of "personal information."

(5) An investigation of the Secretary of State under sections (1) and (2) of this rule may include:

- (a) An initial request for information from the accused notary;
- (b) A copy of the complaint forwarded to the accused; and
- (c) A request for supporting documentation and other sources of information.

(6) A notary, upon request by the Secretary of State, shall disclose the contents of the notary's journal or journals, or any parts thereof, as part of the investigative process. The notary shall provide accurate, true and complete copies of the requested information, and/or shall provide the journal in question for examination by the Secretary of State.

(7) Upon a finding by the Secretary of State, copies of the finding shall be mailed to the complainant and the accused.

(8) Failure of an accused notary to comply with Secretary of State investigation directives shall result in revocation of the commission, subject to the provisions of ORS 183.413 to 183.470.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-2001, f. 6-14-01, cert. ef. 7-1-01

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0430

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0500. Notification of Secretary of State of Conviction**

Within 30 days of the notification of conviction of any felony or crime involving fraud, dishonesty or deceit by a notary public, the Secretary of State shall conduct an investigation of the notary public, in accordance with OAR 160-100-0430(2)-(8).

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0500

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0510. Conviction of a Lesser Offense Incompatible with the Duties of a Notary Public**

"...(A) crime involving fraud, dishonesty or deceit" as cited ORS 194.340 and OAR 160-100-0610(9) shall mean having been convicted in any court of the State of Oregon or any other state or federal jurisdiction of one of the crimes listed below or any comparable crime:

- (1) 162.075 — False swearing;
- (2) 162.085 — Unsworn falsification;
- (3) 162.235 — Obstructing governmental or judicial administration;
- (4) 162.295 — Tampering with physical evidence;
- (5) 162.305 — Tampering with public records;
- (6) 162.335 — Compounding a felony;
- (7) 162.355 — Simulating legal process;
- (8) 162.365 — Criminal impersonation;

- (9) 162.375 — Initiating a false report;
- (10) 162.385 — Giving false information to police officer for a citation;
- (11) 162.425 — Misuse of confidential information;
- (12) 165.007 — Forgery in the 2nd degree;
- (13) 165.017 — Criminal possession of a forged instrument in the 2nd degree;
- (14) 165.037 — Criminal simulation;
- (15) 165.042 — Fraudulently obtaining a signature;
- (16) 165.080 — Falsifying business records;
- (17) 165.095 — Misapplication of entrusted property;
- (18) 165.100 — Issuing a false financial statement;
- (19) 165.102 — Obtaining execution of documents by deception;
- (20) Any conviction of the offenses listed in ORS 194.990;
- (21) Any other offense of a similar nature to the above listed crimes involving fraud, dishonesty or deceit.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.340

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0510

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0600. Refusal to Issue, Revocation, Suspension, Civil Penalties and Official Warning**

(1) OAR 160-100-0610 identifies official misconduct, as defined in section 22, chapter 219, Oregon Laws 2013 and names sanctions that may be taken by the Secretary of State for first acts of official misconduct, including refusing to issue, revoking, or suspending a commission, assessing a civil penalty, or issuing an official warning.

(2) The Secretary of State may assess increasingly severe sanctions up to and including a \$1500 civil penalty and revocation of a notary public’s commission, where applicable, for:

- (a) Failure to correct or cease official misconduct within time periods specified by the Secretary of State in a final order (final notice of assessment) or Official Warning letter;
- (b) A repeated act or acts of official misconduct which occur subsequent to any previous sanction assessed by the Secretary of State for the same type of misconduct;
- (c) Accumulation of more than one different notary misconducts occurring during a seven-year period.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.980

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0600

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0610. Conduct Which Constitutes Official Misconduct**

The following conduct constitutes official misconduct, as defined in ORS 194.340, for purposes of refusing to issue, revoke or suspend a notary public’s commission, assessing a civil penalty against a person pursuant to 194.980, or issuing an Official Warning to Cease Violation to a person pursuant to 194.985:

Relating to the Notary Public Status

- (1) A person performed a notarial act within the state of Oregon when the person was



not commissioned as a notary public or was otherwise authorized by statute. See ORS 194.990. Sanction for First Act of Misconduct: Refuse to commission or Class B Misdemeanor or both.

(2) A notary public performed a notarial act in another state pursuant to the authority of the notary public's Oregon commission. See ORS 194.260. Sanction for First Act of Misconduct: Official warning.

(3) A notary public performed a notarial act using a name other than the current commission name on file with the Secretary of State. See OAR 160-100-0020. Sanction for First Act of Misconduct: Official warning.

(4) A notary public made a representation that the notary public had powers, qualifications, rights or privileges that the notary public did not have. See ORS 194.340. Sanction for First Act of Misconduct: \$500 civil penalty.

(5) A notary public failed to maintain the qualifications to be a notary public required under ORS 194.340. See ORS 194.340. Sanction for First Act of Misconduct: Revocation of commission.

(6) A notary public purports to be a citizen of a country other than one officially recognized by the United States Department of State. See ORS 194.350. Sanction for First Act of Misconduct: Official warning.

