



Today

in 10/15

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO ASSEMBLY BILL 293

SA
Pwf

Only changes are on pp. 2, 6, 17, 26, 32

Reger!

1 AN ACT *to repeal* subchapter I (title) of chapter 137 [precedes 137.01], 137.02,
2 subchapter II (title) of chapter 137 [precedes 137.11] and 706.07; *to renumber*
3 137.01 (title), 137.01 (5), 137.01 (5m), 137.01 (8) and 137.01 (9) (title); *to*
4 *renumber and amend* 137.01 (1), 137.01 (2), 137.01 (3), 137.01 (4), 137.01 (6),
5 137.01 (6m), 137.01 (7) and 137.01 (9); *to amend* 15.01 (4), 15.185 (title), 20.575
6 (1) (g), chapter 137 (title), 137.11 (intro.) and (4), 137.12 (1), (2) (intro.), (2m)
7 (intro.), (2p), (2r) (intro.), (3), (4), (5) and (6), 137.13 (1), (2), (4) and (5), 137.14
8 (intro.) and (3), 137.16 (2) (intro.) and (4) (a) and (b), 137.20 (7), 236.21 (2) (a),
9 236.295 (1) (b), 244.05, 244.19 (1), 407.103 (4), 610.60 (2) (a), 703.33 (9), 706.05
10 (2) (b), 706.05 (8), 706.06 (1), 706.085 (2) (a), 708.15 (10) (g), 801.18 (11) (a),
11 801.18 (11) (e), 857.015, 867.045 (2), 867.046 (3), 887.01 (1), 887.01 (3), 887.015
12 (4) (b) 4., 968.12 (2) and 990.01 (38); and *to create* 15.185 (8), chapter 140 (title),

1 140.01, 140.02 (5r), 140.04, 140.05, 140.06, 140.07, 140.08, 140.09, 140.10,
2 140.11, 140.12, 140.13, 140.14, 140.145, 140.15, 140.16, 140.17, 140.18, 140.20,
3 140.24, 140.26, 140.27, 140.30, 140.31 and 140.34 of the statutes; **relating to:**
4 adopting provisions of the revised uniform law on notarial acts and repealing
5 a prior uniform law on notarial acts, creating a remote notary council,
6 commissioners of deeds, ^{and} providing an exemption from emergency rule
7 procedures, granting rule-making authority, and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 **SECTION 1.** 15.01 (4) of the statutes is amended to read:

9 15.01 (4) "Council" means a part-time body appointed to function on a
10 continuing basis for the study, and recommendation of solutions and policy
11 alternatives, of the problems arising in a specified functional area of state
12 government, except the council on physical disabilities has the powers and duties
13 specified in s. 46.29 (1) and (2), the state council on alcohol and other drug abuse has
14 the powers and duties specified in s. 14.24, and the electronic recording council has
15 the powers and duties specified in s. 706.25 (4), and the remote notary council has
16 the powers and duties specified in s. 140.145 (11).

17 **SECTION 2.** 15.185 (title) of the statutes is amended to read:

18 **15.185 (title) Same; attached boards and, offices, and councils.**

19 **SECTION 3.** 15.185 (8) of the statutes is created to read:

20 15.185 (8) REMOTE NOTARY COUNCIL. (a) There is created a remote notary council
21 which is attached to the department of financial institutions under s. 15.03.

22 (b) The council shall be composed of the following members appointed for
23 3-year terms:

1 1. One member who represents an association of title insurance companies.

2 2. One member who represents attorneys who practice real estate law.

3 3. One member who represents an association of bankers.

4 4. One member who represents the providers of communication technology
5 used to perform a notarial act involving a remotely located individual.

6 5. The secretary of financial institutions or the secretary's designee.

7 **SECTION 4.** 20.575 (1) (g) of the statutes is amended to read:

8 20.575 (1) (g) *Program fees.* The amounts in the schedule for the purpose of
9 carrying out general program operations. Except as provided under par. (ka), all
10 amounts received by the secretary of state, including fees under s. 137.02 and all
11 moneys transferred from the appropriation under s. 20.144 (1) (g), shall be credited
12 to this appropriation. Notwithstanding s. 20.001 (3) (a), any unencumbered balance
13 at the close of a fiscal year exceeding 10 percent of that fiscal year's expenditures
14 under this appropriation shall lapse to the general fund.

15 **SECTION 5.** Chapter 137 (title) of the statutes is amended to read:

16 **CHAPTER 137**
17 **AUTHENTICATIONS AND ELECTRONIC**
18 **TRANSACTIONS AND RECORDS**

19 **SECTION 6.** Subchapter I (title) of chapter 137 [precedes 137.01] of the statutes
20 is repealed.

21 **SECTION 7.** 137.01 (title) of the statutes is renumbered 140.02 (title).

22 **SECTION 8.** 137.01 (1) of the statutes is renumbered 140.02 (1), and 140.02 (1)
23 (a), (b), (d), (e) and (g), as renumbered, are amended to read:

24 140.02 (1) (a) The ~~secretary of financial institutions~~ department shall appoint
25 notaries public who shall be United States residents and at least 18 years of age.

1 Applicants who are not attorneys shall file an application with the department of
2 ~~financial institutions~~ and pay a \$20 fee.

3 (b) ~~The secretary of financial institutions department~~ shall satisfy ~~himself or~~
4 ~~herself~~ itself that the applicant has the equivalent of an 8th grade education, is
5 familiar with the duties and responsibilities of a notary public and, subject to ss.
6 111.321, 111.322 and 111.335, does not have an arrest or conviction record.

7 (d) Qualified applicants shall be notified by the department of ~~financial~~
8 ~~institutions~~ to take and file the official oath and execute and file an official bond in
9 the sum of \$500, with a surety executed by a surety company and approved by the
10 ~~secretary of financial institutions~~ department.

11 (e) The qualified applicant shall file his or her signature, post-office address,
12 and an impression of his or her official seal, or imprint of his or her official rubber
13 stamp, with the department of ~~financial institutions~~.

14 (g) At least 30 days before the expiration of a commission the department of
15 ~~financial institutions~~ shall ~~mail~~ provide notice of the expiration date to the holder of
16 a commission.

17 **SECTION 9.** 137.01 (2) of the statutes is renumbered 140.02 (2) and amended
18 to read:

19 140.02 (2) NOTARIES PUBLIC WHO ARE ATTORNEYS. (a) Except as provided in par.
20 (am), any United States resident who is licensed to practice law in this state is
21 entitled to a permanent commission as a notary public upon application to the
22 department of ~~financial institutions~~ and payment of a \$50 fee. The application shall
23 include a certificate of good standing from the supreme court, the signature and
24 post-office address of the applicant and an impression of the applicant's official seal,
25 or imprint of the applicant's official rubber stamp.

1 (am) If a United States resident has his or her license to practice law in this
2 state suspended or revoked, upon reinstatement of his or her license to practice law
3 in this state, the person may be entitled to receive a certificate of appointment as a
4 notary public for a term of 4 years. An eligible notary appointed under this
5 paragraph is entitled to reappointment for 4-year increments. At least 30 days
6 before the expiration of a commission under this paragraph the department of
7 ~~financial institutions~~ shall ~~mail~~ provide notice of the expiration date to the holder of
8 the commission.

9 (b) ~~The secretary of financial institutions~~ department shall issue a certificate
10 of appointment as a notary public to persons who qualify under the requirements of
11 this subsection. The certificate shall state that the notary commission is permanent
12 or is for 4 years.

