CHAPTER 140

NOTARIES PUBLIC; NOTARIAL ACTS

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140.01 Definitions. In this chapter:

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

(2) "Department" means the department of financial institutions.

(3) "Domestic partner" has the meaning given in s. 770.01 (1).

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

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

(6) "In a representative capacity" means acting as any of the following:

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

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

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

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

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

(8) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(9) "Notary public" means an individual commissioned to perform a notarial act.

(10) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.

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

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

(13) "Sign" means, with present intent to authenticate or adopt a record, any of the following:

(a) To execute or adopt a tangible symbol.

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

(14) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(15) "Stamping device" means any of the following:

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

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

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

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

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

History: 2019 a. 125.

140.02 Notaries. (1) NOTARIES PUBLIC WHO ARE NOT ATTORNEYS. (a) The 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 and pay a $20 fee.

(b) The department shall satisfy 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.

(c) If an application is rejected the fee shall be returned.

(d) Qualified applicants shall be notified by the department 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 department.

(e) The qualified applicant shall file his or her signature, post-

office address, and an impression or imprint on a tangible record of his or her official stamp, with the department.

(f) A certificate of appointment as a notary public for a term of 4 years stating the expiration date of the commission shall be issued to applicants who have fulfilled the requirements of this subsection.

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

(h) A notary shall be entitled to reappointment.

(i) A notary public appointed under this subsection may not do any of the following:

1. State or imply that he or she is an attorney licensed to practice law in this state.

2. Solicit or accept compensation to prepare documents for or otherwise represent the interests of another person in a judicial or administrative proceeding, including a proceeding relating to immigration to the United States or U.S. citizenship.

3. Solicit or accept compensation to obtain relief of any kind on behalf of another person from any officer, agent, or employee of this state, a political subdivision of this state, or the United States.

4. Use the phrase "notario," "notarizaciones," "notarizamos," or "notario publico," or otherwise advertise in a language other than English on signs, pamphlets, stationery, or other written communication, by radio or television, or on the Internet his or her services as a notary public if the advertisement fails to include, in English and the language of the advertisement, all of the following:

a. The statement, if in a written advertisement, in all capital letters and the same type size: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN WISCONSIN AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is given orally, the statement may be modified but must include substantially the same message and be understandable.

b. The fees that a notary public may charge under sub. (9).

(j) The prohibitions under par. (i) 2. and 3. do not apply to a notary public who is an accredited representative, as defined in 8 CFR 292.1 (a) (4).

(k) A person who violates par. (i) may be fined not more than $10,000 or imprisoned for not more than 9 months or both. A person who commits a 2nd or subsequent violation of par. (i) may be fined not more than $10,000 or imprisoned for not more than 6 years or both.

(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 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 or imprint on a tangible record of the applicant's official stamp.

(am) 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 shall provide notice of the expiration date to the holder of the commission.

(b) The 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 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.

(3) OFFICIAL STAMP. (a) Every notary public shall provide an official stamp that satisfies the requirements under s. 140.17.

(b) The impression or imprint of the official stamp on a tangible record, or the impression upon wafer, wax, or other adhesive substance and affixed to or embossed on a tangible record, shall be deemed an affixation or embossing of the official stamp under s. 140.15 (2).

(4) ATTESTATION. (a) Every official act of a notary public shall be attested by the notary public's written signature or electronic signature.

(b) In addition to satisfying the applicable requirement under s. 140.15 (2), a notary public who performs a notarial act within this state shall include on the certificate either the day, month, and year when the notary public's commission expires or that such commission is permanent. This information may be part of the official stamp affixed to or embossed on the certificate, written on the certificate if it is a tangible record, or attached to or logically associated with the certificate.

(c) The official certificate of any notary public, when attested and completed in the manner provided by this subsection, shall be presumptive evidence in all cases, and in all courts of the state, of the facts therein stated, in cases where by law a notary public is authorized to certify such facts.

(5) POWERS. Notaries public have power to act throughout the state. Notaries public have power to demand acceptance of foreign and inland bills of exchange and payment thereof, and payment of promissory notes, and may protest the same for nonacceptance or nonpayment, may administer oaths, take depositions and acknowledgments of deeds, and perform such other duties as by the law of nations, or according to commercial usage, may be exercised and performed by notaries public.

