

SENATE, No. 2508

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 4, 2020

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning notaries, amending and supplementing various
2 parts of the statutory law.

3

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

6

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

9 1. Short title.

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

13

14 2. (New section) Definitions.

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

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

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

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

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

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

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

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

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

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

41 (1) taking an acknowledgment,

42 (2) administering an oath or affirmation,

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

44 (4) witnessing or attesting a signature,

45 (5) certifying or attesting a copy or deposition, and

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.

- 1 (6) noting a protest of a negotiable instrument.
- 2 f. "Notarial officer" means a notary public or other individual
3 authorized by law to perform a notarial act.
- 4 g. "Notary public" means an individual commissioned by the
5 State Treasurer to perform a notarial act.
- 6 h. "Official stamp" means a physical image affixed to or
7 embossed on a tangible record or an electronic image attached to, or
8 logically associated with, an electronic record.
- 9 i. "Person" has the meaning ascribed to it in R.S.1:1-2.
- 10 j. "Record" means information that is inscribed on a tangible
11 medium or that is stored in an electronic or other medium and is
12 retrievable in perceivable form.
- 13 k. "Sign" means, with present intent to authenticate or adopt a
14 record:
- 15 (1) To execute or adopt a tangible symbol; or
16 (2) To attach to or logically associate with the record an
17 electronic symbol, sound, or process.
- 18 l. "Signature" means a tangible symbol or an electronic
19 signature that evidences the signing of a record.
- 20 m. "Stamping device" means:
- 21 (1) A physical device capable of affixing to or embossing on a
22 tangible record an official stamp; or
23 (2) An electronic device or process capable of attaching to or
24 logically associating with an electronic record an official stamp.
- 25 n. "State" means the State of New Jersey; "other state" or
26 "another state" means any state, the District of Columbia, the
27 Commonwealth of Puerto Rico, the United States Virgin Islands,
28 and any other insular possession or territory of the United States
29 other than the State of New Jersey.
- 30 o. "Verification on oath or affirmation" means a declaration,
31 made by an individual on oath or affirmation before a notarial
32 officer, that a statement in a record is true.

33
34 3. Section 2 of P.L.1979, c.460 (C.52:7-11) is amended to read
35 as follows:

36 2. Commission; Term; Application; Renewal.

37 a. The State Treasurer **[shall appoint]** may commission so
38 many notaries public as the State Treasurer **[shall deem]** deems
39 necessary to commission**[, who]**. Notaries public shall hold their
40 respective offices for **[the]** a term of five years**[, but may be**
41 removed from office at the pleasure of the State Treasurer**]**.

42 b. **[A person desiring to be appointed and commissioned]** An
43 applicant for commission as a notary public shall make application
44 to the State Treasurer on a form prescribed by the State Treasurer
45 **[and endorsed by a member of the Legislature]**. Renewals
46 **[thereof]** shall be made in the same manner as the original
47 application.

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

16 c. The **fee to be collected by the** State Treasurer shall collect
17 a nonrefundable fee **for that appointment or renewal shall be**
18 **\$25.00** of \$25 for each commission or renewal. In collecting the
19 fee, the State Treasurer shall accept the use of a credit card, debit
20 card, or electronic funds transfer.

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

22

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

25 3. Qualifications.

26 **No** a. A person shall be appointed commissioned as a
27 notary public in this State shall:

28 (1) be at the time of appointment at least **unless he is** 18 years
29 of age **or older** and a citizen of the United States;

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

32 (3) not be disqualified to receive a commission under section 9
33 of P.L. , c. (C.) (pending before the Legislature as this
34 bill).

35 b. An applicant for an initial commission as a notary public
36 shall provide satisfactory proof that the applicant has:

37 (1) completed a six-hour course of study approved by the State
38 Treasurer pursuant to subsection a. of section 6 of P.L. ,

39 c. (C.) (pending before the Legislature as this bill); and

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

43 c. A commissioned notary public applying to renew a
44 commission who has satisfactorily completed the six-hour course of
45 study required pursuant to subsection a. of section 6 of P.L. , c.
46 (C.) (pending before the Legislature as this bill) at least one
47 time, or who was commissioned for the first time before the

1 effective date of P.L. , c. (C.) shall complete the three-
2 hour continuing education course as set forth in subsection b. of
3 section 6 of P.L. , c. (C.) (pending before the Legislature
4 as this bill) and provide satisfactory proof of such completion.
5 (cf: P.L.1979, c.460, s.3)

6
7 5. Section 4 of P.L.1979, c.460 (C.52:7-13) is amended to read
8 as follows:

9 4. Commission of Nonresidents; Additional Requirements.

10 a. No person shall be denied **【appointment】** a commission as a
11 notary public on account of residence outside **【of】** this State,
12 provided such person **【resides in a State adjoining this State and】**
13 maintains, or is regularly employed in, an office in this State.

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

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

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

26
27 6. (New section) Course of Study; Continuing Education.

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

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

43 c. The State Treasurer shall prescribe an application form and
44 certificate of approval for any notary public course of study and any
45 notary public continuing education course proposed by a provider.
46 The State Treasurer may also provide a notary public course of
47 study and continuing education course.

1 d. The State Treasurer shall compile a list of all persons
2 offering an approved course of study and continuing education
3 course pursuant to this section and shall provide the list on the
4 website of the State Treasurer.

5 e. The six-hour course of study shall cover the statutes,
6 regulations, procedures, and ethics for notaries public as described
7 in the manual issued by the State Treasurer, and shall include the
8 duties and responsibilities of a notary public. The course of study
9 shall be provided by classroom instruction.

