2019 ASSEMBLY BILL 293

June 13, 2019 – Introduced by Representatives BALLWEG, HAYWOOD, SUMMERFIELD, CROWLEY, DITTRICH, DOYLE, HORLACHER, JAMES, KNODL, KRUG, KULP, KURTZ, SINICKI, SKOWRONSKI, SPIROS, SPREITZER, STEFFEN, SUBECK, C. TAYLOR and TUSLER, cosponsored by Senators OLSEN, L. TAYLOR, BERNIER, COWLES, JACQUE, MARKLEIN and WANGGAARD. Referred to Committee on Local Government.

AN ACT to renumber and amend 137.01 (1) and 137.01 (9); to amend subchapter I (title) of chapter 137 [precedes 137.01], 137.01 (2), 137.01 (3) (a), 137.01 (4) (a), 137.01 (4) (b), 137.01 (6) (a), 137.01 (6m), 137.01 (7), subchapter II (title) of chapter 137 [precedes 137.11], 137.11 (8), 137.19, 179.14 (1g) (b), 180.0103 (7k), 181.0103 (10p), 183.0107 (1g) (b), 193.005 (11p), 610.60 (4) (e), 706.001 (1), 706.25 (1) (d), 706.25 (2) (c) and 801.18 (1) (f); and to create 137.01 (1c), 137.01 (2m), 137.01 (3) (c), 137.01 (9) (bm), 137.01 (10), 137.01 (11), 137.01 (12), 137.01 (13), 137.195, 706.001 (2m) and 706.07 (8m) of the statutes; relating to: online notaries public and electronic notarizations, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill allows a notary public holding a commission from the Department of Financial Institutions to obtain an additional commission as an online notary public, which authorizes the notary public to perform online notarial acts for persons who are not in the same physical location as the notary public. The bill also authorize any notary public to use an electronic seal in addition to an electronic signature. The bill further requires registration of online notarization system providers.
Under current law, DFI issues commissions to notaries public. The commission of an attorney is permanent and the commission of a nonattorney is for a term of four years. A notary public must maintain an official seal or stamp that, applied to paper, leaves a legible impression or imprint stating “Notary Public,” “State of Wisconsin,” and the name of the notary. Among a notary public’s powers, a notary public may administer oaths and take acknowledgements of deeds or other written instruments. Every official act of a notary public must be attested by the notary public’s written signature or electronic signature, and the seal or stamp must be applied to notarized deeds or other written instruments that are acknowledged or sworn to. Under the Uniform Electronic Transactions Act, as adopted in this state, if a law requires a person’s signature or a record (which may be tangible or electronic) to be notarized, this requirement is satisfied if the electronic signature of a notary public, together with any other information required to be included, is attached to or logically associated with the person’s signature or the record.

Current law also includes the Uniform Law on Notarial Acts, as adopted in this state, which applies to notaries public and others authorized by law to perform notarial acts. Under the uniform law, a “notarial act” includes, among other actions, 1) taking an acknowledgment (which is a declaration that a person has executed an instrument and, if executed in a representative capacity, that the person signed the instrument with proper authority), 2) administering an oath or affirmation, 3) taking a verification upon oath or affirmation (which is a declaration that a statement is true, made by a person upon oath or affirmation), and 4) witnessing or attesting a signature. The uniform law specifies certain requirements for performing notarials acts, including verification of the identity of the person for whom the notarial act is performed. When performed by a notary public, a notarial act must be evidenced by a certificate of notarial act signed and dated by the notary public that includes identification of the jurisdiction in which the notarial act is performed and the date of expiration, if any, of the notary public’s commission. The uniform law includes various forms for certificates of notarial acts that provide for the notary public’s seal or stamp to be affixed and include other information. By executing a certificate of a notarial act, a notary public certifies that he or she has satisfied the requirements for performing that notarial act.