Relating to Disqualifying Interest, Fraud, Dishonesty or Deceit

(7) A notary public or notary public applicant made a substantial and material misstatement or omission of fact in an application submitted to the Secretary of State. See ORS 194.340. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(8) A notary public committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another. See ORS 194.350. Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(9) A notary public or notary public applicant was convicted of a felony, or of any crime involving fraud, dishonesty or deceit. See ORS 194.340. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(10) A notary public or a notary public applicant had a finding against, or admission of liability in any legal proceeding or disciplinary action based on the notary's or applicant's fraud, dishonesty or deceit. See ORS 194.340. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(11) A notary public was judicially determined to be liable for damages in a suit for fraud or misrepresentation or in a suit for failing to discharge fully and faithfully the duties as a notary public. See ORS 194.340. Sanction for First Act of Misconduct: Revocation of commission.

(12) A notary public notarized a record in which the notary public or the notary public's spouse is a party. See ORS 194.225. Sanction for First Act of Misconduct: Official warning.

(13) A notary public notarized a record in which the notary public or the notary public's spouse has a direct beneficial interest. See ORS 194.225. Sanction for First Act of Misconduct: Official warning.

(14) A notary public performed an acknowledgment of an instrument executed to or by a business entity of which the notary public was a shareholder, director, officer, employee, member or partner at the time of the notarization when the notary public was a party to the record either in an individual or representative capacity. See ORS 194.385.

Sanction for First Act of Misconduct: Official warning.

(15) A notary public engaged in the unauthorized practice of law. See ORS 194.350. Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

#### Relating to Advertisement

(16) A notary public used a false or misleading advertisement in which the notary public represented that the notary public had powers, qualifications, rights or privileges that the office of notary public does not have, including but not limited to the power to counsel on immigration matters. See ORS 194.350. Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(17) A notary public endorsed or promoted a product, service, contest or other offering by using the notary public's title or official stamp. See ORS 194.340. Sanction for First Act of Misconduct: \$500 civil penalty.

(18) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement the statement: "I am not an attorney licensed to practice law. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." See ORS 194.350. Sanction for First Act of Misconduct: Official warning.

(19) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement a list of notarial fees specified in ORS 194.350. Sanction for First Act of Misconduct: Official warning.

(20) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not display the statement and list of notarial fees required by ORS 194.350 in a conspicuous place in the notary public's place of business. See ORS 194.350. Sanction for First Act of Misconduct: Official warning.

(21) A notary public, other than an attorney licensed to practice law, used the term "notario publico" or "notario" in reference to the notary. See ORS 194.350. Sanction for First Act of Misconduct: Official warning.

#### Relating to Proper Notification of the Secretary of State

(22) A notary public did not deliver or mail to the Secretary of State a written notice of change of name within 30 days after the date the notary public's name changed. See ORS 194.340(1)(a) and OAR 160-100-0170. Sanction for First Act of Misconduct: Official warning.

(23) A notary public did not deliver or mail to the Secretary of State a written notice of change of address within 30 days after the date the notary public changed the notary public's public records address or employer's address or both. See ORS 194.340(1)(a) and OAR 160-100-0170. Sanction for First Act of Misconduct: Official warning.

(24) A notary public, whose official stamp device was lost, misplaced, or stolen, did not personally deliver or mail to the Secretary of State a written notice of that fact within ten days after the date the notary public discovered that the notary public's official stamp device was lost, misplaced, or stolen. See ORS 194.340(1)(a) and OAR 160-100-0160(1). Sanction for First Act of Misconduct: Official warning.

(25) A notary public who subsequently reacquired possession of a lost, misplaced or stolen official stamp device did not file with the Secretary of State a written statement of explanation within ten days after the date the notary public reacquired possession of the

lost or misplaced official stamp. See ORS 194.340(1)(a) and OAR 160-100-0160.  
Sanction for First Act of Misconduct: Official warning.

#### Relating to Vacancy of Office

(26) A notary public whose commission was terminated because of expiration and who was not recommissioned did not arrange for the storage of his/her notarial records. See ORS 194.300 and 194.340. Sanction for First Act of Misconduct: Official warning.

(27) A notary public whose commission was terminated because of expiration did not destroy the notary public's official stamp device. See ORS 194.295 and 194.340. Sanction for First Act of Misconduct: Official warning.

(28) A notary public whose commission was terminated because of resignation did not arrange for the storage of his/her notarial records. See ORS 194.300 and 194.340. Sanction for First Act of Misconduct: Official warning.

(29) A notary public whose commission terminated because of resignation did not destroy the notary public's official stamp device. See ORS 194.295 and 194.340. Sanction for First Act of Misconduct: Official warning.

(30) A notary public whose commission terminated because of revocation did not file his/her notarial records with the Secretary of State. See ORS 194.300 and 194.340. Sanction for First Act of Misconduct: \$500.

(31) A notary public whose commission terminated because of revocation did not file the notary public's official stamp device with the Secretary of State. See ORS 194.295 and 194.340. Sanction for First Act of Misconduct: \$500.

(32) A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the notary public's record of protests and any other notarial records relating only to protests of commercial paper in accordance with OAR 160-100-0350 within 30 days after the date of termination. See ORS 194.340 and 194.390. Sanction for First Act of Misconduct: Official warning.