10 f. The three-hour continuing education course shall cover
11 topics which ensure maintenance and enhancement of skill,
12 knowledge, and competency necessary to perform notarial acts. The
13 continuing education course may be provided by either online or
14 classroom instruction.

15

16 7. (New section) Examination.

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

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

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

26 b. The State Treasurer shall charge a nonrefundable fee which
27 shall be payable at the examination site. Such fee shall be
28 established or changed by the State Treasurer to defray any proper
29 expenses incurred by the Department of the Treasury in
30 administering the examination. The fee shall not be fixed at a level
31 that will raise amounts in excess of the amount estimated to be so
32 required.

33

34 8. Section 5 of P.L.1979, c.460 (C.52:7-14) is amended to read
35 as follows:

36 5. Oath; Filing; Certificate of Commission.

37 a. Within 45 days of the receipt of a commission, each notary
38 public shall take and subscribe an oath before **【the clerk of the**
39 **county in which he resides】** any officer authorized to administer
40 oaths pursuant to R.S.41:2-1, to:

41 (1) faithfully and honestly **【to】** discharge the duties of **【his】** the
42 office【,】; and

43 (2) **【that he will】** make and keep a true record of all such
44 matters as are required by law, **【which oath shall be filed with said**
45 **clerk. The oath of office of a nonresident notary public shall be**
46 **taken and subscribed before the clerk of the county in which he**
47 **maintains his office or is employed in this State】** including the

1 requirement to maintain a journal of all notarial acts performed, as
2 set forth in section 27 of P.L. , c. (C.) (pending before
3 the Legislature as this bill).

4 b. Upon the administration of **【said】** the oath, the **【said clerk】**
5 officer shall cause the notary public to **【indorse a】** endorse the
6 certificate of commission and qualification and shall transmit
7 **【said】** the certificate to the State Treasurer within 10 days of the
8 administration of **【said】** the oath. **【After the administration of the**
9 **oath, the clerk shall provide a notice to the person that a notary**
10 **public who is not licensed as an attorney-at-law shall not use or**
11 **advertise the title of lawyer or attorney-at-law, or equivalent terms,**
12 **in the English language or any other language, which mean or imply**
13 **that the notary public is licensed as an attorney-at-law in the State**
14 **of New Jersey or in any other jurisdiction of the United States. The**
15 **notice shall also state that a notary public who advertises his**
16 **services, in the English language or any other language, is required**
17 **to provide with such advertisement a notice which contains the**
18 **following statement: "I am not an attorney licensed to practice law**
19 **and may not give legal advice about immigration or any other legal**
20 **matter or accept fees for legal advice." 】**

21 c. **【The State Treasurer shall cancel and revoke the**
22 **appointment of any notary public who fails to take and subscribe**
23 **said oath within three months of the receipt of his commission and**
24 **any appointment so canceled and revoked shall be null, void and of**
25 **no effect】** A commission authorizes the notary public to perform
26 notarial acts. The commission does not provide the notary public
27 any immunity or benefit conferred by the law of this State on public
28 officials or employees.

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

30

31 9. (New section) Grounds for State Treasurer to Deny
32 Application, Refuse to Renew Commission, or Revoke, Suspend, or
33 Limit Commission.

34 a. The State Treasurer may deny an application for commission
35 as notary public; refuse to renew a commission of a notary public;
36 or suspend, revoke, or otherwise limit the commission of a notary
37 public for any act or omission that demonstrates the individual lacks
38 the honesty, integrity, competence, or reliability necessary to act as
39 a notary public, including:

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

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

46 (3) a finding against, or admission of liability by, the applicant
47 or notary public in any legal proceeding or disciplinary action based

1 on fraud, dishonesty, or deceit, including but not limited to a
2 violation of section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of
3 P.L.1994, c.47 (C.2C:21-22), but nothing in this paragraph shall be
4 deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.);

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

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

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

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

18 (a) giving legal advice;

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

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

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

26 (e) creating or reinforcing, by any means, a false impression that
27 the person is licensed to engage in the practice of law in this State
28 or any other State, including, but not limited to, committing a
29 violation of P.L.1994, c.47 (C.2C:21-22) or P.L.1997, c.1 (C.2C:21-
30 31);

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

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

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

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

47 c. The authority of the State Treasurer to deny an application
48 for notary public; refuse to renew a commission of a notary public;

1 or suspend, revoke, or otherwise limit the commission of a notary
2 public shall not prevent a person aggrieved by the actions of a
3 notary public from seeking other criminal or civil remedies
4 provided by law.

5
6
7 10. Section 6 of P.L.1979, c.460 (C.52:7-15) is amended to read
8 as follows:

9 6. Statewide authority.

10 **【a.】** A notary public who has been duly commissioned and
11 qualified is authorized to perform **【his】** the duties of a notary public
12 throughout the State.

13 **【b.】** Any notary public, after having been duly commissioned and
14 qualified, shall, upon request, receive from the clerk of the county
15 where he has qualified, as many certificates of his commission and
16 qualification as he shall require for filing with other county clerks
17 of this State, and upon receipt of such certificates the notary public
18 may present the same, together with his autograph signature, to
19 such county clerks as he may desire, for filing. **】**

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

21
22 11. Section 8 of P.L.1979, c.460 (C.52:7-17) is amended to read
23 as follows:

24 8. Manual.

