



ANNOTATED CODE OF MARYLAND

STATE GOVERNMENT ARTICLE

TITLE 18 NOTARIAL ACTS

SUBTITLE 1. NOTARIES PUBLIC

SUBTITLE 2. REVISED UNIFORM LAW ON NOTARIAL ACTS.

EFFECTIVE AS OF OCTOBER 1, 2021

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Annotated Code of Maryland

State Government Article

Title 18 Notarial Acts

SUBTITLE 1. NOTARIES PUBLIC.

§ 18-101. Appointment and commission.

(a) *Residents of State; delegation of authority.* — (1) Except as provided in paragraph (2) of this subsection, the Governor, on approval of the application by a Senator representing the senatorial district and subdistrict in which the applicant resides or on approval by any Senator if the senatorial office representing the senatorial district and subdistrict in which the applicant resides is vacant, may appoint and commission individuals as notaries public as provided in this title.

(2) (i) A Senator may delegate the Senator's authority to approve applicants under this subsection to the Secretary of State.

(ii) If a Senator has delegated approval authority under subparagraph (i) of this paragraph, the Governor may appoint and commission an individual as a notary public as provided in this title on approval of the application by the Secretary of State.

(b) *Out-of-state individuals.* — (1) The Governor, on approval of the application by the Secretary of State and a member of the Senate of Maryland, shall appoint and commission out-of-state individuals as notaries public as provided in this title.

(2) An out-of-state notary shall be deemed to have irrevocably appointed the Secretary of State as the notary's agent upon whom may be served any summons, subpoena, subpoena duces tecum, or other process.

§ 18-102. Qualifications; instruction and examination.

(a) *Qualifications.* — Subject to § 18-104 of this subtitle, to be appointed as a notary public, an individual must:

(1) be at least 18 years old;

(2) be of good moral character and integrity;

(3) (i) be a resident of the State; or

(ii) have a place of employment or practice in the State;

(4) (i) Beginning October 1, 2021, for an initial applicant, have completed the course and passed the examination offered under subsection (b) of this section; or

(ii) Beginning October 1, 2021, for a renewal applicant, have completed the course offered under subsection (b) of this section;

(5) if living in the State, be a resident of the senatorial district from which appointed; and

(6) if living outside the State, be a resident of a state that allows Maryland residents working in that state to serve as notaries public in that state.

(b) *Instruction and examination.* — (1) On or before October 1, 2021, subject to paragraph (2) of this subsection, the Secretary of State regularly shall offer a course of study and an examination that cover the laws, regulations, procedures, and ethics relevant to notarial acts.

(2) The course and examination may be offered through an entity approved by the Secretary of State.

§ 18-103. Application; term; renewal, revocation, reinstatement; fees; and forms.

(a) *Application.* — (1) An application for original appointment as a notary public shall be made on forms prepared by the Secretary of State and shall be sworn to by the applicant.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, an application by a resident of the State shall bear or be accompanied by the written approval of a Senator representing the senatorial district and subdistrict in which the applicant resides or, if that office is vacant, by any Senator's written approval.

(ii) If a Senator has delegated approval authority under § 18–101 of this title, the application shall bear or be accompanied by the written approval of the Secretary of State.

(3) An application by an out-of-state individual shall bear or be accompanied by the written approval of a Maryland State Senator.

(4) Completed applications shall be filed with the Secretary of State.

(b) *Notice of appointment.* — When the appointment is made by the Governor, the Secretary of State shall notify the applicant.

(c) *Term.* — (1) The term of a notary public commission is 4 years.

(2) The Secretary of State shall adopt, by regulation, a staggered system for the expiration and renewal of notary public commissions.

(d) *Renewal, revocation, and reinstatement.* — (1) Notary public commissions may be renewed from term to term, and the Secretary of State shall issue an application of renewal to the notary public at or prior to the expiration of the term of the existing commission.

(2) On receiving of a satisfactory application of renewal from the notary, the Secretary shall issue a notice of renewal to the notary.

(3) Within 30 days after the issuance by the Secretary of State of a notice of appointment or renewal, the notary shall qualify before the appropriate clerk of the court and pay the fees prescribed in subsection (e) of this section.

(4) An out-of-state individual commissioned as a notary shall qualify before the clerk of the circuit court in any county or Baltimore City and pay the fees prescribed in subsection (e) of this section.

(5) The appointment and commission of any notary who fails to qualify and pay the fees within the time required under this subsection shall be revoked.

(6) If an appointment and commission is revoked under this subsection, the court clerk shall return the commission to the Secretary of State with a certification that the notary failed to qualify and pay the fees within the required time.

(7) The Secretary of State for good cause shown may reinstate the appointment and commission.

(e) *Procedures and fees.* — (1) At the time the notice of appointment or the notice of renewal is issued, the Secretary of State shall forward to the clerk of the circuit court of the county in which the notary resides or in the case of a notary who lives out-of-state, to the clerk of the circuit court in the county where the notary is to qualify, a commission signed by the Governor and Secretary of State under the great seal of the State.

(2) The clerk of the court shall deliver the commission to the notary upon qualification and payment of the prescribed fees by the notary.