Under this bill, a person who holds a commission from DFI as a notary public and who meets certain eligibility requirements may obtain an additional commission as an online notary public. The term of this commission is four years. An online notary public who is physically located in this state may perform an online notarial act for a person who is physically located in the United States or for a person who is physically located outside the United States if certain conditions are satisfied. An online notarial act is a notarial act, as described above, performed by means of communication technology that meets standards established by DFI. “Communication technology” means an electronic device or process that allows an individual physically in one location and a notary public physically located at another location in this state to communicate with each other in real time by sight and sound. An online notary public must verify the identity of the person for whom the notarial act is performed (principal) using certain prescribed procedures. A
person for whom an online notarial act is performed is considered to appear personally before the online notary public at the time of the online notarial act. An online notary public must use an electronic notarial seal for an online notarial act and must prepare an electronic certificate of notarial act that satisfies certain requirements. An online notary public must keep specified electronic records for online notarized documents and must maintain the security of these records. The online notary public must also create an audio and video copy of the performance of the online notarial act. The online notary public must take reasonable steps to ensure the integrity and security of online notarizations, maintain a backup for all electronic records, and protect the backup records from unauthorized use. The online notary public may, however, designate a repository to maintain the electronic records and the audio and video recordings, and if such a designation is made the repository is subject to these requirements.

The bill also requires any person that offers the services of an electronic notarization system (online notarization system provider) to register with DFI. An online notarization system provider may authorize only DFI-commissioned online notaries public to use its electronic notarization system and must notify DFI of each online notary public authorized to use its system. The system must incorporate security measures.

The bill also authorizes any notary public to use an electronic signature and electronic seal for notarial acts performed in the physical presence of the principal.

The bill provides for rule making by DFI relating to online notaries public and online notarial acts.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. Subchapter I (title) of chapter 137 [precedes 137.01] of the statutes is amended to read:

CHAPTER 137

SUBCHAPTER I

NOTARIES AND COMMISSIONERS OF

DEEDS; NONELECTRONIC
SECTION 2. 137.01 (1) of the statutes is renumbered 137.01 (1g), and 137.01 (1g) (a), (b), (d), (e) and (g), as renumbered, are amended to read:

137.01 (1g) (a) The secretary of financial institutions department shall appoint notaries public who shall be United States residents and at least 18 years of age. Applicants who are not attorneys shall file an application with the department of financial institutions and pay a $20 fee.

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

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

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

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

SECTION 3. 137.01 (1c) of the statutes is created to read:

137.01 (1c) DEFINITIONS. In this section:

(a) “Department” means the department of financial institutions.
(b) “Electronic signature” has the meaning given in s. 137.11 (8).

(c) “Online notarial act” or “online notarization” has the meaning given in s. 137.195 (1) (f).

(d) “Tamper-evident” means that any change to a record generates evidence of the change.

SECTION 4. 137.01 (2) of the statutes is amended to read:

137.01 (2) Notaries public who are attorneys. (a) Except as provided in par. (am), any United States resident who is licensed to practice law in this state is entitled to a permanent commission as a notary public upon application to the department of financial institutions and payment of a $50 fee. The application shall include a certificate of good standing from the supreme court, the signature and post-office address of the applicant and an impression of the applicant’s official seal, or imprint of the applicant’s official rubber stamp.

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

(b) The secretary of financial institutions department shall issue a certificate of appointment as a notary public to persons who qualify under the requirements of this subsection. The certificate shall state that the notary commission is permanent or is for 4 years.
(c) The supreme court shall file with the department of financial institutions notice of the surrender, suspension, or revocation of the license to practice law of any attorney who holds a permanent commission as a notary public. Such notice shall be deemed a revocation of said commission.

**SECTION 5.** 137.01 (2m) of the statutes is created to read:

137.01 (2m) **Online notaries public; application and commission.** (a) A notary public holding a commission under sub. (1g) or (2) may also apply to the department for a commission as an online notary public. The application shall include, at a minimum, all of the following:

1. The applicant’s name to be used in acting as an online notary public.

2. A certification that the applicant will comply with standards established by the department under sub. (13) (a) 1.

3. A certification that the applicant will use tamper-evident technologies to perform online notarizations and will have the capability to retain the evidence of these online notarizations for a period established by the department under sub. (13) (a) 2.

