

[First Reprint]

SENATE, No. 2508

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 4, 2020

Sponsored by:

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District 11 (Monmouth)

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District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Singleton, Pou and Diegnan

SYNOPSIS

Revises law concerning notaries and notarial acts; authorizes electronic signatures.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on December 14, 2020, with amendments.



(Sponsorship Updated As Of: 2/11/2021)

1 AN ACT concerning notaries, ¹and¹ amending ~~‘[and]’~~¹
 2 supplementing ¹, and repealing¹ various parts of the statutory
 3 law.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. Section 1 of P.L.1979, c.460 (C.52:7-10) is amended to read
 9 as follows:

10 1. Short title.

11 This act shall be known and may be cited as the **["Notaries**
 12 **Public Act of 1979."]** "New Jersey Law on Notarial Acts."
 13 (cf: P.L.1979, c.460, s.1)

14
 15 2. (New section) Definitions.

16 As used in P.L. , c. (C.) (pending before the Legislature
 17 as this bill):

18 a. "Acknowledgment" means a declaration by an individual
 19 before a notarial officer that the individual has signed a record for
 20 the purpose stated in the record and, if the record is signed in a
 21 representative capacity, that the individual signed the record with
 22 proper authority and signed it as the act of the individual or entity
 23 identified in the record.

24 b. "Electronic" means relating to technology having electrical,
 25 digital, magnetic, wireless, optical, electromagnetic, or similar
 26 capabilities.

27 c. "Electronic signature" means an electronic symbol, sound,
 28 or process attached to, or logically associated with, a record and
 29 executed or adopted by an individual with the intent to sign the
 30 record.

31 d. "In a representative capacity" means acting as:

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

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

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

37 (4) An authorized representative of another in any other
 38 capacity.

39 e. "Notarial act" means an act, whether performed with respect
 40 to a tangible or electronic record, that a notarial officer may
 41 perform under the laws of New Jersey. The term includes:

42 (1) taking an acknowledgment,

43 (2) administering an oath or affirmation,

44 (3) taking a verification on oath or affirmation,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted December 14, 2020.

- 1 (4) witnessing or attesting a signature,
2 (5) certifying or attesting a copy or deposition, and
3 (6) noting a protest of a negotiable instrument.
- 4 f. "Notarial officer" means a notary public or other individual
5 authorized by law to perform a notarial act.
- 6 g. "Notary public" means an individual commissioned by the
7 State Treasurer to perform a notarial act.
- 8 h. "Official stamp" means a physical image affixed to or
9 embossed on a tangible record or an electronic image attached to, or
10 logically associated with, an electronic record.
- 11 i. "Person" has the meaning ascribed to it in R.S.1:1-2.
- 12 j. "Record" means information that is inscribed on a tangible
13 medium or that is stored in an electronic or other medium and is
14 retrievable in perceivable form.
- 15 k. "Sign" means, with present intent to authenticate or adopt a
16 record:
- 17 (1) To execute or adopt a tangible symbol; or
18 (2) To attach to or logically associate with the record an
19 electronic symbol, sound, or process.
- 20 l. "Signature" means a tangible symbol or an electronic
21 signature that evidences the signing of a record.
- 22 m. "Stamping device" means:
- 23 (1) A physical device capable of affixing to or embossing on a
24 tangible record an official stamp; or
25 (2) An electronic device or process capable of attaching to or
26 logically associating with an electronic record an official stamp.
- 27 n. "State" means the State of New Jersey; "other state" or
28 "another state" means any state, the District of Columbia, the
29 Commonwealth of Puerto Rico, the United States Virgin Islands,
30 and any other insular possession or territory of the United States
31 other than the State of New Jersey.
- 32 o. "Verification on oath or affirmation" means a declaration,
33 made by an individual on oath or affirmation before a notarial
34 officer, that a statement in a record is true.
- 35
- 36 3. Section 2 of P.L.1979, c.460 (C.52:7-11) is amended to read
37 as follows:
- 38 2. Commission; Term; Application; Renewal.
- 39 a. The State Treasurer **【shall appoint】** may commission so
40 many notaries public as the State Treasurer **【shall deem】** deems
41 necessary to commission**【, who】**. Notaries public shall hold their
42 respective offices for **【the】** a term of five years**【, but may be**
43 removed from office at the pleasure of the State Treasurer**】**.
- 44 b. **【A person desiring to be appointed and commissioned】** An
45 applicant for commission as a notary public shall make application
46 to the State Treasurer on a form prescribed by the State Treasurer
47 **【and endorsed by a member of the Legislature】** 'and endorsed by a

1 member of the Legislature¹. Renewals ~~【thereof】~~ shall be made in
 2 the same manner as the original application. ¹All applications shall
 3 be submitted electronically.¹

4 The application form shall provide a notice to the applicant that a
 5 notary public who is not licensed as an attorney-at-law shall not use
 6 or advertise the title of lawyer or attorney-at-law, or equivalent
 7 terms, in ~~【the English language or】~~ any ~~【other】~~ language, which
 8 mean or imply that the notary public is licensed as an attorney-at-
 9 law in the State of New Jersey or in any other jurisdiction of the
 10 United States. The application form shall also state that a notary
 11 public who advertises ~~【his】~~ the notary public's services in ~~【the~~
 12 ~~English language or】~~ any ~~【other】~~ language is required to provide
 13 with such advertisement a notice in the language of the
 14 advertisement which contains the following statement or translation
 15 of the following statement if the advertisement is not in English: "I
 16 am not an attorney licensed to practice law and may not give legal
 17 advice about immigration or any other legal matter or accept fees
 18 for legal advice."

19 c. The ~~【fee to be collected by the】~~ State Treasurer shall collect
 20 a nonrefundable fee ~~【for that appointment or renewal shall be~~
 21 ~~\$25.00】~~ of ¹~~【\$25】~~ \$50¹ for each commission or renewal. In
 22 collecting the fee, the State Treasurer shall accept the use of a credit
 23 card, debit card, or electronic funds transfer.

24 (cf: P.L.2014, c.48, s.3)

25

26 4. Section 3 of P.L.1979, c.460 (C.52:7-12) is amended to read
 27 as follows:

28 3. Qualifications.

29 ~~【No】~~ a. A person ~~【shall be appointed】~~ commissioned as a
 30 notary public in this State shall:

31 (1) be at the time of appointment at least ~~【unless he is】~~ 18 years
 32 of age ~~【or older】~~ ¹~~【and a citizen of the United States】~~¹;

33 (2) be at the time of appointment a legal resident of this State or
 34 have a place of employment or practice in this State; and

35 (3) not be disqualified to receive a commission under section
 36 ¹~~【9】~~ 7¹ of P.L. , c. (C.) (pending before the Legislature as
 37 this bill).

38 b. An applicant for an initial ¹or renewed¹ commission as a
 39 notary public shall ¹~~【provide satisfactory proof that the applicant~~
 40 has:

41 (1) completed a six-hour course of study approved by the State
 42 Treasurer pursuant to subsection a. of section 6 of P.L. ,
 43 c. (C.) (pending before the Legislature as this bill); and

44 (2) passed an examination prescribed by the State Treasurer
 45 pursuant to section 7 of P.L. , c. (C.) (pending before the
 46 Legislature as this bill).

