

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2158

 By: Trebilcock

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to notaries public; creating the
10 Revised Uniform Law on Notarial Acts; defining terms;
11 providing scope of applicability; providing authority
12 to perform notarial act; providing requirements for
13 certain notarial acts; requiring personal appearance
14 for certain notarial acts; providing for
15 identification of individuals appearing before
16 notarial officers; providing authority to refuse to
17 perform notarial acts; providing procedure for
18 signature if individual is physically unable to sign
19 a record; listing persons who may perform notarial
20 acts in this state; providing that signature and
21 title of person performing notarial act document
22 genuineness and authority; providing for recognition
23 of notarial acts from other states, from federally
24 recognized Indian tribes, under federal law, and from
 foreign states; requiring certificate of notarial
 act; providing contents; requiring official stamp;
 providing forms of certificates; providing
 requirements for official stamp of notary public;
 providing for security of stamping device;
 prohibiting use by other individuals; providing for
 disabling of stamping device under certain
 circumstances; requiring notification if stamping
 device is lost or stolen; requiring maintenance of
 journals by notaries public for specified length of
 time; providing requirements for journal; requiring
 notification if journal is lost or stolen; providing
 for transmittal of journals to State Archivist under
 certain circumstances; providing grounds to refuse to

1 renew, revoke, suspend or condition commission of
2 notary public; requiring the Secretary of State to
3 maintain certain database; prohibiting certain acts;
4 providing scope of validity of notarial acts;
5 authorizing the Secretary of State to adopt certain
6 rules; providing that certain commissions remain in
7 effect until expiration date; providing that certain
8 notaries public are subject to and shall comply with
9 the Revised Uniform Law on Notarial Acts; providing
10 savings clause; providing for uniformity of
11 application and construction; providing relationship
12 to certain federal law; amending 49 O.S. 2001,
13 Section 2, as amended by Section 1, Chapter 101,
14 O.S.L. 2004 (49 O.S. Supp. 2010, Section 2), which
15 relates to the oath, signature, bond and seal for
16 notaries public; modifying requirements for bonds;
17 repealing 49 O.S. 2001, Sections 111, 112, 113, 114,
18 115, 116, 117, 118, 119, 120 and 121, which relate to
19 the Uniform Law on Notarial Acts; providing for
20 codification; and providing an effective date.

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1 (1) "Acknowledgment" means a declaration by an individual
2 before a notarial officer that the individual has signed a record
3 for the purpose stated in the record and, if the record is signed in
4 a representative capacity, that the individual signed the record
5 with proper authority and signed it as the act of the individual or
6 entity identified in the record.

7 (2) "In a representative capacity" means acting as:

8 (A) an authorized officer, agent, partner, trustee, or
9 other representative for a person other than an
10 individual;

11 (B) a public officer, personal representative, guardian,
12 or other representative, in the capacity stated in a
13 record;

14 (C) an agent or attorney-in-fact for a principal; or

15 (D) an authorized representative of another in any other
16 capacity.

17 (3) "Notarial act" means an act, performed with respect to a
18 tangible record, that a notarial officer may perform under the law
19 of this state. The term includes taking an acknowledgment,
20 administering an oath or affirmation, taking a verification on oath
21 or affirmation, witnessing or attesting a signature, certifying or
22 attesting a copy, and noting a protest of a negotiable instrument.

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1 (4) "Notarial officer" means a notary public or other
2 individual authorized to perform a notarial act.

3 (5) "Notary public" means an individual commissioned to perform
4 a notarial act by the Secretary of State.

5 (6) "Official stamp" means a physical image affixed to or
6 embossed on a tangible record.

7 (7) "Person" means an individual, corporation, business trust,
8 statutory trust, estate, trust, partnership, limited liability
9 company, association, joint venture, public corporation, government
10 or governmental subdivision, agency, or instrumentality, or any
11 other legal or commercial entity.