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

(b) Except as provided in par. (c), a notary public or any provider of communication technology shall keep confidential all documents and information provided to the notary public or provider of communication technology or contained in any documents reviewed by the notary public or provider of communication technology while performing his, her, or its duties as a notary public or provider of communication technology and may release the documents or the information to a 3rd person only with the separate written consent, independent from any other consent, permission, disclosure, or acknowledgement, in a manner consistent with applicable law, of the person who requested the services of the notary public or the provider of communication technology. The prohibition under this paragraph does not apply when the notary public or the provider of communication technology is complying with a request from a regulatory agency or supervisory agency or is responding to a lawful subpoena or court order.

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

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

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

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

(6) AUTHENTICATION. (a) The department may certify to the official qualifications of any notary public and to the genuineness of the notary public's signature and official stamp.

(c) Any certificate specified under this subsection shall be presumptive evidence of the facts therein stated.

(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 within 10 days of the change.

(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. 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 shall receive and safely keep all such papers and records.

(8) MISCONDUCT. If any notary public shall be guilty of any misconduct or neglect of duty in office the notary public shall be liable to the party injured for all the damages thereby sustained.

(9) FEES. Except when the department has established different fees as provided in s. 140.27 (1) (a) 1., a notary public shall be allowed the following fees:

(a) For drawing and copy of protest of the nonpayment of a promissory note or bill of exchange, or of the nonacceptance of such bill, not more than $5 in the cases where by law such protest is necessary, but in no other case.

(b) For drawing and copy of every other protest, not more than $5.

(c) For drawing, copying and serving every notice of nonpayment of a note or bill, or nonacceptance of a bill, not more than $5.

(d) For drawing any affidavit, or other paper or proceeding for which provision is not herein made, not more than $5 for each folio, and for copying the same 12 cents per folio.

(e) For taking the acknowledgment of deeds, and for other services authorized by law, the same fees as are allowed to other officers for similar services, but the fee per document shall not exceed $5.

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; 2019 a. 125 ss. 7 to 22, 33; Stats. 2019 s. 140.02; 2023 a. 258.

"All the damages" in former s. 137.01 (8) [now sub. (8)] incorporates the American rule of damages that attorney fees are not recoverable by a prevailing party unless certain exceptions apply. Bank One, Wisconsin v. Koch, 2002 WI App 176, 256 Wis. 2d 618, 649 N.W.2d 339, 01-2174.

The residency requirement under former s. 137.01 (1) and (2) [now subs. (1) and (2)] is constitutional. 74 Atty. Gen. 221.

Protecting the Privacy of Notary Public Records. Closen & Orsinger. Wis. Law. Mar. 2002.

Notary Public Title Incurs Responsibility. Nelson. Wis. Law. June 2002.

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

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

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

History: 2019 a. 125.

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

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

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

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

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

History: 2019 a. 125.

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

History: 2019 a. 125.

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

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

(a) By means of any of the following:

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

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

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

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

History: 2019 a. 125.

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

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

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

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

History: 2019 a. 125.

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

History: 2019 a. 125.

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

(a) A notary public of this state.

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

(c) A court commissioner.

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

(e) A municipal judge.

(f) A county clerk or deputy county clerk.

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

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

History: 2019 a. 125.

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

(a) A notary public of that state.

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

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

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

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

History: 2019 a. 125.

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

(a) A notary public of the tribe.

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

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

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

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

History: 2019 a. 125.

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

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

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

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

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

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

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

History: 2019 a. 125.

140.14 Foreign notarial act. (1) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.

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

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

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

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

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

History: 2019 a. 125.

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

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

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

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

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

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

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

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

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

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

(3) Except for the administration of an oath before a witness at a deposition, a notary public located in this state may perform a notarial act using communication technology for a remotely located individual if all of the following apply:

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

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

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

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

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

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

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

1. The record satisfies any of the following requirements:

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

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

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

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

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

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

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

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

(7) Before a notary public performs the notary public's initial notarial act under this section, the notary public must notify the department that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the department has established standards under sub. (8) and s. 140.27 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Any law governing the creation and execution of living

trusts or trust amendments for personal use, not including a transaction, as defined in s. 137.11 (15).

(c) Any law governing the creation and execution of powers of attorney, not including any of the following:

1. A transaction, as defined in s. 137.11 (15).

2. A limited financial power of attorney for a real estate transaction.

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

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

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

(b) To keep the standards and practices of notaries public in this state in harmony with the standards and practices of notaries public in other jurisdictions that enact substantially this section and to keep the technology used by notaries public in this state compatible with technology used by notaries public in other jurisdictions that enact substantially this section, the remote notary council, so far as is consistent with the purposes, policies, and provisions of this section, in adopting, amending, and repealing standards shall consider all of the following:

1. Standards and practices of other jurisdictions.

2. The most recent standards promulgated by national standard-setting bodies.

3. The views of interested persons and governmental officials and entities.

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

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

History: 2019 a. 125; 2023 a. 129.