(3) Each notary shall pay to the clerk:

(i) a fee of \$1 for qualifying the notary and registering the name, address, and commission expiration date of the notary; and

(ii) a fee of \$11 or a lesser amount as prescribed by the Secretary of State for the commission issued.

(4) The fee shall be paid by the clerk to the Treasury of the State.

(5) The Secretary of State may fix other reasonable fees as required for the processing of applications and the issuance and renewal of notarial commissions and may charge a reasonable fee not exceeding \$25 for checks returned for insufficient funds.

(6) (i) 1 Except as provided under subparagraph (ii) of this paragraph, if a payment of a fee under this section is made by a check or other negotiable instrument that is dishonored, the commission shall be revoked by operation of law.

2. The revocation is effective beginning on the 60th day after the day on which the notice is sent in accordance with subparagraph (ii) of this paragraph.

(ii) When the Secretary of State receives notice that a check or other negotiable instrument, given by an applicant in payment of a fee under this section has been dishonored, the Secretary shall inform the applicant, by regular mail, sent to the last home address the applicant has given to the Secretary, that the commission will be revoked by operation of law if within 60 days after the date of the notice the applicant fails to make payment of the fee and any late charge, or fails to provide evidence that the notice of dishonor was in error.

(iii) The removal of a notary public from office under this paragraph is not subject to the provisions applicable to removal under § 18–104 of this title.

(f) *Forms.* — The Secretary of State may prepare and adopt forms as required under this section, including the form of original and renewal applications, the form of commissions, and forms for renewal of commissions.

§ 18-104. Denial, refusal to renew, revocation, suspension, or imposition of conditions on commission.

(a) *In general.* — (1) On the Governor’s own initiative or on a request made to the Governor in writing by the Senator for the senatorial district in which the applicant or notary public resides, the Governor may deny, refuse to renew, revoke, suspend, or impose conditions on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(i) a failure to comply with this title or regulations adopted under this title;

(ii) a fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission;

(iii) a conviction of a felony or crime involving fraud, dishonesty, or deceit;

(iv) a finding against or an admission of liability in a legal proceeding or disciplinary action based on fraud, dishonesty, or deceit;

(v) failure to discharge any duty required of a notary public, whether imposed by any federal or State law or regulations adopted by the Secretary of State;

(vi) use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have; and

(vii) denial, refusal to renew, revocation, suspension, or conditions of a notary public commission by another state.

(2) Subject to subsection (c) of this section, after notice to the notary and the opportunity for a hearing before the Secretary of State or the Secretary of State's designee, the Secretary of State shall submit a recommendation to the Governor for action as the Governor determines to be required in the case.

(b) *Delegation of authority.* — (1) The Governor may delegate to the Secretary of State or the Assistant Secretary of State the authority to take an action under subsection (a) of this section.

(2) Subject to subsection (c) of this section, the Secretary of State or Assistant Secretary of State shall give the notary notice and an opportunity for a hearing as provided in subsection (a) of this section, but is not required to submit a recommendation to the Governor before acting under this subsection.

(c) *Hearing not required for denial of initial commission.* — Notice and the opportunity for a hearing under subsections (a) and (b) of this section are not required to be given to an applicant for an initial commission as a notary public regarding the denial of the commission.

(d) *Hearing is not contested case.* — A hearing under this section is not a contested case under Title 10, Subtitle 2 of this article.

(e) *Requirements for notice and hearing.* — The notice and hearing opportunity under subsections (a) and (b) of this section is deemed satisfied if a letter informing the applicant or notary of the impending action and hearing opportunity is mailed to the applicant or notary by first-class mail at the last address the applicant or notary has given to the Secretary of State.

(f) *Action under this section not precluding other remedies.* — An action taken under this section against a notary public does not preclude a person from seeking and obtaining any other criminal or civil remedy provided by law for redress of harm caused by the notary public.

§ 18-105. Extent of authority.

A notary public may exercise all functions of the office of notary in any other county or city than the county or city for which the notary is appointed, with the same power and effect in all respects as if the same were exercised in the county or city for which the notary is appointed.

§ 18-106. Form of protest.

It is unlawful for any notary public to sign and issue any protest except in the form prescribed by the Comptroller.

§ 18-107. Notary fees and travel expenses.

(a) *Limits on fees.* — (1) The Secretary of State shall adopt regulations to establish fees, not to exceed \$4 for an original notarial act, and an appropriate lesser amount for the repetition of that original notarial act or to make a copy of the matter addressed by that original notarial act.

(2) A notary public or person acting on behalf of a notary public may charge a fee, not to exceed \$4, for the performance of a notarial act under § 18–214 of this title.

(b) *Travel expenses and fees.* — (1) Subject to paragraph (2) of this subsection, a notary public may charge the prevailing rate for mileage established by the Internal Revenue Service for business travel per mile and a fee not to exceed \$5, as compensation for travel required for the performance of a notarial act.

(2) (i) The Secretary of State may set by regulation a different amount that a notary public may charge under paragraph (1) of this subsection.

(ii) An amount set under subparagraph (i) of this paragraph may exceed the amount established under paragraph (1) of this subsection.

§ 18-108. Public information.