12 (8) "Record" means information that is inscribed on a tangible
13 medium.

14 (9) "Sign" means, with present intent to authenticate or adopt
15 a record, to execute or adopt a tangible symbol.

16 (10) "Signature" means a tangible symbol that evidences the
17 signing of a record.

18 (11) "Stamping device" means a physical device capable of
19 affixing to or embossing on a tangible record an official stamp.

20 (12) "State" means a state of the United States, the District
21 of Columbia, Puerto Rico, the United States Virgin Islands, or any
22 territory or insular possession subject to the jurisdiction of the
23 United States.

1 (13) "Verification on oath or affirmation" means a declaration,
2 made by an individual on oath or affirmation before a notarial
3 officer, that a statement in a record is true.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 124 of Title 49, unless there is
6 created a duplication in numbering, reads as follows:

7 APPLICABILITY. The Revised Uniform Law on Notarial Acts applies
8 to a notarial act performed on or after January 1, 2012.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 125 of Title 49, unless there is
11 created a duplication in numbering, reads as follows:

12 AUTHORITY TO PERFORM NOTARIAL ACT.

13 (a) A notarial officer may perform a notarial act authorized by
14 the Revised Uniform Law on Notarial Acts or by law of this state
15 other than the Revised Uniform Law on Notarial Acts.

16 (b) A notarial officer may not perform a notarial act with
17 respect to a record to which the officer or the officer's spouse is
18 a party, or in which either of them has a direct beneficial
19 interest. A notarial act performed in violation of this subsection
20 is voidable.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 126 of Title 49, unless there is
23 created a duplication in numbering, reads as follows:

1 REQUIREMENTS FOR CERTAIN NOTARIAL ACTS.

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

8 (b) A notarial officer who takes a verification of a statement
9 on oath or affirmation shall determine, from personal knowledge or
10 satisfactory evidence of the identity of the individual, that the
11 individual appearing before the officer and making the verification
12 has the identity claimed and that the signature on the statement
13 verified is the signature of the individual.

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

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

22 (e) A notarial officer who makes or notes a protest of a
23 negotiable instrument shall determine the matters set forth in
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1 subsection (b) of Section 3-505 of Title 12A of the Oklahoma
2 Statutes.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 127 of Title 49, unless there is
5 created a duplication in numbering, reads as follows:

6 PERSONAL APPEARANCE REQUIRED. If a notarial act relates to a
7 statement made in or a signature executed on a record, the
8 individual making the statement or executing the signature shall
9 appear personally before the notarial officer.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 128 of Title 49, unless there is
12 created a duplication in numbering, reads as follows:

13 IDENTIFICATION OF INDIVIDUAL.

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

19 (b) A notarial officer has satisfactory evidence of the
20 identity of an individual appearing before the officer if the
21 officer can identify the individual:

22 (1) by means of:
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1 (A) a passport, driver license, or government-issued
2 nondriver identification card, which is current or
3 expired not more than three (3) years before
4 performance of the notarial act; or

5 (B) another form of government identification issued to an
6 individual, which is current or expired not more than
7 three (3) years before performance of the notarial
8 act, contains the signature or a photograph of the
9 individual, and is satisfactory to the officer; or

10 (2) by a verification on oath or affirmation of a credible
11 witness personally appearing before the officer and known to the
12 officer or whom the officer can identify on the basis of a passport,
13 driver license, or government-issued nondriver identification card,
14 which is current or expired not more than three (3) years before
15 performance of the notarial act.

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

19 SECTION 8. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 129 of Title 49, unless there is
21 created a duplication in numbering, reads as follows:

22 AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT.
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1 (a) A notarial officer may refuse to perform a notarial act if
2 the officer is not satisfied that:

3 (1) the individual executing the record is competent or has the
4 capacity to execute the record; or

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

7 (b) A notarial officer may refuse to perform a notarial act
8 unless refusal is prohibited by law other than the Revised Uniform
9 Law on Notarial Acts.