1 c. A commissioned notary public applying to renew a
2 commission who has satisfactorily completed the six-hour course of
3 study required pursuant to subsection a. of section 6 of P.L. , c.
4 (C.) (pending before the Legislature as this bill) at least one
5 time, or who was commissioned for the first time before the
6 effective date of P.L. , c. (C.) shall complete the three-
7 hour continuing education course as set forth in subsection b. of
8 section 6 of P.L. , c. (C.) (pending before the Legislature
9 as this bill) and provide satisfactory proof of such completion】
10 comply with all educational requirements that the Treasurer sets
11 forth in the New Jersey Notary Public Manual. The Treasurer shall
12 provide the necessary process for documenting compliance with
13 educational requirements through the online application required by
14 subsection b. of section 2 of P.L.1979, c.460 (C.52:7-11)¹.
15 (cf: P.L.1979, c.460, s.3)

16
17 5. Section 4 of P.L.1979, c.460 (C.52:7-13) is amended to read
18 as follows:

19 4. Commission of Nonresidents; Additional Requirements.

20 a. No person shall be denied **【appointment】** a commission as a
21 notary public on account of residence outside **【of】** this State,
22 provided such person **【resides in a State adjoining this State and】**
23 maintains, or is regularly employed in, an office in this State ¹or is
24 an employee of a business with its domicile or primary place of
25 business in this State and performs his employment duties remotely
26 from a home office or a co-working space¹.

27 b. **【Before】** In addition to the requirements of section 3 of
28 P.L.1979, c.460 (C.52:7-12), any 【such】 nonresident shall 【be
29 appointed and commissioned as a notary public, he shall】 file with
30 the State Treasurer 【an affidavit】 at the time of application a
31 certificate setting forth 【his】 the residence and the address of the
32 applicant, and the 【address of his】 office or place of employment
33 of the applicant in this State.

34 c. **【Any】** Once commissioned, any such nonresident notary
35 public shall file with the State Treasurer a certificate showing any
36 change of residence or change of 【his】 the office or place of
37 employment 【address】 of the notary public in this State.

38 (cf: P.L.2014, c.48, s.4)

39
40 ¹**【6. (New section) Course of Study; Continuing Education.**

41 a. An applicant for an initial commission as a notary public
42 pursuant to section 2 of P.L.1979, c.460 (C.52:7-11) shall complete
43 a six-hour course of study prescribed and approved by the State
44 Treasurer. The course of study shall be completed within the six-
45 month period immediately preceding the application.

1 b. An applicant for renewal of a commission pursuant to
2 section 2 of P.L.1979, c.460 (C.52:7-11) who has previously
3 completed the six-hour course of study required pursuant to
4 subsection a. of this section at least one time, or who was
5 commissioned for the first time before the effective date of P.L. ,
6 c. (C.) (pending before the Legislature as this bill) shall
7 complete a three-hour continuing education course prescribed and
8 approved by the State Treasurer. The continuing education course
9 shall be completed within the six-month period immediately
10 preceding the application.

11 c. The State Treasurer shall prescribe an application form and
12 certificate of approval for any notary public course of study and any
13 notary public continuing education course proposed by a provider.
14 The State Treasurer may also provide a notary public course of
15 study and continuing education course.

16 d. The State Treasurer shall compile a list of all persons
17 offering an approved course of study and continuing education
18 course pursuant to this section and shall provide the list on the
19 website of the State Treasurer.

20 e. The six-hour course of study shall cover the statutes,
21 regulations, procedures, and ethics for notaries public as described
22 in the manual issued by the State Treasurer, and shall include the
23 duties and responsibilities of a notary public. The course of study
24 shall be provided by classroom instruction.

25 f. The three-hour continuing education course shall cover
26 topics which ensure maintenance and enhancement of skill,
27 knowledge, and competency necessary to perform notarial acts. The
28 continuing education course may be provided by either online or
29 classroom instruction.】¹

30

31 ¹【7. (New section) Examination.

32 a. The State Treasurer shall prescribe and administer an
33 examination to determine the fitness of an applicant to exercise the
34 functions of a notary public as provided in section 2 of P.L.1979,
35 c.460 (C.52:7-11). The examination shall:

36 (1) be based on the statutes, rules, regulations, procedures, and
37 ethical requirements for notaries public as described in the manual
38 issued by the State Treasurer; and

39 (2) include the requirements, functions, duties, and
40 responsibilities of a notary public.

41 b. The State Treasurer shall charge a nonrefundable fee which
42 shall be payable at the examination site. Such fee shall be
43 established or changed by the State Treasurer to defray any proper
44 expenses incurred by the Department of the Treasury in
45 administering the examination. The fee shall not be fixed at a level
46 that will raise amounts in excess of the amount estimated to be so
47 required.】¹

1 ¹**[8.] 6.**¹ Section 5 of P.L.1979, c.460 (C.52:7-14) is amended
2 to read as follows:

3 5. Oath; Filing; Certificate of Commission.

4 a. Within ¹**[45 days]** three months¹ of the receipt of a
5 commission, each notary public shall take and subscribe an oath
6 before **[the clerk of the county in which he resides]** ¹**[any officer**
7 authorized to administer oaths pursuant to R.S.41:2-1] **the clerk of**
8 the county in which the notary public resides¹, to: ¹**[(1)]**¹ faithfully
9 and honestly **[to]** discharge the duties of **[his]** the office**[,]** ; and
10 ¹**[(2)]**¹**[that he will]** make and keep a true record of all such
11 matters as are required by law, **[which oath shall be filed with said**
12 clerk. The oath of office of a nonresident notary public shall be
13 taken and subscribed before the clerk of the county in which he
14 maintains his office or is employed in this State] ¹**[including the**
15 requirement to maintain a journal of all notarial acts performed, as
16 set forth in section 27 of P.L. , c. (C.) (pending before
17 the Legislature as this bill)] which oath shall be filed with said
18 clerk. The oath of office of a nonresident notary public shall be
19 taken and subscribed before the clerk of the county in which the
20 nonresident notary public maintains his office or is employed in this
21 State¹.

22 b. Upon the administration of **[said]** the oath, the **[said clerk]**
23 ¹**[officer]** said clerk¹ shall cause the notary public to **[indorse a]**
24 endorse the certificate of commission and qualification and shall
25 transmit [said] the certificate to the State Treasurer within 10 days
26 of the administration of [said] the oath. [After the administration
27 of the oath, the clerk shall provide a notice to the person that a
28 notary public who is not licensed as an attorney-at-law shall not use
29 or advertise the title of lawyer or attorney-at-law, or equivalent
30 terms, in the English language or any other language, which mean
31 or imply that the notary public is licensed as an attorney-at-law in
32 the State of New Jersey or in any other jurisdiction of the United
33 States. The notice shall also state that a notary public who
34 advertises his services, in the English language or any other
35 language, is required to provide with such advertisement a notice
36 which contains the following statement: "I am not an attorney
37 licensed to practice law and may not give legal advice about
38 immigration or any other legal matter or accept fees for legal
39 advice.] ¹After the administration of the oath, the clerk shall
40 provide a notice to the person that a notary public who is not
41 licensed as an attorney-at-law shall not use or advertise the title of
42 lawyer or attorney-at-law, or equivalent terms, in the English
43 language or any other language, which mean or imply that the
44 notary public is licensed as an attorney-at-law in the State of New
45 Jersey or in any other jurisdiction of the United States. The notice
46 shall also state that a notary public who advertises his services, in

1 the English language or any other language, is required to provide
2 with such advertisement a notice which contains the following
3 statement: "I am not an attorney licensed to practice law and may
4 not give legal advice about immigration or any other legal matter or
5 accept fees for legal advice." ¹

6 c. **【The State Treasurer shall cancel and revoke the**
7 **appointment of any notary public who fails to take and subscribe**
8 **said oath within three months of the receipt of his commission and**
9 **any appointment so canceled and revoked shall be null, void and of**
10 **no effect】** ¹The State Treasurer shall cancel and revoke the
11 appointment of any notary public who fails to take and subscribe
12 said oath within three months of the receipt of his commission and
13 any appointment so canceled and revoked shall be null, void and of
14 no effect¹. A commission authorizes the notary public to perform
15 notarial acts. The commission does not provide the notary public
16 any immunity or benefit conferred by the law of this State on public
17 officials or employees.

