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ASSEMBLY, No. 4250

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 11, 2020

Sponsored by:

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District 11 (Monmouth)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

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District 7 (Burlington)

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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 Budget and Appropriations Committee on June 17, 2021, with amendments.

AN ACT concerning notaries, ²and² amending ¹[and] ¹ supplementing ², and repealing² various parts of the statutory law.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

1. Short title.

This act shall be known and may be cited as the ["Notaries Public Act of 1979."] "New Jersey Law on Notarial Acts."

(cf: P.L.1979, c.460, s.1)

2. (New section) Definitions.

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

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

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

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

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

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

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

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

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

e. ³"Non-attorney applicant" means an applicant for an initial or renewal commission as a notary public who is not also a licensed attorney-at-law in this State.

f.³ "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of New Jersey. The term includes:

- (1) taking an acknowledgment,
- (2) administering an oath or affirmation,
- (3) taking a verification on oath or affirmation,
- (4) witnessing or attesting a signature,
- (5) certifying or attesting a copy or deposition, and
- (6) noting a protest of a negotiable instrument.

³[f.] g.³ "Notarial officer" means a notary public or other individual authorized by law to perform a notarial act.

³[g.] h.³ "Notary public" means an individual commissioned by the State Treasurer to perform a notarial act.

³[h.] i.³ "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to, or logically associated with, an electronic record.

³[i.] j.³ "Person" has the meaning ascribed to it in R.S.1:1-2.

³[j.] k.³ "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

³[k.] l.³ "Sign" means, with present intent to authenticate or adopt a record:

- (1) To execute or adopt a tangible symbol; or
- (2) To attach to or logically associate with the record an electronic symbol, sound, or process.

³[l.] m.³ "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

³[m.] n.³ "Stamping device" means:

- (1) A physical device capable of affixing to or embossing on a tangible record an official stamp; or
- (2) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

³[n.] o.³ "State" means the State of New Jersey; "other state" or "another state" means any state, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and any other insular possession or territory of the United States other than the State of New Jersey.

³[o.] p.³ "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

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

2. Commission; Term; Application; Renewal.

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

b. [A person desiring to be appointed and commissioned] An applicant for commission as a notary public shall make application to the State Treasurer on a form prescribed by the State Treasurer [and endorsed by a member of the Legislature] ¹and endorsed by a member of the Legislature¹. Renewals [thereof] shall be made in the same manner as the original application. ¹All applications shall be submitted electronically.¹

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

c. The [fee to be collected by the] State Treasurer shall collect a nonrefundable fee [for that appointment or renewal shall be \$25.00] of ¹[\$25] ³[\$50¹] ³\$25³ for each commission or renewal. In collecting the fee, the State Treasurer shall accept the use of a credit card, debit card, or electronic funds transfer.

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

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

3.1 Qualifications.

[No] a. A person [shall be appointed] commissioned as a notary public in this State shall:

(1) be at the time of appointment at least [unless he is] 18 years of age [or older] ¹[and a citizen of the United States]¹:

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

(3) not be disqualified to receive a commission under section ¹[9] ³[7¹] ⁹³ of P.L. , c. (C.) (pending before the Legislature as this bill).

b. ³[An] A non-attorney³ applicant for an initial ³[¹or renewed¹]³ commission as a notary public shall ¹[provide satisfactory proof that the applicant has:

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

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

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

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

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

d. A non-attorney commissioned notary public applying to renew a commission who has satisfactorily completed a course of study required pursuant to subsection b. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill) at least one time, or who was commissioned for the first time before the effective date of P.L. , c. (C.) shall complete a continuing education course as set forth in subsection c. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill) and provide satisfactory proof of such completion³.

(cf: P.L.1979, c.460, s.3)

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

4. Commission of Nonresidents; Additional Requirements.

a. No person shall be denied [appointment] a commission as a notary public on account of residence outside [of] this State, provided such person [resides in a State adjoining this State and] maintains, or is regularly employed in, an office in this State ¹or is an employee of a business with its domicile or primary place of business in this State and performs his employment duties remotely from a home office or a co-working space ²[located in a state adjoining this State¹]².

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

c. [Any] Once commissioned, any such nonresident notary public shall file with the State Treasurer a certificate showing any change of residence or change of [his] the office or place of employment [address] of the notary public in this State.

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

¹[6. (New section) Course of Study; Continuing Education.

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

- b. An applicant for renewal of a commission pursuant to section 2 of P.L.1979, c.460 (C.52:7-11) who has previously completed the six-hour course of study required pursuant to subsection a. of this section at least one time, or who was commissioned for the first time before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall complete a three-hour continuing education course prescribed and approved by the State Treasurer. The continuing education course shall be completed within the six-month period immediately preceding the application.
- c. The State Treasurer shall prescribe an application form and certificate of approval for any notary public course of study and any notary public continuing education course proposed by a provider. The State Treasurer may also provide a notary public course of study and continuing education course.
- d. The State Treasurer shall compile a list of all persons offering an approved course of study and continuing education course pursuant to this section and shall provide the list on the website of the State Treasurer.
- e. The six-hour course of study shall cover the statutes, regulations, procedures, and ethics for notaries public as described in the manual issued by the State Treasurer, and shall include the duties and responsibilities of a notary public. The course of study shall be provided by classroom instruction.
- f. The three-hour continuing education course shall cover topics which ensure maintenance and enhancement of skill, knowledge, and competency necessary to perform notarial acts. The continuing education course may be provided by either online or classroom instruction.】¹

¹【7. (New section) Examination.