10 SECTION 9. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 130 of Title 49, unless there is
12 created a duplication in numbering, reads as follows:

13 SIGNATURE IF INDIVIDUAL UNABLE TO SIGN. If an individual is
14 physically unable to sign a record, the individual may direct an
15 individual other than the notarial officer to sign the individual's
16 name on the record. The notarial officer shall insert "Signature
17 affixed by (name of other individual) at the direction of (name of
18 individual)" or words of similar import.

19 SECTION 10. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 131 of Title 49, unless there is
21 created a duplication in numbering, reads as follows:

22 NOTARIAL ACT IN THIS STATE.

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

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- 1 (1) a notary public of this state;
- 2 (2) a judge, secretary, bailiff of a judge, or clerk or deputy
- 3 clerk of a court of this state;
- 4 (3) the Clerk of the Oklahoma House of Representatives;
- 5 (4) the Secretary of the Oklahoma Senate;
- 6 (5) a judge advocate, staff judge advocate, assistant judge
- 7 advocate, any legal officer of the state military forces in
- 8 performance of official duties for military personnel and their
- 9 dependents; or
- 10 (6) any other individual authorized to perform the specific act
- 11 by the law of this state.

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

16 (c) The signature and title of a notarial officer described in
17 subsection (a) of this section conclusively establish the authority
18 of the officer to perform the notarial act.

19 SECTION 11. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 132 of Title 49, unless there is
21 created a duplication in numbering, reads as follows:

22 NOTARIAL ACT IN ANOTHER STATE.

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1 (a) A notarial act performed in another state has the same
2 effect under the law of this state as if performed by a notarial
3 officer of this state, if the act performed in that state is
4 performed by:

5 (1) a notary public of that state;

6 (2) a judge, clerk, or deputy clerk of a court of that state;

7 or

8 (3) any other individual authorized by the law of that state to
9 perform the notarial act.

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

14 (c) The signature and title of a notarial officer described in
15 paragraph (1), (2) or (3) of subsection (a) of this section
16 conclusively establish the authority of the officer to perform the
17 notarial act.

18 SECTION 12. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 133 of Title 49, unless there is
20 created a duplication in numbering, reads as follows:

21 NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY RECOGNIZED INDIAN
22 TRIBE.

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1 (a) A notarial act performed under the authority and in the
2 jurisdiction of a federally recognized Indian tribe has the same
3 effect as if performed by a notarial officer of this state, if the
4 act performed in the jurisdiction of the tribe is performed by:

5 (1) a notary public of the tribe;

6 (2) a judge, clerk, or deputy clerk of a court of the tribe; or

7 (3) any other individual authorized by the law of the tribe to
8 perform the notarial act.

9 (b) The signature and title of an individual performing a
10 notarial act under the authority of and in the jurisdiction of a
11 federally recognized Indian tribe are prima facie evidence that the
12 signature is genuine and that the individual holds the designated
13 title.

14 (c) The signature and title of a notarial officer described in
15 paragraph (1), (2) or (3) of subsection (a) of this section
16 conclusively establish the authority of the officer to perform the
17 notarial act.

18 SECTION 13. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 134 of Title 49, unless there is
20 created a duplication in numbering, reads as follows:

21 NOTARIAL ACT UNDER FEDERAL AUTHORITY.

22 (a) A notarial act performed under federal law has the same
23 effect under the law of this state as if performed by a notarial
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1 officer of this state, if the act performed under federal law is
2 performed by:

3 (1) a judge, clerk, or deputy clerk of a court;

4 (2) an individual in military service or performing duties
5 under the authority of military service who is authorized to perform
6 notarial acts under federal law;

7 (3) an individual designated a notarizing officer by the United
8 States Department of State for performing notarial acts overseas; or

9 (4) any other individual authorized by federal law to perform
10 the notarial act.