13 (c) The supreme court shall file with the department of ~~financial institutions~~
14 notice of the surrender, suspension, or revocation of the license to practice law of any
15 attorney who holds a permanent commission as a notary public. Such notice shall
16 be deemed a revocation of said commission.

17 **SECTION 10.** 137.01 (3) of the statutes is renumbered 140.02 (3), and 140.02 (3)
18 (a), as renumbered, is amended to read:

19 140.02 (3) (a) Except as authorized in s. 137.19, and except as provided in s.
20 140.17, every notary public shall provide an engraved official seal which makes a
21 distinct and legible impression or official rubber stamp which makes a distinct and
22 legible imprint on paper. The impression of the seal or the imprint of the rubber
23 stamp shall state only the following: "Notary Public," "State of Wisconsin" and the
24 name of the notary. But any notarial seal in use on August 1, 1959, shall be
25 considered in compliance.

1 SECTION 11. 137.01 (4) of the statutes is renumbered 140.02 (4), and 140.02 (4)

2 (a) and (b), as renumbered, are amended to read:

3 140.02 (4) (a) Every official act of a notary public shall be attested by the notary
4 public's written signature or electronic signature, as defined in s. 137.11 (8).

5 (b) Except as authorized in s. 137.19, and except when a notary public properly
6 uses an official stamp under s. 140.17, all certificates of acknowledgments of deeds
7 and other conveyances, or any written instrument required or authorized by law to
8 be acknowledged or sworn to before any notary public, within this state, shall be
9 attested by a clear impression of the official seal or imprint of the rubber stamp of
10 said officer, and in addition thereto shall be written or stamped either the day, month
11 and year when the commission of said notary public will expire, or that such
12 commission is permanent.

*Intent
6-13*
*Change
clearly
intent*

13 SECTION 12. 137.01 (5) of the statutes is renumbered 140.02 (5).

14 SECTION 13. 137.01 (5m) of the statutes is renumbered 140.02 (5m). *repeated*

15 SECTION 14. 137.01 (6) of the statutes is renumbered 140.02 (6), and 140.02 (6)

16 (a), as renumbered, is amended to read:

17 140.02 (6) (a) The ~~secretary of financial institutions~~ department may certify
18 to the official qualifications of any notary public and to the genuineness of the notary
19 public's signature and seal or rubber stamp.

20 SECTION 15. 137.01 (6m) of the statutes is renumbered 140.02 (6m) and
21 amended to read:

22 140.02 (6m) CHANGE OF RESIDENCE. A notary public does not vacate his or her
23 office by reason of his or her change of residence within the United States. Written
24 notice of any change of address shall be given to the department of financial
25 institutions within 10 days of the change.

1 **SECTION 16.** 137.01 (7) of the statutes is renumbered 140.02 (7) and amended
2 to read:

3 **140.02 (7) OFFICIAL RECORDS TO BE FILED.** When any notary public ceases to hold
4 office, the notary public, or in case of the notary public's death the notary public's
5 personal representative, shall deposit the notary public's official records and papers
6 with the department of ~~financial institutions~~. If the notary or personal
7 representative, after the records and papers come to his or her hands, neglects for
8 3 months to deposit them, he or she shall forfeit not less than \$50 nor more than \$500.
9 If any person knowingly destroys, defaces, or conceals any records or papers of any
10 notary public, the person shall forfeit not less than \$50 nor more than \$500, and shall
11 be liable for all damages resulting to the party injured. The department of ~~financial~~
12 ~~institutions~~ shall receive and safely keep all such papers and records.

13 **SECTION 17.** 137.01 (8) of the statutes is renumbered 140.02 (8).

14 **SECTION 18.** 137.01 (9) (title) of the statutes is renumbered 140.02 (9) (title).

15 **SECTION 19.** 137.01 (9) of the statutes is renumbered 140.02 (9), and 140.02 (9)
16 (intro.), as renumbered, is amended to read:

17 **140.02 (9) FEES.** (intro.) ~~A~~ Except when the department has established
18 different fees as provided in s. 140.27 (1) (a) 1., a notary public shall be allowed the
19 following fees:

20 **SECTION 20.** 137.02 of the statutes is repealed.

21 **SECTION 21.** Subchapter II (title) of chapter 137 [precedes 137.11] of the
22 statutes is repealed.

23 **SECTION 22.** 137.11 (intro.) and (4) of the statutes are amended to read:

24 **137.11 Definitions.** (intro.) In this subchapter ~~chapter~~:

1 (4) “Contract” means the total legal obligation resulting from the parties’
2 agreement as affected by this ~~subchapter~~ chapter and other applicable law.

3 **SECTION 23.** 137.12 (1), (2) (intro.), (2m) (intro.), (2p), (2r) (intro.), (3), (4), (5)
4 and (6) of the statutes are amended to read:

5 137.12 (1) Except as otherwise provided in sub. (2) and except in ss. 137.25 and
6 137.26, this ~~subchapter~~ chapter applies to electronic records and electronic
7 signatures relating to a transaction.

8 (2) (intro.) Except as otherwise provided in sub. (3), this ~~subchapter~~ chapter
9 does not apply to a transaction to the extent it is governed by:

10 (2m) (intro.) This ~~subchapter~~ chapter does not apply to any of the following
11 records or any transaction evidenced by any of the following records:

12 (2p) This ~~subchapter~~ chapter applies to a transaction governed by the federal
13 Electronic Signatures in Global and National Commerce Act, 15 USC 7001, et seq.,
14 but this ~~subchapter~~ chapter is not intended to limit, modify, or supersede 15 USC
15 7001 (c).

16 (2r) (intro.) To the extent that it is excluded from the scope of 15 USC 7003, this
17 ~~subchapter~~ chapter does not apply to a notice to the extent that it is governed by a
18 law requiring the furnishing of any notice of:

19 (3) This ~~subchapter~~ chapter applies to an electronic record or electronic
20 signature otherwise excluded from the application of this ~~subchapter~~ chapter under
21 subs. (2), (2m), and (2r) to the extent it is governed by a law other than those specified
22 in subs. (2), (2m), and (2r).

23 (4) A transaction subject to this ~~subchapter~~ chapter is also subject to other
24 applicable substantive law.

1 (5) This ~~subchapter~~ chapter applies to the state of Wisconsin, unless otherwise
2 expressly provided.

3 (6) To the extent there is a conflict between this ~~subchapter~~ chapter and ch. 407,
4 ch. 407 governs.

5 **SECTION 24.** 137.13 (1), (2), (4) and (5) of the statutes are amended to read:

6 137.13 (1) This ~~subchapter~~ chapter does not require a record or signature to
7 be created, generated, sent, communicated, received, stored, or otherwise processed
8 or used by electronic means or in electronic form.

9 (2) This ~~subchapter~~ chapter applies only to transactions between parties each
10 of which has agreed to conduct transactions by electronic means. Whether the
11 parties agree to conduct a transaction by electronic means is determined from the
12 context and surrounding circumstances, including the parties' conduct.

13 (4) Except as otherwise provided in this ~~subchapter~~ chapter, the effect of any
14 provision of this ~~subchapter~~ chapter may be varied by agreement. Use of the words
15 "unless otherwise agreed," or words of similar import, in this ~~subchapter~~ chapter
16 shall not be interpreted to preclude other provisions of this ~~subchapter~~ chapter from
17 being varied by agreement.

18 (5) Whether an electronic record or electronic signature has legal consequences
19 is determined by this ~~subchapter~~ chapter and other applicable law.