- a. The State Treasurer shall prescribe and administer an examination to determine the fitness of an applicant to exercise the functions of a notary public as provided in section 2 of P.L.1979, c.460 (C.52:7-11). The examination shall:
- (1) be based on the statutes, rules, regulations, procedures, and ethical requirements for notaries public as described in the manual issued by the State Treasurer; and
 - (2) include the requirements, functions, duties, and responsibilities of a notary public.
- b. The State Treasurer shall charge a nonrefundable fee which shall be payable at the examination site. Such fee shall be established or changed by the State Treasurer to defray any proper expenses incurred by the Department of the Treasury in administering the examination. The fee shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.】¹

³6. (New section) Course of Study; Continuing Education.

a. The provisions of this section do not apply to notaries public who are also licensed attorneys-at-law in this State.

b. A non-attorney applicant for an initial commission as a notary public pursuant to section 2 of P.L.1979, c.460 (C.52:7-11) shall comply with all educational requirements that the State Treasurer shall set forth in rules adopted pursuant to the "Administrative Procedure Act," P.L.1969, c.410 (C.52:14B-1 et seq.). The State Treasurer shall prescribe and approve a course of study to foster and confirm applicants' understanding of the principles and standards that govern notarial practices. Applicants shall be required to acknowledge that they have read and understood the Notary Public Manual and complete any other educational programs that the Treasurer may require.

c. A non-attorney applicant for renewal of a commission pursuant to section 2 of P.L.1979, c.460 (C.52:7-11) who has previously completed the educational requirements required pursuant to subsection b. of this section at least one time, or who was commissioned for the first time before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall comply with any additional educational requirements that the State Treasurer sets forth in rules adopted pursuant to the "Administrative Procedure Act," P.L.1969, c.410 (C.52:14B-1 et seq.). The State Treasurer shall prescribe and approve a continuing education course for non-attorney applicants seeking a renewal of a commission pursuant to section 2 of P.L.1979, c.460 (C.52:7-11).

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

e. Any course of study developed pursuant to subsections b. and c. of this section may be given by the State Treasurer or by independent vendors.

f. The State Treasurer shall compile a list of all independent vendors offering an approved course of study and continuing education course pursuant to this section and shall provide the list on the website of the State Treasurer.

g. Any course of study for a non-attorney applicant for an initial commission shall cover the statutes, regulations, procedures, and ethics for notaries public as described in the manual issued by the State Treasurer, and shall include the duties and responsibilities of a notary public. The course of study may be provided by classroom instruction, by online instruction, or by any other method approved by the State Treasurer.

h. Any continuing education course for a non-attorney applicant for renewal of a commission shall cover topics which ensure maintenance and enhancement of skill, knowledge, and competency necessary to perform notarial acts. The continuing education course may be provided by online instruction, classroom instruction, or by any other method approved by the State Treasurer.

i. The Treasurer shall regularly assess the efficacy of the State's notarial education program. The Treasurer shall adjust the program's content as notarial technologies and processes evolve, and publish on the Treasury website, on or before September 30 each year, a report on the state of notary education in New Jersey. The report shall contain a summary of commissioning activity, an assessment regarding the need for new or changed educational content, and the estimated timelines for delivering the new or changed content.³

³7. (New section) Examination.

a. The provisions of this section do not apply to applicants who are licensed attorneys-at-law in this State.

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

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

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

c. The examination required by subsection b. may be given by the State Treasurer or by an independent vendor under contract to the State Treasurer. If a contract vendor is utilized, the contract vendor shall develop and administer the examination in accordance with specifications approved by the State Treasurer. The State Treasurer shall have the sole responsibility for establishing minimum qualifications and passing requirements of candidates taking the examination.

d. The State Treasurer shall establish a nonrefundable fee which shall be payable at the examination site. Such fee shall be established or changed by the State Treasurer taking into consideration the fee charged by any independent contract vendor to develop and administer the examination, and consideration of the need to defray any proper expenses incurred by the Department of the Treasury in its administration of any independent contract vendor administering the examination. The fee shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.³

¹[8.] ³[6.1] g.³ Section 5 of P.L.1979, c.460 (C.52:7-14) is amended to read as follows:

5. Oath; Filing; Certificate of Commission.

a. Within ¹[three months] ²[45 days]¹ three months² of the receipt of a commission, each notary public shall take and subscribe an oath before [the clerk of the county in which he resides] ¹[any officer authorized to administer oaths pursuant to R.S.41:2-1] the clerk of the county in which ²[he] the notary public² resides ²[or a member of the Legislature]¹², to²[(1)]² faithfully and honestly [to] discharge the duties of [his] the office[,] ; and ²[(2)]² [that he will] make and keep a true record of all such matters as are required by law, [which oath shall be filed with said clerk. The oath of office of a nonresident notary public shall be taken and subscribed before the clerk of the county in which he maintains his office or is employed in this State] ²[including the requirement to maintain a journal of all notarial acts performed, as set forth in section ¹[27] 25¹ of P.L. , c. (C.) (pending before the Legislature as this bill).] which oath shall be filed with ³[said] the³ clerk. The oath of office of a nonresident notary public shall be taken and subscribed before the clerk of the county in which the nonresident notary public maintains ³[his] the notary public's³ office or ³[is employed] the county in which the nonresident notary public is an employee of a business with its domicile or primary place of business³ in this State².

b. Upon the administration of [said] the oath, the [said clerk] ²[officer] ³[said]³ clerk² shall cause the notary public to [indorse a] endorse the certificate of commission and qualification and shall transmit [said] the certificate to the State Treasurer within 10 days of the administration of [said] the oath. [After the administration of the oath, the clerk shall provide a notice to the person that a notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in the English language or any other language, which mean or imply that the notary public is licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States. The notice shall also state that a notary public who advertises his services, in the English language or any other language, is required to provide with such advertisement a notice which contains the following statement: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."] ²After the administration of the oath, the clerk shall provide a notice to the person that a notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in ³[the English language or]³ any ³[other]³ language, which mean or imply that the notary public is licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States. The notice shall also state that a notary public who advertises ³[his] the notary public's³ services, in ³[the

English language or]³ any ³[other]³ language, is required to provide with such advertisement a notice ³in the language of the advertisement³ which contains the following statement ³or translation of the following statement if the advertisement is not in English³: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice." ²

c. [The State Treasurer shall cancel and revoke the appointment of any notary public who fails to take and subscribe said oath within three months of the receipt of his commission and any appointment so canceled and revoked shall be null, void and of no effect] ²The State Treasurer shall cancel and revoke the appointment of any notary public who fails to take and subscribe ³[said] the³ oath within three months of the receipt of ³[his] the³ commission and any appointment so canceled and revoked shall be null, void and of no effect². A commission authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by the law of this State on public officials or employees¹[.].¹

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

¹[9.] ³[z.1] 9.³ (New section) Grounds for State Treasurer to Deny Application, Refuse to Renew Commission, or Revoke, Suspend, or Limit Commission.

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

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

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

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

(4) a conviction of a crime of the second degree or above, but nothing in this paragraph shall be deemed

to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.);

(5) failure by the notary public to discharge any duty required by any law, including P.L.1979, c.460 (C.52:7-10 et seq.), any rules or regulations promulgated thereunder by the State Treasurer, and 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 ³[45 days] three months³ 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.] ³[8.1] 10.³ Section 6 of P.L.1979, c.460 (C.52:7-15) is amended to read as follows:

6. Statewide authority.

[a.] ³[1a.1]³ A notary public who has been duly commissioned and qualified is authorized to perform [his] the duties of a notary public throughout the State.

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

³[2b. Any notary public, after having been duly commissioned and qualified, shall, upon request, receive from the clerk of the county where the notary public has qualified, as many certificates of commission and qualification as the notary public shall require for filing with other county clerks of this State, and upon receipt of such certificates the notary public may present the same, together with the notary public's autograph signature, to such county clerks as the notary public may desire, for filing.²]³

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

¹[11.] ³[9.1] 11.³ Section 8 of P.L.1979, c.460 (C.52:7-17) is amended to read as follows:

8. Manual.

[The State Treasurer shall, by regulation, fix a fee to be charged to each notary for the costs of printing and distribution to each applicant of a manual prescribing the powers, duties and responsibilities of a notary.]

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

b. The manual shall specify that a notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in [the English language or] any [other] language, which mean or imply that the notary public is licensed as an ³[attorney] attorney-at-law³ [or counselor at law] in the State of New Jersey or in any other jurisdiction of the United States. The manual shall also state that a notary public who advertises [his] the ³[notary's] notary public's³ services in [the English language or] any [other] language is required to provide with such advertisement a notice which contains the following statement or translation of the following statement if the advertisement is not in English: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice." The manual shall also state that no person shall be [appointed or reappointed] commissioned a notary public or receive a renewal of a notary public commission if ¹[he] that person¹ has been convicted under the laws of this State of an offense involving dishonesty, including but not limited to a violation of section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994, c.47 (C.2C:21-22), or a substantially similar crime under the laws of another state or the United States or of a crime of the second degree or above, but nothing in this paragraph shall be deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.).

c. The State Treasurer shall update the information contained in the manual and the Department of the Treasury's Internet website [as appropriate] ¹[at least quarterly] periodically¹.