140.147 Notarial act performed for remote execution of estate planning documents.

(1) In this section:

(a) "Estate planning document" means any of the following:

1. A will or a codicil.

2. A declaration of trust or other document creating a trust as provided in s. 701.0401 or an amendment to a declaration of trust or other document creating a trust.

3. A certification of trust as provided in s. 701.1013.

4. A power of attorney for finances and property.

5. A power of attorney for health care.

6. A marital property agreement or an amendment to a marital property agreement.

7. A written instrument evidencing a nonprobate transfer pursuant to s. 705.10, 705.15, 705.18, or 766.58 (3) (f).

8. A declaration to health care professionals.

9. An authorization for final disposition.

10. An authorization for use and disclosure of protected health information.

11. An instrument of disclaimer under s. 854.13.

12. An instrument exercising a power of appointment under ch. 702.

(b) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs the notarial act pursuant to this section.

(c) "Sign" means, with respect to a remotely located individual, the execution of an estate planning document that is required or intended to be executed in the presence of a notary public.

(2) (a) An estate planning document may not be denied legal effect or enforceability relating to a transaction solely because a notarial act was performed in compliance with this section.

(b) Except as provided in par. (a), this section shall not apply to, or impact the legal effect or enforceability of, any electronic records or electronic signatures governed by ch. 137.

(3) For purposes of signing an estate planning document, a remotely located individual may comply with s. 140.06 by appearing before a notary public via 2-way, real-time audiovisual communication technology if all of the following requirements are satisfied:

(a) The signing is supervised by an attorney in good standing licensed to practice law in this state. The supervising attorney may serve as the notary public.

(b) The remotely located individual attests to being physically located in this state during the 2-way, real-time audiovisual communication.

(c) The notary public attests to being physically located in this state during the 2-way, real-time audiovisual communication.

(d) The remotely located individual positively confirms the remotely located individual's identity. If the remotely located individual is not personally known to the notary public and the supervising attorney, the remotely located individual shall provide satisfactory evidence of the remotely located individual's identity as provided in s. 140.07.

(e) The remotely located individual identifies anyone else present in the same physical location as the remotely located individual. If possible, the remotely located individual shall make a visual sweep of the remotely located individual's physical surroundings so that the notary public and the supervising attorney can confirm the presence of any other persons.

(f) The remotely located individual displays the estate planning document, confirms the total number of pages and the page number on which the remotely located individual's signature is to be affixed, and declares to the notary public and the supervising attorney that the remotely located individual is 18 years of age or older, that the document is the remotely located individual's estate planning document, and that the document is being executed as a voluntary act.

(g) The remotely located individual, or another individual 18 years of age or older authorized to sign on behalf of the remotely located individual at the express direction and in the physical presence of the remotely located individual, signs the estate planning document in a manner that allows the notary public and the supervising attorney to see the signing. If the estate planning document is signed by someone on behalf of the remotely located individual, the signing shall comply with s. 140.09.

(h) The audiovisual communication technology used allows communication by which a person is able to see, hear, and communicate in an interactive way with another person in real time using electronic means, except that if the remotely located individual, the notary public, or the supervising attorney has an impairment that affects hearing, sight, or speech, assistive technology or learned skills may be substituted for audio or visual if it allows that person to actively participate in the signing in real time.

(i) The estate planning document indicates that it is being executed pursuant to this section.

(j) One of the following occurs:

1. The remotely located individual, or another person at the

direction of the remotely located individual, personally delivers or transmits by U.S. mail or commercial courier service the entire signed original estate planning document to the supervising attorney within a reasonable time after the signing. The supervising attorney then personally delivers or transmits by U.S. mail or commercial courier service the entire signed original estate planning document to the notary public within a reasonable time. The notary public then performs the intended notarial act and forwards the entire original estate planning document by personal delivery or U.S. mail or commercial courier service to the supervising attorney within a reasonable time.