11 (b) The signature and title of an individual acting under
12 federal authority and performing a notarial act are prima facie
13 evidence that the signature is genuine and that the individual holds
14 the designated title.

15 (c) The signature and title of an officer described in
16 paragraph (1), (2), (3) or (4) of subsection (a) of this section
17 conclusively establish the authority of the officer to perform the
18 notarial act.

19 SECTION 14. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 135 of Title 49, unless there is
21 created a duplication in numbering, reads as follows:

22 FOREIGN NOTARIAL ACT.
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1 (a) In this section, "foreign state" means a government other
2 than the United States, a state, or a federally recognized Indian
3 tribe.

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

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

15 (d) The signature and official stamp of an individual holding
16 an office described in subsection (c) of this section are prima
17 facie evidence that the signature is genuine and the individual
18 holds the designated title.

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

1 (f) A consular authentication issued by an individual
2 designated by the United States Department of State as a notarizing
3 officer for performing notarial acts overseas and attached to the
4 record with respect to which the notarial act is performed
5 conclusively establishes that the signature of the notarial officer
6 is genuine and that the officer holds the indicated office.

7 SECTION 15. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 136 of Title 49, unless there is
9 created a duplication in numbering, reads as follows:

10 CERTIFICATE OF NOTARIAL ACT.

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

13 (1) be executed contemporaneously with the performance of the
14 notarial act;

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

18 (3) identify the jurisdiction in which the notarial act is
19 performed;

20 (4) contain the title of office of the notarial officer; and

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

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1 (b) If a notarial act regarding a record is performed by a
2 notary public, an official stamp must be affixed to or embossed on
3 the certificate. If a notarial act is performed regarding a record
4 by a notarial officer other than a notary public and the certificate
5 contains the information specified in paragraphs (2), (3) and (4) of
6 subsection (a) of this section, an official stamp may be affixed to
7 or embossed on the certificate.

8 (c) A certificate of a notarial act is sufficient if it meets
9 the requirements of subsections (a) and (b) of this section and:

10 (1) is in a short form set forth in Section 16 of this act;

11 (2) is in a form otherwise permitted by the law of this state;

12 (3) is in a form permitted by the law applicable in the
13 jurisdiction in which the notarial act was performed; or

14 (4) sets forth the actions of the notarial officer and the
15 actions are sufficient to meet the requirements of the notarial act
16 as provided in Sections 5, 6, and 7 of this act or law of this state
17 other than the Revised Uniform Law on Notarial Acts.

18 (d) By executing a certificate of a notarial act, a notarial
19 officer certifies that the officer has complied with the
20 requirements and made the determinations specified in Sections 4, 5,
21 and 6 of this act.

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

4 (f) If a notarial act is performed regarding a record, a
5 certificate must be part of, or securely attached to, the record.
6 If the Secretary of State has established standards pursuant to
7 Section 25 of this act for attaching, affixing, or logically
8 associating the certificate, the process must conform to the
9 standards.

10 SECTION 16. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 137 of Title 49, unless there is
12 created a duplication in numbering, reads as follows:

13 SHORT FORM CERTIFICATES. The following short form certificates
14 of notarial acts are sufficient for the purposes indicated, if
15 completed with the information required by subsections (a) and (b)
16 of Section 15 of this act:

17 (1) For an acknowledgment in an individual capacity:

18 State of _____

19 County of _____

20 This record was acknowledged before me on _____ by

21 _____

22 Date Name(s) of individual(s)

23 Signature of notarial officer Stamp

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 _____

2 Title of office

3 My commission expires: _____

4 (2) For an acknowledgment in a representative capacity:

5 State of _____

6 County of _____

7 This record was acknowledged before me on _____ by

8 _____

9 Date Name(s) of individual(s)

10 as (type of authority, such as officer or trustee) of (name of party
11 on behalf of whom record was
12 executed).