(cf: P.L.2014, c.48, s.6)

¹[12.] ³[10.1] 12.³ Section 9 of P.L.1979, c.460 (C.52:7-18) is amended to read as follows:

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

[After] a. If a notary public adopts a name different from that which [he] the notary public used at the time¹[he] the notary public¹ was commissioned, [and] before [he signs his name] the notary public provides a signature to any [document] record which [he] the notary public is authorized or required to sign as notary public, ¹[he] the notary public¹ shall make and sign a statement in writing and under oath, on a form prescribed and furnished by the State Treasurer, setting out the circumstances under which [he] the notary public has adopted the new name. ¹The statement shall state whether the new name has been adopted through marriage or civil union or by a change of name proceeding or otherwise, and such other information as the State Treasurer shall require.¹

b. ¹[The statement shall [set forth] state whether the new name has been adopted through marriage or

civil union or by a change of name proceeding or otherwise, and such other information as the State Treasurer shall require.

c.]¹ The statement shall be filed in the office of the State Treasurer [and in the office of the clerk of the county where he qualified as a notary public and in the office of the clerk of any county in which he may have filed a certificate of his commission and qualification]. Such statement, or a certified copy [thereof], shall be evidence of the right of [said] the notary public to continue to exercise the powers and privileges and perform the duties of a notary public in [his] the changed [and] or new name.

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

¹[13.] ³[11.1] 13.³ Section 10 of P.L.1979, c.460 (C.52:7-19) is amended to read as follows:

10. Certificate of Notarial Act.

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

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

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

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

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

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

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

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

(1) is in a short form set forth in section ²[21] ³[19¹] 21³ of P.L. , c. (C. _____) (pending before the Legislature as this bill);

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

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

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

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

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

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

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

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

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

¹[14.] ³[12.1] ^{14.}³(New section) Official Stamp.

a. The official stamp of a notary public shall:

(1) include the name of the notary public, the title "Notary Public, State of New Jersey," and the notary public's commission expiration date; and

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

b. If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate near the signature of the notary public so as to be clear and readable. If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in subsection a. of this section, an official stamp ¹[may] must¹ be

attached to or logically associated with the certificate.

¹[15.] ³[13.1] 15.³ (New section) Stamping Device.

- a. A notary public is responsible for the security of the stamping device used by the notary public and may not allow another individual to use the device to perform a notarial act, except at the specific instruction of a notary public who cannot physically use the stamping device.
- b. The stamping device is the property of the notary public and not of the notary public's employer, even if the employer paid for the stamping device.
- c. If the stamping device used by the notary public is lost or stolen, the notary public or ¹[his] the notary public's¹ personal representative shall notify the State Treasurer of the loss or theft within 10 days.

¹[16.] ³[14.1] 16.³ (New section) Authority to Perform Notarial Act.

- a. A notarial officer may perform a notarial act authorized by P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L. , c. (C.) (pending before the Legislature as this bill), and any other applicable law.
- b. A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse or civil union partner is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.
- c. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

¹[17.] ³[15.1] 17.³ (New section) Requirements for Certain Notarial Acts.

- a. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.
- b. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from

personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

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

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

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

f. For the purposes of this section:

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

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

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

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

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

(ii) is satisfactory to the notarial officer; or

(c) A verification of oath or affirmation of a credible witness personally appearing before the notarial officer ¹or using communication technology to appear before the notarial officer pursuant to section ³[17] 19³ of P.L. , c. (C.) (pending before the Legislature as this bill)¹ and personally known to the notarial officer or whom the notarial officer can identify on the basis of a passport, driver's license, or government-issued, non-driver identification card, which is current or expired not more than three years before the performance of the notarial act.

(3) A notarial officer may require an individual to provide additional information or identification

credentials necessary to assure the notarial officer of the identity of the individual.

¹[18.] ³[16.1] 18.³ (New section) Personal Appearance¹[Required]; Use of Communication Technology¹.

If a notarial act relates to a statement made in, or a signature executed on, a record, the individual making the statement or executing the signature shall appear personally before the notarial officer ¹or shall use communication technology to appear before the notarial officer pursuant to section ³[17] 19³ of P.L. , c. (C.) (pending before the Legislature as this bill)¹.

¹[19.] ³[17.1] 19.³ (New section) Notarial Act Performed by Remotely Located Individual.

a. As used in this section:

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

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

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

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

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

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

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

b. This section does not apply to a record to the extent it is governed by ³[:

(1)]³ ¹[a law governing the creation and execution of wills or codicils;

(2)]¹ ³[the "Uniform Commercial Code," N.J.S.12A:1-101 et seq., other than N.J.S.12A:1-107, N.J.S.12A:1-206, the provisions of the "Uniform Commercial Code – Sales," chapter 2 of Title 12A of the New Jersey Statutes, and the provisions of the "Uniform Commercial Code – Leases," chapter 2A of Title 12A of the New Jersey Statutes; or

¹[(3)] (2)¹ a statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law] a law governing the creation and execution of wills or codicils, except that subsections e., f., g., and h. of this section shall apply to notarial acts performed on a tangible record that is governed by a law governing the creation or execution of wills and codicils³.

c. A remotely located individual may comply with section ¹[18] ³[16]¹ 18³ of P.L. , c. (C.) (pending before the Legislature as this bill) and subsections a. and b. of R.S.46:14-2.1 by using communication

technology to appear before a notarial officer.