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

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

35 b. The manual shall specify that a notary public who is not
36 licensed as an attorney-at-law shall not use or advertise the title of
37 lawyer or attorney-at-law, or equivalent terms, in **【the English**
38 language or **】** any **【other】** language, which mean or imply that the
39 notary public is licensed as an attorney **【or counselor at law】** in the
40 State of New Jersey or in any other jurisdiction of the United States.
41 The manual shall also state that a notary public who advertises
42 **【his】** the notary's services in **【the English language or **】****
43 **【other】** language is required to provide with such advertisement a
44 notice which contains the following statement or translation of the
45 following statement if the advertisement is not in English: "I am not
46 an attorney licensed to practice law and may not give legal advice
47 about immigration or any other legal matter or accept fees for legal

1 advice." The manual shall also state that no person shall be
2 **【appointed or reappointed】** commissioned a notary public or
3 receive a renewal of a notary public commission if he has been
4 convicted under the laws of this State of an offense involving
5 dishonesty, including but not limited to a violation of section 1 of
6 P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994, c.47 (C.2C:21-
7 22), or a substantially similar crime under the laws of another state
8 or the United States or of a crime of the second degree or above, but
9 nothing in this paragraph shall be deemed to supersede P.L.1968,
10 c.282 (C.2A:168A-1 et seq.).

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

15
16 12. Section 9 of P.L.1979, c.460 (C.52:7-18) is amended to read
17 as follows:

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

20 **【After】** a. If a notary public adopts a name different from that
21 which **【he】** the notary public used at the time he was
22 commissioned, **【and】** before **【he signs his name】** the notary public
23 provides a signature to any **【document】** record which **【he】** the
24 notary public is authorized or required to sign as notary public, he
25 shall make and sign a statement in writing and under oath, on a
26 form prescribed and furnished by the State Treasurer, setting out the
27 circumstances under which **【he】** the notary public has adopted the
28 new name.

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

33 c. 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 13. Section 10 of P.L.1979, c.460 (C.52:7-19) is amended to
44 read as follows:

45 10. Certificate of Notarial Act.

46 **【Each notary public, in addition to subscribing his autograph**
47 **signature to any jurat upon the administration of any oath or the**

1 taking of any acknowledgement or proof, shall affix thereto his
2 name in such a manner and by such means, including, but not
3 limited to, printing, typing, or impressing by seal or mechanical
4 stamp, as will enable the State Treasurer easily to read said name.】

5 a. A notarial act shall be evidenced by a certificate. The
6 certificate shall:

7 (1) be executed contemporaneously with the performance of the
8 notarial act;

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

10 (3) identify the jurisdiction in which the notarial act is
11 performed;

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

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

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

17 (1) is in a short form set forth in section 21 of P.L. _____,

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

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

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

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

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

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

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

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

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

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

46

47 14. (New section) Official Stamp.

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

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

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

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

14

15 15. (New section) Stamping Device.

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

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

24 c. If the stamping device used by the notary public is lost or
25 stolen, the notary public or his personal representative shall notify
26 the State Treasurer of the loss or theft within 10 days.

27

28 16. (New section) Authority to Perform Notarial Act.

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

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

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

40

41 17. (New section) Requirements for Certain Notarial Acts.

42 a. A notarial officer who takes an acknowledgment of a record
43 shall determine, from personal knowledge or satisfactory evidence
44 of the identity of the individual, that the individual appearing before
45 the officer and making the acknowledgment has the identity
46 claimed and that the signature on the record is the signature of the
47 individual.

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

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

11 d. A notarial officer who certifies or attests a copy of a record
12 or an item that was copied shall determine that the copy is a full,
13 true, and accurate transcription or reproduction of the record or
14 item.

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

18 f. For the purposes of this section:

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

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

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

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

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

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

36 (c) A verification of oath or affirmation of a credible witness
37 personally appearing before the notarial officer and personally
38 known to the notarial officer or whom the notarial officer can
39 identify on the basis of a passport, driver's license, or government-
40 issued, non-driver identification card, which is current or expired
41 not more than three years before the performance of the notarial act.

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

45

46 18. (New section) Personal Appearance Required.

47 If a notarial act relates to a statement made in, or a signature
48 executed on, a record, the individual making the statement or

1 executing the signature shall appear personally before the notarial
2 officer.

3

4 19. (New section) Notarial Act Performed by Remotely Located
5 Individual.

6 a. As used in this section:

7 (1) "Communication technology" means an electronic device or
8 process that:

9 (a) allows a notarial officer and a remotely located individual to
10 communicate with each other simultaneously by sight and sound;
11 and

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

15 (2) "Foreign state" means a jurisdiction other than the United
16 States, a state, or a federally recognized Indian tribe.

17 (3) "Identity proofing" means a process or service by which a
18 third person provides a notarial officer with a means to verify the
19 identity of a remotely located individual by a review of personal
20 information from public or private data sources.

21 (4) "Outside the United States" means a location outside the
22 geographic boundaries of the United States, Puerto Rico, the United
23 States Virgin Islands, and any territory, insular possession, or other
24 location subject to the jurisdiction of the United States.

25 (5) "Remotely located individual" means an individual who is
26 not in the physical presence of a notarial officer performing a
27 notarial act under subsection c.

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

30 (1) a law governing the creation and execution of wills or
31 codicils;

32 (2) the "Uniform Commercial Code," N.J.S.12A:1-101 et seq.,
33 other than N.J.S.12A:1-107, N.J.S.12A:1-206, the provisions of the
34 "Uniform Commercial Code – Sales," chapter 2 of Title 12A of the
35 New Jersey Statutes, and the provisions of the "Uniform
36 Commercial Code – Leases," chapter 2A of Title 12A of the New
37 Jersey Statutes; or

38 (3) a statute, regulation, or other rule of law governing adoption,
39 divorce, or other matters of family law.

40 c. A remotely located individual may comply with section 18 of
41 P.L. , c. (C.) (pending before the Legislature as this bill)
42 and subsections a. and b. of R.S.46:14-2.1 by using communication
43 technology to appear before a notarial officer.