13 Signature of notarial officer Stamp

14 _____

15 Title of office

16 My commission expires:

17 (3) For a verification on oath or affirmation:

18 State of _____

19 County of _____

20 Signed and sworn to (or affirmed) before me on _____ by

21 _____

22 Date Name(s) of individual(s)

23 making statement

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 Signature of notarial officer Stamp
2 _____
3 Title of office
4 My commission expires: _____
5 (4) For witnessing or attesting a signature:
6 State of _____
7 County of _____
8 Signed [or attested] before me on _____ by _____
9 Date Name(s) of individual(s)

10 Signature of notarial officer Stamp
11 _____
12 Title of office
13 My commission expires: _____

14 (5) For certifying a copy of a record:
15 State of _____
16 County of _____

17 I certify that this is a true and correct copy of a record in the
18 possession
19 of _____.

20 Dated _____
21 Signature of notarial officer Stamp
22 _____
23 Title of office

1 My commission expires: _____

2 SECTION 17. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 138 of Title 49, unless there is
4 created a duplication in numbering, reads as follows:

5 OFFICIAL STAMP. The official stamp of a notary public must:

6 (1) include the notary public's name, jurisdiction, commission
7 expiration date, and other information required by the Secretary of
8 State; and

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

12 SECTION 18. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 139 of Title 49, unless there is
14 created a duplication in numbering, reads as follows:

15 STAMPING DEVICE.

16 (a) A notary public is responsible for the security of the
17 notary public's stamping device and may not allow another individual
18 to use the device to perform a notarial act. On resignation from,
19 or the revocation or expiration of, the notary public's commission,
20 or on the expiration of the date set forth in the stamping device,
21 if any, the notary public shall disable the stamping device by
22 destroying, defacing, damaging, erasing, or securing it against use
23 in a manner that renders it unusable. On the death or adjudication

1 of incompetency of a notary public, the notary public's personal
2 representative or guardian or any other person knowingly in
3 possession of the stamping device shall render it unusable by
4 destroying, defacing, damaging, erasing, or securing it against use
5 in a manner that renders it unusable.

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

10 SECTION 19. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 140 of Title 49, unless there is
12 created a duplication in numbering, reads as follows:

13 JOURNAL.

14 (a) A notary public shall maintain a journal in which the
15 notary public chronicles all notarial acts that the notary public
16 performs. The notary public shall retain the journal for ten (10)
17 years after the performance of the last notarial act chronicled in
18 the journal.

19 (b) A journal may be created on a tangible medium or in an
20 electronic format. A notary public shall maintain only one journal
21 at a time to chronicle all notarial acts. If the journal is
22 maintained on a tangible medium, it must be a permanent, bound
23 register with numbered pages. If the journal is maintained in an

1 | electronic format, it must be in a permanent, tamper-evident
2 | electronic format complying with the rules of the Secretary of
3 | State.

4 | (c) An entry in a journal must be made contemporaneously with
5 | performance of the notarial act and contain the following
6 | information:

7 | (1) the date and time of the notarial act;

8 | (2) a description of the record, if any, and type of notarial
9 | act;

10 | (3) the full name and address of each individual for whom the
11 | notarial act is performed;

12 | (4) if identity of the individual is based on personal
13 | knowledge, a statement to that effect;

14 | (5) if identity of the individual is based on satisfactory
15 | evidence, a brief description of the method of identification and
16 | the identification credential presented, if any, including the date
17 | of issuance and expiration of any identification credential; and

18 | (6) the fee, if any, charged by the notary public.

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

22 | (e) On resignation from, or the revocation or suspension of, a
23 | notary public's commission, the notary public shall retain the

24 |

1 notary public's journal in accordance with subsection (a) of this
2 section and inform the Secretary of State where the journal is
3 located.

4 (f) Instead of retaining a journal as provided in subsections
5 (a) and (e) of this section, a current or former notary public may
6 transmit the journal to the State Archivist or a repository approved
7 by the State Archivist.