18 (cf: P.L.2014, c.48, s.5)

19
20 ¹**【9.】** ¹ (New section) Grounds for State Treasurer to Deny
21 Application, Refuse to Renew Commission, or Revoke, Suspend, or
22 Limit Commission.

23 a. The State Treasurer may deny an application for commission
24 as ¹a¹ notary public; refuse to renew a commission of a notary
25 public; or suspend, revoke, or otherwise limit the commission of a
26 notary public for any act or omission that demonstrates the
27 individual lacks the honesty, integrity, competence, or reliability
28 necessary to act as a notary public, including:

29 (1) failure to comply with P.L.1979, c.460 (C.52:7-10 et seq.),
30 as amended and supplemented by P.L. , c. (C.) (pending
31 before the Legislature as this bill);

32 (2) a fraudulent, dishonest, or deceitful misstatement or
33 omission in the application for commission as a notary public
34 submitted to the State Treasurer;

35 (3) a finding against, or admission of liability by, the applicant
36 or notary public in any legal proceeding or disciplinary action based
37 on fraud, dishonesty, or deceit, including but not limited to a
38 violation of section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of
39 P.L.1994, c.47 (C.2C:21-22), but nothing in this paragraph shall be
40 deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.);

41 (4) a conviction of a crime of the second degree or above, but
42 nothing in this paragraph shall be deemed to supersede P.L.1968,
43 c.282 (C.2A:168A-1 et seq.);

44 (5) failure by the notary public to discharge any duty required
45 by any law, including P.L.1979, c.460 (C.52:7-10 et seq.), any rules
46 or regulations promulgated thereunder by the State Treasurer, and
47 any other State or federal law;

(6) use of false or misleading advertising or representation by the notary public representing that the notary is commissioned, licensed, or authorized to practice or engage in work that the notary is not commissioned, licensed, or authorized to engage in;

(7) in the case of a notary public who is not an attorney licensed to practice law, any of the following:

(a) giving legal advice;

(b) acting as an immigration consultant or an expert on immigration matters;

(c) otherwise performing the duties of an attorney licensed to practice law in New Jersey;

(d) a disciplinary or other administrative action resulting in a finding of culpability if the applicant holds any professional license regulated by the State; or

(e) creating or reinforcing, by any means, a false impression that the person is licensed to engage in the practice of law in this State or any other ¹**[State]** state¹, including, but not limited to, committing a violation of P.L.1994, c.47 (C.2C:21-22) or P.L.1997, c.1 (C.2C:21-31);

(8) failure to take and subscribe to the oath pursuant to section 5 of P.L.1979, c.460 (C.52:7-14) within 45 days of the receipt of a notary public commission;

(9) withholding access to or possession of an original record or photocopy provided by a person who seeks performance of a notarial act by the notary public, except where allowed by law; or

(10) the denial of an application for notary public in another state; the refusal to renew in another state; or the suspension, revocation, or other limitation of the commission of the notary public in another state.

b. If the State Treasurer denies an application for notary public; refuses to renew a commission of a notary public; or suspends, revokes, or otherwise limits the commission of a notary public, the applicant or the notary public is entitled to timely notice and hearing in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

c. The authority of the State Treasurer to deny an application for notary public; refuse to renew a commission of a notary public; or suspend, revoke, or otherwise limit the commission of a notary public shall not prevent a person aggrieved by the actions of a notary public from seeking other criminal or civil remedies provided by law.

¹**[10.]** 8.¹ Section 6 of P.L.1979, c.460 (C.52:7-15) is amended to read as follows:

6. Statewide authority.

[a.] ¹a.¹ A notary public who has been duly commissioned and qualified is authorized to perform **[his]** the duties of a notary public throughout the State.

1 **【b.** Any notary public, after having been duly commissioned and
2 qualified, shall, upon request, receive from the clerk of the county
3 where he has qualified, as many certificates of his commission and
4 qualification as he shall require for filing with other county clerks
5 of this State, and upon receipt of such certificates the notary public
6 may present the same, together with his autograph signature, to
7 such county clerks as he may desire, for filing.**】**

8 ¹b. Any notary public, after having been duly commissioned and
9 qualified, shall, upon request, receive from the clerk of the county
10 where the notary public has qualified, as many certificates of
11 commission and qualification as the notary public shall require for
12 filing with other county clerks of this State, and upon receipt of
13 such certificates the notary public may present the same, together
14 with the notary public's autograph signature, to such county clerks
15 as the notary public may desire, for filing.¹

16 (cf: P.L.1979, c.460, s.6)

17
18 **¹【11.】 9.**¹ Section 8 of P.L.1979, c.460 (C.52:7-17) is amended
19 to read as follows:

20 8. Manual.

21 **【**The State Treasurer shall, by regulation, fix a fee to be charged
22 to each notary for the costs of printing and distribution to each
23 applicant of a manual prescribing the powers, duties and
24 responsibilities of a notary.**】**

25 a. The State Treasurer shall maintain a manual on the
26 Department of the Treasury's website that sets forth the
27 requirements, functions, duties, and responsibilities of a notary
28 public. The manual shall include, but not be limited to, the statutes,
29 rules, regulations, procedures, and ethical requirements governing a
30 notary public.

31 b. The manual shall specify that a notary public who is not
32 licensed as an attorney-at-law shall not use or advertise the title of
33 lawyer or attorney-at-law, or equivalent terms, in **【**the English
34 language or**】** any **【other】** language, which mean or imply that the
35 notary public is licensed as an attorney **【**or counselor at law**】** in the
36 State of New Jersey or in any other jurisdiction of the United States.
37 The manual shall also state that a notary public who advertises
38 **【his】** the notary's services in **【**the English language or**】** any
39 **【other】** language is required to provide with such advertisement a
40 notice which contains the following statement or translation of the
41 following statement if the advertisement is not in English: "I am not
42 an attorney licensed to practice law and may not give legal advice
43 about immigration or any other legal matter or accept fees for legal
44 advice." The manual shall also state that no person shall be
45 **【appointed or reappointed】** commissioned a notary public or
46 receive a renewal of a notary public commission if ¹**【he】** that

1 person¹ has been convicted under the laws of this State of an
 2 offense involving dishonesty, including but not limited to a
 3 violation of section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of
 4 P.L.1994, c.47 (C.2C:21-22), or a substantially similar crime under
 5 the laws of another state or the United States or of a crime of the
 6 second degree or above, but nothing in this paragraph shall be
 7 deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.).