2. The remotely located individual, or another person at the direction of the remotely located individual, personally delivers or transmits by U.S. mail or commercial courier service the entire signed original estate planning document to the supervising attorney within a reasonable time after the signing and transmits by facsimile or electronic means a legible copy of the entire signed estate planning document directly to the notary public within a reasonable time after the signing. The notary public then performs the intended notarial act and personally delivers or transmits by U.S. mail or commercial courier service the entire signed copy of the estate planning document to the supervising attorney within a reasonable time. The signed original and signed copy together shall constitute one original document unless the supervising attorney, within a reasonable time after receiving the signed original and signed copy, compiles the signed original and signed copy into one document by attaching the page or pages containing the notarial act to the original signed by or on behalf of the remotely located individual, in which case the compiled document shall constitute the original.

3. The remotely located individual, or another person at the express direction of the remotely located individual, and the notary public sign identical copies of the original estate planning document. The remotely located individual, or another person at the direction of the remotely located individual, and the notary public personally deliver or transmit by U.S. mail or commercial courier service the signed originals to the supervising attorney within a reasonable time after the signing and performance of the notarial act. All of the originals together shall constitute one document unless the supervising attorney, within a reasonable time after receiving all signed originals, compiles the originals into one document by attaching the page or pages containing the notarial act to the original signed by or on behalf of the remotely located individual, in which case the compiled document shall constitute the original.

(k) The supervising attorney completes and attaches to the estate planning document an affidavit of compliance that contains the following information:

1. The name and residential address of the remotely located individual.

2. The name and residential or business address of the notary public.

3. The address within the state where the remotely located individual was physically located at the time that the estate planning document was signed by the remotely located individual or another individual on behalf of the remotely located individual.

4. The address within the state where the notary public was physically located at the time the notary public witnessed the remotely located individual's signing of the estate planning document.

5. A statement that the remotely located individual and notary public were known to each other and the supervising attorney or a description of the form of identification used to confirm the identity of the remotely located individual.

6. The identity of anyone else present in the same physical location as the remotely located individual during the signing.

7. Confirmation that the remotely located individual declared that the remotely located individual is 18 years of age or older, that the document is the remotely located individual's estate planning document, and that the document was being executed as the remotely located individual's voluntary act.

8. Confirmation that the notary public and the supervising attorney were able to see the remotely located individual, or an individual 18 years of age or older at the express direction and in the physical presence of the remotely located individual, sign, and that the remotely located individual appeared to be 18 years of age or older and acting voluntarily.

9. A description of the audiovisual technology used for the signing process.

10. If the estate planning document was not signed in counterpart, a description of the method used to forward the estate planning document to the notary public and to the supervising attorney upon completion of the signing process.

11. If the estate planning document was signed in counterpart, a description of the method used to forward each counterpart to the supervising attorney and, if applicable, how and when the supervising attorney physically compiled the signed paper counterparts into a single document.

12. The name, state bar number, and business or residential address of the supervising attorney.

13. Any other information that the supervising attorney considers to be material with respect to the remotely located individual's capacity to sign a valid estate planning document, the remotely located individual's and notary public's compliance with this section, or any other information that the supervising attorney deems relevant to the signing of the estate planning document.

(4) An affidavit of compliance completed and attached to the estate planning document pursuant to sub. (3) (k) shall serve as conclusive evidence that the estate planning document was executed in compliance with this section.

(5) An affidavit of compliance shall be in substantially the following form:

AFFIDAVIT OF COMPLIANCE

State of ....

County of ....

The undersigned, being first duly sworn under oath, states as follows:

This Affidavit of Compliance is executed pursuant to Wis. Stat. § 140.147 to document the signing of the [name of estate planning document] of [name of remotely located individual] via remote appearance by 2-way, real-time audiovisual communication technology on [date].

1. The name and residential address of the remotely located individual is ....

2. The name and [residential or business] address of the notary public is ....

3. The address within the state of Wisconsin where the remotely located individual was physically located at the time the remotely located individual signed the estate planning document is ....

4. The address within the state of Wisconsin where the notary public was physically located at the time the notary public witnessed the remotely located individual's signing of the estate planning document is ....

5. The remotely located individual and notary public were known to each other and to the supervising attorney. - OR - The remotely located individual and notary public were not known to

each other and to the supervising attorney. The remotely located individual produced the following form of photo identification to confirm his or her identity:

....

6. The following persons were in the same physical location as the remotely located individual during the signing:

....

7. The remotely located individual declared that the remotely located individual is 18 years of age or older, that the document is the remotely located individual's [name of estate planning document], and that the document was being executed as the remotely located individual's voluntary act.