20 **SECTION 25.** 137.14 (intro.) and (3) of the statutes are amended to read:

21 **137.14 Construction.** (intro.) This ~~subchapter~~ chapter shall be construed
22 and applied:

23 (3) To effectuate its general purpose to make uniform the law with respect to
24 the subject of this ~~subchapter~~ chapter among states enacting laws substantially

1 similar to the Uniform Electronic Transactions Act as approved and recommended
2 by the National Conference of Commissioners on Uniform State Laws in 1999.

3 **SECTION 26.** 137.16 (2) (intro.) and (4) (a) and (b) of the statutes are amended
4 to read:

5 137.16 (2) (intro.) If a law other than this ~~subchapter~~ chapter requires a record
6 to be posted or displayed in a certain manner, to be sent, communicated, or
7 transmitted by a specified method, or to contain information that is formatted in a
8 certain manner, then:

9 (4) (a) To the extent a law other than this ~~subchapter~~ chapter requires
10 information to be provided, sent, or delivered in writing but permits that
11 requirement to be varied by agreement, the requirement under sub. (1) that the
12 information be in the form of an electronic record capable of retention may also be
13 varied by agreement; and

14 (b) A requirement under a law other than this ~~subchapter~~ chapter to send,
15 communicate, or transmit a record by 1st-class or regular mail or with postage
16 prepaid may be varied by agreement to the extent permitted by the other law.

17 **SECTION 27.** 137.20 (7) of the statutes is amended to read:

18 137.20 (7) The public records board may promulgate rules prescribing
19 standards consistent with this ~~subchapter~~ chapter for retention of records by state
20 agencies, the University of Wisconsin Hospitals and Clinics Authority and local
21 governmental units.

22 **SECTION 28.** Chapter 140 (title) of the statutes is created to read:

23 **CHAPTER 140**

24 **NOTARIES PUBLIC; NOTARIAL ACTS**

25 **SECTION 29.** 140.01 of the statutes is created to read:

1 **140.01 Definitions.** In this chapter:

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

7 (2) “Department” means the department of financial institutions.

8 (3) “Domestic partner” has the meaning given in s. 770.01 (1).

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

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

14 (6) “In a representative capacity” means acting as any of the following:

15 (a) An authorized officer, agent, partner, trustee, or other representative for a
16 person other than an individual.

17 (b) A public officer, personal representative, guardian, or other representative,
18 in the capacity stated in a record.

19 (c) An agent or attorney-in-fact for a principal.

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

21 (7) “Notarial act” means an act, whether performed with respect to a tangible
22 or electronic record, that a notarial officer may perform under the law of this state.
23 The term includes taking an acknowledgment, administering an oath or affirmation,
24 taking a verification on oath or affirmation, witnessing or attesting a signature,
25 certifying or attesting a copy, and noting a protest of a negotiable instrument.

1 **(8)** “Notarial officer” means a notary public or other individual authorized to
2 perform a notarial act.

3 **(9)** “Notary public” means an individual commissioned to perform a notarial
4 act.

5 **(10)** “Official stamp” means a physical image affixed to or embossed on a
6 tangible record or an electronic image attached to or logically associated with an
7 electronic record.

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

12 **(12)** “Record” means information that is inscribed on a tangible medium or that
13 is stored in an electronic or other medium and is retrievable in perceivable form.

14 **(13)** “Sign” means, with present intent to authenticate or adopt a record, any
15 of the following:

16 (a) To execute or adopt a tangible symbol.

17 (b) To attach to or logically associate with the record an electronic symbol,
18 sound, or process.

19 **(14)** “Signature” means a tangible symbol or an electronic signature that
20 evidences the signing of a record.

21 **(15)** “Stamping device” means any of the following:

22 (a) A physical device capable of affixing to or embossing on a tangible record
23 an official stamp.

24 (b) An electronic device or process capable of attaching to or logically
25 associating with an electronic record an official stamp.

1 (16) "State" means a state of the United States, the District of Columbia,
2 Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject
3 to the jurisdiction of the United States.

4 (17) "Tamper-evident" means that any change to a record generates evidence
5 of the change.

6 (18) "Verification on oath or affirmation" means a declaration, made by an
7 individual on oath or affirmation before a notarial officer, that a statement in a record
8 is true.

9 **SECTION 30.** 140.02 (5r) of the statutes is created to read:

10 140.02 (5^m) CONFIDENTIALITY. (a) In this subsection, "communication
11 technology" has the meaning given in s. 140.145 (1) (a).

12 (b) Except as provided in par. (c), a notary public or any provider of
13 communication technology shall keep confidential all documents and information
14 provided to the notary public or provider of communication technology or contained
15 in any documents reviewed by the notary public or provider of communication
16 technology while performing his, her, or its duties as a notary public or provider of
17 communication technology and may release the documents or the information to a
18 3rd person only with the written consent of the person who requested the services
19 of the notary public or the provider of communication technology. The prohibition
20 under this paragraph does not apply when the notary public or the provider of
21 communication technology is complying with a request from a regulatory agency or
22 supervisory agency or is responding to a lawful subpoena or court order.

23 (c) 1. A notary public or provider of communication technology may release
24 deposition transcripts to all parties of record in an action.

1 2. Subject to subd. 1., a notary public or provider of communication technology
2 may not release deposition transcripts that have not been made part of the public
3 record to a 3rd party without the written consent of all parties to the action and the
4 deponent unless required by a regulatory agency or supervisory agency or in
5 response to a lawful subpoena or court order.

6 3. When a deposition transcript has been made part of the public record, a
7 notary public who is also a court reporter may, subject to a protective order or
8 agreement to the contrary, release the deposition transcript or sell the transcript to
9 3rd parties without the consent of the person who requested the services of the notary
10 public.

11 (d) Any notary public or provider of communication technology violating this
12 subsection shall be subject to sub. (8) and may be required to forfeit not more than
13 \$500 for each violation.

14 **SECTION 31.** 140.04 of the statutes is created to read:

15 **140.04 Authority to perform notarial act. (1)** A notarial officer may
16 perform a notarial act authorized by this chapter or by law of this state other than
17 this chapter.

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

22 **(3)** A notarial officer may certify that a tangible copy of an electronic record is
23 an accurate copy of the electronic record.

24 **SECTION 32.** 140.05 of the statutes is created to read:

1 **140.05 Requirements for certain notarial acts.** (1) A notarial officer who
2 takes an acknowledgment of a record shall determine, from personal knowledge or
3 satisfactory evidence of the identity of the individual, that the individual appearing
4 before the officer and making the acknowledgment has the identity claimed and that
5 the signature on the record is the signature of the individual.

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

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

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

18 (5) A notarial officer who makes or notes a protest of a negotiable instrument
19 shall determine the matters set forth in s. 403.505 (2).

20 **SECTION 33.** 140.06 of the statutes is created to read:

21 **140.06 Personal appearance required.** If a notarial act relates to a
22 statement made in or a signature executed on a record, the individual making the
23 statement or executing the signature shall appear personally before the notarial
24 officer.

25 **SECTION 34.** 140.07 of the statutes is created to read:

1 **140.07 Identification of individual.** (1) A notarial officer has personal
2 knowledge of the identity of an individual appearing before the officer if the
3 individual is personally known to the officer through dealings sufficient to provide
4 reasonable certainty that the individual has the identity claimed.

5 (2) A notarial officer has satisfactory evidence of the identity of an individual
6 appearing before the officer if the officer can identify the individual in any of the
7 following ways:

8 (a) By means of any of the following:

9 1. A passport, vehicle operator's license, or government-issued identification
10 card, which is current or expired not more than 3 years before performance of the
11 notarial act.