#### Relating to Identity and Appearance

(33) A notary public did not determine either from personal knowledge or from satisfactory evidence as defined in ORS 194.240 that the person acknowledging a record in the presence of the notary public was the person whose signature was on the record. See ORS 194.230 and 194.340. Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(34) A notary public did not determine either from personal knowledge or from satisfactory evidence as defined in ORS 194.240 that the person verifying a statement by oath or affirmation in the presence of the notary public is the person whose signature was on the statement. See ORS 184.230 and 184.340. Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(35) A notary public did not determine either from personal knowledge or from satisfactory evidence as defined in ORS 194.240 that the signature on a record was the signature of the person signing the record in the presence of the notary public and named in the record. See ORS 194.230 and 194.340. Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(36) A notary public did not determine that the copy of a record presented to the notary public was a full, true and accurate transcription or reproduction of the record or item. See ORS 194.240 and 194.340. Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(37) A notary public did not require the physical presence of the signer at the time of

notarization of a signature executed on a record. See ORS 194.235 and 194.240. Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and/or a \$500 civil penalty.

#### Relating to Notarial Certificate

(38) A notary public did not evidence a notarial act, as defined in ORS 194.215, by issuing a certificate of notarial act. See ORS 194.280 and 194.340. Sanction for First Act of Misconduct: Official warning.

(39) A notary public did not include one or more of the following elements of the certificate of notarial act: the signature of the notary public, the title of the notary public, the date the notary public's commission expires, the date the notary public performed the notarial act, the venue in which the notarial act was performed, the official stamp of the notary public and the actions of the notary public sufficient to meet the requirements of the notarial act. See ORS 194.280 and 194.340. Sanction for First Act of Misconduct: Official Warning.

(40) A notary public did not evidence a notarial act by a certificate of notarial act in a form permitted or prescribed by a law of the United States or of the State of Oregon or in a form designed by the notary public that describes the acts of the notary public and such acts meet all of the requisite elements of the notarial act. See ORS 194.285 and 194.340. Sanction for First Act of Misconduct: Official warning.

(41) A notary public, through error or negligence, executed a notarial certificate that contained false information. See ORS 194.285 and 194.340. Sanction for First Act of Misconduct: Official Warning.

(42) A notary public executed a notarial certificate that contained a statement known to the notary public to be false. See ORS 194.344. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

#### Relating to Stamp and Stamp Device

(43) A notary public used an official stamp that did not conform to ORS 194.290 and OAR 160-100-0100 to perform a notarial act. See ORS 194.340. Sanction for First Act of Misconduct: Official warning.

(44) A notary public used the notary public's official stamp for a purpose other than to perform a notarial act. See ORS 194.340. Sanction for First Act of Misconduct: Official warning.

(45) A notary public did not use the notary public's official stamp in performing a notarial act. See ORS 194.280 and 194.340. Sanction for First Act of Misconduct: Official warning.

(46) A notary public used as an official stamp device an object that was not a stamp device, or was a stamp device but the device was made of a substance that was incapable of making a legible imprint on paper or was incapable of making an imprint that could be legibly reproduced under a photographic method. See ORS 194.280 and 194.340. Sanction for First Act of Misconduct: Official warning.

(47) A notary public used the notary public's official stamp device to perform a notarial act but placed the official stamp over a signature in a record to be notarized or in a notarial certificate or over any writing in a notarial certificate. See ORS 194.295, 194.340 and OAR 160-100-0110. Sanction for First Act of Misconduct: Official warning.

(48) A notary public permitted another person to use the notary public's official stamp device. See ORS 194.285, 194.340 and OAR 160-100-0110. Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days or \$500 civil penalty or both.

(49) A notary public used another notary public's official stamp device, or an object in lieu of the notary public's official stamp device, to perform a notarial act. See ORS 194.285, 194.340 and OAR 160-100-0110(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days or \$500 civil penalty or both.

(50) A notary public used an embosser in lieu of the notary public's official stamp. See ORS 194.280, 194.340 and OAR 160-100-0130(1). Sanction for First Act of Misconduct: Official warning.

#### Relating to Notarial Journal

(51) A notary public did not provide, keep, maintain or protect a chronological journal of notarial acts performed by the notary public during the term of a commission. See ORS 194.300 and 194.340. Sanction for First Act of Misconduct: Official warning.

(52) A notary public used a notarial journal that was not in the form required by section 18, chapter 219, Oregon Laws 2013. See OAR 160-100-0200 and 160-100-0210. Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days or \$500 civil penalty or both.

(53) A notary public did not enter in a notarial journal the information about each notarial act performed by the notary public required by ORS 194.300. See ORS 194.340. Sanction for First Act of Misconduct: Official warning.

(54) A notary public recorded information about multiple notarial acts performed by the notary public in a notarial journal in a manner that did not comply with the requirements of ORS 194.300. See ORS 194.340. Sanction for First Act of Misconduct: Official warning.

(55) A notary public used a record of protests that did not contain the information about each certificate of dishonor issued by the notary public required by OAR 160-100-0240. See ORS 194.340 and 194.380. Sanction for First Act of Misconduct: Official warning.

(56) A notary public who entered into an agreement with an employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.300 did not retain a written copy of the agreement or make such available upon request of the Secretary of State. See ORS 194.340 and OAR 160-100-0360. Sanction for First Act of Misconduct: Official warning.

#### Relating to Fees

(57) A notary public charged a notary fee that was more than the maximum fee specified in ORS 194.400. See ORS 194.340. Sanction for First Act of Misconduct: \$500 civil penalty.

(58) A notary public who charged a fee for traveling to perform a notarial act did not explain to the person who requested the notarial act that the traveling fee was in addition to the fee to perform the notarial act or was not required by law, or did not obtain in advance the agreement of the person who requested the notarial act to the amount of the traveling fee. See ORS 194.340 and 194.400. Sanction for First Act of Misconduct: Official warning.