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

(1) the notarial officer:

(a) has personal knowledge ³pursuant to paragraph (1) of subsection f. of section 17 of P.L. , c. (C.) (pending before the Legislature as this bill)³ of the identity of the individual;

(b) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notarial officer ³pursuant to paragraph (2) of subsection f. of section 17 of P.L. , c. (C.) (pending before the Legislature as this bill)³ ¹or using communication technology to appear before the notarial officer pursuant to this section¹; or

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

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

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

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

(a) the record:

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

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

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

e.³A notarial officer in this State may use communication technology under subsection d. of this section to take an acknowledgement of a signature on a tangible record that is in the possession of the notary public if the record is displayed to and identified by the remotely located individual during the audio-

visual session required by paragraph (3) of subsection d. of this section.

f. A notarial officer's obligation under paragraph (2) of subsection d. of this section for the performance of a notarial act with respect to a tangible record not physically present before the notarial officer is satisfied if:

(1) the remotely located individual:

(a) during the audio-visual session required by paragraph (3) of subsection d. of this section, signs:

(i) the record; and

(ii) a declaration, substantially in the following form, which is part of or securely attached to the record:

"I declare under penalty of perjury that the record to which this declaration is attached is the same record on which [name of notarial officer] performed a notarial act and before whom I appeared by means of communication technology on [date].

_____ Printed name of remotely located individual

_____ Signature of remotely located individual"; and

(b) sends the record and declaration to the notarial officer not later than three days after the notarial act was performed; and

(2) the notarial officer:

(a) in the audio-visual recording required by paragraph (3) of subsection d. of this section, records the individual signing the record and declaration; and

(b) after receipt of the record and declaration from the individual, executes the certificate of notarial act required by section 13 of P.L. , c. (C.) pending before the Legislature as this bill), which must include the following statement or words of similar import:

"I [name of notarial officer] witnessed, by means of communication technology, [name of remotely located individual] sign the attached record and declaration on [date]".

g. A notarial act performed in compliance with subsection f. of this section complies with paragraph (1) of subsection a. of section 13 of P.L. , c. (C.) pending before the Legislature as this bill) and is effective as of the date on which the declaration was signed by the remotely located individual.

h. Subsections f. and g. of this section are not intended to exclude other procedures to satisfy the requirements of this section for a notarial act performed with respect to a tangible record.

i. A notarial officer in this State may administer an oath to a remotely located individual using communication technology. Except as required or permitted by rule or law of this State, the notarial officer shall identify the individual under paragraph (1) of subsection d. of this section, create an audio-visual recording under paragraph (3) of subsection d. of this section of the individual taking the oath, and preserve a copy of the audio-visual recording under subsection l. of this section.³

³[e.] j.³ If a notarial act is performed under this section, the certificate of notarial act required by section 10 of P.L.1979, c.460 (C.52:7-19), the certificate required by section c. of R.S.46:14-2.1, or the short-form certificate provided in section ¹[21] ³[19¹] 21³ of P.L. , c. (C.) (pending before the Legislature as this bill) must indicate that the notarial act was performed using communication technology.

³[f.] k.³ A short-form certificate provided in section ¹[21] ³[19¹] 21³ of P.L. , c. (C.) (pending before the Legislature as this bill) for a notarial act subject to this section is sufficient if it:

(1) complies with any rules or regulations adopted by ³[1, or provision published by,¹]³ the State Treasurer under paragraph (1) of subsection ³[j.] o.³ of this section or section ¹[29] ³[27¹] 29³ of P.L. , c. (C.) (pending before the Legislature as this bill); or

(2) is in the form provided by section ¹[21] ³[19¹] 21³ of P.L. , c. (C.) (pending before the Legislature as this bill) and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

³[g.] l.³ A notarial officer, a guardian, conservator, or agent of a notarial officer, or a personal representative of a deceased notarial officer, shall retain the audio-visual recording created under paragraph (3) of subsection d. of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by any rule or regulation adopted by the State Treasurer ³[1 or any provision published by the State Treasurer,¹]³ under paragraph (4) of subsection ³[j.] o.³ of this section, the recording must be retained for a period of at least 10 years after the recording is made.

³[h.] m.³ Before a notary public performs ¹[his] the notary public's¹ initial notarial act under this section, the notary public must notify the State Treasurer that the notary public will be performing such notarial acts and identify the technologies the notary public intends to use.