12 2. Another form of government identification issued to an individual, which is
13 current or expired not more than 3 years before performance of the notarial act,
14 contains the signature or a photograph of the individual, and is satisfactory to the
15 officer.

16 (b) By a verification on oath or affirmation of a credible witness personally
17 appearing before the officer and known to the officer or whom the officer can identify
18 on the basis of a passport, vehicle operator's license, or government-issued
19 identification card, which is current or expired not more than 3 years before
20 performance of the notarial act.

21 (3) A notarial officer may require an individual to provide additional
22 information or identification credentials necessary to assure the officer of the
23 identity of the individual.

24 **SECTION 35.** 140.08 of the statutes is created to read:

1 **140.08 Authority to refuse to perform notarial act. (1)** A notarial officer
2 may refuse to perform a notarial act if the officer is not satisfied with respect to any
3 of the following:

4 (a) That the individual executing the record is competent or has the capacity
5 to execute the record.

6 (b) That the individual's signature is knowingly and voluntarily made.

7 **(2)** A notarial officer may refuse to perform a notarial act unless refusal is
8 prohibited by law other than this chapter.

9 **SECTION 36.** 140.09 of the statutes is created to read:

10 **140.09 Signature if individual unable to sign.** If an individual is physically
11 unable to sign a record, the individual may direct an individual other than the
12 notarial officer to sign the individual's name on the record. The notarial officer shall
13 insert "Signature affixed by (name of other individual) at the direction of (name of
14 individual)" or words of similar import.

15 **SECTION 37.** 140.10 of the statutes is created to read:

16 **140.10 Notarial act in this state. (1)** A notarial act may be performed within
17 this state by any of the following persons of ~~the~~ state: *this*

18 (a) A notary public of this state.

19 (b) A judge, clerk, or deputy clerk of a court of record.

20 (c) A court commissioner.

21 (d) A register of deeds or deputy register of deeds.

22 (e) A municipal judge.

23 (f) A county clerk or deputy county clerk.

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

4 (3) The signature and title of a notarial officer described in sub. (1) conclusively
5 establish the authority of the officer to perform the notarial act.

6 **SECTION 38.** 140.11 of the statutes is created to read:

7 **140.11 Notarial act in another state.** (1) A notarial act performed in
8 another state has the same effect under the law of this state as if performed by a
9 notarial officer of this state, if the act performed in that state is performed by any of
10 the following:

11 (a) A notary public of that state.

12 (b) A judge, clerk, or deputy clerk of a court of that state.

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

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

18 (3) The signature and title of a notarial officer described in sub. (1) (a) or (b)
19 conclusively establish the authority of the officer to perform the notarial act.

20 **SECTION 39.** 140.12 of the statutes is created to read:

21 **140.12 Notarial act under authority of federally recognized Indian**
22 **tribe.** (1) A notarial act performed under the authority and in the jurisdiction of
23 a federally recognized Indian tribe has the same effect as if performed by a notarial
24 officer of this state, if the act performed in the jurisdiction of the tribe is performed
25 by any of the following:

1 (a) A notary public of the tribe.

2 (b) A judge, clerk, or deputy clerk of a court of the tribe.

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

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

9 (3) The signature and title of a notarial officer described in sub. (1) (a) or (b)
10 conclusively establish the authority of the officer to perform the notarial act.

11 **SECTION 40.** 140.13 of the statutes is created to read:

12 **140.13 Notarial act under federal authority.** (1) A notarial act performed
13 under federal law has the same effect under the law of this state as if performed by
14 a notarial officer of this state, if the act performed under federal law is performed by
15 any of the following:

16 (a) A judge, clerk, or deputy clerk of a court.

17 (b) An individual in military service or performing duties under the authority
18 of military service who is authorized to perform notarial acts under federal law.

19 (c) An individual designated a notarizing officer by the federal department of
20 state for performing notarial acts overseas.

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

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

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

3 **SECTION 41.** 140.14 of the statutes is created to read:

4 **140.14 Foreign notarial act.** (1) In this section, “foreign state” means a
5 government other than the United States, a state, or a federally recognized Indian
6 tribe.

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

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

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

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

23 (6) A consular authentication issued by an individual designated by the federal
24 department of state as a notarizing officer for performing notarial acts overseas and
25 attached to the record with respect to which the notarial act is performed

1 conclusively establishes that the signature of the notarial officer is genuine and that
2 the officer holds the indicated office.

3 **SECTION 42.** 140.145 of the statutes is created to read:

4 **140.145 Notarial act performed for remotely located individual. (1)** In
5 this section:

6 (a) "Communication technology" means an electronic device or process that
7 satisfies all of the following:

8 1. The device or process allows a notary public and a remotely located
9 individual to communicate with each other simultaneously by sight and sound.

10 2. When necessary and consistent with other applicable law, the device or
11 process facilitates communication with a remotely located individual who has a
12 vision, hearing, or speech impairment.

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

15 (c) "Identity proofing" means a process or service by which a 3rd person
16 provides a notary public with a means to verify the identity of a remotely located
17 individual by a review of personal information from public or private data sources.

18 (d) "Outside the United States" means a location outside the geographic
19 boundaries of the United States, Puerto Rico, the U.S. Virgin Islands, and any
20 territory, insular possession, or other location subject to the jurisdiction of the United
21 States.

22 (e) "Remotely located individual" means an individual who is not in the
23 physical presence of the notary public who performs a notarial act under sub. (3).

1 **(1m)** For purposes of determining the jurisdiction in which a notarial act is
2 performed for a remotely located individual, the location of the notary public shall
3 be determinative.

4 **(2)** A remotely located individual may comply with s. 140.06 by using
5 communication technology to appear before a notary public.

6 **(3)** A notary public located in this state may perform a notarial act using
7 communication technology for a remotely located individual if all of the following
8 apply:

9 (a) The notary public has any of the following:

10 1. Personal knowledge under s. 140.07 (1) of the identity of the individual.

11 2. Satisfactory evidence of the identity of the remotely located individual by
12 oath or affirmation from a credible witness appearing before the notary public under
13 s. 140.07 (2) or this section.

14 3. Obtained satisfactory evidence of the identity of the remotely located
15 individual by using at least 2 different types of identity proofing.

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

19 (c) The notary public, or a person acting on behalf of the notary public, creates
20 an audio-visual recording of the performance of the notarial act.

21 (d) For a remotely located individual located outside the United States, all of
22 the following are satisfied:

23 1. The record satisfies any of the following requirements:

1 a. The record is to be filed with or relates to a matter before a public official or
2 court, governmental entity, or other entity subject to the jurisdiction of the United
3 States.

4 b. The record involves property located in the territorial jurisdiction of the
5 United States or involves a transaction substantially connected with the United
6 States.

7 2. The act of making the statement or signing the record is not prohibited by
8 the foreign state in which the remotely located individual is located.

9 **(4)** If a notarial act is performed under this section, the certificate of notarial
10 act required by s. 140.15 and the short form certificate provided in s. 140.16 must
11 indicate that the notarial act was performed using communication technology.

12 **(5)** A short form certificate provided in s. 140.16 for a notarial act subject to this
13 section is sufficient if any of the following applies:

14 (a) The certificate complies with rules promulgated under sub. (8) (a).

15 (b) The certificate is in the form provided in s. 140.16 and contains a statement
16 substantially as follows: "This notarial act involved the use of communication
17 technology."