(59) A notary public, except a notary public who filed with the Secretary of State a statement waiving the right to charge a notary fee, did not comply with the fee display requirements specified in OAR 160-100-0410. See ORS 194.340 and 194.400. Sanction for First Act of Misconduct: Official warning.

#### Relating to Commercial Protests

(60) A notary public who does not meet the qualifications of ORS 194.375 protested commercial paper, as provided in ORS 73.0505. See ORS 194.340. Sanction for First Act

of Misconduct: Official Warning.

(61) A notary public did not determine the identity of the negotiable instrument, that presentment was required and made, or that presentment was excused and not made and the reason why presentment was excused, that the instrument was dishonored by nonacceptance or nonpayment, or all or any combination of the above. See ORS 194.230 and 194.340. Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(62) A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) but in the certificate did not identify the negotiable instrument protested, certify that due presentment was made or the reason why presentment was excused, or certify that the instrument protested was dishonored by nonacceptance or nonpayment, as required by ORS 73.0505(2). ORS 194.340 and 194.280. Sanction for First Act of Misconduct: Official warning.

(63) A notary public did not keep a record of all certificates of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) issued by the notary public during the term of a commission. See 194.340 and 194.380. Sanction for First Act of Misconduct: Official warning.

(64) A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) that was owned or held for collection by a financial institution, trust company or investment company when the notary public was a party to the commercial paper in an individual capacity. ORS 194.340 and 194.375. Sanction for First Act of Misconduct: Official warning.

(65) A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) of a non-commercial or other record that does not fit the definition of negotiable instrument as defined in ORS 73.0104. See ORS 194.340 and 194.375. Sanction for First Act of Misconduct: Official warning.

(66) A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) in a manner not in accordance with ORS 73.0505. See ORS 194.340. Sanction for First Act of Misconduct: Official warning.

#### Miscellaneous

(67) A notary public who submits the following types of records to the Secretary of State in reply to correspondence from the Secretary of State or other government agency or seeks to initiate proceedings through the following record types:

(a) Conditional Acceptance, or a similar record purporting to “conditionally accept” presentment of an official record, and demanding proof of a list of claims in order to fully accept the official record.

(b) Affidavit in Support of Conditional Acceptance, or a similar record purporting to attest to the facts of a record described in section (71)(1) and signed by the same notary public who is attesting.

(c) Notice of Dishonor, or a similar record purporting to give notice that a Conditional Acceptance (see section (71)(1)) has not been accepted by the government agency to which it was sent and thereby was dishonored.

(d) Accepted for Value, or similar stamp or certificate purporting to accept for a disclosed or undisclosed value an official record sent to the notary public by the Secretary of State or other governmental agency. The certificate claims to establish an amount of money payable or accrued to the signor of the certificate.

(e) Notice of Protest, or a similar record purporting to be a Protest of Commercial

Paper that has been dishonored, when said Commercial Paper is not, in fact, a negotiable instrument under ORS Chapter 73 and subject to the laws stated therein regarding dishonor and protest.

(f) Other records attempting to apply ORS Chapter 73 to non-negotiable instruments or other records not included in the scope of said chapter.

(g) Other record type purporting to follow the Uniform Commercial Code (U.C.C.), and not related to an ORS Ch. 79 filing.

(h) Other record type purporting to be according to ORS Ch. 79 that does not constitute filing under ORS Ch. 79.0516. See ORS 194.340. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(68) A notary public engaged in any other act or omission involving any act prohibited or mandated by ORS Chapter 194, or any rule adopted by the Secretary of State, or any other law governing notarization. See ORS 194.340. Sanction for First Act of Misconduct: Official Warning.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.300 & 194.340

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 6-2009, f. 12-22-09, cert. ef. 1-1-10

CORP 1-2003, f. 3-14-03, cert. ef. 4-1-03

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0610

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0620. Appeal Process**

In the event the Secretary of State sanctions a notary public for official misconduct or proposes to refuse to appoint or proposes to revoke or suspend a commission, an opportunity for a public hearing will be provided pursuant to ORS 194.340, the contested case procedures set out in ORS 183.413 through 183.500 and the Attorney General's Model Rules of Procedure for Contested Cases.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.340

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0620

SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90

### **160-100-0700. Satisfactory Evidence**

For the purposes of ORS 194.240:

(1) Temporary forms of the Oregon Driver License (ODL) or Oregon Identity Card shall be considered equivalent to the Oregon Driver License before their expiration in the following manner:

(a) An Instruction Permit will be satisfactory evidence in the same way as a permanent ODL or State ID card.

(b) A Provisional Driver License will be satisfactory evidence in the same way as a permanent ODL.

(c) A Hole-punched Driver License or Identity Card shall not be sufficient in itself, but may be used in conjunction with the Interim Driver License or Identity Card to establish identity,

(d) An Interim Driver License or Identity Card, which is good for no more than 30 days, is given to those awaiting the processing and arrival of their permanent ODL or State ID card, and may be used by itself or in addition to the Hole-punched Driver

License or Identity Card. The Interim Driver License or Identity Card may only be so used while it is unexpired.

(e) A Limited Term Driver License or Identification Card, given to people temporarily in the United States, is noted by the words “Limited Term” in the bottom right corner of the ID and an expiration date between 1-8 years after the issuance date. A Limited Term ID will be satisfactory evidence in the same way as a permanent ODL or State ID card.