44 d. A notarial officer located in this State may perform a notarial
45 act using communication technology for a remotely located
46 individual if:

47 (1) the notarial officer:

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

1 (b) has satisfactory evidence of the identity of the remotely
2 located individual by oath or affirmation from a credible witness
3 appearing before the notarial officer; or

4 (c) has obtained satisfactory evidence of the identity of the
5 remotely located individual by using at least two different types of
6 identity proofing;

7 (2) the notarial officer is able reasonably to confirm that a record
8 before the notarial officer is the same record in which the remotely
9 located individual made a statement or on which the remotely
10 located individual executed a signature;

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

14 (4) for a remotely located individual who is located outside the
15 United States:

16 (a) the record:

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

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

23 (b) the act of making the statement or signing the record is not
24 prohibited by the foreign state in which the remotely located
25 individual is located.

26 e. If a notarial act is performed under this section, the certificate
27 of notarial act required by section 10 of P.L.1979, c.460 (C.52:7-
28 19), the certificate required by section c. of R.S.46:14-2.1, or the
29 short-form certificate provided in section 21 of P.L. , c.
30 (C.) (pending before the Legislature as this bill) must indicate
31 that the notarial act was performed using communication
32 technology.

33 f. A short-form certificate provided in section 21 of P.L. , c.
34 (C.) (pending before the Legislature as this bill) for a notarial
35 act subject to this section is sufficient if it:

36 (1) complies with any rules or regulations adopted by the State
37 Treasurer under paragraph (1) of subsection j. of this section or
38 section 29 of P.L. , c. (C.) (pending before the Legislature
39 as this bill); or

40 (2) is in the form provided by section 21 of P.L. , c. (C.)
41 (pending before the Legislature as this bill) and contains a statement
42 substantially as follows: "This notarial act involved the use of
43 communication technology."

44 g. A notarial officer, a guardian, conservator, or agent of a
45 notarial officer, or a personal representative of a deceased notarial
46 officer, shall retain the audio-visual recording created under
47 paragraph (3) of subsection d. of this section or cause the recording
48 to be retained by a repository designated by or on behalf of the

1 person required to retain the recording. Unless a different period is
2 required by any rule or regulation adopted by the State Treasurer
3 under paragraph (4) of subsection j. of this section, the recording
4 must be retained for a period of at least 10 years after the recording
5 is made.

6 h. Before a notary public performs his initial notarial act under
7 this section, the notary public must notify the State Treasurer that
8 the notary public will be performing such notarial acts and identify
9 the technologies the notary public intends to use.

10 i. If the State Treasurer has established standards under
11 subsection j. of this section and section 29 of P.L. , c.
12 (C.) (pending before the Legislature as this bill) for approval
13 of communication technology or identity proofing, the
14 communication technology and identity proofing must conform to
15 those standards.

16 j. In addition to adopting rules and regulations pursuant to the
17 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
18 seq.) under section 29 of P.L. , c. (C.) (pending before the
19 Legislature as this bill), the State Treasurer may adopt rules and
20 regulations pursuant to the “Administrative Procedure Act,”
21 P.L.1968, c.410 (C.52:14B-1 et seq.) under this section regarding
22 the performance of a notarial act. The rules and regulations may:

23 (1) prescribe the means of performing a notarial act involving a
24 remotely located individual using communication technology;

25 (2) establish standards for communication technology and
26 identity proofing;

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

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

32 k. Before adopting, amending, or repealing a rule or regulation
33 governing performance of a notarial act with respect to a remotely
34 located individual, the State Treasurer must consider:

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

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

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

45

46 20. (New section) Signature if Individual Unable to Sign.

47 If an individual is physically unable to sign a record, the
48 individual may direct an individual other than the notarial officer to

S2508 GOPAL

1 sign the record with the individual's name. The notarial officer shall
2 insert "Signature affixed by (name of other individual) at the
3 direction of (name of individual)" or words of similar import.

4

5 21. (New section) Certificate Form.

6 The following short form certificates of notarial acts are
7 sufficient for the purposes indicated, if the requirements of section
8 10 of P.L.1979, c.460 (C.52:7-19) are satisfied. Certificates of
9 notarial acts are deemed sufficient for the purposes indicated if
10 substantially all of the requirements of section 10 of P.L.1979,
11 c.460 (C.52:7-19) and this section are satisfied:

12

13 a. For an acknowledgment in an individual capacity:

14 State of _____

15 County of _____

16 This record was acknowledged before me on _____ (date) by

17 _____

18 (Name(s) of individual(s))

19 _____

20 Signature of notarial officer

21

22 Stamp

23 _____

24 Title of office

25

26 (My commission expires: _____)

27

28 b. For an acknowledgment in a representative capacity:

29 State of _____

30 County of _____

31 This record was acknowledged before me on _____(date) by

32 _____

33 (Name(s) of individual(s))

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

36 _____

37

38 Signature of notarial officer

39

40 Stamp

41 _____

42 Title of office

43

44 (My commission expires: _____)

45

46 c. For a verification on oath or affirmation:

47 State of _____

48 County of _____

S2508 GOPAL

18

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

2 _____

3 (Name(s) of individual(s) making statement)

4

5 _____

6 Signature of notarial officer

7

8 Stamp

9

10 [_____]

11 Title of office

12

13 (My commission expires: _____)

14

15 d. For witnessing or attesting a signature:

16 State of _____

17 County of _____

18 Signed (or attested) before me on _____(date) by

19 _____

20 (Name(s) of individual(s))

21

22 _____

23 Signature of notarial officer

24

25 Stamp

26

27 [_____]

28 Title of office

29 (My commission expires: _____)

30

31 e. For certifying a copy of a record:

32 State of _____

33 County of _____

34 I certify that this is a true and correct copy of a record in the
35 possession of _____(name).

36

37 Dated _____

38 _____

39

40 Signature of notarial officer

41

42 Stamp

43 _____

44 Title of office

45

46 (My commission expires: _____)

47

48 22. (New section) Notarial Act in this State.