4. Proof that the applicant has completed a course of instruction approved by the department as provided in sub. (13) (a) 3.

5. Disclosure of all instances in which the applicant’s commission, license, or other authorization as a notary public has been revoked or terminated, or the applicant has been otherwise subject to any disciplinary action, in any state within the 10-year period preceding the date of application.

(b) Qualified applicants under this subsection shall be notified by the department to take and file the official oath as an online notary public. This oath is in addition to the oath required under sub. (1g) (d).
(c) For applicants who have fulfilled the requirements of this subsection, the department shall appoint the applicant as an online notary public and issue to the applicant a certificate of appointment for a term of 4 years. The certificate shall state the expiration date of the commission under this subsection.

**SECTION 6.** 137.01 (3) (a) of the statutes is amended to read:

137.01 (3) (a) Except as authorized in s. 137.19, and except as provided in par. (c), every notary public shall provide an engraved official seal which makes a distinct and legible impression or official rubber stamp which makes a distinct and legible imprint on paper. The impression of the seal or the imprint of the rubber stamp shall state only the following: “Notary Public,” “State of Wisconsin” and the name of the notary. But any notarial seal in use on August 1, 1959, shall be considered in compliance.

**SECTION 7.** 137.01 (3) (c) of the statutes is created to read:

137.01 (3) (c) For electronic notarizations and online notarial acts, the notary public and online notary public shall use an electronic notarial seal that clearly and legibly states the following: “Notary Public,” “State of Wisconsin,” and the name of the notary. The electronic notarial seal shall afford the notary public or online notary public the opportunity to indicate the day, month, and year when his or her commission will expire or that the commission is permanent.

**SECTION 8.** 137.01 (4) (a) of the statutes is amended to read:

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

**SECTION 9.** 137.01 (4) (b) of the statutes is amended to read:

137.01 (4) (b) Except as authorized in s. 137.19, and except when a notary public properly uses an electronic notarial seal under sub. (3) (c), all certificates of
acknowledgments of deeds and other conveyances, or any written instrument
required or authorized by law to be acknowledged or sworn to before any notary
public, within this state, shall be attested by a clear impression of the official seal or
imprint of the rubber stamp of said officer, and in addition thereto shall be written
or stamped either the day, month and year when the commission of said notary public
will expire, or that such commission is permanent.

**SECTION 10.** 137.01 (6) (a) of the statutes is amended to read:

> 137.01 (6) (a) The secretary of financial institutions department may certify
to the official qualifications of any notary public and to the genuineness of the notary
public's signature and seal or rubber stamp.

**SECTION 11.** 137.01 (6m) of the statutes is amended to read:

> 137.01 (6m) CHANGE OF RESIDENCE. A notary public does not vacate his or her
office by reason of his or her change of residence within the United States. Written
notice of any change of address shall be given to the department of financial
institutions within 10 days of the change.

**SECTION 12.** 137.01 (7) of the statutes is amended to read:

> 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold
office, the notary public, or in case of the notary public's death the notary public's
personal representative, shall deposit the notary public's official records and papers
with the department of financial institutions. If the notary or personal
representative, after the records and papers come to his or her hands, neglects for
3 months to deposit them, he or she shall forfeit not less than $50 nor more than $500.
If any person knowingly destroys, defaces, or conceals any records or papers of any
notary public, the person shall forfeit not less than $50 nor more than $500, and shall
be liable for all damages resulting to the party injured. The department of financial institutions shall receive and safely keep all such papers and records.

SECTION 13. 137.01 (9) of the statutes is renumbered 137.01 (9) (am), and 137.01 (9) (am) (intro.), as renumbered, is amended to read:

137.01 (9) (am) (intro.) -AExcept as provided in par. (bm), a notary public shall be allowed the following fees:

SECTION 14. 137.01 (9) (bm) of the statutes is created to read:

137.01 (9) (bm) Subject to any rule promulgated under sub. (13) (b) 1., an online notary public may charge any fee for the performance of an online notarization.