(2) “United States passport” means a U.S. passport and a U.S. passport card issued by the U.S. Department of State.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.240

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 8-2009, f. 12-22-09, cert. ef. 1-1-10

### **160-100-0805. Credential Analysis and Authentication for Remote Online Notarization**

(1) The requirement for at least two different types of identity proofing under ORS 194.240 is satisfied if the notary public identifies a remotely located individual in accordance with the requirements of this section.

(2) Credential analysis must be provided by a reputable third-party remote online notarization vendor or software tool that can demonstrate proven credential analysis processes and shall employ technology that provides the following:

(a) The signer’s identity must be linked to the signer following successful knowledge-based authentication; and

(b) Remote online notarization shall provide for human visual comparison between the signer and the signer’s identification presented to the notary.

(3) Remote online notarization providers shall use an automated software process to aid the notary in verifying each signer’s identity.

(a) The identification shall pass an authenticity test that:

(A) Uses appropriate technologies to confirm the integrity of visual, physical or cryptographic security features;

(B) Uses appropriate technologies to confirm that the identification is not fraudulent or inappropriately modified;

(C) Uses information held or published by the issuing source or authoritative source, as available, to confirm the validity of the identification details; and,

(D) Provides the result of the authenticity test to the notary.

(b) The credential analysis procedure shall enable the notary to visually compare the following for consistency:

(A) The information and photo on the identification image presented; and

(B) The signer as viewed by the notary in real time through the audio/video system.

(c) If the notary public is unable to validate the identification of the signer, or to match the signer’s physical features with the credential, the notary public shall not complete the notarial act.

(d) The identification shall meet the requirements of ORS 194.240

(e) All identification images necessary to perform visual inspection and credential analysis shall be captured and the notary shall confirm that:

(A) The signer is in possession of the identification at the time of the notarial act;

(B) The identification images submitted for credential analysis have not been



manipulated; and

(C) The identification images match the identification in the signer's possession.

(f) The following general principles shall be considered in the context of image resolution:

(A) Image resolution shall be sufficient for the issuing source or authoritative source to perform credential analysis per the requirements above; and

(B) Image resolution shall be sufficient to enable visual inspection by the notary, including legible text and clarity of photographs, barcodes, and other identification features; and

(4) Knowledge-based authentication procedure must meet the following requirements:

(a) Each signer must answer questions and achieve a passing score. The procedure must include:

(A) Five multiple choice questions, drawn from public or private data sources.

(B) A minimum of five possible answer choices per question.

(C) Require that 80% of the questions are correctly answered within two minutes by the signer.

(b) Each signer is to be provided a reasonable number of attempts per signing session.

(A) If a signer fails their first quiz, they may attempt up to two additional quizzes within 48 hours from the first failure.

(B) During any quiz retake, a minimum of 40% (2) of the prior questions shall be replaced.

(c) If biometric sensing technologies are used for remote online notarization in the areas of authentication, credential analysis, and identity proofing verification may include facial, voice, and fingerprint recognition.

(5) If a signer exits the notarial act during the notarial act, they shall restart the credential analysis and knowledge-based authentication workflow from the beginning.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: HB 4212 (2020)

History:

CORP 1-2021, adopt filed 02/18/2021, effective 02/18/2021

### **160-100-0855. General Technology Requirements for Remote Online Notarization**

(1) Each document completed as part of a remote online notarization shall be electronically signed and rendered tamper-evident.

(2) The method of remote online notarization shall ensure privacy and data security.

(3) The method of remote online notarization shall ensure all applicable consumer data, privacy and information security laws are satisfied through their information security programs.

(4) Records of a remote online notarization must be retained in a safe and secure manner for ten years following the date of the notarization. Records must be available to the Secretary of State upon request.

(5) The audio and video quality requirements for a remote online notarization operating model should:

(a) Consist of reliable, continuous, synchronous audio and video feeds with clarity such that all participants can be clearly seen and understood.

(b) Ensure the audio and video are adequate for communication and ability to terminate the session if adequate conditions are not met.

(6) The audio/video recording shall:

- (a) Include the person-to person interaction required as part of the notarial act;
  - (b) Be logically associated to the electronic notary journal;
  - (c) Be capable of being viewed and heard using broadly available audio/video players.
- (7) The transaction documents executed in the remote online notarization act shall not

be recorded as part of the video recording.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: HB 4212 (2020)

History:

CORP 1-2021, adopt filed 02/18/2021, effective 02/18/2021

### **160-100-1000. Definitions**

(1) Certificate of Approval. The Oregon Secretary of State Certificate of Approval (OAR 160-100-1010) signifies only that the provider named therein offers an education program curriculum similar to the education program curriculum offered by the Secretary of State and has complied with the requirements of these rules. The Certificate of Approval does not imply endorsement of the provider, nor any products or services offered by the provider.

(2) Certificate of Education. The Certificate of Education (OAR 160-100-1060) signifies that the person named therein has completed the approved education program provided by the provider.

(3) Course of study. For the purposes of this division, “course of study” applies only to a live classroom or on-line education.

(4) Notary public applicant. For the purposes of this division, a “notary public applicant” is a person who applies for a commission as an Oregon notary public, who does not already hold a current notary public commission, and who must attend a course of instruction in order to qualify for commission as a notary public.

(5) Provider. For purposes of this division, a “provider” is an individual or business entity that provides a notary public education course of study.