(a) *In general.* — (1) Subject to § 4–332 of the General Provisions Article, the Secretary of State may provide lists of public information in its records to those persons who request them if the Secretary of State approves of the purpose for which the information is requested.

(2) (i) The Secretary of State may publish information relating to the status of the commission of a notary public or former notary public, including the date of commencement and expiration of any suspension, nonrenewal, or revocation of the commission.

(ii) The disclosure of information under subparagraph (i) of this paragraph is deemed compliant with § 4–332(b)(4) of the General Provisions Article.

(b) *Fees.* — (1) The Secretary of State shall charge a reasonable fee, not less than the cost of preparing the list, for any list furnished under this section.

(2) The Secretary of State may charge a reduced fee to persons requesting a list for governmental or not-for-profit purposes.

(c) *Limited purpose.* — (1) A person furnished any information under this section may not distribute or otherwise use the information for any purpose other than that for which it was furnished

(d) *Restriction in disclosing for telephone solicitations.* — The Secretary of State may not disclose information under this section for use in telephone solicitations as defined in § 4–320(a) of the General Provisions Article.

§§18-109 — 18-114. Administration of oaths; certificate under seal as evidence; acknowledgment; protests and declarations; register; certified copies of record; notary seal or stamp; limits on taking acknowledgments or protests; procedure in absence of notarial certificate. — Redesignated.

SUBTITLE 2. REVISED UNIFORM LAW ON NOTARIAL ACTS.

§ 18-201. Definitions.

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *Acknowledgment.* — "Acknowledgment" means a declaration by an individual before a notarial officer that:

(1) the individual has signed a record for the purpose stated in the record; and

(2) if the record is signed in a representative capacity, the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(c) *Communication technology.* — "Communication technology" means an electronic device or process that:

(1) allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

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

(d) *Credential analysis.* — "Credential analysis" means a process or service by which a third party confirms the validity of an identification credential by a review of public or private data sources.

(e) *Electronic.* — "Electronic" means technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(f) *Electronic signature*. — "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.

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

(h) *Identity proofing*. — "Identity proofing" means a process or service by which a third party 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.

(i) *In a representative capacity*. — "In a representative capacity" means acting as:

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

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

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

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

(j) *Notarial act*. — (1) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of the State.

(2) "Notarial act" includes:

(i) taking an acknowledgment;

(ii) administering an oath or affirmation;

(iii) taking a verification on oath or affirmation;

(iv) witnessing or attesting a signature;

(v) certifying or attesting a copy; and

(vi) noting a protest of a negotiable instrument.

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

(l) *Notary public*. — "Notary public" means an individual appointed and commissioned to perform a notarial act.

(m) *Official stamp*. — "Official stamp" means:

(1) a physical image affixed to or embossed on a tangible record; or

(2) an electronic image attached to or logically associated with an electronic record.

(n) *Record*. — "Record" means information that is:

(1) inscribed on a tangible medium; or

(2) stored in an electronic or other medium and is retrievable in perceivable form.

(o) *Remote presentation*. — "Remote presentation" means transmission to a notary public through communication technology of an image of an identification credential that is of sufficient quality to enable the notary public to reasonably identify the individual and to perform credential analysis.

(p) *Remotely located individual*. — "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act.

(q) *Sign*. — "Sign" means, with present intent to authenticate or adopt a record, to:

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

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

(s) *Stamping device*. — "Stamping device" means:

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

(t) *Verification on oath or affirmation*. — "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 or that a remotely located individual has the identity claimed.

§ 18-202. Applicability.

This subtitle applies only to a notarial act performed on or after October 1, 2020.

§ 18-203. Performance of notarial act.

(a) *In general*. — Except as provided in subsection (b) of this section, a notarial officer may perform a notarial act authorized by the laws of the State.

(b) *Restriction on acts*. — (1) A notarial officer may not perform a notarial act with respect to a record to which the notarial officer or the spouse of the notarial officer is a party, or in which either the notarial officer or the spouse of the notarial officer has a direct beneficial interest.

(2) A notarial act performed in violation of paragraph (1) of this subsection is voidable.

(c) *Certification of copies*. — A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

§ 18-204. Verification, attestation, certification, or protest.

(a) *Verification of records*. — A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual in accordance with § 18-206 of this subtitle, that:

(1) the individual appearing before the notarial officer and making the acknowledgment has the identity claimed; and

(2) the signature on the record is the signature of the individual.

(b) *Verification of statements*. — A notarial officer who takes a verification on oath or affirmation of a statement shall determine, from personal knowledge or satisfactory evidence of the identity of the individual in accordance with § 18-206 of this subtitle, that:

(1) the individual appearing before the notarial officer and making the verification has the identity claimed; and

(2) the signature on the statement verified is the signature of the individual.

(c) *Witnessing or attesting to signature*. — A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual in accordance with § 18-206 of this subtitle, that the individual appearing before the notarial officer and signing the record has the identity claimed.

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

(e) *Certification of tangible copy of electronic record.* — (1) A notarial officer who certifies that a tangible copy of an electronic record is an accurate copy of the electronic record shall:

- (i) reasonably determine whether the electronic record is in a tamper-evident format; and
- (ii) personally print or supervise the printing of the electronic record onto paper or other tangible medium.