8 c. The State Treasurer shall update the information contained
 9 in the manual and the Department of the Treasury's Internet website
 10 **【as appropriate】** ¹**【at least quarterly】** periodically¹.
 11 (cf: P.L.2014, c.48, s.6)

12
 13 ¹**【12.】** 10.¹ Section 9 of P.L.1979, c.460 (C.52:7-18) is amended
 14 to read as follows:

15 9. Statement by Notary Public after Change in Name; Filing;
 16 Evidence of Continuance of Powers and Privileges.

17 **【After】** a. If a notary public adopts a name different from that
 18 which **【he】** the notary public used at the time ¹**【he】** the notary
 19 public¹ was commissioned, **【and】** before **【he signs his name】** the
 20 notary public provides a signature to any **【document】** record which
 21 **【he】** the notary public is authorized or required to sign as notary
 22 public, ¹**【he】** the notary public¹ shall make and sign a statement in
 23 writing and under oath, on a form prescribed and furnished by the
 24 State Treasurer, setting out the circumstances under which **【he】** the
 25 notary public has adopted the new name. ¹The statement shall state
 26 whether the new name has been adopted through marriage or civil
 27 union or by a change of name proceeding or otherwise, and such
 28 other information as the State Treasurer shall require.¹

29 b. ¹**【The statement shall 【set forth】 state whether the new**
 30 **name has been adopted through marriage or civil union or by a**
 31 **change of name proceeding or otherwise, and such other**
 32 **information as the State Treasurer shall require.**

33 c.¹ **【The statement shall be filed in the office of the State**
 34 **Treasurer 【and in the office of the clerk of the county where he**
 35 **qualified as a notary public and in the office of the clerk of any**
 36 **county in which he may have filed a certificate of his commission**
 37 **and qualification】.** Such statement, or a certified copy **【thereof】**,
 38 shall be evidence of the right of **【said】** the notary public to continue
 39 to exercise the powers and privileges and perform the duties of a
 40 notary public in **【his】** the changed **【and】** or new name.

41 (cf: P.L.2014, c.48, s.7)

42
 43 ¹**【13.】** 11.¹ Section 10 of P.L.1979, c.460 (C.52:7-19) is
 44 amended to read as follows:

45 10. Certificate of Notarial Act.

1 **【**Each notary public, in addition to subscribing his autograph
2 signature to any jurat upon the administration of any oath or the
3 taking of any acknowledgement or proof, shall affix thereto his
4 name in such a manner and by such means, including, but not
5 limited to, printing, typing, or impressing by seal or mechanical
6 stamp, as will enable the State Treasurer easily to read said name.**】**

7 a. A notarial act shall be evidenced by a certificate. The
8 certificate shall:

9 (1) be executed contemporaneously with the performance of the
10 notarial act;

11 (2) be signed and dated by the notarial officer;

12 (3) identify the jurisdiction in which the notarial act is
13 performed;

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

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

17 b. A certificate of a notarial act is sufficient if it meets the
18 requirements of subsection a. of this section and:

19 (1) is in a short form set forth in section ¹【21】 19¹ of P.L. _____,

20 c. (C. _____) (pending before the Legislature as this bill);

21 (2) is in a form otherwise permitted by the law of this State;

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

24 (4) sets forth the actions of the notarial officer which shall meet
25 the requirements provided in P.L.1979, c.460 (C.52:7-10 et seq.), as
26 amended and supplemented by P.L. _____, c. (C. _____) (pending
27 before the Legislature as this bill) and any other applicable laws of
28 this State.

29 c. By executing a certificate of a notarial act, a notarial officer
30 certifies that the officer has made the determinations specified by
31 P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented
32 by P.L. _____, c. (C. _____) (pending before the Legislature as this
33 bill).

34 d. A notarial officer may not affix the officer's signature to, or
35 logically associate it with, a certificate until the notarial act has
36 been performed.

37 e. If a notarial act is performed regarding a tangible record, a
38 certificate shall be part of, or attached to, the record.

39 f. If a notarial act is performed regarding an electronic record,
40 the certificate shall be affixed to, or logically associated with, the
41 electronic record.

42 g. If the State Treasurer has established standards pursuant to
43 P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented
44 by P.L. _____, c. (C. _____) (pending before the Legislature as this
45 bill) for attaching, affixing, or logically associating the certificate,
46 the process shall conform to the standards.

47 (cf: P.L.2014, c.48, s.8)

1 ¹**【14.】 12.**¹ (New section) Official Stamp.

2 a. The official stamp of a notary public shall:

3 (1) include the name of the notary public, the title “Notary
4 Public, State of New Jersey,” and the notary public’s commission
5 expiration date; and

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

8 b. If a notarial act regarding a tangible record is performed by a
9 notary public, an official stamp shall be affixed to or embossed on
10 the certificate near the signature of the notary public so as to be
11 clear and readable. If a notarial act regarding an electronic record is
12 performed by a notary public and the certificate contains the
13 information specified in subsection a. of this section, an official
14 stamp ¹**【may】 must**¹ be attached to or logically associated with the
15 certificate.

16

17 ¹**【15.】 13.**¹ (New section) Stamping Device.

18 a. A notary public is responsible for the security of the
19 stamping device used by the notary public and may not allow
20 another individual to use the device to perform a notarial act, except
21 at the specific instruction of a notary public who cannot physically
22 use the stamping device.

23 b. The stamping device is the property of the notary public and
24 not of the notary public’s employer, even if the employer paid for
25 the stamping device.

26 c. If the stamping device used by the notary public is lost or
27 stolen, the notary public or ¹**【his】 the notary public’s**¹ personal
28 representative shall notify the State Treasurer of the loss or theft
29 within 10 days.

30

31 ¹**【16.】 14.**¹ (New section) Authority to Perform Notarial Act.

32 a. A notarial officer may perform a notarial act authorized by
33 P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented
34 by P.L. , c. (C.) (pending before the Legislature as this
35 bill), and any other applicable law.

36 b. A notarial officer may not perform a notarial act with respect
37 to a record to which the officer or the officer’s spouse or civil union
38 partner is a party, or in which either of them has a direct beneficial
39 interest. A notarial act performed in violation of this subsection is
40 voidable.

41 c. A notarial officer may certify that a tangible copy of an
42 electronic record is an accurate copy of the electronic record.

43

44 ¹**【17.】 15.**¹ (New section) Requirements for Certain Notarial
45 Acts.

46 a. A notarial officer who takes an acknowledgment of a record
47 shall determine, from personal knowledge or satisfactory evidence

1 of the identity of the individual, that the individual appearing before
2 the officer and making the acknowledgment has the identity
3 claimed and that the signature on the record is the signature of the
4 individual.

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

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

15 d. A notarial officer who certifies or attests a copy of a record
16 or an item that was copied shall determine that the copy is a full,
17 true, and accurate transcription or reproduction of the record or
18 item.

19 e. A notarial officer who makes or notes a protest of a
20 negotiable instrument shall determine the matters set forth in
21 subsection b. of N.J.S.12A:3-505.