18 **(6)** A notary public, a guardian, conservator, or agent of a notary public, or a
19 personal representative of a deceased notary public shall retain the audio-visual
20 recording created under sub. (3) (c) or cause the recording to be retained by a
21 repository designated by or on behalf of the person required to retain the recording.
22 Unless a different period is required by rule promulgated under sub. (8) (d), the
23 recording must be retained for a period of at least 7 years after the recording is made.

24 **(7)** Before a notary public performs the notary public's initial notarial act under
25 this section, the notary public must notify the department that the notary public will

1 be performing notarial acts with respect to remotely located individuals and identify
2 the technologies the notary public intends to use. If the department has established
3 standards under sub. (8) and s. 140.27 for approval of communication technology or
4 identity proofing, the communication technology and identity proofing must conform
5 to the standards.

6 (8) In addition to promulgating rules under s. 140.27, the department shall
7 promulgate rules under this section regarding performance of a notarial act. The
8 rules may do any of the following:

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

11 (b) Establish standards for communication technology and identity proofing.

12 (c) Establish requirements ^{(including registration,} or procedures to approve providers of
13 communication technology and the process of identity proofing.

14 (d) Establish standards and a period for the retention of an audio-visual
15 recording created under sub. (3) (c).

16 (e) Establish any other requirement, not inconsistent with this chapter,
17 relating to the performance of a notarial act for a remotely located individual.

18 (9) Before promulgating, amending, or repealing a rule governing performance
19 of a notarial act with respect to a remotely located individual, the department must
20 consider all of the following:

21 (a) The most recent standards regarding the performance of a notarial act with
22 respect to a remotely located individual promulgated by national standard-setting
23 organizations and the recommendations of the National Association of Secretaries
24 of State or any successor organization.

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

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

5 **(10)** This section does not apply to a transaction to the extent it is governed by
6 any of the following:

7 (a) Any law governing the creation and execution of wills, codicils, or
8 testamentary trusts.

9 (b) Any law governing the creation and execution of living trusts or trust
10 amendments for personal use, not including a transaction, as defined in s. 137.11
11 (15).

12 (c) Any law governing the creation and execution of powers of attorney, not
13 including a transaction, as defined in s. 137.11 (15).

14 (d) Any law governing the creation and execution of marital property
15 agreements.

16 (e) Any law governing the creation and execution of powers of attorney for
17 health care, declarations to physicians (living wills), and authorizations for use and
18 disclosure of protected health care information.

19 **(11)** (a) The remote notary council shall adopt standards to implement this
20 section. The department shall promulgate by rule the standards adopted, amended,
21 or repealed by the council under this paragraph.

22 (b) To keep the standards and practices of notaries public in this state in
23 harmony with the standards and practices of notaries public in other jurisdictions
24 that enact substantially this section and to keep the technology used by notaries
25 public in this state compatible with technology used by notaries public in other

1 jurisdictions that enact substantially this section, the remote notary council, so far
2 as is consistent with the purposes, policies, and provisions of this section, in
3 adopting, amending, and repealing standards shall consider all of the following:

- 4 1. Standards and practices of other jurisdictions.
- 5 2. The most recent standards promulgated by national standard-setting
6 bodies.
- 7 3. The views of interested persons and governmental officials and entities.

8 4. The needs of counties of varying sizes, populations, and resources.

9 4 b. The need for security protection to ensure that notarial acts for remotely
10 located individuals are accurate, authentic, adequately preserved, and resistant to
11 tampering.

12 (c) The remote notary council shall review the statutes related to notarial acts
13 for remotely located individuals and shall recommend to the legislature any changes
14 in the statutes that the council finds necessary or advisable.

15 **SECTION 43.** 140.15 of the statutes is created to read:

16 **140.15 Certificate of notarial act.** (1) A notarial act must be evidenced by
17 a certificate. The certificate must satisfy all of the following:

- 18 (a) Be executed contemporaneously with the performance of the notarial act.
- 19 (b) Be signed and dated by the notarial officer and, if the notarial officer is a
20 notary public, be signed in the same manner as on file with the department.
- 21 (c) Identify the jurisdiction in which the notarial act is performed.
- 22 (d) Contain the title of office of the notarial officer.
- 23 (e) If the notarial officer is a notary public, indicate the date of expiration, if any,
24 of the officer's commission.

1 **(2)** If a notarial act regarding a tangible record is performed by a notary public,
2 an official stamp must be affixed to or embossed on the certificate. If a notarial act
3 is performed regarding a tangible record by a notarial officer other than a notary
4 public and the certificate contains the information specified in sub. (1) (b), (c), and
5 (d), an official stamp may be affixed to or embossed on the certificate. If a notarial
6 act regarding an electronic record is performed by a notarial officer and the
7 certificate contains the information specified in sub. (1) (b), (c), and (d), an official
8 stamp may be attached to or logically associated with the certificate.

9 **(3)** A certificate of a notarial act is sufficient if it meets the requirements of
10 subs. (1) and (2) and satisfies any of the following:

11 (a) Is in a short form set forth in s. 140.16.

12 (b) Is in a form otherwise permitted by the law of this state.

13 (c) Is in a form permitted by the law applicable in the jurisdiction in which the
14 notarial act was performed.

15 (d) Sets forth the actions of the notarial officer and the actions are sufficient
16 to meet the requirements of the notarial act as provided in ss. 140.05, 140.06, and
17 140.07 or law of this state other than this chapter.

18 **(4)** By executing a certificate of a notarial act, a notarial officer certifies that
19 the officer has complied with the requirements and made the determinations
20 specified in ss. 140.04, 140.05, and 140.06.

21 **(5)** A notarial officer may not affix the officer's signature to, or logically
22 associate it with, a certificate until the notarial act has been performed.

23 **(6)** If a notarial act is performed regarding a tangible record, a certificate must
24 be part of, or securely attached to, the record. If a notarial act is performed regarding
25 an electronic record, the certificate must be affixed to, or logically associated with,

1 the electronic record. If the department has established standards pursuant to s.
2 140.27 for attaching, affixing, or logically associating the certificate, the process
3 must conform to the standards.

4 **SECTION 44.** 140.16 of the statutes is created to read:

5 **140.16 Short form certificates.** The following short form certificates of
6 notarial acts are sufficient for the purposes indicated, if completed with the
7 information required by s. 140.15 (1) and (2):

8 **(1)** For an acknowledgment in an individual capacity:

9 State of

10 County of

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

13 (Signature of notarial officer)

14 Stamp

15 (Title of office)

16 [My commission expires:]

17 **(2)** For an acknowledgment in a representative capacity:

18 State of

19 County of

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

23 (Signature of notarial officer)

24 Stamp

25 (Title of office)

1 [My commission expires:]

2 **(3)** For a verification on oath or affirmation:

3 State of

4 County of

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

7 (Signature of notarial officer)

8 Stamp

9 (Title of office)

10 [My commission expires:]

11 **(4)** For witnessing or attesting a signature:

12 State of

13 County of

14 Signed [or attested] before me on (date) by (name(s) of individual(s)).

15 (Signature of notarial officer)

16 Stamp

17 (Title of office)

18 [My commission expires:]

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

20 State of ...

21 County of

22 I certify or attest that this is a true and correct copy of a record in the possession
23 of

24 Dated:

25(Signature of notarial officer)

1 Stamp

2 (Title of office)

3 [My commission expires:]

4 **SECTION 45.** 140.17 of the statutes is created to read:

5 **140.17 Official stamp.** The official stamp of a notary public must satisfy all
6 of the following criteria:

7 (1) Include the notary public's name, jurisdiction, commission expiration date
8 if applicable, and other information required by the department.