(6) Oregon business registration number. For the purposes of these rules, an Oregon business registration number is the number assigned by the Corporation Division to a business entity or assumed business name that indicates registration in the public record of the Division.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1010. Provider Certificate of Approval**

Before offering any course of study pursuant to Oregon Revised Statute Chapter 194.325, a provider must obtain a Certificate of Approval from the Secretary of State for each course of study offered.

(1) To apply for a Certificate of Approval, a provider must submit to the Secretary of State a completed Notary Public Education Provider Application or Amendment form, hereby incorporated by reference, an active Oregon business registration number, and a lesson plan satisfying the requirements in OAR 160-100-1020.

(2) The Secretary of State will issue either a Certificate of Approval, in accordance with section (3), or a deficiency notice, in accordance with OAR 160-100-1030, within 90 days of receipt of an application and lesson plan.

(3) Upon approval of an application and lesson plan, the Secretary of State will send a

Certificate of Approval to the provider by first class mail to the address listed on the Notary Public Education Provider Application or Amendment form.

(4) The Certificate of Approval will include the following:

(a) The name of the approved provider as listed on the Notary Public Education Provider Application or Amendment form.

(b) The address listed on the Notary Public Education Provider Application or Amendment form.

(c) The three letter provider identification code issued by the Secretary of State.

(d) The date the course of study was approved by the Secretary of State.

(5) An approved provider must not alter or substitute the lesson plan reviewed and approved by the Secretary of State, unless the revisions are approved by the Secretary of State in accordance with OAR 160-100-1050.

(6) For the purposes of this chapter, a provider must be authorized to transact business in Oregon in order to be certified. Authorization to transact business must be evidenced by an active Oregon business registration number.

(7) For the purposes of this chapter, an approved provider is responsible for all employees, agents, instructors, contractors, and subcontractors providing or involved in providing an approved course of study on behalf of the approved provider and the acts of the employees, agents, instructors, contractors, and subcontractors will be deemed the acts of the approved provider.

(8) The Certificate of Approval will expire 3 years from the date of issuance, and it must be renewed to continue as a state-approved course of instruction. A provider may apply for renewal up to 90 days before the expiration of the Certificate. Upon expiration of the Certificate, the provider must submit a new application, not a renewal, in order to offer state-approved education.

(9) A Certificate of Approval is non-transferable and may not be conveyed to another provider or applied to another course of study.

Statutory/Other Authority: ORS 194.360

Statutes/Other Implemented: ORS 194.360 & ORS 194.325

History:

CORP 4-2020, minor correction filed 07/20/2020, effective 07/20/2020

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1020. Lesson Plan**

A lesson plan must meet the following requirements:

(1) The lesson plan must be based on the laws of Oregon concerning the functions and duties of a notary public. The lesson plan must cover at least the Oregon Notary Public Knowledge Statements, hereby incorporated by reference. The Oregon Notary Public Knowledge Statements may be obtained from the Secretary of State by request.

(2) The lesson plan must contain a table of contents, and the pages of the lesson plan must be consecutively numbered.

(3) The lesson plan must provide sufficient detail to enable the Secretary to evaluate the specific information to be presented and to determine the accuracy of the information to be presented.

(4) The lesson plan must contain the procedures to ensure that a person attending a course of study is present for the required time.

(5) The lesson plan must include a schedule of the time allotted for the following:

(a) Break periods, if any;

- (b) Each major subject area;
- (c) Each audio visual aid to be used, if any;
- (d) Each student participation activity, if any.
- (6) Completion, correction, and discussion of any practice tests used and the method of correction to be used, if any.
- (7) If any movie or video is used for instruction, the lesson plan must include a brief synopsis of the information presented therein. The synopsis must detail the specific information presented by the movie or video. In addition, the provider must include the movie or video in the materials presented to the Secretary of State for review.
- (8) Copies of any handout materials, workbooks, visuals aids, description of student participation exercises, and practice tests used during the course of study must be submitted for approval with the lesson plan.
- (9) If the course provides for an evaluation by the students, time to complete the evaluation must not be included as part of the course of instruction.
- (10) All materials submitted to the Secretary of State under this rule become the property of the Secretary of State and may be returned to the provider at the sole discretion of the Secretary.

Statutory/Other Authority: ORS 194.360  
 Statutes/Other Implemented: ORS 194.360  
 History:  
 CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13  
 CORP 3-2006, f. & cert. ef. 6-19-06

**160-100-1030. Deficient Application or Lesson Plan**

- (1) If the Secretary of State determines that a Notary Public Education Provider Application or Amendment form is incomplete, or that a lesson plan does not satisfy the requirements of ORS 194.360 or this chapter, the Secretary of State will issue a deficiency notice containing an itemized description of the deficiencies identified. The deficiency notice will be sent by first class mail to the provider’s address listed on the Notary Public Education Provider Application or Amendment form.
- (2) A provider has 30 days from the date on which the deficiency notice was mailed by the Secretary of State to submit documentation to the Secretary of State curing the deficiencies identified in the deficiency notice.
- (3) The Secretary of State may issue more than one deficiency notice to a provider regarding the same Notary Public Education Provider Application or Amendment form and lesson plan at any time during the review process.
- (4) The Secretary of State may disapprove a Notary Public Education Provider Application or Amendment form if the deficiencies are not cured in accordance with section (2).
- (5) After the disapproval of a provider’s application or amendment, the provider has the right to a hearing on the matter, and the proceeding will be conducted in accordance with the contested case procedures set out in ORS 184.313 through 183.500, and the Attorney General’s Model Rules of Procedure for Contested Cases.
- (6) Upon the effective date of a final order in a contested case, or if the final order is appealed, a final appellate judgment disapproving an application or amendment, a provider may cure the deficiencies identified in the decision by submitting a Notary Public Education Provider Application or Amendment form in accordance with OAR 160-100-1030.