1 a. The signature and title of an individual performing a notarial
2 act are prima facie evidence that the signature is genuine and that
3 the individual holds the designated title.

4 b. A notarial act may be performed in this State by an
5 individual authorized by the applicable law to perform the notarial
6 act.

7 c. The signature and title of a notarial officer authorized by the
8 applicable law to perform the notarial act conclusively establishes
9 the authority of the officer to perform the notarial act.

10

11 23. (New section) Notarial Acts Outside this State.

12 a. In Another State.

13 (1) A notarial act performed in another state has the same effect
14 under the law of this State as if performed by a notarial officer of
15 this State, if the act performed in that state is performed by:

16 (a) a notary public of that state;

17 (b) a judge, clerk, or deputy clerk of that state; or

18 (c) any other individual authorized by the law of that state to
19 perform the notarial act.

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

23 (3) The signature and title of a notarial officer described in
24 subparagraph (a) or (b) of paragraph (1) of this subsection
25 conclusively establish the authority of the officer to perform the
26 notarial act.

27 b. Under Authority of Federally Recognized Indian Tribe.

28 (1) A notarial act performed under the authority and in the
29 jurisdiction of a federally recognized Indian tribe has the same
30 effect as if performed by a notarial officer of this State, if the act
31 performed in the jurisdiction of the tribe is performed by:

32 (a) a notary public of the tribe;

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

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

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

40 (3) The signature and title of a notarial officer described in
41 subparagraph (a) or (b) of paragraph (1) of this subsection
42 conclusively establish the authority of the officer to perform the
43 notarial act.

44 c. Under Federal Authority.

45 (1) A notarial act performed under federal law has the same
46 effect under the law of this State as if performed by a notarial
47 officer of this State, if the performed under federal law is performed
48 by:

- 1 (a) a judge, clerk, or deputy clerk of a court;
- 2 (b) an individual in military service or performing duties under
3 the authority of military service who is authorized to perform
4 notarial acts under federal law;
- 5 (c) an individual designated a notarizing officer by the United
6 States Department of State for performing notarial acts overseas; or
- 7 (d) any other individual authorized by federal law to perform the
8 notarial act.
- 9 (2) The signature and title of an individual acting under federal
10 authority and performing a notarial act are prima facie evidence that
11 the signature is genuine and that the individual holds the designated
12 title.
- 13 (3) The signature and title of an officer described in
14 subparagraph (a), (b), or (c) of paragraph (1) of this subsection
15 conclusively establish the authority of the officer to perform the
16 notarial act.
- 17 d. Foreign Notarial Acts.
- 18 (1) As used in this subsection, “foreign state” means a
19 jurisdiction other than the United States, a state, or a federally
20 recognized Indian tribe.
- 21 (2) If a notarial act is performed under authority and in the
22 jurisdiction of a foreign state or constituent unit of the foreign state
23 or is performed under the authority of a multinational or
24 international governmental organization, the act has the same effect
25 under the law of this State as if performed by a notarial officer of
26 this State.
- 27 (3) If the title of office and indication of authority to perform
28 notarial acts in a foreign state appears in a digest of foreign law or
29 in a list customarily used as a source for that information, the
30 authority of an officer with that title to perform notarial acts is
31 conclusively established.
- 32 (4) The signature and official stamp of an individual holding an
33 office described in paragraph (3) of this subsection are prima facie
34 evidence that the signature is genuine and the individual holds the
35 designated title.
- 36 (5) An apostille in the form prescribed by the Hague Convention
37 of October 5, 1961 and issued by a foreign state party to the Hague
38 Convention conclusively establishes that the signature of the
39 notarial officer is genuine and that the notarial officer holds the
40 indicated office.
- 41 (6) A consular authentication issued by an individual designated
42 by the United States Department of State as a notarizing officer for
43 performing notarial acts overseas and attached to the record with
44 respect to which the notarial act is performed conclusively
45 establishes that the signature of the notarial officer is genuine and
46 that the notarial officer holds the indicated office.

1 24. (New section) Notification Regarding Performance of
2 Notarial Act on Electronic Record; Selection of Technology;
3 Acceptance of Tangible Copy of Electronic Record.

4 a. A notarial officer may select one or more tamper-evident
5 technologies to perform notarial acts with respect to electronic
6 records. A person may not require a notarial officer to perform a
7 notarial act with respect to an electronic record with a technology
8 that the notarial officer has not selected.

9 b. Before a notarial officer performs his initial notarial act with
10 respect to an electronic record, the notarial officer shall notify the
11 State Treasurer that he will be performing notarial acts with respect
12 to electronic records and identify the technology that the notarial
13 officer intends to use. If the State Treasurer has established
14 standards for approval of technology pursuant to section 29 of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 the technology must conform to those standards. If the technology
17 conforms to the standards, the State Treasurer shall approve the use
18 of the technology.

19 c. A county clerk or register of deeds and mortgages may
20 accept for recording a tangible copy of an electronic record
21 containing a notarial certificate as satisfying any requirement that a
22 record accepted for recording be an original, if the notarial officer
23 executing the notarial certificate certifies that the tangible copy is
24 an accurate copy of the electronic record.

25

26 25. (New section) Database of Notaries Public.

27 The State Treasurer shall maintain an electronic database of
28 current and former notaries public, including the dates that the
29 notary public was commissioned and authorized to perform notarial
30 acts:

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

33 b. which indicates whether a notary public has notified the
34 State Treasurer that the notary public will be performing notarial
35 acts on electronic records.