8 (g) On the death or adjudication of incompetency of a current
9 or former notary public, the notary public's personal representative
10 or guardian or any other person knowingly in possession of the
11 journal shall transmit it to the State Archivist or a repository
12 approved by the State Archivist.

13 SECTION 20. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 141 of Title 49, unless there is
15 created a duplication in numbering, reads as follows:

16 COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO IMMUNITY OR
17 BENEFIT.

18 (a) An individual qualified under subsection (b) of this
19 section may apply to the Secretary of State for a commission as a
20 notary public. The applicant shall comply with and provide the
21 information required by rules established by the Secretary of State
22 and pay any application fee.

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

24

1 (1) be at least eighteen (18) years of age;

2 (2) be a citizen or permanent legal resident of the United
3 States;

4 (3) be a resident of or have a place of employment or practice
5 in this state;

6 (4) be able to read and write English; and

7 (5) not be disqualified to receive a commission under Section
8 21 of this act.

9 (c) Before issuance of a commission as a notary public, an
10 applicant for the commission shall execute an oath of office and
11 submit it to the Secretary of State.

12 (d) Before issuance of a commission as a notary public, the
13 notary public shall submit to the Secretary of State an assurance in
14 the form of a surety bond or its functional equivalent in the amount
15 of One Thousand Dollars (\$1,000.00). The assurance must be issued
16 by a surety or other entity licensed or authorized to do business in
17 this state. The assurance must cover acts performed during the term
18 of the notary public's commission and must be in the form prescribed
19 by the Secretary of State. If a notary public violates law with
20 respect to notaries public in this state, the surety or issuing
21 entity is liable under the assurance. The surety or issuing entity
22 shall give thirty-day notice to the Secretary of State before
23 canceling the assurance. The surety or issuing entity shall notify

1 the Secretary of State not later than thirty (30) days after making
2 a payment to a claimant under the assurance. A notary public may
3 perform notarial acts in this state only during the period that a
4 valid assurance is on file with the Secretary of State.

5 (e) On compliance with this section, the Secretary of State
6 shall issue a commission as a notary public to an applicant for a
7 term of four (4) years.

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

12 SECTION 21. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 142 of Title 49, unless there is
14 created a duplication in numbering, reads as follows:

15 GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION
16 COMMISSION OF NOTARY PUBLIC.

17 (a) The Secretary of State may deny, refuse to renew, revoke,
18 suspend, or impose a condition on a commission as notary public for
19 any act or omission that demonstrates the individual lacks the
20 honesty, integrity, competence, or reliability to act as a notary
21 public, including:

22 (1) failure to comply with the Revised Uniform Law on Notarial
23 Acts;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

4 (3) a conviction of the applicant or notary public of any
5 felony or a crime involving fraud, dishonesty, or deceit;

6 (4) a finding against, or admission of liability by, the
7 applicant or notary public in any legal proceeding or disciplinary
8 action based on the applicant's or notary public's fraud,
9 dishonesty, or deceit;

10 (5) failure by the notary public to discharge any duty required
11 of a notary public, whether by the Revised Uniform Law on Notarial
12 Acts, rules of the Secretary of State, or any federal or state law;

13 (6) use of false or misleading advertising or representation by
14 the notary public representing that the notary has a duty, right, or
15 privilege that the notary does not have;

16 (7) violation by the notary public of a rule of the Secretary
17 of State regarding a notary public;

18 (8) denial, refusal to renew, revocation, suspension, or
19 conditioning of a notary public commission in another state; or

20 (9) failure of the notary public to maintain an assurance as
21 provided in subsection (d) of Section 20 of this act.

22 (b) If the Secretary of State denies, refuses to renew,
23 revokes, suspends, or imposes conditions on a commission as a notary
24

1 public, the applicant or notary public is entitled to timely notice
2 and hearing in accordance with the Administrative Procedures Act.

