

## Chapter DFI-CCS 25

### NOTARIES PUBLIC AND NOTARIAL ACTS

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**DFI-CCS 25.01 Definitions.** In this chapter, unless otherwise indicated, words and phrases shall have the meanings specified in ss. 140.01, 140.145, and 990.01, Stats.

**History:** EmR2005: emerg. cr., eff. 5-9-20; CR 22-009: cr. Register April 2023 No. 808, eff. 5-1-23.

**DFI-CCS 25.02 Notices from the department; notary contact information.** (1) Notices and other communications from the department may be provided to a notary public by email or other electronic means.

(2) A notary public shall provide the department with written notice, in a form and manner acceptable to the department, of any change of name, seal or stamp, and address, including primary email address, within 10 days of the change.

**History:** EmR2005: emerg. cr., eff. 5-9-20; CR 22-009: cr. Register April 2023 No. 808, eff. 5-1-23.

**DFI-CCS 25.03 Notarial acts for remotely located individuals.** A notary public of this state may perform a notarial act for a remotely located individual if all the following apply:

(1) The notary public performs the notarial act by utilizing a communication technology provider that has authorized the notary public to utilize its technology and has been approved pursuant to s. DFI-CCS 25.04, or by utilizing an alternative process that has been approved pursuant to s. DFI-CCS 25.05.

(2) The notary public has reviewed and understands s. 140.145, Stats., and all guidance published on the department's website regarding the performance of notarial acts for remotely located individuals.

(3) The notary public is competent with the technologies and processes to be utilized in performing notarial acts for remotely located individuals.

**History:** EmR2005: emerg. cr., eff. 5-9-20; CR 22-009: cr. Register April 2023 No. 808, eff. 5-1-23.

**DFI-CCS 25.04 Providers of communication technology used to perform notarial acts for remotely located individuals.** (1) **APPROVAL REQUIRED.** A provider of communication technology used to perform notarial acts for remotely located individuals shall obtain approval as provided in this section before allowing its platform to be used by a notary public of this state to perform a notarial act for a remotely located individual.

(2) **CONTENTS OF REQUESTS FOR APPROVAL.** A provider of communication technology may request approval of the remote notary council by submitting documentation or other evidence to the department, in a form and manner acceptable to the department, that explains all the following:

(a) How the provider will ensure that notarial acts for a remotely located individual performed on the provider's platform by a notary public of this state comply with the requirements of ss. 140.145 and 140.20, Stats., and this chapter.

(b) The proposed method of performing a notarial act involving a remotely located individual using the provider's communication technology.

(c) The proposed method by which a provider's identity proofing will operate to ensure compliance with s. 140.07, Stats.

(d) Whether the provider's technology and identity proofing processes meet the most current standards of the Mortgage Industry Standards Maintenance Organization.

(e) The means used to ensure that notarial acts for a remotely located individual are accurate, authentic, resistant to tampering, and tamper-evident.

(f) The means used to ensure that all parties using the communication technology are viewing the same record, and that all signatures, changes, and attachments to the record are made in real time.

(g) The means used to ensure that the communication technology is secure from hacking or interception.

(h) The means used to ensure that a notarial act for a remotely located individual is recorded and adequately preserved for a period of at least seven years after the recording is made.

(i) The means used to ensure that a notary public is properly instructed and competent to perform a notarial act for a remotely located individual using the provider's communication technology.

(j) All jurisdictions in which a provider's communication technology has been approved or disapproved for the performance of a notarial act for a remotely located individual.

(k) A provider's experience utilizing the means, processes, and procedures described in this subsection.

(L) Any warning letters or complaints received, or disciplinary actions taken against a provider in any other jurisdiction.

(m) Any pending or adjudicated lawsuits against a provider relating in any way to the performance of notarial acts using the provider's communication technology in any jurisdiction.

(n) Whether the provider has and will maintain insurance coverage or other security for potential errors or omissions relating to the communication technology or provider's processes.

(o) Any other information that the department or remote notary council requests and believes is necessary or helpful in evaluating a provider's request for approval.

(3) **PROCEDURE FOR REQUESTS FOR APPROVAL.** (a) Once the department is satisfied that a provider's application includes the information required in sub. (2), the department shall schedule the application for consideration at a forthcoming meeting of the remote notary council.