36

37 26. (New section) Authority to Refuse to Perform Notarial Act.

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

40 (1) the individual executing the record is competent or has the
41 capacity to execute the record;

42 (2) the individual's signature is knowingly and voluntarily
43 made;

44 (3) the individual's signature on the record or statement
45 substantially conforms to the signature on a form of identification
46 used to determine the identity of the individual; or

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

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

8

9 27. (New section) Journal.

10 a. A notary public shall maintain a journal of all notarial acts
11 performed.

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

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

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

20 (4) If the journal is maintained in an electronic format, it shall
21 be in a permanent, tamper-evident electronic format complying with
22 any rules and regulations promulgated by the State Treasurer.

23 b. For each notarial act, the notary public shall record in the
24 journal:

25 (1) the date and time of the notarial act;

26 (2) the type of notarial act, including but not limited to the
27 taking of an acknowledgment, the taking of a proof of a deed, the
28 administration of an oath, or the taking of an affidavit;

29 (3) the name and address of each person for whom the notarial
30 act is performed;

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

33 (5) if the identity of the individual is based on satisfactory
34 evidence, a brief description of the method of identification and the
35 identification credential presented, if any, including, if applicable,
36 the type, date of issuance, and date of expiration of an identification
37 document, or the name and signature of any identifying witness and,
38 if applicable, the type, date of issuance, and date of expiration of a
39 document identifying the witness; and

40 (6) an itemized list of all fees charged for the notarial act.

41 c. If a notary public's journal is lost or stolen, the notary public
42 shall notify the State Treasurer within 10 days of the loss or theft.

43 d. The notary public shall either:

44 (1) retain the journal for 10 years after the performance of the
45 last notarial act chronicled in the journal; or

46 (2) transmit the journal to the Department of the Treasury,
47 Division of Revenue and Enterprise Services, or a repository
48 approved by the State Treasurer.

- 1 e. On resignation from, or the revocation or suspension of, a
2 notary public's commission, the notary public shall either:
- 3 (1) retain the journal in accordance with paragraph (1) of
4 subsection d. of this section and inform the State Treasurer where
5 the journal is located; or
- 6 (2) transmit the journal to the Department of the Treasury,
7 Division of Revenue and Enterprise Services, or a repository
8 approved by the State Treasurer.
- 9 f. On the death or adjudication of incompetency of a current or
10 former notary public, the notary public's personal representative or
11 guardian or any other person knowingly in possession of the journal
12 shall, within 45 days, transmit it to the Department of the Treasury,
13 Division of Revenue and Enterprise Services, or a repository
14 approved by the State Treasurer.
- 15 g. In lieu of maintaining a journal, a notary public who is an
16 attorney-at-law admitted to practice in this State, or who is
17 employed by an attorney-at-law, or who is employed by or acting as
18 an agent for a title insurance company licensed to do business in
19 this State pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.), may
20 maintain a record of notarial acts in the form of files regularly
21 maintained for the attorney's law practice or the title insurance
22 company's business activities, as the case may be.

23

24 28. (New section) Validity of Notarial Acts.

- 25 a. Except as otherwise provided in section 9 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill), the
27 failure of a notarial officer to perform a duty or meet a requirement
28 specified in P.L.1979, c.460 (C.52:7-10 et seq.), as amended and
29 supplemented by P.L. , c. (C.) (pending before the
30 Legislature as this bill), does not invalidate a notarial act performed
31 by the notarial officer.
- 32 b. The validity of a notarial act under P.L.1979, c.460 (C.52:7-
33 10 et seq.), as amended and supplemented by P.L. ,
34 c. (C.) (pending before the Legislature as this bill), does not
35 prevent an aggrieved person from seeking to invalidate the record
36 or transaction that is the subject of the notarial act or from seeking
37 other remedies available by law and as provided in P.L.1979, c.460
38 (C.52:7-10 et seq.), as amended and supplemented by P.L. ,
39 c. (C.) (pending before the Legislature as this bill).
- 40 c. P.L.1979, c.460 (C.52:7-10 et seq.), as amended and
41 supplemented by P.L. , c. (C.) (pending before the
42 Legislature as this bill), shall not validate any purported notarial act
43 performed by an individual who does not have the authority to
44 perform notarial acts.

45

46 29. (New section) Rules and Regulations.

- 47 a. The State Treasurer shall adopt rules and regulations
48 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.) to implement the provisions of P.L.1979, c.460
2 (C.52:7-10 et seq.), as amended and supplemented by P.L. ,
3 c. (C.) (pending before the Legislature as this bill). Any
4 rules and regulations regarding the performance of notarial acts
5 with respect to electronic records shall not require, or accord greater
6 legal status or effect to, the implementation or application of a
7 specific technology or technical specification. The rules and
8 regulations may:

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

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

13 (3) include provisions to ensure integrity in the creation,
14 transmittal, storage, or authentication of electronic records or
15 signatures;

16 (4) prescribe the process of granting, renewing, conditioning,
17 denying, suspending, revoking, or otherwise limiting a notary
18 public commission and assuring the trustworthiness of an individual
19 holding a commission as notary public;

20 (5) include provisions to prevent fraud or mistake in the
21 performance of notarial acts; and

22 (6) provide for the administration of the examination under
23 section 7 of P.L. , c. (C.) (pending before the Legislature
24 as this bill) and the course of study under section 6 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill).

26 b. In adopting, amending, or repealing rules and regulations
27 concerning notarial acts with respect to electronic records, the State
28 Treasurer shall consider, consistent with the provisions of P.L.1979,
29 c.460 (C.52:7-10 et seq.), as amended and supplemented by
30 P.L. , c. (C.) (pending before the Legislature as this bill):

31 (1) the most recent standards regarding electronic records
32 promulgated by national bodies, such as the Mortgage Industry
33 Standards Maintenance Organization and the National Association
34 of Secretaries of State;

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

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

42

43 30. R.S.46:14-2.1 is amended to read as follows:

44 46:14-2.1. Acknowledgment and proof.