³[i.] n.³ If the State Treasurer has established standards under subsection ³[j.] i.³ of this section and section ¹[29] ³[27¹] 29³ of P.L. , c. (C.) (pending before the Legislature as this bill) for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to those standards.

³[j.] o.³ ¹[In addition to adopting rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) under section 29 of P.L. , c. (C.) (pending before the Legislature as this bill), the State Treasurer may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) under this section regarding the performance of a notarial act. The rules and regulations may] ³[The Treasurer may also publish provisions in the New Jersey Notary Manual that¹] In addition to adopting rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) under section 29 of P.L. , c. (C.) (pending before the Legislature as this bill), the State Treasurer may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) under this section regarding the performance of a notarial act. The rules and regulations may³:

- (1) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;
- (2) establish standards for communication technology and identity proofing;
- (3) establish requirements or procedures to approve providers of communication technology and the process of identity proofing; ³[and]³
- (4) establish standards and a period for the retention of an audio-visual recording created under paragraph (3) of subsection d. of this section³; and
- (5) prescribe methods for confirmation of a tangible record by a notarial officer permitted under subsection e. of this section³.

³[k.] p.³ Before adopting, amending, or repealing a rule or regulation ³[or publishing a provision in the New Jersey Notary Public Manual¹]³ 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.

³q. (1) A notarial officer may perform a notarial act using communication technology for a remotely located individual that meets the requirements of section 19 of P.L. , c. (C.) (pending before the Legislature as this bill) and subsections a. and b. of R.S.46:14-2.1 regardless of whether the remotely located individual is physically located in this State.

(2) A notarial act performed using communication technology for a remotely located individual is deemed performed in New Jersey and is governed by New Jersey law.

r. It is the intent of the Legislature that, to the fullest extent allowed by the Full Faith and Credit Clause of the United States Constitution and the laws of the 50 states and the District of Columbia, a notarial act performed in this State shall be recognized, be enforceable, and have the same effect under the law of the 50 states as if performed by a notarial officer of those jurisdictions.

s. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording created under paragraph (3) of subsection d. of this section, the provider of the communication technology, identity proofing, or storage appoints the State Treasurer as the provider's agent for service of process in any civil action in this State related to the notarial act.³

¹[20.] ³[18.1] 20.³ (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.] ³[19.1] 21.³ (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

(My commission expires: _____)

b. For an acknowledgment in a representative capacity:

State of _____

County of _____

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

(Name(s) of individual(s))

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

Signature of notarial officer

Stamp

Title of office

(My commission expires: _____)

c. For a verification on oath or affirmation:

State of _____

County of _____

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

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

Signature of notarial officer

Stamp

[_____]

Title of office

(My commission expires: _____)

d. For witnessing or attesting a signature:

State of _____

County of _____

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

(Name(s) of individual(s))

Signature of notarial officer

Stamp

[_____]

Title of office

(My commission expires: _____)

e. For certifying a copy of a record:

State of _____

County of _____

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

Dated _____

Signature of notarial officer

Stamp

Title of office

(My commission expires: _____)

¹[22.] ³[20.1] 22.³ (New section) Notarial Act in this State.

- a. The signature and title of an individual performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- b. A notarial act may be performed in this State by an individual authorized by the applicable law to perform the notarial act.
- c. The signature and title of a notarial officer authorized by the applicable law to perform the notarial act conclusively establishes the authority of the officer to perform the notarial act.

¹[23.] ³[21.1] 23.³ (New section) Notarial Acts Outside this State.

a. In Another State.

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

(a) a notary public of that state;

(b) a judge, clerk, or deputy clerk of ¹a court of¹ that state; or

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

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

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

b. Under Authority of Federally Recognized Indian Tribe.

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

(a) a notary public of the tribe;

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

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

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

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

c. Under Federal Authority.

(1) A notarial act performed under federal law has the same effect under the law of this State as if performed by a notarial officer of this State, if the ³act³ performed under federal law is performed by:

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

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

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

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

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

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

d. Foreign Notarial Acts.

(1) As used in this subsection, "foreign state" means a jurisdiction other than the United States, a state, or

a federally recognized Indian tribe.

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

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

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

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

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

¹[24.] ³[22.1] 24.³ (New section) Notification Regarding Performance of Notarial Act on Electronic Record; Selection of Technology; Acceptance of Tangible Copy of Electronic Record.

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

b. Before a ¹[notarial officer] notary public¹ performs ¹[his] the notary public's¹ initial notarial act with respect to an electronic record, the ¹[notarial officer] notary public¹ shall notify the State Treasurer that ¹[he] the notary public¹ will be performing notarial acts with respect to electronic records and identify the technology that the ¹[notarial officer] notary public¹ intends to use. If the State Treasurer has established standards for approval of technology pursuant to section ¹[29] ³[27¹] 29³ of P.L. , c. (C.) (pending before the Legislature as this bill), the technology must conform to those standards. If the technology conforms to the standards, the State Treasurer shall approve the use of the technology.

c. A county clerk ³[or] ³a ³register of deeds and mortgages³, and a county surrogate³ ¹[may] shall¹ accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

¹[25.] ³[23.1] 25.³ (New section) Database of Notaries Public.