SECTION 15. 137.01 (10) of the statutes is created to read:

137.01 (10) ONLINE NOTARIZATION SYSTEM PROVIDERS. (a) In this subsection:

1. “Electronic notarial act” or “electronic notarization” means an act that an online notary public is authorized to perform. The term includes all of the following:

a. Taking an acknowledgment.

b. Administering an oath or affirmation.

c. Taking a verification upon oath or affirmation.

d. Witnessing or attesting a signature.

e. Certifying or attesting a copy.

f. Noting a protest of a negotiable instrument.

g. Performing any other duty prescribed by a specific statute for an online notary public.

2. “Electronic notarization system” means a set of applications, programs, hardware, software, or technologies designed to enable an online notary public to perform electronic notarizations.
3. “Online notarization system provider” means any person that offers the services of an electronic notarization system.

(b) The department shall establish and maintain a registration system for online notarization system providers.

(c) No person may conduct business in this state as an online notarization system provider unless the person first registers with the department as such.

(d) 1. An online notarization system provider may not authorize use of its electronic notarization system by any person other than an online notary public holding a commission under sub. (2m). An online notarization system provider shall establish a method for enrolling online notaries public authorized to use its electronic notarization system.

2. Within 5 days after enrolling an online notary public to use its electronic notarization system, an online notarization system provider shall notify the department of the name of the online notary public.

(e) Each online notarization system provider shall take reasonable steps to ensure that any online notary public authorized to use its electronic notarization system has the requisite knowledge to perform electronic notarial acts using the system.

(f) An online notarization system provider shall ensure that all of the following requirements are satisfied with respect to its electronic notarization system:

1. The electronic notarization system incorporates security measures to limit system access and complies with all security standards established by the department under sub. (13) (a) 5.

2. The electronic notarization system allows an online notary public to affix the online notary public's electronic signature and electronic notarial seal in a manner
that attributes the electronic notarial act to the online notary public and renders the electronic notarial act tamper-evident.

SECTION 16. 137.01 (11) of the statutes is created to read:

137.01 (11) TERMINATION OF NOTARY PUBLIC’S COMMISSION; DESTRUCTION OF HARDWARE OR SOFTWARE. (a) Except as provided in par. (b), if a notary public maintains any coding, disk, certificate, card, software, or password that enables the notary public’s electronic signature or electronic seal to be affixed and if the notary public’s commission is terminated, the notary public shall destroy the coding, disk, certificate, card, software, or password within 3 months of termination of the notary public’s commission.

(b) If a notary public’s commission is terminated for any reason other than revocation or denial of renewal, the notary public is not required to destroy the coding, disk, certificate, card, software, or password as described in par. (a) if the notary public is recommissioned within 3 months and keeps the same electronic signature and electronic seal.

SECTION 17. 137.01 (12) of the statutes is created to read:

137.01 (12) WRONGFUL POSSESSION OR DESTRUCTION OF SOFTWARE OR HARDWARE. Any person who knowingly obtains or destroys, without prior authorization, a certificate, disk, coding, card, program, software, or hardware that enables a notary public’s electronic signature or electronic seal to be affixed is guilty of a Class I felony.

SECTION 18. 137.01 (13) of the statutes is created to read:

137.01 (13) RULE MAKING. (a) The department shall promulgate rules that do all of the following:

1. Establish standards for online notaries public holding a commission under sub. (2m).
2. Establish a minimum period during which online notaries public shall retain evidence of online notarizations.

3. Require applicants for appointment as an online notary public under sub. (2m) to complete a course of instruction and identify all courses of instruction approved by the department to satisfy this requirement.

4. Specify the electronic notarial seals described in sub. (3) (c).

5. Establish security standards for accessing electronic notarization systems maintained by online notarization system providers under sub. (10).

(b) The department may promulgate rules that do any of the following:

1. Establish maximum fees that may be charged by an online notary public for performing an online notarization.

2. Establish any other standard or requirement, not inconsistent with this section and s. 137.195, relating to online notaries public and online notarizations.