Statutory/Other Authority: ORS 194.325 & 194.360

Statutes/Other Implemented: ORS 194.325 & 194.360

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1040. Notification of Changes of Approved Provider Information**

Within 30 days of any changes in the information contained in the most recent application approved by the Secretary of State, an approved provider must submit to the Secretary of State a Notary Public Education Provider Application or Amendment form identifying the changes. An approved provider may confirm receipt by the Secretary of State by phone or e-mail.

Statutory/Other Authority: ORS 194.325 & 194.360

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1050. Lesson Plan Revisions**

(1) Within 30 days of the effective date of a new Oregon law or rule concerning the duties and functions of notaries public, an approved provider must revise an approved lesson plan as necessary to ensure that the information provided in an approved course of study reflects the new Oregon law or rule.

(2) Any provider-initiated revisions to the contents or methods of instruction detailed in an approved lesson plan must be approved by the Secretary of State at least 30 days before implementing the proposed revisions in an approved course of study.

(3) To apply for a Certificate of Approval for a revised lesson plan, an approved provider must submit a completed Notary Public Education Provider Application or Amendment form, and a revised lesson plan in accordance with OAR 160-100-1020.

(4) The provisions in OAR 160-100-1010, 160-100-1020, and 160-100-1030 apply to a revised lesson plan.

(5) Upon approval of a revised lesson plan, the Secretary of State will issue a Certificate of Approval pursuant to OAR 160-100-1010.

(6) A provider may only follow the lesson plan corresponding to the most current Certificate of Approval.

Statutory/Other Authority: ORS 194.325 & 194.360

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1060. Certificate of Education**

(1) An approved provider must issue a Certificate of Education to a notary public applicant upon completion of an approved course of study, as provided in section (3).

(2) The Certificate of Education shall be issued by the provider to a notary public applicant only after the person has completed the approved course of study.

(3) The Certificate of Education must consist of a certificate signed by an approved provider or an employee, agent, instructor, contractor, or subcontractor of an approved provider, which contains the following information:

(a) The name of the approved provider as it appears on the Certificate of Approval issued by the Secretary of State for the approved course of study.

(b) The name of the notary public applicant who completed the approved course of

study.

(c) The date the notary public applicant completed the approved course of study.

(d) The Notary Education Identification Number, consisting of the Provider Identification Code and a unique six-digit number.

(e) The statements that:

(A) The Certificate of Education must be valid for a period of six months from the date of issuance; and

(B) The student must provide the Notary Education Identification Number on the notary public application when submitted to the Secretary of State.

(4) The Certificate of Education of an approved course of study is for six months from the date of issuance.

Statutory/Other Authority: ORS 194.325 & 194.360

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1070. List of Attendees**

(1) An approved provider must maintain a list of persons who attend each session of an approved course of study.

(2) The List of Attendees must be maintained for a period of five years from the date of issuance of the Certificates of Education corresponding to that session.

(3) The list must include the following:

(a) The name of the approved provider as listed in the Certificate of Approval for the approved course of study.

(b) The provider identification code issued by the Secretary of State.

(c) The name of the instructor or instructors who taught the approved course of study.

(d) The date, time, and location of the approved course of study.

(e) The names of all the attendees in alphabetical order by the last name of the attendee.

(f) The Notary Education Identification Number corresponding to the attendee, if any.

(4) An approved provider must not collect the social security numbers of any attendees.

(5) Upon request, an approved provider must submit a list of attendees in a data format approved by the Secretary of State.

(6) An approved provider, former approved provider, or employee, agent, instructor, contractor, or subcontractor of an approved provider or former approved provider must not copy or release any list of attendees or any information contained therein to any person, except the Secretary of State, Attorney General, a district attorney, or a city attorney.

Statutory/Other Authority: ORS 194.325

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1080. Secretary of State Attending Approved Course of Study**

An approved provider must permit the Secretary of State or representatives of the Secretary of State to attend any approved course of study, without prior notice and at no charge, for the purpose of observation, monitoring, auditing, and investigating the instruction given.

Statutory/Other Authority: ORS 194.325

Statutes/Other Implemented: ORS 194.325  
History:  
CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13  
CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1090. Duty to Respond to a Written Request from the Secretary of State**

An approved provider must respond in writing within 30 days of receiving a written request for information from the Secretary of State. A written request may be sent to the mailing address, facsimile number, or e-mail address listed on the most current Notary Public Education Provider Application or Amendment form filed pursuant to OAR 160-100-1020 or 160-100-1050.

Statutory/Other Authority: ORS 194.325  
Statutes/Other Implemented: ORS 194.325  
History:  
CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13  
CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1100. Cancellation or Delay of Scheduled Approved Course of Study**

(1) Before charging any fees to a notary public applicant for an approved course of study, an approved provider must disclose the refund policy of the approved provider.