(2) A notarial officer who certifies that a tangible copy of an electronic record is an accurate copy of the electronic record may not make the certification if the notarial officer has detected a change or an error in an electronic signature or other information in the electronic record.

(f) *Making or noting protest of negotiable instrument.* — A notarial officer who makes or notes a protest of a negotiable instrument shall make or note the protest in accordance with § 3-505(b) of the Commercial Law Article.

§ 18-205. Acts relating to statements or signatures.

(a) *In general.* — Subject to subsection (b) of this section, 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.

(b) *Remotely located individuals.* — A remotely located individual may comply with subsection (a) of this subtitle by using communication technology to appear before a notary public.

§ 18-206. Evidence of identity of individuals.

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

(b) *Satisfactory evidence.* — A notarial officer has satisfactory evidence of the identity of an individual personally appearing before the notarial officer if the notarial officer can identify the individual:

(1) by means of:

(i) a passport, driver's license, consular identification, or government-issued nondriver identification card; or

(ii) another form of government identification issued to the individual that:

- 1. contains the signature and photograph of the individual; and
- 2. is satisfactory to the notarial officer; or

(2) by a verification on oath or affirmation of a credible witness who is:

(i) personally appearing before the notarial officer; and

(ii) known to the notarial officer or whom the notarial officer can identify on the basis of a passport, driver's license, consular identification, or government-issued nondriver identification card.

(c) *Request for additional information or identification credentials.* — A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the notarial officer of the identity of the individual.

§ 18-207. Refusal to perform.

Unless otherwise prohibited by law, a notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

- (1) the individual executing the record is competent or has the capacity to execute the record; or
- (2) the individual's signature is knowingly and voluntarily made.

§ 18-208. Inability to sign record.

(a) *In general.* — If an individual is physically unable to sign a record, the individual may appear before the notarial officer and direct another individual other than the notarial officer who is concurrently appearing with the individual before the notarial officer to sign the individual's name on the record.

(b) *Required statement for proxy signature.* — If another individual is directed to sign an individual's name under subsection (a) of this section, the notarial officer shall insert on the record the following words or words of similar import: "Signature affixed by (name of other individual) at the direction of (name of individual)".

§ 18-209. Performance of notarial acts.

(a) *Persons entitled to perform.* — A notarial act may be performed in the State by:

- (1) a notary public of the State;
- (2) a judge, clerk, or deputy clerk of a court of the State; or
- (3) a magistrate appointed by a court of the State.

(b) *Effect of signature and title.* — The signature and title of an individual performing a notarial act in the State are prima facie evidence that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

(c) *Establishment of authority to perform acts.* — The signature and title of a notarial officer listed in subsection (a) of this section conclusively establish the authority of the notarial officer to perform the notarial act.

(d) *Fee prohibited — Judges or magistrates.* — A judge of the court of the State or a magistrate appointed by a court of the State may not charge a fee to perform a notarial act.

§ 18-210. Acts performed in another state.

(a) *Effect; requirements.* — A notarial act performed in another state has the same effect under the laws of this State as if performed by a notarial officer of this State, if the act performed in the other state is performed by:

- (1) a notary public of that state;
- (2) a judge, clerk, or deputy clerk of a court of that state; or
- (3) any other individual authorized by the laws of that state to perform the notarial act.

(b) *Effect of signature and title.* — The signature and title of an individual performing a notarial act in another state are prima facie evidence that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

(c) *Establishment of authority to perform acts.* — The signature and title of a notarial officer listed in subsection (a)(1) or (2) of this section conclusively establish the authority of the notarial officer to perform the notarial act.

§ 18-211. Act performed under authority and in jurisdiction of federally recognized Indian tribe.

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

- (1) a notary public of the tribe;
- (2) a judge, clerk, or deputy clerk of a court of the tribe; or
- (3) any other individual authorized by the laws of the tribe to perform the notarial act.

(b) *Effect of signature and title.* — The signature and title of an individual performing a notarial act under the authority and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

(c) *Establishment of authority to perform acts.* — The signature and title of a notarial officer listed in subsection (a)(1) or (2) of this section conclusively establish the authority of the notarial officer to perform the notarial act.

§ 18-212. Act performed under federal law.

(a) *In general.* — A notarial act performed under federal law has the same effect under the laws of this State as if performed by a notarial officer of this State, if the act performed under federal law is performed by:

- (1) a notary public of a court;
- (2) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- (3) an individual designated a notarizing officer by the U.S. Department of State for performing notarial acts overseas; or
- (4) any other individual authorized by federal law to perform the notarial act.

(b) *Effect of signature and title.* — The signature and title of an individual performing a notarial act under federal law are prima facie evidence that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

(c) *Establishment of authority to perform acts.* — The signature and title of a notarial officer listed in subsection (a)(1), (2), or (3) of this section conclusively establish the authority of the notarial officer to perform the notarial act.

§ 18-213. Act performed under authority and in jurisdiction of foreign state or unit thereof or of multinational or international governmental organization.

(a) *In general.* — If a notarial act is performed under the 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 laws of this State as if performed by a notarial officer of this State.