SECTION 19. Subchapter II (title) of chapter 137 [precedes 137.11] of the statutes is amended to read:

CHAPTER 137

SUBCHAPTER II

ELECTRONIC TRANSACTIONS AND RECORDS; ELECTRONIC NOTARIZATION AND ACKNOWLEDGEMENT

SECTION 20. 137.11 (8) of the statutes is amended to read:

137.11 (8) “Electronic signature” means an electronic sound, symbol, or process attached to, incorporated into, or logically associated with a record and executed or adopted by a person with the intent to sign the record.

SECTION 21. 137.19 of the statutes is amended to read:
137.19 Notarization and acknowledgement. If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to administer the oath or to make the notarization, acknowledgment, or verification, together with all other information required to be included by other applicable law, is attached to, incorporated into, or logically associated with the signature or record.

SECTION 22. 137.195 of the statutes is created to read:

137.195 Online notarization. (1) DEFINITIONS. In this section:

(a) “Credential” means a tangible record evidencing the identity of a person.

(b) “Credential analysis” means a process or service that complies with any rules promulgated by the department through which a 3rd party affirms the validity of a government-issued credential or any data thereon through review of public and proprietary data sources.

(c) “Communication technology” means an electronic device or process that allows an individual physically in one location and a notary public physically located at another location in this state to communicate with each other in real time by sight and sound.

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

(e) “Identity proofing” means a process or service operating according to criteria approved by the department through which a 3rd party affirms the identity of an individual through review of personal information from public and proprietary data sources.

(f) “Online notarial act” or “online notarization” means a notarial act, as defined in s. 706.07 (1) (c), performed by means of communication technology that meets the standards established by the department.
(g) “Online notary public” means a person appointed and holding a commission under s. 137.01 (2m).

(h) “Principal” means any of the following:

1. An individual whose electronic signature is notarized in an online notarization.

2. An individual taking an oath or affirmation from an online notary public but not in the capacity of a witness for the online notarial act.

(i) “Real time” means the actual span of uninterrupted time during which all parts of an online notarial act occur.

(j) “Remote presentation” means the transmission to an online notary public through communication technology of an image of a government-issued credential that is of sufficient quality to enable the online notary public to do all of the following:

1. Identify the individual appearing before the online notary public.

2. Perform a credential analysis.

(k) “United States” has the meaning given in s. 990.01 (44) but also includes a tribe, as defined in s. 822.02 (16).

(2) Authority to perform online notarizations. (a) An online notary public may perform online notarial acts for a person who is physically located in the United States.

(AM) An online notary public may perform online notarial acts for a person who is physically located outside the United States if all of the following apply:

1. The online notarial act is not, to the notary’s actual knowledge, prohibited in the jurisdiction where the person is physically located at the time of the online notarial act.

2. The online notarial act relates to any of the following:
a. A matter that is before a court, a governmental entity, or another entity in
the United States.

b. Property located in the United States.

c. A transaction substantially connected to the United States.

(b) An online notary public must be physically located in this state in order to
perform the online notarial act.

(3) **Online Notarization Procedures.** (a) An online notary public shall verify
the identity of the person creating the electronic signature at the time the signature
is taken by using communication technology that meets the requirements of this
section and rules promulgated by the department. The identity may be verified by
any of the following:

1. The online notary public’s personal knowledge of the person creating the
electronic signature.

2. The occurrence of all of the following:

   a. The principal’s remote presentation of a government-issued credential,
      including a passport or operator’s license, that contains a signature and photograph
      of the principal.

   b. The online notary public’s application of credential analysis to the credential
      under subd. 2. a.

   c. The online notary public’s use of identity proofing with respect to the
      principal making the remote presentation under subd. 2. a.

(b) The online notary public shall take reasonable steps to ensure that the
communication technology used for the online notarization is secure from
unauthorized use.
(c) A principal for whom an online notarization is performed under this section is considered, for purposes of any other law, to appear personally before and be in the physical presence of the online notary public at the time of the online notarial act.