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

- a. through which a person may verify the authority of a notary public to perform notarial acts; and
- b. which indicates whether a notary public has notified the State Treasurer that the notary public will be performing notarial acts on electronic records.

¹[26.] ³[24.1] 26.³ (New section) Authority to Refuse to Perform Notarial Act.

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

- (1) the individual executing the record is competent or has the capacity to execute the record;
- (2) the individual's signature is knowingly and voluntarily made;
- (3) the individual's signature on the record or statement substantially conforms to the signature on a form of identification used to determine the identity of the individual; or
- (4) the physical appearance of the individual signing the record or statement substantially conforms to the photograph on a form of identification used to determine the identity of the individual.

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

¹[27.] ³[25.1] 27.³ (New section) Journal.

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

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

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

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

(4) If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format complying with any ¹[rules and regulations promulgated] ³[standards published¹] rules and regulations promulgated³ by the State Treasurer ³[in the New Jersey Notary Public Manual¹]³.

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

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

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

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

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

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

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

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

d. The notary public shall either:

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

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

e. On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall either:

(1) retain the journal in accordance with paragraph (1) of subsection d. of this section and inform the State Treasurer where the journal is located; or

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

f. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall, within 45 days, transmit it to the Department of the Treasury, Division of Revenue and Enterprise Services, or a repository approved by the State Treasurer.

g. In lieu of maintaining a journal, a notary public who is an attorney-at-law admitted to practice in this State, or who is employed by an attorney-at-law, or who is employed by or acting as an agent for a title insurance company licensed to do business in this State pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.), may maintain a record of notarial acts in the form of files regularly maintained for the attorney's law practice or the title insurance company's business activities, as the case may be.

¹[28.] ³[26.1] 28.³ (New section) Validity of Notarial Acts.

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

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

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

¹[29.] ³[27.1] 29.³ (New section) Rules and Regulations.

a. The State Treasurer ¹[shall] ³[may¹] shall³ adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) ³[1or publish procedures and standards in the New

Jersey Notary Public Manual^{1]}³ to implement the provisions of P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L. , c. (C.) (pending before the Legislature as this bill). Any rules and regulations ³[or procedures and standards^{1]}³ regarding the performance of notarial acts with respect to electronic records shall not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules and regulations ³[or procedures and standards^{1]}³ may:

- (1) prescribe the manner of performing notarial acts regarding tangible and electronic records;
- (2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- (3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;
- (4) prescribe the process of granting, renewing, conditioning, denying, suspending, revoking, or otherwise limiting a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public; ³[and^{1]}³
- (5) include provisions to prevent fraud or mistake in the performance of notarial acts¹]; and
- (6) provide for the administration of the examination under section 7 of P.L. , c. (C.) (pending before the Legislature as this bill) and the course of study under section 6 of P.L. , c. (C.) (pending before the Legislature as this bill)]^{1 3}; and
- (6) provide for the administration of the examination under section 7 of P.L. , c. (C.) (pending before the Legislature as this bill) and the course of study under section 6 of P.L. , c. (C.) (pending before the Legislature as this bill)³.

b. In adopting, amending, or repealing rules and regulations ³[or publishing procedures and standards^{1]}³ concerning notarial acts with respect to electronic records, the State Treasurer shall consider, consistent with the provisions of P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L. , c. (C.) (pending before the Legislature as this bill):

- (1) the most recent standards regarding electronic records promulgated by national bodies, such as the Mortgage Industry Standards Maintenance Organization and the National Association of Secretaries of State;
- (2) standards, practices, and customs of other jurisdictions that substantially enact the Revised Uniform

Law on Notarial Acts, as embodied in P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L. , c. (C.) (pending before the Legislature as this bill); and

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

¹[30.] ³[28.1] 30.³ R.S.46:14-2.1 is amended to read as follows:

46:14-2.1. Acknowledgment and proof.

a. To acknowledge a deed or other instrument the maker of the instrument shall appear before an officer specified in R.S.46:14-6.1 ³or use communication technology to appear before the officer pursuant to section 19 of P.L. , c. (C.) (pending before the Legislature as this bill)³ and acknowledge that it was executed as the maker's own act. To acknowledge a deed or other instrument made on behalf of a corporation or other entity, the maker shall appear before an officer specified in R.S.46:14-6.1 and state that the maker was authorized to execute the instrument on behalf of the entity and that the maker executed the instrument as the act of the entity.

b. To prove a deed or other instrument, a subscribing witness shall appear before an officer specified in R.S.46:14-6.1 ¹or use communication technology to appear before the officer pursuant to section ³[17] 19³ of P.L. , c. (C.) (pending before the Legislature as this bill)¹ and swear that he or she witnessed the maker of the instrument execute the instrument as the maker's own act. To prove a deed or other instrument executed on behalf of a corporation or other entity, a subscribing witness shall appear before an officer specified in R.S.46:14-6.1 ¹or use communication technology to appear before the officer pursuant to section ³[17] 19³ of P.L. , c. (C.) (pending before the Legislature as this bill)¹ and swear that the representative was authorized to execute the instrument on behalf of the entity, and that he or she witnessed the representative execute the instrument as the act of the entity.