45 a. To acknowledge a deed or other instrument the maker of the
46 instrument shall appear before an officer specified in R.S.46:14-6.1
47 and acknowledge that it was executed as the maker's own act. To
48 acknowledge a deed or other instrument made on behalf of a

1 corporation or other entity, the maker shall appear before an officer
2 specified in R.S.46:14-6.1 and state that the maker was authorized
3 to execute the instrument on behalf of the entity and that the maker
4 executed the instrument as the act of the entity.

5 b. To prove a deed or other instrument, a subscribing witness
6 shall appear before an officer specified in R.S.46:14-6.1 and swear
7 that he or she witnessed the maker of the instrument execute the
8 instrument as the maker's own act. To prove a deed or other
9 instrument executed on behalf of a corporation or other entity, a
10 subscribing witness shall appear before an officer specified in
11 R.S.46:14-6.1 and swear that the representative was authorized to
12 execute the instrument on behalf of the entity, and that he or she
13 witnessed the representative execute the instrument as the act of the
14 entity.

15 c. The officer taking an acknowledgment or proof shall sign a
16 certificate stating that acknowledgment or proof. The certificate
17 shall also state:

18 (1) that the maker or the witness personally appeared before the
19 officer;

20 (2) that the officer was satisfied that the person who made the
21 acknowledgment or proof was the maker of or the witness to the
22 instrument;

23 (3) the jurisdiction in which the acknowledgment or proof was
24 taken;

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

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

27 d. The seal of the officer taking the acknowledgment or proof
28 need not be affixed to the certificate stating that acknowledgment or
29 proof.

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

34

35 31. N.J.S.22A:4-14 is amended to read as follows:

36 22A:4-14. For **[a service specified in this section]** administering
37 oaths, taking affidavits, taking proofs of a deed, and taking
38 acknowledgements, foreign commissioners of deeds, notaries
39 public, judges and other officers authorized by law to perform such
40 **[service,] services** shall receive a fee as **[follows:**

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

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

43 For taking all acknowledgments, \$2.50.

44 For administering oaths, taking affidavits, taking proofs of a
45 deed, and taking acknowledgments of the grantors in the transfer of
46 real estate, regardless of the number of such services performed in a
47 single transaction to transfer real estate, \$15.00.

1 For administering oaths, taking affidavits and taking
2 acknowledgments of the mortgagors in the financing of real estate,
3 regardless of the number of such services performed in a single
4 transaction to finance real estate, \$25.00] shall be fixed by the State
5 Treasurer by regulation.

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

7

8 32. R.S.41:2-17 is amended to read as follows:

9 41:2-17. Officers authorized to administer or take; jurat;
10 certificate.

11 Any oath, affirmation, or affidavit required or authorized to be
12 taken in any suit or legal proceeding in this [state] State, or for any
13 lawful purpose whatever, except official oaths and depositions
14 required to be taken upon notice, when taken out of this [state]
15 State, may be taken before any notary public of the state, territory,
16 nation, kingdom, or country in which the same shall be taken, or
17 before any officer who may be authorized by the laws of this
18 [state] State to take the acknowledgment of deeds in such state,
19 territory, nation, kingdom, or country; and a recital that he is such
20 notary or officer in the jurat or certificate of such oath, affirmation,
21 or affidavit, and his official designation annexed to his signature,
22 and attested under his official seal, shall be sufficient proof that the
23 person before whom the same is taken is such notary or officer.
24 [When, however, any other certificate is required by law to be
25 annexed to the certificate of such officer, other than a notary public,
26 for the recording of a deed acknowledged before him, a like
27 certificate shall be annexed to his certificate of the taking of such
28 oath.]

29

30 33. (New section) Relation to Electronic Signatures in Global
31 and National Commerce Act.

32 P.L. , c. (C.) (pending before the Legislature as this bill)
33 modifies, limits, and supersedes the Electronic Signatures in Global
34 and National Commerce Act, 15 U.S.C. s.7001 et seq., but does not
35 modify, limit, or supersede section 101(c) of that act, 15 U.S.C.
36 7001(c), or authorize electronic delivery of any of the notices
37 described in section 103(b) of that act, 15 U.S.C. section 7003(b).

38

39 34. (New section) Savings Clause.

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

45

46 35. The following are repealed:

47 Section 7 of P.L.1979, c.460 (C.52:7-16); and

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

2

3 36. This act shall take effect on the 180th day following
4 enactment.

5

6

7

STATEMENT

8

9 This bill revises the law concerning the qualifications and duties
10 of notaries public and other notarial officers. The bill also
11 authorizes electronic signatures.

12 In summary, the bill sets out a definitions section; a course of
13 study requirement; an examination requirement; a continuing
14 education requirement; a requirement that notaries maintain
15 journals; and requirements for remote electronic notarizations.

16 More specific provisions of the bill are set out below.

17 DEFINITIONS. The bill provides definitions of terms, including,
18 among others, “acknowledgment,” “electronic signature,” and
19 “notarial act.” The term “electronic signature” is defined as an
20 electronic symbol, sound, or process attached to or logically
21 associated with a record and executed or adopted by an individual
22 with the intent to sign the record.

23 APPOINTMENT. Under current law, a person desiring to be
24 appointed and commissioned as a notary public must apply to the
25 State Treasurer on a form endorsed by a member of the Legislature.
26 The bill eliminates the requirement that a member of the Legislature
27 endorse the form.