22 f. For the purposes of this section:

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

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

31 (a) A passport, driver's license, or government-issued, non-
32 driver identification card, which is current or expired not more than
33 three years before the performance of the notarial act; or

34 (b) Another form of government-issued identification, which is
35 current or expired not more than three years before the performance
36 of the notarial act, and which:

37 (i) contains the individual's signature or a photograph of the
38 individual's face; and

39 (ii) is satisfactory to the notarial officer; or

40 (c) A verification of oath or affirmation of a credible witness
41 personally appearing before the notarial officer ¹or using
42 communication technology to appear before the notarial officer
43 pursuant to section 17 of P.L. , c. (C.) (pending before the
44 Legislature as this bill)¹ and personally known to the notarial
45 officer or whom the notarial officer can identify on the basis of a
46 passport, driver's license, or government-issued, non-driver
47 identification card, which is current or expired not more than three
48 years before the performance of the notarial act.

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

5 **¹18.16.** (New section) Personal Appearance **¹Required**;
6 Use of Communication Technology¹.

7 If a notarial act relates to a statement made in, or a signature
8 executed on, a record, the individual making the statement or
9 executing the signature shall appear personally before the notarial
10 officer ¹or shall use communication technology to appear before the
11 notarial officer pursuant to section 17 of P.L. , c. (C.)
12 (pending before the Legislature as this bill)¹.
13

14 **¹19.17.** (New section) Notarial Act Performed by Remotely
15 Located Individual.

16 a. As used in this section:

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

19 (a) allows a notarial officer and a remotely located individual to
20 communicate with each other simultaneously by sight and sound;
21 and

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

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

27 (3) “Identity proofing” means a process or service by which a
28 third person provides a notarial officer with a means to verify the
29 identity of a remotely located individual by a review of personal
30 information from public or private data sources.

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

35 (5) “Remotely located individual” means an individual who is
36 not in the physical presence of a notarial officer performing a
37 notarial act under subsection c.

38 b. This section does not apply to a record to the extent it is
39 governed by:

40 (1) **¹1**a law governing the creation and execution of wills or
41 codicils;

42 (2) **¹1**the “Uniform Commercial Code,” N.J.S.12A:1-101 et seq.,
43 other than N.J.S.12A:1-107, N.J.S.12A:1-206, the provisions of the
44 “Uniform Commercial Code – Sales,” chapter 2 of Title 12A of the
45 New Jersey Statutes, and the provisions of the “Uniform
46 Commercial Code – Leases,” chapter 2A of Title 12A of the New
47 Jersey Statutes; or

1 ¹[(3)] (2)¹ a statute, regulation, or other rule of law governing
2 adoption, divorce, or other matters of family law.

3 c. A remotely located individual may comply with section
4 ¹[(18)] 16¹ of P.L. , c. (C.) (pending before the Legislature
5 as this bill) and subsections a. and b. of R.S.46:14-2.1 by using
6 communication technology to appear before a notarial officer.

7 d. A notarial officer located in this State may perform a
8 notarial act using communication technology for a remotely located
9 individual if:

10 (1) the notarial officer:

11 (a) has personal knowledge of the identity of the individual;

12 (b) has satisfactory evidence of the identity of the remotely
13 located individual by oath or affirmation from a credible witness
14 appearing before the notarial officer ¹or using communication
15 technology to appear before the notarial officer pursuant to this
16 section¹; or

17 (c) has obtained satisfactory evidence of the identity of the
18 remotely located individual by using at least two different types of
19 identity proofing;

20 (2) the notarial officer is able reasonably to confirm that a
21 record before the notarial officer ¹[is] is¹ the same record in which
22 the remotely located individual made a statement or on which the
23 remotely located individual executed a signature;

24 (3) the notarial officer, or a person acting on behalf of the
25 notarial officer, creates an audio-visual recording of the
26 performance of the notarial act; and

27 (4) for a remotely located individual who is located outside the
28 United States:

29 (a) the record:

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

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

36 (b) the act of making the statement or signing the record is not
37 prohibited by the foreign state in which the remotely located
38 individual is located.

39 e. If a notarial act is performed under this section, the
40 certificate of notarial act required by section 10 of P.L.1979, c.460
41 (C.52:7-19), the certificate required by section c. of R.S.46:14-2.1,
42 or the short-form certificate provided in section ¹[(21)] 19¹ of
43 P.L. , c. (C.) (pending before the Legislature as this bill)
44 must indicate that the notarial act was performed using
45 communication technology.

- 1 f. A short-form certificate provided in section ¹~~21~~ 19¹ of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 for a notarial act subject to this section is sufficient if it:
- 4 (1) complies with any rules or regulations adopted by ¹or
5 provision published by,¹ the State Treasurer under paragraph (1) of
6 subsection j. of this section or section ¹~~29~~ 27¹ of
7 P.L. , c. (C.) (pending before the Legislature as
8 this bill); or
- 9 (2) is in the form provided by section ¹~~21~~ 19¹ of
10 P.L. , c. (C.) (pending before the Legislature as this bill)
11 and contains a statement substantially as follows: “This notarial act
12 involved the use of communication technology.”
- 13 g. A notarial officer, a guardian, conservator, or agent of a
14 notarial officer, or a personal representative of a deceased notarial
15 officer, shall retain the audio-visual recording created under
16 paragraph (3) of subsection d. of this section or cause the recording
17 to be retained by a repository designated by or on behalf of the
18 person required to retain the recording. Unless a different period is
19 required by any rule or regulation adopted by the State Treasurer
20 ¹or any provision published by the State Treasurer,¹ under
21 paragraph (4) of subsection j. of this section, the recording must be
22 retained for a period of at least 10 years after the recording is made.
- 23 h. Before a notary public performs ¹~~this~~ the notary public’s¹
24 initial notarial act under this section, the notary public must notify
25 the State Treasurer that the notary public will be performing such
26 notarial acts and identify the technologies the notary public intends
27 to use.
- 28 i. If the State Treasurer has established standards under
29 subsection j. of this section and section ¹~~29~~ 27¹ of P.L. ,
30 c. (C.) (pending before the Legislature as this bill) for
31 approval of communication technology or identity proofing, the
32 communication technology and identity proofing must conform to
33 those standards.
- 34 j. ¹~~In addition to adopting rules and regulations pursuant to~~
35 ~~the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1~~
36 ~~et seq.) under section 29 of P.L. , c. (C.) (pending before~~
37 ~~the Legislature as this bill), the State Treasurer may adopt rules and~~
38 ~~regulations pursuant to the “Administrative Procedure Act,”~~
39 ~~P.L.1968, c.410 (C.52:14B-1 et seq.) under this section regarding~~
40 ~~the performance of a notarial act. The rules and regulations may]~~
41 The Treasurer may also publish provisions in the New Jersey Public
42 Notary Manual that¹:
- 43 (1) prescribe the means of performing a notarial act involving a
44 remotely located individual using communication technology;
- 45 (2) establish standards for communication technology and
46 identity proofing;

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

(4) establish standards and a period for the retention of an audio-visual recording created under paragraph (3) of subsection d. of this section.

k. Before adopting, amending, or repealing a rule or regulation ¹or publishing a provision in the New Jersey Notary Public Manual¹ governing performance of a notarial act with respect to a remotely located individual, the State Treasurer must consider:

(1) the most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations such as the Mortgage Industry Standards Maintenance Organization and the recommendations of the National Association of Secretaries of State;

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

(3) the views of governmental officials and entities and other interested persons.