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

(1) that the maker or the witness personally appeared before the officer ³[¹or used communication technology to appear before the officer pursuant to section 17 of P.L. , c. (C.) (pending before the Legislature as this bill)]¹³;

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

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

(4) the officer's name and title;

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

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

e. A ³[short form]³ certificate that is substantially in the form provided in ³subsection b. of³ section ³[19] 13³ of P.L. , c. (C.) (pending before the Legislature as this bill) satisfies the requirements of this section.

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

³[129.] 31.³ R.S.46:14-6.1 is amended to read as follows:

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

(1) an attorney-at-law;

(2) a notary public;

(3) a county clerk or deputy county clerk;

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

(5) a surrogate or deputy surrogate.

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

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

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

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

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

¹[31.] ³[30.¹] 32.³ N.J.S.22A:4-14 is amended to read as follows:

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

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

For taking proof of a deed, \$2.50.

For taking all acknowledgments, \$2.50.

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

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

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

¹[32.] ³[31.¹] 33.³ R.S.41:2-17 is amended to read as follows:

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

Any oath, affirmation, or affidavit required or authorized to be taken in any suit or legal proceeding in this [state] State, or for any lawful purpose whatever, except official oaths and depositions required to be taken upon notice, when taken out of this [state] State, may be taken before any notary public of the state, territory, nation, kingdom, or country in which the same shall be taken, or before any officer who may be authorized by the laws of this [state] State to take the acknowledgment of deeds in such state, territory, nation, kingdom, or country; and a recital that he ¹or she¹ is such notary or officer in the jurat or certificate of such oath, affirmation, or affidavit, and his ¹or her¹ official designation annexed to his ¹or her¹ signature, and attested under his ¹or her¹ official seal, shall be sufficient proof that the person before

whom the same is taken is such notary or officer. [When, however, any other certificate is required by law to be annexed to the certificate of such officer, other than a notary public, for the recording of a deed acknowledged before him, a like certificate shall be annexed to his certificate of the taking of such oath.]

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

¹[33.] ³[32.1] ^{34.}³ (New section) Relation to Electronic Signatures in Global and National Commerce Act.

P.L. , c. (C.) (pending before the Legislature as this bill) modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. s.7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the ²[noties] notices² described in section 103(b) of that act, 15 U.S.C. section 7003(b).

¹[34.] ³[33.1] ^{35.}³ (New section) Savings Clause.

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

³36. Section 3 of P.L.2001, c.116 (C.12A:12-3) is amended to read as follows:

3. a. Except as provided in subsections b. and c. of this section, this act applies to electronic records and electronic signatures relating to a transaction.

b. This act does not apply to a transaction to the extent it is governed by[:

(1)] a law governing the creation and execution of wills, codicils or testamentary trusts[;

(2) the Uniform Commercial Code other than sections 1-107 and 1-206, Article 2 and Article 2A;

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

c. This act does not apply to:

(1) court orders or notices or official court documents (including briefs, pleadings and other writings)

required to be executed in connection with court proceedings;

(2) any notice of:

(a) the cancellation or termination of utility services (including water, heat and power);

(b) the default, acceleration, repossession, foreclosure or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(c) the cancellation or termination of health insurance benefits or life insurance benefits (excluding annuities); or

(d) the recall of a product, or material failure of a product, that risks endangering health or safety; or

(3) any document required to accompany any transportation or handling of hazardous materials, pesticides or other toxic or dangerous materials.

d. This act applies to an electronic record or electronic signature otherwise excluded from the application of this act under subsection b. of this section to the extent it is governed by a law other than those specified in subsection b. of this section.

e. A transaction subject to this act is subject also to other applicable substantive law.³

(cf: P.L.2001, c.116, s.3)

¹[35.] ³[34.1] 37.³ The following are repealed:

³[R.S.52:6-15 through R.S.52:6-22;¹]³

²[Section 7 of P.L.1979, c.460 (C.52:7-16);]² ³Section 7 of P.L.1979, c.460 (C.52:7-16);³ and

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

³38. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer shall adopt, after notice, interim rules and regulations as shall be necessary for the implementation of this act within 90 days after the effective date of this act. The rules and regulations shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may,

thereafter, be amended, adopted or readopted by the Treasurer in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).³

¹[36.] ³[35.1] ^{39.}³[This] Sections 6 and 7 of this³ act shall take effect on the ³365th day following enactment. Sections 1 through 5 and sections 8 through 38 of this act shall take effect on the³ ¹[180th] 90th¹ day following enactment ³[¹except the] . The State³ Treasurer may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act¹.