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

(c) *Establishment of authority to perform acts.* — The signature and official stamp of an individual holding an office described in subsection (b) of this section are prima facie evidence that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

(d) *Apostille in prescribed form to establish authority.* — 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:

- (1) the signature of the notarial officer is genuine; and
- (2) the notarial officer holds the individual office.

(e) *Consular authentication to establish authority.* — A consular authentication issued by an individual designated by the U.S. Department of State as notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that:

- (1) the signature of the notarial officer is genuine; and
- (2) the notarial officer holds the individual office.

§ 18-214. Performance of act using communication technology for remotely located individual.

(a) *In general; exceptions.* — Except for a notarial act being performed with respect to a will, as defined in § 1-101 of the Estates and Trusts Article, or a trust instrument, as defined in § 14.5-103 of the Estates and Trusts Article, a notary public located in this State may perform a notarial act using communication technology for a remotely located individual if:

- (1) the notary public:
 - (i) has personal knowledge under § 18-206(a) of this subtitle of the identity of the remotely located individual;
 - (ii) has satisfactory evidence of the identity of the remotely located individual by verification on oath or affirmation from a credible witness appearing before and identified by the notary public under § 18-206(b) of this subtitle or as a remotely located individual under this section; or
 - (iii) has obtained satisfactory evidence of the identity of the remotely located individual by:
 1. remote presentation of an identification credential described in § 18-206(b) of this subtitle;
 2. credential analysis of the identification credential; and
 3. identity proofing of the individual;
- (2) the notary public is reasonably able 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;
- (3) the notary public, or person acting on behalf and at the direction of the notary public, creates an audio-visual recording of the performance of the notarial act; and

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

(i) the record:

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

2. involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(ii) the notary public has no actual knowledge that the act of making the statement or signing the record is prohibited by the foreign state in which the remotely located individual is located.

(b) *Certificate must indicate act involved remotely located individual and used communication technology.* — If a notarial act is performed under subsection (a) of this section, the certificate of notarial act required by § 18-215 of this subtitle must indicate that the notarial act involved a remotely located individual and was performed using communication technology.

(c) *Requirements for short-form certificate.* — A short-form certificate provided in § 18-216 of this subtitle for a notarial act performed under subsection (a) of this section is sufficient if it:

(1) complies with any regulations adopted under § 18-222 of this subtitle; or

(2) contains a statement substantially as follows: "This notarial act involved a remotely located individual and the use of communication technology."

(d) *Representative of deceased notary public.* — (1) A notary public, a guardian, a conservator, or an agent of a notary public or a personal representative of a deceased notary public shall:

(i) retain the audio-visual recording created under subsection (a)(3) of this section; or

(ii) cause the audio-visual recording to be retained by a repository designated by or on behalf of the person required to retain the recording.

(2) A guardian, a conservator, or an agent of a notary public or personal representative of a deceased notary public who assumes authority over audio-visual recordings created under subsection (a)(3) of this section shall:

(i) notify the Secretary of State within 30 days after assuming authority; and

(ii) comply with all requirements in this subtitle regarding the maintenance and storage of the audio-visual recordings.

(3) Unless a different period is required by regulations adopted under § 18-222 of this subtitle, an audio-visual recording created under subsection (a)(3) of this section shall be retained for a period of at least 10 years after the recording is made.

(e) *Prerequisites to performing notarial act under this section.* — (1) Before a notary public performs the notary public's initial notarial act under subsection (a) of this section, the notary public shall notify the Secretary of State:

(i) that the notary public will be performing notarial acts facilitated by communication technology; and

(ii) of the technologies the notary public intends to use.

(2) If the Secretary of State establishes by regulation the standards for approval of communication technology, credential analysis, or identity proofing under § 18-222 of this subtitle, the communication technology, credential analysis, and identity proofing used by a notary public must comply with the standards.

(f) *Validity determined under Maryland law.* — The validity of a notarial act performed under this section shall be determined under the laws of this State regardless of the physical location of the remotely located individual at the time of the notarial act.

(g) *Construction with Title 21 of Commercial Law Article.* — This section shall be construed and applied in a manner consistent with Title 21 of the Commercial Law Article.

(h) *Agreement to use of communication technology not required; effect of agreement.* — (1) Nothing in this section shall require any person to accept, agree to, conduct, or complete a transaction where a notarial act is performed using communication technology for a remotely located individual.

(2) A person that agrees to accept, agree to, conduct, or complete a transaction where a notarial act is performed using communication technology for a remotely located individual may refuse to do so in any other transaction.

§ 18-215. Certification of notarial acts.

(a) *In general.* — (1) Each notarial act shall be evidenced by a certificate.

(2) The certificate shall:

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

(ii) 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 clerk of the circuit court for the county in which the notary public resides or was qualified;

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

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

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

(b) *Official stamp.* — (1) If a notarial act regarding a tangible record is performed by a notary public, the notary public shall affix an official stamp to or emboss an official stamp on the certificate.

(2) If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public, the notarial officer may affix an official stamp to or emboss an official stamp on the certificate.

(3) If a notarial act regarding an electronic record is performed by a notarial officer, the notarial officer may attach an official stamp to or logically associate an official stamp with the certificate.