(d) 1. For each online notarial act performed under this section, the online notary public shall prepare an electronic certificate of notarial act that satisfies the requirements for a certificate of notarial act under s. 706.07 (7) and (8) except to the extent provided in subds. 2. to 4.

2. The electronic certificate of notarial act for an online notarial act shall clearly indicate that the principal appeared by remote presentation, and the face of the notarized record shall clearly indicate that it was notarized by means of an online notarial act. For purposes of the forms under s. 706.07 (8) and any other form authorized under s. 706.07 (7) (b), a principal for whom an online notarial act is performed is considered to be before the online notary public. An electronic certificate of notarial act for an online notarial act shall be in lieu of any written certificate.

3. For purposes of determining the jurisdiction in which an online notarial act is performed, the location of the online notary public shall be determinative. The commission expiration date appearing on the certificate shall be the expiration date of the commission as an online notary public, regardless of any other commission the notary public holds. The online notary public shall use on the electronic certificate the electronic notarial seal under s. 137.01 (3) (c).

4. By executing an electronic certificate of notarial act under this paragraph, the online notary public certifies that the online notary public has acted in compliance with this section. Section 706.07 (7) (c) does not apply with respect to an electronic certificate of notarial act.
(e) An online notarial act performed under this section involving the principal’s remote presentation shall comply with the following minimum standards:

1. The online notary public shall use identity proofing that includes knowledge-based authentication with at least the following minimum security characteristics:

   a. The principal shall be presented with 5 or more questions with a minimum of 5 possible answer choices per question.

   b. Each question under subd. 1. a. shall be drawn from a 3rd-party provider of public and proprietary data sources and be identifiable to the principal’s social security number or other identification information or the principal’s identity and historical events records.

   c. Responses to all questions under subd. 1. a. shall be made within a 2-minute time constraint.

   d. The principal shall answer a minimum of 80 percent of the questions correctly.

   e. The principal may be offered an additional attempt in the event of a failed first attempt.

   f. During a second attempt, the principal may not be presented with more than 3 questions from the prior attempt.

2. The online notary public shall confirm that the principal’s credential is valid and matches the principal’s claimed identity by using credential analysis consisting of one or more automated software or hardware processes that scan the credential, including its format features, data, bar codes, or other security elements.

(4) ELECTRONIC RECORD OF ONLINE NOTARIZATIONS. (a) Subject to par. (e), an online notary public shall keep electronic records for online notarized documents and
shall maintain the security of these records. These records shall include all of the following:

1. The date and time of the online notarial act.
2. The type of online notarial act.
3. A description of the online proceeding.
4. The name and address of each principal involved in the proceeding.
5. A notation of the type of credential provided by each principal involved in the proceeding to the online notary public.
6. The fee, if any, charged for the notarization.

(b) The online notary public shall create an audio and video copy of the performance of the online notarial act, which recording may provide satisfactory evidence of identification.

(c) The online notary public shall take reasonable steps to ensure the integrity and security of online notarizations, maintain a backup for all electronic records, and protect the backup records from unauthorized access and use.

(d) All electronic records shall be maintained for at least 7 years after the date of the transaction or proceeding associated with the record.

(e) An online notary public may, by written agreement, designate a repository to maintain the electronic records required under par. (a) and the audio and video recordings required under par. (b). The written agreement shall require the repository to maintain the security of these electronic records and to meet all applicable requirements of this paragraph and par. (c). The repository may be the employer of the online notary public.

