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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1609

02/23/2017 Authored by Smith, Hoppe, Pinto, Loonan and Swedzinski The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy

1.1 A bill for an act
1.2 relating to notaries public; enacting the Revised Uniform Law on Notarial Acts,
1.3 as amended, approved by the National Conference of Commissioners on Uniform
1.4 State Laws; amending Minnesota Statutes 2016, sections 5.15; 325K.23, subdivision
1.5 1; 358.116; 358.50; 359.01, subdivision 5; 507.24, subdivision 2; 508.48; 508A.48;
1.6 proposing coding for new law in Minnesota Statutes, chapter 358; repealing
1.7 Minnesota Statutes 2016, sections 358.41; 358.42; 358.43; 358.44; 358.45; 358.46;
1.8 358.47; 358.48; 358.49.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 ARTICLE 1
1.11 REVISED UNIFORM LAW ON NOTARIAL ACTS

1.12 Section 1. 358.51 SHORT TITLE.

1.13 Sections 358.51 to 358.80 may be cited as the Revised Uniform Law on Notarial Acts.

1.14 Sec. 2. 358.52 DEFINITIONS.

1.15 Subdivision 1. Scope. For purposes of sections 358.51 to 358.80, the terms defined in
1.16 subdivisions 2 to 16 have the meanings given them.

1.17 Subd. 2. Acknowledgment. "Acknowledgment" means a declaration by an individual
1.18 before a notarial officer that the individual has signed a record for the purpose stated in the
1.19 record and, if the record is signed in a representative capacity, that the individual signed
1.20 the record with proper authority and signed it as the act of the individual or entity identified
1.21 in the record.

1.22 Subd. 3. Electronic. "Electronic" means relating to technology having electrical, digital,
1.23 magnetic, wireless, optical, electromagnetic, or similar capabilities.

2.1 Subd. 4. **Electronic signature.** "Electronic signature" means an electronic symbol,
2.2 sound, or process attached to or logically associated with a record and executed or adopted
2.3 by an individual with the intent to sign the record.

2.4 Subd. 5. **In a representative capacity.** "In a representative capacity" means acting as:

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

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

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

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

2.11 Subd. 6. **Notarial act.** "Notarial act" means an act, whether performed with respect to
2.12 a tangible or electronic record, that a notarial officer may perform under the law of this
2.13 state. The term includes taking an acknowledgment, administering an oath or affirmation,
2.14 taking a verification on oath or affirmation, witnessing or attesting a signature, certifying
2.15 or attesting a copy, and noting a protest of a negotiable instrument.

2.16 Subd. 7. **Notarial officer.** "Notarial officer" means a notary public or other individual
2.17 authorized to perform a notarial act.

2.18 Subd. 8. **Notary public.** "Notary public" means an individual commissioned to perform
2.19 a notarial act by the commissioning officer or agency.

2.20 Subd. 9. **Official stamp.** "Official stamp" means a physical image affixed to or embossed
2.21 on a tangible record or an electronic image attached to or logically associated with an
2.22 electronic record.

2.23 Subd. 10. **Person.** "Person" means an individual, corporation, business trust, statutory
2.24 trust, estate, trust, partnership, limited liability company, association, joint venture, public
2.25 corporation, government or governmental subdivision, agency, or instrumentality, or any
2.26 other legal or commercial entity.

2.27 Subd. 11. **Record.** "Record" means information that is inscribed on a tangible medium
2.28 or that is stored in an electronic or other medium and is retrievable in perceivable form.

2.29 Subd. 12. **Sign.** "Sign" means, with present intent to authenticate or adopt a record:

2.30 (1) to execute or adopt a tangible symbol; or

3.1 (2) to attach to or logically associate with the record an electronic symbol, sound, or
 3.2 process.

3.3 Subd. 13. **Signature.** "Signature" means a tangible symbol or an electronic signature
 3.4 that evidences the signing of a record.

3.5 Subd. 14. **Stamping device.** "Stamping device" means:

3.6 (1) a physical device capable of affixing to or embossing on a tangible record an official
 3.7 stamp; or

3.8 (2) an electronic device or process capable of attaching to or logically associating with
 3.9 an electronic record an official stamp.