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

11 **SECTION 46.** 140.18 of the statutes is created to read:

12 **140.18 Stamping device.** (1) (a) A notary public is responsible for the
13 security of the notary public's stamping device and may not allow another individual
14 to use the device to perform a notarial act.

15 (b) On resignation from, or the revocation or expiration of, the notary public's
16 commission, or on the expiration of the date set forth in the stamping device, if any,
17 the notary public shall disable the stamping device by destroying, defacing,
18 damaging, erasing, or securing it against use in a manner that renders it unusable.

19 (c) On the death or adjudication of incompetency of a notary public, the notary
20 public's personal representative or guardian or any other person knowingly in
21 possession of the stamping device shall render it unusable by destroying, defacing,
22 damaging, erasing, or securing it against use in a manner that renders it unusable.

23 (2) If a notary public's stamping device is lost or stolen, the notary public or the
24 notary public's personal representative or guardian shall promptly notify the
25 department on discovering that the device is lost or stolen.

1 **SECTION 47.** 140.20 of the statutes is created to read:

2 **140.20 Notification regarding performance of notarial act for remotely**
3 **located individuals; selection of technology; acceptance of tangible copy of**
4 **electronic record.** (1) A notary public may select one or more tamper-evident
5 technologies to perform notarial acts with respect to electronic records. A person may
6 not require a notary public to perform a notarial act with respect to an electronic
7 record with a technology that the notary public has not selected.

8 (2) Before a notary public performs the notary public's initial notarial act for
9 a remotely located individual under s. 140.145, the notary public shall notify the
10 department that the notary public will be performing notarial acts for remotely
11 located individuals under s. 140.145 and identify the technology the notary public
12 intends to use. If the department has established standards for approval of
13 technology pursuant to s. 140.27, the technology must conform to the standards. If
14 the technology conforms to the standards, the department shall approve the use of
15 the technology.

16 (3) A register of deeds may accept for recording a tangible copy of an electronic
17 record containing a notarial certificate as satisfying any requirement that a record
18 accepted for recording be an original, if the notarial officer executing the notarial
19 certificate certifies or attests that the tangible copy is an accurate copy of the
20 electronic record.

21 **SECTION 48.** 140.24 of the statutes is created to read:

22 **140.24 Database of notaries public.** The department shall maintain an
23 electronic database of notaries public to which all of the following apply:

24 (1) A person may verify through the database the authority of a notary public
25 to perform notarial acts.

1 (2) The database indicates whether a notary public has notified the
2 department that the notary public will be performing notarial acts for remotely
3 located individuals under s. 140.145.

4 **SECTION 49.** 140.26 of the statutes is created to read:

5 **140.26 Validity of notarial acts.** Except as otherwise provided in s. 140.04
6 (2), the failure of a notarial officer to perform a duty or meet a requirement specified
7 in this chapter does not invalidate a notarial act performed by the notarial officer.
8 The validity of a notarial act under this chapter does not prevent an aggrieved person
9 from seeking to invalidate the record or transaction that is the subject of the notarial
10 act or from seeking other remedies based on law of this state other than this chapter
11 or law of the United States. This section does not validate a purported notarial act
12 performed by an individual who does not have the authority to perform notarial acts.

13 **SECTION 50.** 140.27 of the statutes is created to read:

14 **140.27 Rules; powers of the department.** (1) (a) Subject to pars. (b) and
15 (c), the department shall promulgate rules to implement this chapter. These rules
16 ^{shall} ~~may~~ ^{do} ~~any~~ ^{all} of the following:

17 1. Establish maximum fees that may be charged by a notary public for
18 performing a notarial act for a remotely located individual.

19 2. Prescribe the manner of performing notarial acts regarding tangible and
20 electronic records.

21 3. Include provisions to ensure that any change to or tampering with a record
22 bearing a certificate of a notarial act is self-evident.

23 4. Include provisions to ensure integrity in the creation, transmittal, storage,
24 or authentication of electronic records or signatures.

1 5. Prescribe the process of granting, renewing, conditioning, denying,
2 suspending, or revoking a notary public commission and assuring the
3 trustworthiness of an individual holding a commission as a notary public.

4 6. Include provisions to prevent fraud or mistake in the performance of notarial
5 acts.

6 (b) Rules promulgated under par. (a) regarding the performance of notarial acts
7 with respect to electronic records may not require, or accord greater legal status or
8 effect to, the implementation or application of a specific technology or technical
9 specification.

10 (c) In promulgating rules under par. (a) about notarial acts with respect to
11 electronic records, the department shall consider, so far as is consistent with this
12 chapter, all of the following:

13 1. The most recent standards regarding electronic records promulgated by
14 national bodies, such as the National Association of Secretaries of State.

15 2. Standards, practices, and customs of other jurisdictions that substantially
16 enact the revised uniform law on notarial acts (2018) or any subsequent version of
17 this act.

18 3. The views of governmental officials, entities, and other interested persons.

19 **(2)** The department has the power, jurisdiction, and authority to do any of the
20 following:

21 (a) Investigate to determine whether a person has violated, is violating, or is
22 about to violate this chapter or a rule promulgated or order issued under this chapter.

23 For the purpose of an investigation under the chapter, the department may
24 administer oaths and affirmations, issue subpoenas, take evidence, require the filing

1 of statements, require testimony, and require the production of any records that the
2 department considers relevant or material to the investigation.

3 (b) Revoke, suspend, or restrict any commission or registration issued under
4 this chapter if the department determines that the person holding the commission
5 or registration has refused to comply with an investigation demand under par. (a) or
6 has violated, is violating, or is about to violate this chapter or any rule promulgated
7 or order issued under this chapter.

8 **SECTION 51.** 140.30 of the statutes is created to read:

9 **140.30 Uniformity of application and construction.** In applying and
10 construing this chapter, consideration must be given to the need to promote
11 uniformity of the law with respect to its subject matter among states that enact it.

12 **SECTION 52.** 140.31 of the statutes is created to read:

13 **140.31 Relation to electronic signatures in global and national**
14 **commerce act.** This chapter modifies, limits, and supersedes the Electronic
15 Signatures in Global and National Commerce Act, 15 USC 7001 to 7031, but does not
16 modify, limit, or supersede section 101 (c) of that act, 15 USC 7001 (c), or authorize
17 electronic delivery of any of the notices described in section 103 (b) of that act, 15 USC
18 7003 (b).

19 **SECTION 53.** 140.34 of the statutes is created to read:

20 **140.34 Short title.** This chapter may be cited as the Revised Uniform Law on
21 Notarial Acts (2018).

22 **SECTION 54.** 236.21 (2) (a) of the statutes is amended to read:

23 236.21 (2) (a) A certificate by the owner of the land in substantially the
24 following form: "As owner I hereby certify that I caused the land described on this
25 plat to be surveyed, divided, mapped and dedicated as represented on the plat. I also

1 certify that this plat is required by s. 236.10 or 236.12 to be submitted to the following
2 for approval or objection: (list of governing bodies required to approve or allowed to
3 object to the plat).” This certificate shall be signed by the owner, the owner’s spouse,
4 and all persons holding an interest in the fee of record or by being in possession and,
5 if the land is mortgaged, by the mortgagee of record. These signatures shall be
6 acknowledged in accordance with ~~s. 706.07~~ ch. 140.