¹**[20.] 18.**¹ (New section) 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 record with the individual's name. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

¹**[21.] 19.**¹ (New section) Certificate Form.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if the requirements of section 10 of P.L.1979, c.460 (C.52:7-19) are satisfied. Certificates of notarial acts are deemed sufficient for the purposes indicated if substantially all of the requirements of section 10 of P.L.1979, c.460 (C.52:7-19) and this section are satisfied:

a. 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

Title of office

1 (My commission expires: _____)
2
3 b. For an acknowledgment in a representative capacity:
4 State of _____
5 County of _____
6 This record was acknowledged before me on _____(date) by
7 _____
8 (Name(s) of individual(s)
9 as (type of authority, such as officer or trustee) of (name of party on
10 behalf of whom record was executed).
11 _____
12
13 Signature of notarial officer
14
15 Stamp
16 _____
17 Title of office
18
19 (My commission expires: _____)
20
21 c. For a verification on oath or affirmation:
22 State of _____
23 County of _____
24 Signed and sworn to (or affirmed) before me on _____ (date) by
25 _____
26 (Name(s) of individual(s) making statement)
27 _____
28 _____
29 Signature of notarial officer
30
31 Stamp
32
33 [_____]
34 Title of office
35
36 (My commission expires: _____)
37
38 d. For witnessing or attesting a signature:
39 State of _____
40 County of _____
41 Signed (or attested) before me on _____(date) by
42 _____
43 (Name(s) of individual(s))
44 _____
45 _____
46 Signature of notarial officer
47
48 Stamp

1 [_____]
2 Title of office
3
4 (My commission expires: _____)
5
6 e. For certifying a copy of a record:
7 State of _____
8 County of _____
9 I certify that this is a true and correct copy of a record in the
10 possession of _____(name).
11
12 Dated _____
13 _____
14
15 Signature of notarial officer
16
17 Stamp
18 _____
19 Title of office
20
21 (My commission expires: _____)
22
23 ¹**[22.] 20.**¹ (New section) Notarial Act in this State.
24 a. The signature and title of an individual performing a notarial
25 act are prima facie evidence that the signature is genuine and that
26 the individual holds the designated title.
27 b. A notarial act may be performed in this State by an
28 individual authorized by the applicable law to perform the notarial
29 act.
30 c. The signature and title of a notarial officer authorized by the
31 applicable law to perform the notarial act conclusively establishes
32 the authority of the officer to perform the notarial act.
33
34 ¹**[23.] 21.**¹ (New section) Notarial Acts Outside this State.
35 a. In Another State.
36 (1) A notarial act performed in another state has the same effect
37 under the law of this State as if performed by a notarial officer of
38 this State, if the act performed in that state is performed by:
39 (a) a notary public of that state;
40 (b) a judge, clerk, or deputy clerk of ¹a court of¹ that state; or
41 (c) any other individual authorized by the law of that state to
42 perform the notarial act.
43 (2) The signature and title of an individual performing a notarial
44 act in another state are prima facie evidence that the signature is
45 genuine and that the individual holds the designated title.
46 (3) The signature and title of a notarial officer described in
47 subparagraph (a) or (b) of paragraph (1) of this subsection

1 conclusively establish the authority of the officer to perform the
2 notarial act.

3 b. Under Authority of Federally Recognized Indian Tribe.

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

8 (a) a notary public of the tribe;

9 (b) a judge, clerk, or deputy clerk of a court of the tribe; or

10 (c) any other individual authorized by the law of the tribe to
11 perform the notarial act.

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

16 (3) The signature and title of a notarial officer described in
17 subparagraph (a) or (b) of paragraph (1) of this subsection
18 conclusively establish the authority of the officer to perform the
19 notarial act.

20 c. Under Federal Authority.

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

25 (a) a judge, clerk, or deputy clerk of a court;

26 (b) an individual in military service or performing duties under
27 the authority of military service who is authorized to perform
28 notarial acts under federal law;

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

31 (d) any other individual authorized by federal law to perform the
32 notarial act.

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

37 (3) The signature and title of an officer described in
38 subparagraph (a), (b), or (c) of paragraph (1) of this subsection
39 conclusively establish the authority of the officer to perform the
40 notarial act.

41 d. Foreign Notarial Acts.

42 (1) As used in this subsection, “foreign state” means a
43 jurisdiction other than the United States, a state, or a federally
44 recognized Indian tribe.

45 (2) If a notarial act is performed under authority and in the
46 jurisdiction of a foreign state or constituent unit of the foreign state
47 or is performed under the authority of a multinational or
48 international governmental organization, the act has the same effect

1 under the law of this State as if performed by a notarial officer of
2 this State.

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

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

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

17 (6) A consular authentication issued by an individual designated
18 by the United States Department of State as a notarizing officer for
19 performing notarial acts overseas and attached to the record with
20 respect to which the notarial act is performed conclusively
21 establishes that the signature of the notarial officer is genuine and
22 that the notarial officer holds the indicated office.

23

24 ¹**[24.] 22.**¹ (New section) Notification Regarding Performance
25 of Notarial Act on Electronic Record; Selection of Technology;
26 Acceptance of Tangible Copy of Electronic Record.

27 a. A notarial officer may select one or more tamper-evident
28 technologies to perform notarial acts with respect to electronic
29 records. A person may not require a notarial officer to perform a
30 notarial act with respect to an electronic record with a technology
31 that the notarial officer has not selected.

32 b. Before a ¹**[notarial officer]** notary public¹ performs ¹**[his]**
33 the notary public's¹ initial notarial act with respect to an electronic
34 record, the ¹**[notarial officer]** notary public¹ shall notify the State
35 Treasurer that ¹**[he]** the notary public¹ will be performing notarial
36 acts with respect to electronic records and identify the technology
37 that the ¹**[notarial officer]** notary public¹ intends to use. If the
38 State Treasurer has established standards for approval of technology
39 pursuant to section ¹**[29] 27**¹ of P.L. , c. (C.) (pending
40 before the Legislature as this bill), the technology must conform to
41 those standards. If the technology conforms to the standards, the
42 State Treasurer shall approve the use of the technology.

43 c. A county clerk or register of deeds and mortgages ¹**[may]**
44 shall¹ accept for recording a tangible copy of an electronic record
45 containing a notarial certificate as satisfying any requirement that a
46 record accepted for recording be an original, if the notarial officer

1 executing the notarial certificate certifies that the tangible copy is
2 an accurate copy of the electronic record.

3
4 ¹**[25.] 23.**¹ (New section) Database of Notaries Public.

5 The State Treasurer shall maintain an electronic database of
6 current and former notaries public, including the dates that the
7 notary public was commissioned and authorized to perform notarial
8 acts:

9 a. through which a person may verify the authority of a notary
10 public to perform notarial acts; and

11 b. which indicates whether a notary public has notified the
12 State Treasurer that the notary public will be performing notarial
13 acts on electronic records.

14
15 ¹**[26.] 24.**¹ (New section) Authority to Refuse to Perform
16 Notarial Act.

17 a. A notarial officer may refuse to perform a notarial act if the
18 officer is not satisfied that:

19 (1) the individual executing the record is competent or has the
20 capacity to execute the record;

21 (2) the individual's signature is knowingly and voluntarily
22 made;

23 (3) the individual's signature on the record or statement
24 substantially conforms to the signature on a form of identification
25 used to determine the identity of the individual; or

26 (4) the physical appearance of the individual signing the record
27 or statement substantially conforms to the photograph on a form of
28 identification used to determine the identity of the individual.

29 b. A notarial officer may refuse to perform a notarial act unless
30 refusal is prohibited by law other than P.L.1979, c.460 (C.52:7-
31 10 et seq.), as amended and supplemented by P.L. , c. (C.)
32 (pending before the Legislature as this bill).