(c) *Sufficiency of certification.* — A certificate of a notarial act is sufficient if it meets the requirements of subsections (a) and (b) of this section and:

(1) is in a short form provided in § 18-216 of this subtitle;

(2) is in a form otherwise allowed by the laws of this State;

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

(4) sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the laws of the State.

(d) *Effect of executing certificate.* — By executing a certificate of a notarial act, a notarial officer certifies that the notarial officer has complied with §§ 18-203, 18-204, and 18-205, and, if applicable, § 18-214 of this subtitle.

(e) *Certification to follow performance of act.* — A notarial officer may not affix the notarial officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(f) *Association of certification to tangible and electronic records; process.* — (1) If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record.

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

(3) If the Secretary of State has adopted regulations under § 18-222 of this subtitle to establish standards for attaching, affixing, or logically associating the certificate, the notarial officer shall use a process for attaching, affixing, or logically associating the certificate that conforms to the standards.

§ 18-216. Form of certificates.

(a) *Short form certificates.* — The short form certificates of notarial acts in subsections (b), (c), (d), (e), (f), and (g) of this section are sufficient for the purposes indicated if:

(1) the certificate is completed with the information required by § 18-215(a) of this subtitle; and

(2) if required under § 18-215(b) of this subtitle, the official stamp of the notary public is affixed to or embossed on the certificate.

(b) *Acknowledgment in individual capacity.* — For an acknowledgment in an individual capacity:

State of _____ County of _____

This record was acknowledged before me on the day of _____, 20__ by _____

.....

Signature of notarial officer

Title of office

Stamp

My commission expires:.....

(c) *Acknowledgment in representative capacity.* — For an acknowledgment in a representative capacity:

State of _____ County of _____

This record was acknowledged before me on the ____ day of _____, 20__ by _____ as (type of authority, such as an officer or trustee) of (name of party on behalf of whom record was executed).

.....

Signature of notarial officer

Title of office

Stamp

My commission expires:.....

(d) *Verification on oath or affirmation.* — For a verification on oath or affirmation:

State of _____ County of _____

Signed and sworn to (or affirmed) before me on the ____ day of _____, 20__ by _____

.....
Signature of notarial officer
Title of office
Stamp
My commission expires:.....

(e) *Witnessing or attesting signature.* — For witnessing or attesting a signature:

State of _____ County of _____

Signed (or attested) before me on the ____ day of _____, 20__ by _____

.....
Signature of notarial officer
Title of office
Stamp
My commission expires:.....

(f) *Certifying copy of record.* — For certifying a copy of a record:

State of _____ County of _____

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

Dated the ____ day of _____, 20__ by _____

.....
Signature of notarial officer
Title of office
Stamp
My commission expires:.....

(g) *Certifying tangible copy of electronic record.* — For certifying a tangible copy of an electronic record:

State of _____ County of _____

I certify that this is a true and correct copy of an electronic record entitled _____, dated the _____ day of _____, 20__ , containing ___ pages.

Dated the ___ day of _____, 20__ by _____

.....
Signature of notarial officer
Title of office
Stamp
My commission expires:.....

§ 18-217. Requirements for official stamp.

(a) *In general.* — The official stamp of a notary public shall:

(1) include:

- (i) the notary public's name, jurisdiction, and office;
- (ii) the county in which the notary public resides or was qualified; and
- (iii) any other information required by the Secretary of State; and

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

(b) *Expiration date of commission to be included.* — A notary public commissioned under the laws of this State shall include in the notary public's official stamp or within a certificate of notarial act the expiration date of the notary public's commission as a notary public.

(c) *Status as public seal.* — A notary public's official stamp is a public seal.

§ 18-218. Security of stamping device.

(a) *In general.* — (1) (i) Each notary public is responsible for the security of the notary public's stamping device.

(ii) A notary public may not allow another individual to use the stamping device to perform a notarial act.

(2) 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.

(3) 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 disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

(b) *Lost or stolen devices.* — If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian promptly shall notify the Secretary of State on discovering that the device is lost or stolen.

(c) *Status as public seal.* — A notary public's stamping device is a public seal for purposes of § 8-607 of the Criminal Law Article.

§ 18-219. Journal for documenting notarial acts.

(a) *In general; retention.* — (1) Subject to subsection (f) of this section, each notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs.

(2) The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

(b) *Form and medium.* — (1) A journal may be created on a tangible medium or in an electronic format.

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

(3) (i) If the journal is maintained on a tangible medium, the journal must be a permanent, bound register with numbered pages.

(ii) If the journal is maintained in an electronic format, the journal must be in a permanent, tamper-evident electronic format that complies with any regulations adopted by the Secretary of State under § 18-222 of this subtitle.

(c) *Requirements for entries.* — Each entry in a journal shall:

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

(2) contain the following information:

(i) the date and time the notarial act was performed;

(ii) a description of the record, if any, and type of notarial act;

(iii) the full name and address of each individual for whom the notarial act is performed;

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

(v) if the identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential;

(vi) the fee, if any, charged by the notary public; and

(vii) an indication of whether an individual making a statement or executing a signature which is the subject of the notarial act appeared in the notary public's physical presence or by means of communication technology.