(2) An approved provider must refund all fees within 30 days of a scheduled course date to any notary public applicant who registered to attend an approved course of study if one of the following occurs:

(a) An instructor fails to appear at the scheduled time, date, or place of the approved course of study;

(b) An approved course of study is delayed in starting more than 15 minutes after the scheduled time, and a notary public applicant immediately informs the approved provider of his or her request for a refund, and the notary public applicant leaves the approved course of study before its start; or

(c) The provider does not hold a current Certificate of Approval from the Secretary of State.

Statutory/Other Authority: ORS 194.325  
Statutes/Other Implemented: ORS 194.325  
History:  
CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13  
CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1105. Complaints Against an Approved Provider**

(1) A person may file a complaint against an approved provider with the Secretary of State. A complaint shall be submitted on the standard form provided by the Secretary of State, signed and dated by the person filing the complaint. A complaint that does not comply with the requirements of this section shall not be filed, responded to or acted upon by the Secretary of State.

(2) The Secretary of State may commence an investigation of an approved provider as a result of information received from any source.

(3) Complaint forms received by the Secretary of State are not exempt from disclosure under Public Records Law, and shall be available to the approved provider and others in conformity with ORS 192.410 to 192.505.

(4) An investigation of the Secretary of State under sections (1) and (2) of this section may include:

(a) An initial request for information from the accused provider;

- (b) A copy of the complaint forwarded to the accused; and
- (c) A request for supporting documentation and other sources of information.
- (5) A provider, upon request by the Secretary of State, shall provide accurate, true and complete copies of the requested information.
- (6) Upon a finding by the Secretary of State, copies of the finding shall be mailed to the complainant and the accused.
- (7) Failure of an approved provider to comply with Secretary of State investigation directives shall result in revocation of the Certificate of Approval, subject to the provisions of ORS 183.413 to 183.470.

Statutory/Other Authority: ORS 194.325

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1110. List of Approved Providers**

(1) The Secretary of State may also make a list of approved providers available online at the Corporation Division's website. The approved provider list may include the following information:

(a) The name of approved provider.

(b) Contact information — a mailing address; a telephone number; a fax number; an e-mail address; and a website address.

(2) The Secretary of State may only update the list of approved providers to add, delete, or amend approved provider information that is filed in accordance with OAR 160-100-1040. A list of approved providers may be updated by the first day of each month following the month during which there were additions, deletions, or amendments to the list of approved providers.

(3) The Secretary of State reserves the right to delete any information from the list compiled pursuant section 21, chapter 219, Oregon Laws 2013 or section (2) of this rule that the Secretary of State determines is misleading to the public or of an inappropriate nature.

Statutory/Other Authority: ORS 194.325

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 7-2010, f. & cert. ef. 6-1-10

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1120. Renewal of a Certificate of Approval**

Ninety days before the certificate's expiration, the Secretary of State will notify a provider, by e-mail, fax, or written mail, of the need to renew the provider's Certificate of Approval.

Statutory/Other Authority: ORS 194.325

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1130. Grounds for Termination of a Certificate of Approval**

The Secretary of State may terminate a Certificate of Approval upon any of the following grounds:



- (1) Violation of any of the provisions of this chapter or ORS 194.325.
  - (2) Misrepresentation of the laws of Oregon concerning the duties and functions of a notary public.
  - (3) Deviation from the lesson plan for a course of study approved by the Secretary of State.
  - (4) Failure to respond to a request from the Secretary of State.
  - (5) Representations by the provider that any product, goods, or services provided by the provider are endorsed, recommended or required by the Secretary of State.
- Certification only recognizes that the education program curriculum of the provider is similar to the state's curriculum.

Statutory/Other Authority: ORS 194.325 & ORS 194.360

Statutes/Other Implemented: ORS 194.325

History:

CORP 3-2020, minor correction filed 07/20/2020, effective 07/20/2020

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1140. Termination of Certificate of Approval**

- (1) If the Secretary of State proposes to terminate the Certificate of Approval of a provider, opportunity for hearing shall be accorded as provided in the contested case procedures set out in ORS 183.413 through 183.500 and the Attorney General's Model Rules of Procedure for Contested Cases.
- (2) If the provider does not request a hearing, termination shall be effective 21 days after the termination notice.
- (3) The cancellation of the provider's Certificate of Approval does not bar the Secretary of State from instituting or continuing an investigation or disciplinary proceedings.
- (4) Upon completion of the disciplinary proceedings, the Secretary of State may enter an order finding the facts and stating the conclusion that the fact would or would not have constituted grounds for termination of the Certificate of Approval if the Certificate of Approval had still been in effect.

Statutory/Other Authority: ORS 194.325

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06

### **160-100-1150. Cancellation of Certificate of Approval**

- (1) An approved provider may cancel its Certificate of Approval by submitting a written notice of cancellation to the Secretary of State. Unless otherwise stated in the notice of cancellation, the effective date of the cancellation of the Certificate of Approval is 30 days after receipt of the notice of cancellation. The provider may confirm receipt by the Secretary of State by phone or e-mail.
- (2) Within 30 days of the effective date of a cancellation of a Certificate of Approval, a provider must refund all fees to all individuals who paid to take an approved course from a provider, if the course is scheduled after the effective date of the cancellation.

Statutory/Other Authority: ORS 194.325

Statutes/Other Implemented: ORS 194.325

History:

CORP 2-2013, f. 8-30-13, cert. ef. 9-1-13

CORP 3-2006, f. & cert. ef. 6-19-06