(b) A representative of the applicant with knowledge of its processes and authority to make binding representations on its behalf shall be available to participate in the meeting and respond to questions from remote notary council members. Unless other-

wise specified by the remote notary council, the representative may participate by phone or other remote means.

(c) Upon consideration of the merits of the applicant and application, the remote notary council may approve the application, impose additional conditions or limitations upon approval, deny the application, table the application for further deliberation at a subsequent meeting, or require the applicant to supplement the application with additional explanations, information, or evidence of its ability to ensure compliance with state law.

(d) Upon approval of a provider's application, the department shall add the provider to a public list of approved providers of communication technology for notarial acts for remotely located individuals.

**(4) PROVIDER STATEMENTS BINDING; DUTIES TO SUPPLEMENT AND TO NOTIFY.** (a) All representations, promises, and assurances of future performance by a provider or its representative to the department or the remote notary council are binding on the provider.

(b) If facts or circumstances change such that any material statement, representation, or explanation made by a provider approved under this section is no longer accurate or complete, the provider shall promptly inform the department of the change, explain the reasons for it, and provide an updated version of any application document affected by the change.

(c) A provider approved under this section shall promptly inform the department, in a form and manner acceptable to the department, regarding notaries public of this state who have become newly authorized to use the provider's communication technology to perform notarial acts for remotely located individuals.

**(5) TERMINATION OR LIMITATION OF APPROVAL.** (a) The department or the remote notary council may restrict, limit, suspend, or terminate any approval granted to a provider under this section if it concludes that any of the following apply:

1. The provider has violated ch. 140, Stats., this chapter, or any other relevant state or federal statute or administrative rule.
2. The provider has violated any condition of any approval granted under this section.
3. The provider has made a false or misleading statement or omission of material fact to the department or the remote notary council.
4. The provider has been subject to administrative discipline or legal action in another jurisdiction.
5. Any fact or condition exists that, if the provider were required to re-apply under this section, would warrant the denial or restriction of approval.
6. Any other fact or condition exists that undermines the department's or the remote notary council's confidence in the ability of the provider to meet its duties and ensure compliance with ch. 140, Stats.

(b) When restricting, limiting, suspending, or terminating any approval granted to a provider under this section, the department or the remote notary council may take, or require the provider to take, any further action it deems necessary and appropriate to mitigate risks of harm to notaries public or others.

**History:** EmR2005: emerg. cr., eff. 5-9-20; CR 22-009: cr. Register April 2023 No. 808, eff. 5-1-23.

**DFI-CCS 25.05 Alternative processes used to perform notarial acts for remotely located individuals.** In addition to the method of utilizing a communication technology provider that is approved under s. DFI-CCS 25.04, the department may establish alternative processes or methods of performing notarial acts for remotely located individuals, provided such processes or methods meet the requirements of ch. 140, Stats.

**History:** EmR2005: emerg. cr., eff. 5-9-20; CR 22-009: cr. Register April 2023 No. 808, eff. 5-1-23.

**DFI-CCS 25.06 Investigations; suspensions and revocations of notary public commissions.** **(1)** The department may investigate whether a person has violated, is violating, or is about to violate any provision of ch. 140, Stats., or this chapter. The department may administer oaths and affirmations, issue subpoenas, take evidence, require the filing of statements (including responses to allegations), require testimony in oral or written form, and require the production of any records that the department considers relevant or material to the investigation.

**(2)** The department may deny, refuse to renew, revoke, suspend, or impose a condition on the commission of a notary public for any act or omission that demonstrates the individual lacks the competence, reliability, or integrity to act as a notary public, including any of the following:

- (a) Failing to comply with any provision of ch. 140, Stats., or this chapter.
- (b) Committing an act of fraud, deceit, or of any other misconduct substantially relating to the character or public trust required of a notary public.
- (c) Being convicted in any jurisdiction of committing any felony, any misdemeanor involving fraud, forgery, or similar violations of the public trust, or the unauthorized practice of law.
- (d) Using false or misleading advertising or otherwise engaging in any method, act, or practice that is unfair or deceptive, including any untrue or misleading statement or omission of a material fact relating to a duty or responsibility of a notary public.
- (e) Making an untrue or misleading statement, or knowingly omitting a material fact, in any application or filing required by ch. 140, Stats.
- (f) Failing to promptly and fully comply with any investigation or request for information by the department.

**History:** EmR2005: emerg. cr., eff. 5-9-20; CR 22-009: cr. Register April 2023 No. 808, eff. 5-1-23.