(d) *Lost or stolen journals.* — If a notary public's journal is lost or stolen, the notary public promptly shall notify the Secretary of State on discovering that the journal is lost or stolen.

(e) *Duties on resignation from commission or revocation or suspension of commission.* — Subject to subsection (f) of this section, on resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall:

(1) retain the notary public's journal in accordance with subsection (a) of this section; and

(2) inform the Secretary of State where the journal is located.

(f) *Alternatives to retaining journal.* — Instead of retaining a journal as required under subsection (a) or (e) of this section, a current or former notary public may:

(1) transmit the journal to a repository approved by the Secretary of State; or

(2) store the journal in any other manner as approved by the Secretary of State in regulations.

(g) *Transmission or storage of journal on death or adjudication of incompetency.* — On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall:

(1) transmit it to a repository approved by the Secretary of State; or

(2) store the journal in any other manner as required or approved by the Secretary of State in regulations.

§ 18-220. Selection of technology for use with electronic records.

(a) *Selection of tamper-evident technology.* — (1) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records.

(2) 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.

(b) *Notification and identification of technology selected; regulations for standards.* — (1) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall:

(i) notify the Secretary of State that the notary public will be performing notarial acts with respect to the electronic records; and

(ii) identify the technology the notary public intends to use.

(2) If the Secretary of State adopts regulations under § 18-222 of this subtitle to establish standards for approval of technology used to perform a notarial act with respect to an electronic record, the notary public shall use technology that conforms to the standards.

(3) If standards and regulations adopted by the Secretary of State under this subtitle require technology used to perform notarial acts with respect to electronic records, the Secretary of State shall approve the use of the technology.

(c) *Recordation under Real Property Article.* — (1) This subsection does not apply to a plat recorded under Title 3 of the Real Property Article.

(2) A clerk of the circuit court shall accept for recording under Title 3 of the Real Property Article a tangible copy of an electronic record containing a notarial certificate in a form sufficient under § 18-216(g) of this subtitle as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the certificate certifies that the tangible copy is an accurate copy of the electronic record under § 18-203(c) of this subtitle.

(d) *Certificate as prima facie evidence that requirements satisfied; tangible copy of electronic record related to real property transactions.* — (1) A notarial certificate is prima facie evidence that the requirements of § 18-204(e) of this subtitle have been satisfied with respect to an electronic record if the certificate:

(i) is completed with the information required by § 18-215(a) of this subtitle;

(ii) includes an affixed or embossed official stamp as required by § 18-215(b) of this subtitle;

and

(iii) is attached to or made a part of a tangible copy of an electronic record.

(2) A tangible copy of an electronic record purporting to convey or encumber real property or any interest in real property that has been recorded by a clerk of the circuit court for the county in which the real property affected by the record lies shall impart the same notice to third parties and be effective from the time of recording as if the tangible copy had been certified in accordance with the provisions of this subtitle even if the tangible copy may not have been certified in accordance with the provisions of this subtitle.

§ 18-221. Failure to perform duty or meet requirement; effect on notarial act.

(a) *In general.* — Except as provided in § 18-203(b) of this subtitle, the failure of a notarial officer to perform a duty or meet a requirement specified in this subtitle does not invalidate a notarial act performed by the notarial officer.

(b) *Remedies for aggrieved person.* — The validity of a notarial act under this subtitle does not prevent an aggrieved person from seeking:

- (1) to invalidate the record or transaction that is the subject of the notarial act under another law;
- or
- (2) other remedies allowed under federal or State law.

(c) *Performance of act without authority not validated by this section.* — This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

§ 18-222. Regulations.

(a) *Adoption by Secretary of State; contents and requirements.* — (1) The Secretary of State may adopt regulations to implement this subtitle.

(2) Regulations adopted under paragraph (1) of this subsection 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.

(3) Regulations adopted under paragraph (1) of this subsection regarding performance of a notarial act may:

(i) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(ii) establish standards for communication technology, credential analysis, and identity proofing;

(iii) establish requirements or procedures to approve providers of communication technology and the processes of credential analysis and identity proofing; and

(iv) establish standards and a period of retention of an audio-visual recording created under § 18-214(a)(3) of this subtitle.

(4) Regulations adopted under paragraph (1) of this subsection may:

(i) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(ii) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(iii) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(iv) if the Governor has delegated authority under § 18-104(b) of this title, 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; and

(v) include provisions to prevent fraud or mistake in the performance of notarial acts.

(b) *Adoption of regulations with respect to electronic records.* — In adopting regulations under subsection (a) of this section regarding notarial acts performed with respect to electronic records or for a remotely located individual, the Secretary of State shall consider, so far as is consistent with this subtitle:

- (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 this subtitle;
- and
- (3) the views of government officials and entities and other interested persons.

§ 18-223. Compliance with requirements for performing notarial acts with respect to electronic record or remotely located individual.

(a) *In general.* — (1) Unless the Secretary of State adopts an applicable and superseding regulation under § 18-222 of this subtitle in the manner provided in this subsection, a notary public shall comply with the requirements of this section when performing a notarial act with respect to an electronic record or a remotely located individual.