7 **SECTION 55.** 236.295 (1) (b) of the statutes is amended to read:

8 236.295 (1) (b) Ratifications of a recorded plat or certified survey map signed
9 and acknowledged in accordance with ~~s. 706.07~~ ch. 140.

10 **SECTION 56.** 244.05 of the statutes is amended to read:

11 **244.05 Execution of power of attorney.** To execute a power of attorney the
12 principal must sign the power of attorney or another individual, in the principal’s
13 conscious presence and directed by the principal, must sign the principal’s name on
14 the power of attorney. A signature of the principal on a power of attorney is presumed
15 to be genuine if the principal makes an acknowledgment of the power of attorney
16 before a notarial officer authorized under ~~s. 706.07~~ ch. 140 to take acknowledgments.

17 **SECTION 57.** 244.19 (1) of the statutes is amended to read:

18 244.19 (1) For purposes of this section and s. 244.20, “acknowledged” means
19 the taking of an acknowledgment before a notarial officer authorized to take
20 acknowledgements under ~~s. 706.07~~ ch. 140.

21 **SECTION 58.** 407.103 (4) of the statutes is amended to read:

22 407.103 (4) To the extent there is a conflict between subch. II of ch. 137 and this
23 chapter, this chapter governs.

24 **SECTION 59.** 610.60 (2) (a) of the statutes is amended to read:

1 610.60 (2) (a) Subject to par. (c), subs. (3) and (5) (b), and s. 137.12 (2r) (c), notice
2 to a party, and any other document that is required under applicable law in an
3 insurance transaction or that serves as evidence of insurance coverage, may be
4 stored, presented, and delivered by electronic means, as long as the notice or other
5 document meets the requirements of ~~subch. II~~ of ch. 137.

6 **SECTION 60.** 703.33 (9) of the statutes is amended to read:

7 703.33 (9) ELECTRONIC DELIVERY. The information required under subs. (1) and
8 (2) may be delivered electronically in accordance with 15 USC 7001 (c), ~~subch. II~~ of
9 ch. 137, and any other requirements that are prescribed by law.

10 **SECTION 61.** 706.05 (2) (b) of the statutes is amended to read:

11 706.05 (2) (b) Contain a form of authentication authorized by s. 706.06 or
12 ~~706.07~~ ch. 140;

13 **SECTION 62.** 706.05 (8) of the statutes is amended to read:

14 706.05 (8) A duly recorded certificate signed by or on behalf of the holder of
15 record of any mortgage or other security interest in lands, and authenticated as
16 provided by s. 706.06 or ~~706.07~~ ch. 140 identifying the mortgage or other interest and
17 stating that the same has been paid or satisfied in whole or in part, shall be sufficient
18 to satisfy such mortgage or other interest of record.

19 **SECTION 63.** 706.06 (1) of the statutes is amended to read:

20 706.06 (1) Any instrument may be acknowledged, or its execution otherwise
21 authenticated by its signators, as provided by the laws of this state; or as provided
22 in this section or s. ~~706.07~~ ch. 140.

23 **SECTION 64.** 706.07 of the statutes is repealed.

24 **SECTION 65.** 706.085 (2) (a) of the statutes is amended to read:

1 706.085 (2) (a) A correction instrument shall be acknowledged or
2 authenticated in accordance with s. 706.06 or ~~706.07~~ ch. 140. It shall recite the
3 document number of the conveyance, the names of the grantor and grantee, and, if
4 given on the conveyance, the volume and page where the conveyance is filed or
5 recorded.

6 **SECTION 66.** 708.15 (10) (g) of the statutes is amended to read:

7 708.15 (10) (g) Be signed by the satisfaction agent, as provided in sub. (9) (am),
8 and contain a form of authentication authorized by s. 706.06 or ~~706.07~~ ch. 140.

9 **SECTION 67.** 801.18 (11) (a) of the statutes is amended to read:

10 801.18 (11) (a) Notaries public who hold valid appointments under ch. 137 140
11 may issue certificates of notarial acts for electronically filed documents as provided
12 in this section.

13 **SECTION 68.** 801.18 (11) (e) of the statutes is amended to read:

14 801.18 (11) (e) ~~Notwithstanding s. 706.07 (8) (e), an~~ An electronically filed
15 complaint under ch. 799 may be verified by applying the electronic signature of the
16 plaintiff or the plaintiff's attorney to a written oath attesting that the facts of the
17 complaint are true, without swearing to the oath in front of a notarial officer.

18 **SECTION 69.** 857.015 of the statutes is amended to read:

19 **857.015 Management and control of certain business property by**
20 **holding spouse.** A spouse who holds property described under s. 766.70 (3) (a), (b)
21 or (d) which is not also held by the other spouse may direct in a will or other signed
22 writing that the marital property interest of the nonholding spouse in such property
23 be satisfied as provided under s. 861.015. The holding spouse shall identify in a will
24 or other signed writing the property described under s. 766.70 (3) (a), (b) or (d) to
25 which the directive applies. The signature of the holding spouse on a directive other

1 than a will shall be acknowledged, attested or witnessed under ~~s. 706.07~~ ch. 140. The
2 estate of the holding spouse may not execute a directive under this section. If at the
3 death of a spouse the surviving spouse is the holding spouse, the surviving spouse
4 may execute a directive under this section if executed within 90 days after the
5 decedent spouse's death.

6 **SECTION 70.** 867.045 (2) of the statutes is amended to read:

7 867.045 (2) The register of deeds or other person authorized under s. 706.06
8 or ~~706.07~~ ch. 140 shall complete a statement at the foot of the application, declaring
9 that the applicant appeared before him or her and verified, under oath, the
10 correctness of the information required by sub. (1).

11 **SECTION 71.** 867.046 (3) of the statutes is amended to read:

12 867.046 (3) COMPLETION OF APPLICATION. The register of deeds or other person
13 authorized under s. 706.06 or ~~706.07~~ ch. 140 shall complete a statement at the foot
14 of the application, declaring that the applicant or, if the applicant is not an
15 individual, a representative of the applicant appeared before him or her and verified,
16 under oath, the correctness of the information required by sub. (2).

17 **SECTION 72.** 887.01 (1) of the statutes is amended to read:

18 887.01 (1) WITHIN THE STATE. An oath or affidavit required or authorized by law,
19 except oaths to jurors and witnesses on a trial and such other oaths as are required
20 by law to be taken before particular officers, may be taken before any judge, court
21 commissioner, resident U.S. commissioner who has complied with ~~s. 706.07~~ ch. 140,
22 clerk, deputy clerk or calendar clerk of a court of record, court reporter, notary public,
23 town clerk, village clerk, city clerk, municipal judge, county clerk or the clerk's
24 deputy within the territory in which the officer is authorized to act, school district
25 clerk with respect to any oath required by the elections laws; and, when certified by

1 the officer to have been taken before him or her, may be read and used in any court
2 and before any officer, board or commission. Oaths may be administered by any
3 person mentioned in s. 885.01 (3) and (4) to any witness examined before him or her.

4 **SECTION 73.** 887.01 (3) of the statutes is amended to read:

5 887.01 (3) OFFICER IN ARMED FORCES. In every instance where an officer in the
6 armed forces is authorized by s. ~~706.07 (5)~~ 140.13 to take an acknowledgment, the
7 officer may administer an oath.

8 **SECTION 74.** 887.015 (4) (b) 4. of the statutes is amended to read:

9 887.015 (4) (b) 4. A declaration to be recorded pursuant to s. ~~706.06, 706.07,~~ or
10 ~~706.25~~ or ch. 140.