8. The notary public and the supervising attorney were able to see the remotely located individual sign or another individual on behalf of the remotely located individual sign. The remotely located individual appeared to be 18 years of age or older and acting voluntarily.

9. The audiovisual technology used for the signing process was ....

10. The estate planning document was not signed in counterpart. The following methods were used to forward the estate planning document to the notary public and to the supervising attorney after signing. - OR - The estate planning document was signed in counterpart. The following methods were used to forward each counterpart to the supervising attorney. [If applicable] - The supervising attorney physically compiled the signed paper counterparts into a single document containing the estate planning document, the signature of the remotely located individual, and the notarial act on [date] by [e.g., attaching page 7 from each counterpart signed by the notary public to the back of the estate planning document signed by the remotely located individual].

11. The name, state bar number, and [business or residential] address of the supervising attorney is ....

12. [Optional] Other information that the supervising attorney considers to be material is as follows: ....

.... (signature of supervising attorney)

Subscribed and sworn to before me on .... (date) by .... (name of supervising attorney).

.... (signature of notarial officer)

Stamp

.... (Title of office)

[My commission expires: ....]

(6) If a supervising attorney is required to complete an affidavit in order to execute an estate planning document pursuant to another provision of law, the information required in that affidavit may be combined with the information required in the affidavit of compliance into a single affidavit.

(7) For a notarial act performed under this section, the certificate of notarial act required under s. 140.15 may be in the following short form, if completed with the information required by s. 140.15 (1) and (2):

State of ....

County of ....

This record was virtually acknowledged before me pursuant to Wis. Stat. § 140.147 on .... (date) by .... (name(s) of individual(s)).

.... (signature of notarial officer)

Stamp

.... (Title of office)

[My commission expires: ....]

History: 2023 a. 130.

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

(a) Be executed contemporaneously with the performance of the notarial act.

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the department.

(c) Identify the jurisdiction in which the notarial act is performed.

(d) Contain the title of office of the notarial officer.

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

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

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

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

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

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

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

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

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

(6) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the department has established standards pursuant to s. 140.27 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

History: 2019 a. 125.

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

(1) For an acknowledgment in an individual capacity:

State of ....

County of ....

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

.... (Signature of notarial officer)

Stamp

.... (Title of office)

[My commission expires: ....]

(2) For an acknowledgment in a representative capacity:

State of ....

County of ....

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

.... (Signature of notarial officer)

Stamp

.... (Title of office)

[My commission expires: ....]

(3) For a verification on oath or affirmation:

State of ....

County of ....

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

.... (Signature of notarial officer)

Stamp

.... (Title of office)

[My commission expires: ....]

(4) For witnessing or attesting a signature:

State of ....

County of ....

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

.... (Signature of notarial officer)

Stamp

.... (Title of office)

[My commission expires: ....]

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

State of ...

County of ....

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

Dated: ....

.... (Signature of notarial officer)

Stamp

..... (Title of office)

[My commission expires: ....]

History: 2019 a. 125.

140.17 Official stamp. (1m) The official stamp of a notary public must satisfy all of the following criteria:

(a) Include the notary public's name, the words "Notary Public" and "State of Wisconsin," and other information required by the department.

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

(2m) The official stamp of a notary public may include the notary public's commission expiration date if applicable.

(3) The official stamp of a notary public may not include information other than the information required under sub. (1m) or permitted under sub. (2m).

History: 2019 a. 125; 2023 a. 258.

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

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

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

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

History: 2019 a. 125.

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

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

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

History: 2019 a. 125.

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

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

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

History: 2019 a. 125.

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

History: 2019 a. 125.

140.27 Rules; powers of the department. (1) (a) Subject to pars. (b) and (c), the department shall promulgate rules to implement this chapter. These rules shall do all of the following:

1. Establish maximum fees that may be charged by a notary

public for performing a notarial act for a remotely located individual.

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

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

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

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

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

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

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

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

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

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

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

(a) Investigate to determine whether a person has violated, is violating, or is about to violate this chapter or a rule promulgated or order issued under this chapter. For the purpose of an investigation under the chapter, the department may administer oaths and affirmations, issue subpoenas, take evidence, require the filing of statements, require testimony, and require the production of any records that the department considers relevant or material to the investigation.

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

History: 2019 a. 125.

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

History: 2019 a. 125.

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

History: 2019 a. 125.

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

History: 2019 a. 125.