(2) A regulation adopted by the Secretary of State may supersede a requirement of this section if the regulation references this section and specifies the requirement to be superseded.

(b) *Third party to perform identity proofing and credential analysis.* — Identity proofing and credential analysis shall be performed by a reputable third party who has provided evidence to the notary public of the ability to satisfy the requirements of this section.

(c) *Methodology for identity proofing.* — Identity proofing shall be performed through a dynamic knowledge-based authentication that meets the following requirements:

- (1) each remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity, formulated from public or private data sources;
- (2) each question must have a minimum of five possible answer choices;
- (3) at least 80% of the questions must be answered correctly;
- (4) all questions must be answered within 2 minutes;
- (5) if the remotely located individual fails the first attempt, the individual may retake the quiz one time within 24 hours;
- (6) during a retake of the quiz, a minimum of 40% of the prior questions must be replaced;
- (7) if the remotely located individual fails the second attempt, the individual is not allowed to retry with the same notary public within 24 hours of the second failed attempt; and
- (8) the notary public must not be able to see or record the questions or answers.

(d) *Methodology for credential analysis.* — Credential analysis must use public or private data sources to confirm the validity of an identification credential presented by a remotely located individual and shall, at a minimum:

- (1) use automated software processes to aid the notary public in verifying the identity of each remotely located individual;
- (2) ensure that the identification credential passes an authenticity test, consistent with sound commercial practices that:
 - (i) use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features;

(ii) use appropriate technologies to confirm that the identification credential is not fraudulent or inappropriately modified;

(iii) use information held or published by the issuing source or an authoritative source, as available, to confirm the validity of personal details and identification credential details; and

(iv) provide output of the authenticity test to the notary public; and

(3) enable the notary public visually to compare for consistency the information and photo on the identification credential and the remotely located individual as viewed by the notary public in real time through communication technology.

(e) *Security measures for communication technology.* — (1) Communication technology shall provide reasonable security measures to prevent unauthorized access to:

(i) the live transmission of the audio-visual feeds;

(ii) the methods used to perform credential analysis and identity proofing; and

(iii) the electronic record that is the subject of the notarial act.

(2) If a remotely located individual must exit the workflow, the remotely located individual must meet the criteria of this section and restart credential analysis and identity proofing from the beginning.

(f) *Methodology for attaching or associating electronic signature and stamp; digital certificates.* —

(1) A notary public shall attach or logically associate the notary public's electronic signature and official stamp to an electronic record by use of a digital certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology.

(2) A notary public may not perform a notarial act with respect to an electronic record if the digital certificate:

(i) has expired;

(ii) has been revoked or terminated by the issuing or registering authority;

(iii) is invalid; or

(iv) is incapable of authentication.

(g) *Retention of journal and audio-visual recordings; contracts with third parties.* — (1) A notary public shall retain a journal required under § 18-219 of this subtitle and any audio-visual recordings required under § 18-214 of this subtitle in a computer or other electronic storage device that protects the journal or audio-visual recordings against unauthorized access by password or cryptographic process.

(2) (i) A notary public may, by written contract, engage a third party to act as a repository to provide the storage required by paragraph (1) of this subsection.

(ii) The contract shall:

1. enable the notary public to comply with the retention requirements of this subtitle even if the contract is terminated; or

2. provide that the information will be transferred to the notary public if the contract is terminated.

(3) A third party under contract with a notary public under this subsection shall be deemed a repository approved by the Secretary of State under § 18-219 of this subtitle.

§ 18-224. Restrictions on authority conferred by commission.

(a) *Restricted acts.* — A commission as notary public does not authorize an individual to:

(1) assist a person in drafting legal records, give legal advice, or otherwise practice law;

- (2) act as an immigration consultant or an expert on immigration matters;
- (3) represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or
- (4) receive compensation for performing any of the activities listed in items (1) through (3) of this subsection.

(b) *False or deceptive advertising.* — A notary public may not engage in false or deceptive advertising.

(c) *Use of terms.* — A notary public may not use the term "notario" or "notario publico" unless the notary public is an attorney licensed to practice law in the State.

(d) *Advertisement or representations regarding acts required to be done by licensed attorneys.* —

(1) A notary public may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law unless the notary public is an attorney licensed to practice law in the State.

(2) (i) If a notary public who is not an attorney licensed to practice law in the State in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the Internet, the notary public shall include the following statement, or an alternate statement authorized or required by the Secretary of State, in the advertisement or representation: "I am not an attorney licensed to practice law in this State. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."

(ii) The statement required under subparagraph (i) of this paragraph shall be included prominently and in each language used in the advertisement or representation.

(iii) If the form of advertisement or representation is not broadcast media, print media, or the Internet and does not allow inclusion of the statement required under subparagraph (i) of this paragraph because of size, the statement shall be prominently displayed or provided at the place of performance of the notarial act before the notarial act is performed.

(e) *Withholding access to or possession of original record.* — Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

§ 18-225. Construction of subtitle.

In applying and construing this subtitle, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 18-226. Construction with federal Electronic Signatures in Global and National Commerce Act.

This subtitle modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. 7003(b).

§ 18-227. Short title.

This subtitle may be cited as the Maryland Revised Uniform Law on Notarial Acts.