3 (c) The authority of the Secretary of State to deny, refuse to
4 renew, suspend, revoke, or impose conditions on a commission as a
5 notary public does not prevent a person from seeking and obtaining
6 other criminal or civil remedies provided by law.

7 SECTION 22. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 143 of Title 49, unless there is
9 created a duplication in numbering, reads as follows:

10 DATABASE OF NOTARIES PUBLIC. The Secretary of State shall
11 maintain an electronic database of notaries public through which a
12 person may verify the authority of a notary public to perform
13 notarial acts.

14 SECTION 23. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 144 of Title 49, unless there is
16 created a duplication in numbering, reads as follows:

17 PROHIBITED ACTS.

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

20 (1) assist persons in drafting legal records, give legal
21 advice, or otherwise practice law;

22 (2) act as an immigration consultant or an expert on
23 immigration matters;

1 (3) represent a person in a judicial or administrative
2 proceeding relating to immigration to the United States, United
3 States citizenship, or related matters; or

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

6 (b) A notary public may not engage in false or deceptive
7 advertising.

8 (c) A notary public, other than an attorney licensed to
9 practice law in this state, may not use the term "notario" or
10 "notario publico".

11 (d) A notary public, other than an attorney licensed to
12 practice law in this state, may not advertise or represent that the
13 notary public may assist persons in drafting legal records, give
14 legal advice, or otherwise practice law. If a notary public who is
15 not an attorney licensed to practice law in this state in any manner
16 advertises or represents that the notary public offers notarial
17 services, whether orally or in a record, including broadcast media,
18 print media, and the Internet, the notary public shall include the
19 following statement, or an alternate statement authorized or
20 required by the Secretary of State, in the advertisement or
21 representation, prominently and in each language used in the
22 advertisement or representation: "I am not an attorney licensed to
23 practice law in this state. I am not allowed to draft legal

1 records, give advice on legal matters, including immigration, or
2 charge a fee for those activities." If the form of advertisement or
3 representation is not broadcast media, print media, or the Internet
4 and does not permit inclusion of the statement required by this
5 subsection because of size, it must be displayed prominently or
6 provided at the place of performance of the notarial act before the
7 notarial act is performed.

8 (e) Except as otherwise allowed by law, a notary public may not
9 withhold access to or possession of an original record provided by a
10 person that seeks performance of a notarial act by the notary
11 public.

12 SECTION 24. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 145 of Title 49, unless there is
14 created a duplication in numbering, reads as follows:

15 VALIDITY OF NOTARIAL ACTS. Except as otherwise provided in
16 subsection (b) of Section 4 of this act, the failure of a notarial
17 officer to perform a duty or meet a requirement specified in the
18 Revised Uniform Law on Notarial Acts does not invalidate a notarial
19 act performed by the notarial officer. The validity of a notarial
20 act under the Revised Uniform Law on Notarial Acts does not prevent
21 an aggrieved person from seeking to invalidate the record or
22 transaction that is the subject of the notarial act or from seeking
23 other remedies based on law of this state other than the Revised

1 Uniform Law on Notarial Acts or law of the United States. This
2 section does not validate a purported notarial act performed by an
3 individual who does not have the authority to perform notarial acts.

4 SECTION 25. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 146 of Title 49, unless there is
6 created a duplication in numbering, reads as follows:

7 RULES. The Secretary of State may adopt rules to implement the
8 Revised Uniform Law on Notarial Acts. The rules may:

9 (1) prescribe the manner of performing notarial acts regarding
10 records;

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

14 (3) prescribe the process of granting, renewing, conditioning,
15 denying, suspending, or revoking a notary public commission and
16 assuring the trustworthiness of an individual holding a commission
17 as notary public;

18 (4) include provisions to prevent fraud or mistake in the
19 performance of notarial acts; and

20 (5) establish the process for approving and accepting surety
21 bonds under subsection (d) of Section 20 of this act.