28 The bill provides that, in order to be commissioned as a notary
29 public, among other provisions a person must be at least 18; must
30 not be disqualified to receive a commission pursuant to other
31 provisions of the bill; must be a legal resident of the State or have a
32 place of employment or practice in the State; and must complete a
33 six-hour course of study for a new application, or a three-hour
34 continuing education course for a renewal application.

35 COURSE OF STUDY AND EXAMINATION. Under the bill, a person
36 applying for an initial commission as a notary public must complete
37 a six-hour course of study prescribed and approved by the State
38 Treasurer. The course must be completed within the six-month
39 period preceding the application. A person applying to renew his
40 notary public commission who has previously completed the six-
41 hour course of study must complete a three-hour continuing
42 education course. The course of study and continuing education
43 course would cover the statutes, regulations, procedures, and ethics
44 for notaries public.

45 The State Treasurer would prescribe and administer an
46 examination to each applicant, based on the statutes, rules,
47 procedures, and ethical requirements for notaries, and include the
48 applicable requirements, functions, duties, and responsibilities. The

1 Treasurer would charge a nonrefundable fee for the examination to
2 defray any proper expenses incurred by the Department of the
3 Treasury in administering the examination.

4 DISQUALIFICATION. The bill provides that the Treasurer may
5 deny an application, refuse to renew a commission, or suspend,
6 revoke, or otherwise limit the commission of a notary public for any
7 act or omission demonstrating that the individual lacks the honesty,
8 integrity, competence, or reliability necessary to act as a notary
9 public. These grounds specifically include, among others, a
10 fraudulent, dishonest, or deceitful misstatement or omission in the
11 application; a finding against the applicant in a legal proceeding or
12 disciplinary action based on fraud, dishonesty, or deceit, including
13 but not limited to certain criminal convictions; the use of false or
14 misleading advertising representing that the notary is authorized to
15 engage in work that the notary is not so authorized to engage in;
16 and, in the case of a notary who is not an attorney, giving legal
17 advice or acting as an immigration consultant or expert on
18 immigration matters.

19 MANUAL. The bill requires the State Treasurer to maintain an on-
20 line manual setting forth the functions, duties, and responsibilities
21 of a notary public, including the statutes, rules, regulations, and
22 ethical requirements.

23 OFFICIAL STAMP. The bill sets various requirements concerning a
24 notary public's official stamp, including a provision for an official
25 stamp for a notarial act regarding an electronic record. The bill
26 provides that if the stamping device is lost or stolen, the notary
27 public must notify the State Treasurer within 10 days.

28 REQUIREMENTS FOR NOTARIAL ACTS. Under the bill, a notarial
29 officer who takes a verification of a statement on oath or
30 affirmation must determine from personal knowledge or satisfactory
31 evidence of the identity of the individual that the individual making
32 the verification has the identity claimed. If a notarial act relates to a
33 statement made in, or a signature executed on, a record, the
34 individual must appear personally before the notarial officer.

35 REMOTELY LOCATED INDIVIDUALS. A notarial officer may
36 perform a notarial act using communications technology for a
37 person who is not in his physical presence if the notarial officer has
38 personal knowledge or satisfactory evidence of the individual's
39 identity and if the officer creates an audio-visual recording of the
40 performance of the notarial act. The bill provides that unless a
41 different period is required by rule or regulation adopted by the
42 State Treasurer, the recording must be retained for a period of at
43 least 10 years.

44 The bill authorizes the Treasurer to adopt rules and regulations
45 concerning the performance of a notarial act using communication
46 technology. Before adopting, amending, or repealing such a rule or
47 regulation, the Treasurer would be required to consider the
48 standards promulgated by national standard-setting organizations

1 such as the Mortgage Industry Standards Maintenance Organization
2 and the National Association of Secretaries of State, in addition to
3 the standards, practices and customs of other jurisdictions and the
4 views of governmental officials and entities and other interested
5 persons.

6 CERTIFICATE FORM. The bill sets out short form certificates of
7 notarial acts and specifies that the forms are sufficient for the
8 purposes indicated if the other requirements of law are satisfied.

9 JOURNAL. Under the bill, notaries public must maintain a journal
10 of all notarial acts performed, either in a tangible medium or
11 electronic format. For each notarial act, the notary public must
12 record the date and time, the type of notarial act, the name and
13 address of each person for whom the notarial act is performed, a
14 statement concerning the evidence of identity of the individual, and
15 a list of all fees charged for the notarial act. If a notary public's
16 journal is lost or stolen, the notary public must notify the State
17 Treasurer within 10 days. The notary public must either retain the
18 journal for 10 years after the performance of the last notarial act
19 chronicled in the journal or transmit the journal to the Department
20 of the Treasury or a repository approved by the Treasurer.

21 FEES. Under current law, fees for the services performed by a
22 notarial officer are set by statute in N.J.S.22A:4-14. The bill
23 provides that the fees for these services would instead be fixed by
24 the State Treasurer by regulation.

25 REPEALERS. The bill repeals three sections of law that would be
26 obviated by the bill: section 7 of P.L.1979, c.460 (C.52:7-16)
27 (concerning certain duties of the county clerk regarding notaries)
28 and sections 1 and 2 of P.L.1981, c.487 (C.52:7-20 and C.52:7-21)
29 (concerning criminal convictions that bar appointment and
30 reappointment as a notary public).

31 BACKGROUND. This bill is based on a 2014 report of the New
32 Jersey Law Revision Commission which, in turn, was based on the
33 Uniform Law Commission's 2010 "Revised Uniform Law on
34 Notarial Acts" (RULONA). This bill also incorporates the Uniform
35 Law Commission's 2018 revision of the RULONA as well as
36 various other provisions intended to improve the notarial process.