33
34 ¹**[27.] 25.**¹ (New section) Journal.

35 a. A notary public shall maintain a journal of all notarial acts
36 performed.

37 (1) The journal may be created and maintained on a tangible
38 medium or in an electronic format.

39 (2) A notary public shall maintain only one journal at a time to
40 chronicle all notarial acts, whether those notarial acts are performed
41 regarding tangible or electronic records.

42 (3) If the journal is maintained on a tangible medium, it shall be
43 a permanent, bound register with consecutively numbered lines and
44 consecutively numbered pages.

45 (4) If the journal is maintained in an electronic format, it shall
46 be in a permanent, tamper-evident electronic format complying with

- 1 any ¹~~["rules and regulations promulgated"]~~ standards published¹ by
2 the State Treasurer ¹in the New Jersey Notary Public Manual¹.
- 3 b. For each notarial act, the notary public shall record in the
4 journal:
- 5 (1) the date and time of the notarial act;
- 6 (2) the type of notarial act, including but not limited to the
7 taking of an acknowledgment, the taking of a proof of a deed, the
8 administration of an oath, or the taking of an affidavit;
- 9 (3) the name and address of each person for whom the notarial
10 act is performed;
- 11 (4) if the identity of the individual is based on personal
12 knowledge, a statement to that effect;
- 13 (5) if the identity of the individual is based on satisfactory
14 evidence, a brief description of the method of identification and the
15 identification credential presented, if any, including, if applicable,
16 the type, date of issuance, and date of expiration of an identification
17 document, or the name and signature of any identifying witness and,
18 if applicable, the type, date of issuance, and date of expiration of a
19 document identifying the witness; and
- 20 (6) an itemized list of all fees charged for the notarial act.
- 21 c. If a notary public's journal is lost or stolen, the notary public
22 shall notify the State Treasurer within 10 days of the loss or theft.
- 23 d. The notary public shall either:
- 24 (1) retain the journal for 10 years after the performance of the
25 last notarial act chronicled in the journal; or
- 26 (2) transmit the journal to the Department of the Treasury,
27 Division of Revenue and Enterprise Services, or a repository
28 approved by the State Treasurer.
- 29 e. On resignation from, or the revocation or suspension of, a
30 notary public's commission, the notary public shall either:
- 31 (1) retain the journal in accordance with paragraph (1) of
32 subsection d. of this section and inform the State Treasurer where
33 the journal is located; or
- 34 (2) transmit the journal to the Department of the Treasury,
35 Division of Revenue and Enterprise Services, or a repository
36 approved by the State Treasurer.
- 37 f. On the death or adjudication of incompetency of a current or
38 former notary public, the notary public's personal representative or
39 guardian or any other person knowingly in possession of the journal
40 shall, within 45 days, transmit it to the Department of the Treasury,
41 Division of Revenue and Enterprise Services, or a repository
42 approved by the State Treasurer.
- 43 g. In lieu of maintaining a journal, a notary public who is an
44 attorney-at-law admitted to practice in this State, or who is
45 employed by an attorney-at-law, or who is employed by or acting as
46 an agent for a title insurance company licensed to do business in
47 this State pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.), may
48 maintain a record of notarial acts in the form of files regularly

1 maintained for the attorney's law practice or the title insurance
2 company's business activities, as the case may be.

3
4 ¹**[28.] 26.**¹ (New section) Validity of Notarial Acts.

5 a. Except as otherwise provided in section 9 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill), the
7 failure of a notarial officer to perform a duty or meet a requirement
8 specified in P.L.1979, c.460 (C.52:7-10 et seq.), as amended and
9 supplemented by P.L. , c. (C.) (pending before the
10 Legislature as this bill), does not invalidate a notarial act performed
11 by the notarial officer.

12 b. The validity of a notarial act under P.L.1979, c.460 (C.52:7-
13 10 et seq.), as amended and supplemented by P.L. ,

14 c. (C.) (pending before the Legislature as this bill), does not
15 prevent an aggrieved person from seeking to invalidate the record
16 or transaction that is the subject of the notarial act or from seeking
17 other remedies available by law and as provided in P.L.1979, c.460
18 (C.52:7-10 et seq.), as amended and supplemented by
19 P.L. , c. (C.) (pending before the Legislature as this bill).

20 c. P.L.1979, c.460 (C.52:7-10 et seq.), as amended and
21 supplemented by P.L. , c. (C.) (pending before the
22 Legislature as this bill), shall not validate any purported notarial act
23 performed by an individual who does not have the authority to
24 perform notarial acts.

25
26 ¹**[29.] 27.**¹ (New section) Rules and Regulations.

27 a. The State Treasurer ¹**[shall]** may¹ adopt rules and
28 regulations pursuant to the "Administrative Procedure Act,"
29 P.L.1968, c.410 (C.52:14B-1 et seq.) ¹or publish procedures and
30 standards in the New Jersey Notary Public Manual¹ to implement
31 the provisions of P.L.1979, c.460 (C.52:7-10 et seq.), as amended
32 and supplemented by P.L. , c. (C.) (pending before the
33 Legislature as this bill). Any rules and regulations ¹or procedures
34 and standards¹ regarding the performance of notarial acts with
35 respect to electronic records shall not require, or accord greater
36 legal status or effect to, the implementation or application of a
37 specific technology or technical specification. The rules and
38 regulations ¹or procedures and standards¹ may:

39 (1) prescribe the manner of performing notarial acts regarding
40 tangible and electronic records;

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

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

46 (4) prescribe the process of granting, renewing, conditioning,
47 denying, suspending, revoking, or otherwise limiting a notary

1 public commission and assuring the trustworthiness of an individual
2 holding a commission as notary public; ¹and¹

3 (5) include provisions to prevent fraud or mistake in the
4 performance of notarial acts¹]; and

5 (6) provide for the administration of the examination under
6 section 7 of P.L. , c. (C.) (pending before the Legislature
7 as this bill) and the course of study under section 6 of P.L. ,
8 c. (C.) (pending before the Legislature as this bill)]¹.

9 b. In adopting, amending, or repealing rules and regulations ¹or
10 publishing procedures and standards¹ concerning notarial acts with
11 respect to electronic records, the State Treasurer shall consider,
12 consistent with the provisions of P.L.1979, c.460 (C.52:7-
13 10 et seq.), as amended and supplemented by
14 P.L. , c. (C.) (pending before the Legislature as this bill):

15 (1) the most recent standards regarding electronic records
16 promulgated by national bodies, such as the Mortgage Industry
17 Standards Maintenance Organization and the National Association
18 of Secretaries of State;

19 (2) standards, practices, and customs of other jurisdictions that
20 substantially enact the Revised Uniform Law on Notarial Acts, as
21 embodied in P.L.1979, c.460 (C.52:7-10 et seq.), as amended and
22 supplemented by P.L. , c. (C.) (pending before the
23 Legislature as this bill); and

24 (3) the views of governmental officials and entities and other
25 interested persons.

26

27 ¹[30.] 28.¹ R.S.46:14-2.1 is amended to read as follows:

28 46:14-2.1. Acknowledgment and proof.