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1 SECTION 26. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 147 of Title 49, unless there is
3 created a duplication in numbering, reads as follows:

4 NOTARY PUBLIC COMMISSION IN EFFECT. A commission as a
5 notary public in effect on January 1, 2012, continues until its date
6 of expiration. A notary public who applies to renew a commission as
7 a notary public on or after January 1, 2012, is subject to and shall
8 comply with the Revised Uniform Law on Notarial Acts. A notary
9 public, in performing notarial acts on or after January 1, 2012,
10 shall comply with the Revised Uniform Law on Notarial Acts.

11 SECTION 27. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 148 of Title 49, unless there is
13 created a duplication in numbering, reads as follows:

14 SAVINGS CLAUSE. The Revised Uniform Law on Notarial Acts does
15 not affect the validity or effect of a notarial act performed before
16 January 1, 2012.

17 SECTION 28. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 149 of Title 49, unless there is
19 created a duplication in numbering, reads as follows:

20 UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and
21 construing this uniform act, consideration must be given to the need
22 to promote uniformity of the law with respect to its subject matter
23 among states that enact it.

1 SECTION 29. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 150 of Title 49, unless there is
3 created a duplication in numbering, reads as follows:

4 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
5 COMMERCE ACT. The Revised Uniform Law on Notarial Acts modifies,
6 limits, and supersedes the Electronic Signatures in Global and
7 National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
8 modify, limit, or supersede Section 101(c) of that act, 15 U.S.C.
9 Section 7001(c), or authorize electronic delivery of any of the
10 notices described in Section 103(b) of that act, 15 U.S.C. Section
11 7003(b).

12 SECTION 30. AMENDATORY 49 O.S. 2001, Section 2, as
13 amended by Section 1, Chapter 101, O.S.L. 2004 (49 O.S. Supp. 2010,
14 Section 2), is amended to read as follows:

15 Section 2. A. Before entering upon the duties of his or her
16 office every notary public so appointed and commissioned shall file
17 in the office of the Secretary of State, the notary's oath of
18 office, the notary's loyalty oath, the notary's official signature,
19 an impression of the notary's official seal, and a good and
20 sufficient bond to the State of Oklahoma, ~~in the sum of One Thousand~~
21 ~~Dollars (\$1,000.00), to be approved by the Secretary of State,~~
22 ~~conditioned for the faithful performance of the duties of the~~
23 ~~notary's office. The bond shall be signed by:~~

1 ~~1. An insurance agent licensed by the State of Oklahoma;~~
2 ~~2. An attorney in fact on behalf of an insurance company with a~~
3 ~~power of attorney attached; or~~
4 ~~3. One or more individual sureties who are property owners in~~
5 ~~the county of residence of the notary, or if a nonresident, the~~
6 ~~county of employment of the notary pursuant to Section 20 of this~~
7 act. The bond shall be issued for a term of four (4) years
8 commencing on the commission's effective date and terminating on its
9 expiration date. Upon the filing of his or her bond with the
10 Secretary of State, every notary public shall pay to the Secretary
11 of State the sum of Ten Dollars (\$10.00) to be deposited to the
12 credit of the Revolving Fund for the Office of the Secretary of
13 State.

14 B. Upon the receipt of a final judgment against an Oklahoma
15 notary public for performing a false or fraudulent notarial act from
16 an Oklahoma District Court or its equivalent from a foreign
17 jurisdiction, the Secretary of State shall revoke the appointment of
18 said notary.

19 SECTION 31. REPEALER 49 O.S. 2001, Sections 111, 112,
20 113, 114, 115, 116, 117, 118, 119, 120 and 121, are hereby repealed.

21 SECTION 32. This act shall become effective January 1, 2012.

22
23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-22-2011 - DO
24 PASS, As Amended and Coauthored.