(5) USE OF ELECTRONIC RECORD, SIGNATURE, AND SEAL. (a) An online notary public shall take reasonable steps to ensure registered devices used to create electronic
1 signatures are current and have not been revoked or terminated by the devices’
2 issuing authority.
3 (b) An online notary public may not allow another person to use the online
4 notary public’s electronic signature.
5 (c) An online notary public shall immediately report to the department any loss,
6 theft, or vandalism of the online notary public’s electronic signature or electronic
7 seal.
8 (6) RULE MAKING. The department shall promulgate rules to implement this
9 section and to facilitate online notarizations. These rules shall include standards for
10 online notarization, credential analysis, identity proofing, and communication
11 technology.
12 (7) GOVERNING LAW. The validity of an online notarial act shall be determined
13 by applying the laws of this state, regardless of the physical location of the principal
14 at time of the online notarial act.
15 SECTION 23. 179.14 (1g) (b) of the statutes is amended to read:
16 179.14 (1g) (b) “Electronic signature” means an electronic sound, symbol, or
17 process, attached to, incorporated into, or logically associated with a writing and
18 executed or adopted by a person with intent to authenticate the writing.
19 SECTION 24. 180.0103 (7k) of the statutes is amended to read:
20 180.0103 (7k) “Electronic signature” means an electronic sound, symbol, or
21 process, attached to, incorporated into, or logically associated with a writing and
22 executed or adopted by a person with intent to authenticate the writing.
23 SECTION 25. 181.0103 (10p) of the statutes is amended to read:
1 181.0103 (10p) “Electronic signature” means an electronic sound, symbol, or
2 process, attached to, incorporated into, or logically associated with a writing and
3 executed or adopted by a person with intent to authenticate the writing.

SECTION 26. 183.0107 (1g) (b) of the statutes is amended to read:

183.0107 (1g) (b) “Electronic signature” means an electronic sound, symbol, or
process, attached to, incorporated into, or logically associated with a writing and
executed or adopted by a person with intent to authenticate the writing.

SECTION 27. 193.005 (11p) of the statutes is amended to read:

193.005 (11p) “Electronic signature” means an electronic sound, symbol, or
process, attached to, incorporated into, or logically associated with a writing and
executed or adopted by a person with intent to authenticate the writing.

SECTION 28. 610.60 (4) (e) of the statutes is amended to read:

610.60 (4) (e) If a provision of, or rule promulgated under, chs. 600 to 655
requires a signature or a notice or document to be notarized, acknowledged, verified,
or made under oath, the requirement is satisfied if the electronic signature of the
person authorized to perform those acts, together with all other information required
to be included by the provision, is attached to, incorporated into, or logically
associated with the signature, notice, or document.

SECTION 29. 706.001 (1) of the statutes is amended to read:

706.001 (1) Subject to the exclusions in sub. (2) and subject to sub. (2m), this
chapter shall govern every transaction by which any interest in land is created,
aliened, mortgaged, assigned or may be otherwise affected in law or in equity.

SECTION 30. 706.001 (2m) of the statutes is created to read:
Section 30. 706.07 is not limited in application to transactions by which an interest in land is created, aliened, mortgaged, assigned, or may be otherwise affected in law or in equity.

Section 31. 706.07 (8m) of the statutes is created to read:

706.07 (8m) Online Notarial Acts. (a) Notwithstanding sub. (1) (c), in this subsection, “online notarial act” has the meaning given in s. 137.195 (1) (f).

(b) Any online notarial act performed in accordance with s. 137.195 is considered to be performed in accordance with this section, and any online notary public performing such an act is an authorized notarial officer under this section.

Section 32. 706.25 (1) (d) of the statutes is amended to read:

706.25 (1) (d) “Electronic signature” means an electronic sound, symbol, or process attached to, incorporated into, or logically associated with a document and executed or adopted by a person with the intent to sign the document.

Section 33. 706.25 (2) (c) of the statutes is amended to read:

706.25 (2) (c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to, incorporated into, or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

Section 34. 801.18 (1) (f) of the statutes is amended to read:

801.18 (1) (f) “Electronic signature” means an electronic sound, symbol, or process attached to, incorporated into, or logically associated with a record and executed or adopted by a person with the intent to sign the document. For purposes of the electronic filing system, a document is electronically signed if it is submitted
by or on behalf of a user or court official through the electronic filing system and bears
the name of the user in the place where a signature would otherwise appear.
“Electronic signature” includes only those signature technologies specifically
approved by the director.

SECTION 35. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after
publication.

(END)