29 a. To acknowledge a deed or other instrument the maker of the
30 instrument shall appear before an officer specified in R.S.46:14-6.1
31 and acknowledge that it was executed as the maker's own act. To
32 acknowledge a deed or other instrument made on behalf of a
33 corporation or other entity, the maker shall appear before an officer
34 specified in R.S.46:14-6.1 and state that the maker was authorized
35 to execute the instrument on behalf of the entity and that the maker
36 executed the instrument as the act of the entity.

37 b. To prove a deed or other instrument, a subscribing witness
38 shall appear before an officer specified in R.S.46:14-6.1 ¹or use
39 communication technology to appear before the officer pursuant to
40 section 17 of P.L. , c. (C.) (pending before the Legislature
41 as this bill)¹ and swear that he or she witnessed the maker of the
42 instrument execute the instrument as the maker's own act. To prove
43 a deed or other instrument executed on behalf of a corporation or
44 other entity, a subscribing witness shall appear before an officer
45 specified in R.S.46:14-6.1 ¹or use communication technology to
46 appear before the officer pursuant to section 17 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill)¹ and

1 swear that the representative was authorized to execute the
2 instrument on behalf of the entity, and that he or she witnessed the
3 representative execute the instrument as the act of the entity.

4 c. The officer taking an acknowledgment or proof shall sign a
5 certificate stating that acknowledgment or proof. The certificate
6 shall also state:

7 (1) that the maker or the witness personally appeared before the
8 officer ¹or used communication technology to appear before the
9 officer pursuant to section 17 of P.L. , c. (C.) (pending
10 before the Legislature as this bill)¹;

11 (2) that the officer was satisfied that the person who made the
12 acknowledgment or proof was the maker of or the witness to the
13 instrument;

14 (3) the jurisdiction in which the acknowledgment or proof was
15 taken;

16 (4) the officer's name and title;

17 (5) the date on which the acknowledgment was taken.

18 d. The seal of the officer taking the acknowledgment or proof
19 need not be affixed to the certificate stating that acknowledgment or
20 proof.

21 e. A short form certificate that is substantially in the form
22 provided in section 19 of P.L. , c. (C.) (pending before the
23 Legislature as this bill) satisfies the requirements of this section.
24 (cf: P.L.1991, c.308, s.1)

25

26 ¹29. R.S.46:14-6.1 is amended to read as follows:

27 46:14-6.1. Officers authorized to take acknowledgments. a. The
28 officers of this State authorized to take acknowledgments or proofs
29 in this State, or in any other United States or foreign jurisdiction,
30 are:

31 (1) an attorney-at-law;

32 (2) a notary public;

33 (3) a county clerk or deputy county clerk;

34 (4) a register of deeds and mortgages or a deputy register;

35 (5) a surrogate or deputy surrogate.

36 b. The officers authorized to take acknowledgments or proofs,
37 in addition to those listed in subsection a., are:

38 (1) any officer of the United States, of a state, territory or
39 district of the United States, or of a foreign nation authorized at the
40 time and place of the acknowledgment or proof by the laws of that
41 jurisdiction to take acknowledgments or proofs. If the certificate of
42 acknowledgment or proof does not designate the officer as a justice,
43 judge or notary, the certificate of acknowledgment or proof, or an
44 affidavit appended to it, shall contain a statement of the officer's
45 authority to take acknowledgments or proofs;

1 (2) **【**a foreign commissioner of deeds for New Jersey within the
2 jurisdiction of the commission;

3 (3)**】** a foreign service or consular officer or other representative
4 of the United States to any foreign nation, within the territory of
5 that nation.¹

6 (cf: P.L.1991, c.308, s.1)

7

8 ¹**【31.】** 30.¹ N.J.S.22A:4-14 is amended to read as follows:

9 22A:4-14. For **【**a service specified in this section**】** administering
10 oaths, taking affidavits, taking proofs of a deed, and taking
11 acknowledgements, ¹**【**foreign commissioners of deeds,**】**¹ notaries
12 public, judges and other officers authorized by law to perform such
13 **【**service,**】** services shall receive a fee as **【**follows:

14 For administering an oath or taking an affidavit, \$2.50.

15 For taking proof of a deed, \$2.50.

16 For taking all acknowledgments, \$2.50.

17 For administering oaths, taking affidavits, taking proofs of a
18 deed, and taking acknowledgments of the grantors in the transfer of
19 real estate, regardless of the number of such services performed in a
20 single transaction to transfer real estate, \$15.00.

21 For administering oaths, taking affidavits and taking
22 acknowledgments of the mortgagors in the financing of real estate,
23 regardless of the number of such services performed in a single
24 transaction to finance real estate, \$25.00**】** shall be fixed by the State
25 Treasurer by regulation.

26 (cf: P.L.2002, c.34, s.48)

27

28 ¹**【32.】** 31.¹ R.S.41:2-17 is amended to read as follows:

29 41:2-17. Officers authorized to administer or take; jurat;
30 certificate,

31 Any oath, affirmation, or affidavit required or authorized to be
32 taken in any suit or legal proceeding in this **【**state**】** State, or for any
33 lawful purpose whatever, except official oaths and depositions
34 required to be taken upon notice, when taken out of this **【**state**】**
35 State, may be taken before any notary public of the state, territory,
36 nation, kingdom, or country in which the same shall be taken, or
37 before any officer who may be authorized by the laws of this
38 **【**state**】** State to take the acknowledgment of deeds in such state,
39 territory, nation, kingdom, or country; and a recital that he ¹or she¹
40 is such notary or officer in the jurat or certificate of such oath,
41 affirmation, or affidavit, and his ¹or her¹ official designation
42 annexed to his ¹or her¹ signature, and attested under his ¹or her¹
43 official seal, shall be sufficient proof that the person before whom
44 the same is taken is such notary or officer. **【**When, however, any
45 other certificate is required by law to be annexed to the certificate
46 of such officer, other than a notary public, for the recording of a

1 deed acknowledged before him, a like certificate shall be annexed
2 to his certificate of the taking of such oath.】

3 (cf: R.S.41:2-17)

4
5 ¹【33.】 32.¹ (New section) Relation to Electronic Signatures in
6 Global and National Commerce Act.

7 P.L. , c. (C.) (pending before the Legislature as this bill)
8 modifies, limits, and supersedes the Electronic Signatures in Global
9 and National Commerce Act, 15 U.S.C. s.7001 et seq., but does not
10 modify, limit, or supersede section 101(c) of that act, 15 U.S.C.
11 7001(c), or authorize electronic delivery of any of the ¹【noties】
12 notices¹ described in section 103(b) of that act, 15 U.S.C. section
13 7003(b).

14
15 ¹【34.】 33.¹ (New section) Savings Clause.

16 P.L.1979, c.460 (C.52:7-10 et seq.), as amended and
17 supplemented by P.L. , c. (C.) (pending before the
18 Legislature as this bill), shall not affect the validity or effect of any
19 notarial act performed before the effective date of P.L. ,
20 c. (C.) (pending before the Legislature as this bill).

21
22 ¹【35.】 34.¹ The following are repealed:

23 ¹【Section 7 of P.L.1979, c.460 (C.52:7-16);】 R.S.52:6-15
24 through R.S.52:6-22;¹ and

25 Sections 1 and 2 of P.L.1981, c.487 (C.52:7-20 and C.52:7-21).

26
27 ¹【36.】 35.¹ This act shall take effect on the ¹【180th】 90th¹ day
28 following enactment ¹except the Treasurer may take any
29 anticipatory administrative action in advance as shall be necessary
30 for the implementation of this act¹.