11 **SECTION 75.** 968.12 (2) of the statutes is amended to read:

12 968.12 (2) WARRANT UPON AFFIDAVIT. A search warrant may be based upon
13 sworn complaint or affidavit, or testimony recorded by a phonographic reporter or
14 under sub. (3) (d), showing probable cause therefor. The complaint, affidavit or
15 testimony may be upon information and belief. The person requesting the warrant
16 may swear to the complaint or affidavit before a notarial officer authorized under s.
17 ~~706.07~~ ch. 140 to take acknowledgments or before a judge, or a judge may place a
18 person under oath via telephone, radio, or other means of electronic communication,
19 without the requirement of face-to-face contact, to swear to the complaint or
20 affidavit. The judge shall indicate on the search warrant that the person so swore
21 to the complaint or affidavit.

22 **SECTION 76.** 990.01 (38) of the statutes is amended to read:

23 990.01 (38) SIGNATURE. If the signature of any person is required by law it shall
24 always be the handwriting of such person or, if the person is unable to write, the
25 person's mark or the person's name written by some other person at the person's

1 request and in the person's presence, or, subject to any applicable requirements
2 under ~~subch. II~~ of ch. 137, the electronic signature of the person.

3 **SECTION 77. Nonstatutory provisions.**

4 (1) EMERGENCY RULES. Using the procedure under s. 227.24, the department of
5 financial institutions shall promulgate rules required under, and may promulgate
6 rules authorized under, ss. 140.145 (8) and 140.27 for the period before the effective
7 date of the permanent rules promulgated under ss. 140.145 (8) and 140.27 but not
8 to exceed the period authorized under s. 227.24 (1) (c), subject to extension under s.
9 227.24 (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not
10 required to provide evidence that promulgating a rule under this subsection as an
11 emergency rule is necessary for the preservation of the public peace, health, safety,
12 or welfare and is not required to provide a finding of emergency for a rule
13 promulgated under this subsection. Notwithstanding s. 227.24 (1) (e) 1d., the
14 department of financial institutions is not required to prepare a statement of scope
15 of the rules promulgated under this subsection. Notwithstanding s. 227.24 (1) (e) 1g.,
16 the department of financial institutions is not required to present the rules
17 promulgated under this subsection to the governor for approval. The department of
18 financial institutions shall promulgate the rules under this subsection no later than
19 the first day of the 4th month beginning after the effective date of this subsection.

20 (2) INITIAL TERMS FOR MEMBERS OF REMOTE NOTARY COUNCIL. Notwithstanding the
21 length of terms of the members of the remote notary council specified in s. 15.185 (8)
22 (b) (intro.), the following members shall be appointed for the following initial terms:

23 (a) The member appointed under s. 15.185 (8) (b) 2. shall be appointed for an
24 initial one-year term.

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SECTION 1. 137.01 (5m) (title) of the statutes is renumbered 140.02 (5m) (title).

4

SECTION 2. 137.01 (5m) (a) of the statutes is renumbered 140.02 (5m) (b) and

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amended to read:

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×140.02 (5m) (b) Except as provided in par. (b) (c), a notary public or any provider

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of communication technology shall keep confidential all documents and information

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provided to the notary public or provider of communication technology or contained

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in any documents reviewed by the notary public or provider of communication

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technology while performing his^r, her, or its duties as a notary public or provider

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of communication technology and may release the documents or the information to

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a 3rd person only with the written consent of the person who requested the services

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of the notary public or the provider of communication technology. The prohibition

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under this paragraph does not apply when the notary public or the provider of

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communication technology is complying with a request from a regulatory agency or

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supervisory agency or is responding to a lawful subpoena or court order.

History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306; 1999 a. 77, 166; 2001 a. 16, 102; 2003 a. 294; 2007 a. 110; 2011 a. 32, 233; 2013 a. 20.

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SECTION 3. 137.01 (5m) (b) of the statutes is renumbered 140.02 (5m) (c) 1. and

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amended to read:

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×140.02 (5m) (c) 1. ~~Deposition~~ A notary public or provider of communication

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technology may release deposition transcripts may be released to all parties of record

21

in an action. -A-

1 2. Subject to subd. 1., a notary public or provider of communication technology
 2 may not release deposition transcripts that have not been made part of the public
 3 record to a 3rd party without the written consent of all parties to the action and the
 4 deponent unless required by a regulatory agency or supervisory agency or in
 5 response to a lawful subpoena or court order.

6 3. When a deposition transcript has been made part of the public record, a
 7 notary public who is also a court reporter may, subject to a protective order or
 8 agreement to the contrary, release the deposition transcript or sell the transcript to
 9 3rd parties without the consent of the person who requested the services of the notary
 10 public.

History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306; 1999 a. 77, 166; 2001 a. 16, 102; 2003 a. 294; 2007 a. 110; 2011 a. 32, 233; 2013 a. 20.

11 **SECTION 4.** 137.01 (5m) (c) of the statutes is renumbered 140.02 (5m) (d) and
 12 amended to read:

13 ~~X~~**140.02 (5m)** (d) Any notary public or provider of communication technology
 14 violating this subsection shall be subject to the provisions of sub. (8) and may be
 15 required to forfeit not more than \$500 for each violation.

History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306; 1999 a. 77, 166; 2001 a. 16, 102; 2003 a. 294; 2007 a. 110; 2011 a. 32, 233; 2013 a. 20.

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1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 293

Now

1 **AN ACT to repeal** subchapter I (title) of chapter 137 [precedes 137.01], 137.02,
2 subchapter II (title) of chapter 137 [precedes 137.11] and 706.07; **to renumber**
3 137.01 (title), 137.01 (5), 137.01 (5m) (title), 137.01 (8) and 137.01 (9) (title); **to**
4 **renumber and amend** 137.01 (1), 137.01 (2), 137.01 (3), 137.01 (4), 137.01
5 (5m) (a), 137.01 (5m) (b), 137.01 (5m) (c), 137.01 (6), 137.01 (6m), 137.01 (7) and
6 137.01 (9); **to amend** 15.01 (4), 15.185 (title), 20.575 (1) (g), chapter 137 (title),
7 137.11 (intro.) and (4), 137.12 (1), (2) (intro.), (2m) (intro.), (2p), (2r) (intro.), (3),
8 (4), (5) and (6), 137.13 (1), (2), (4) and (5), 137.14 (intro.) and (3), 137.16 (2)
9 (intro.) and (4) (a) and (b), 137.20 (7), 236.21 (2) (a), 236.295 (1) (b), 244.05,
10 244.19 (1), 407.103 (4), 610.60 (2) (a), 703.33 (9), 706.05 (2) (b), 706.05 (8),
11 706.06 (1), 706.085 (2) (a), 708.15 (10) (g), 801.18 (11) (a), 801.18 (11) (e),
12 857.015, 867.045 (2), 867.046 (3), 887.01 (1), 887.01 (3), 887.015 (4) (b) 4., 968.12

1 (a) The member appointed under s. 15.185 (8) (b) 2. shall be appointed for an
2 initial one-year term.

3 (b) The member appointed under s. 15.185 (8) (b) 4. shall be appointed for an
4 initial 2-year term.

5 **SECTION 81. Initial applicability.**

6 (1) This act first applies to notarial acts performed on the effective date of this
7 subsection.

8 **SECTION 82. Effective date.**

9 (1) This act takes effect on the first day of the 2nd month beginning after
10 publication.

11 (END)