3.10 Subd. 15. **State.** "State" means a state of the United States, the District of Columbia,
 3.11 Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject
 3.12 to the jurisdiction of the United States.

3.13 Subd. 16. **Verification on oath or affirmation.** "Verification on oath or affirmation"
 3.14 means a declaration, made by an individual on oath or affirmation before a notarial officer,
 3.15 that a statement in a record is true.

3.16 Sec. 3. **[358.53] APPLICABILITY.**

3.17 Sections 358.51 to 358.80 apply to a notarial act performed on or after August 1, 2018.

3.18 Sec. 4. **[358.54] AUTHORITY TO PERFORM NOTARIAL ACT.**

3.19 Subdivision 1. **Source.** A notarial officer may perform a notarial act authorized by
 3.20 sections 358.51 to 358.80 or by law of this state other than sections 358.51 to 358.80.

3.21 Subd. 2. **Limitation.** A notarial officer may not perform a notarial act with respect to a
 3.22 record to which the officer or the officer's spouse is a party, or in which either of them has
 3.23 a direct beneficial interest. A notarial act performed in violation of this subdivision is
 3.24 voidable.

3.25 Sec. 5. **[358.55] REQUIREMENTS FOR CERTAIN NOTARIAL ACTS.**

3.26 Subdivision 1. **Acknowledgments.** A notarial officer who takes an acknowledgment of
 3.27 a record shall determine, from personal knowledge or satisfactory evidence of the identity
 3.28 of the individual, that the individual appearing before the officer and making the
 3.29 acknowledgment has the identity claimed and that the signature on the record is the signature
 3.30 of the individual.

4.1 Subd. 2. **Verifications.** A notarial officer who takes a verification of a statement on oath
 4.2 or affirmation shall determine, from personal knowledge or satisfactory evidence of the
 4.3 identity of the individual, that the individual appearing before the officer and making the
 4.4 verification has the identity claimed and that the signature on the statement verified is the
 4.5 signature of the individual.

4.6 Subd. 3. **Signatures.** A notarial officer who witnesses or attests to a signature shall
 4.7 determine, from personal knowledge or satisfactory evidence of the identity of the individual,
 4.8 that the individual appearing before the officer and signing the record has the identity
 4.9 claimed.

4.10 Subd. 4. **Copies.** A notarial officer who certifies or attests a copy of a record or an item
 4.11 that was copied shall determine that the copy is a full, true, and accurate transcription or
 4.12 reproduction of the record or item.

4.13 Subd. 5. **Protests.** A notarial officer who makes or notes a protest of a negotiable
 4.14 instrument shall determine the matters set forth in section 336.3-505, paragraph (b).

4.15 **Sec. 6. [358.56] PERSONAL APPEARANCE REQUIRED.**

4.16 If a notarial act relates to a statement made in or a signature executed on a record, the
 4.17 individual making the statement or executing the signature shall appear personally before
 4.18 the notarial officer.

4.19 **Sec. 7. [358.57] IDENTIFICATION OF INDIVIDUAL.**

4.20 Subdivision 1. **Personal knowledge.** A notarial officer has personal knowledge of the
 4.21 identity of an individual appearing before the officer if the individual is personally known
 4.22 to the officer through dealings sufficient to provide reasonable certainty that the individual
 4.23 has the identity claimed.

4.24 Subd. 2. **Identification.** A notarial officer has satisfactory evidence of the identity of
 4.25 an individual appearing before the officer if the officer can identify the individual:

4.26 (1) by means of:

4.27 (i) a passport, driver's license, or government-issued nondriver identification card that
 4.28 is currently valid or expired not more than three years before performance of the notarial
 4.29 act; or

4.30 (ii) another form of government identification issued to an individual that is current or
 4.31 expired not more than three years before performance of the notarial act, contains the

5.1 individual's signature or a photograph of the individual, and is satisfactory to the officer;
5.2 or

5.3 (2) by a verification on oath or affirmation of a credible witness personally appearing
5.4 before the officer and known to the officer or whom the officer can identify on the basis of
5.5 a passport, driver's license, or government-issued nondriver identification card that is current
5.6 or expired not more than three years before performance of the notarial act.

5.7 Subd. 3. **Additional information or credentials.** A notarial officer may require an
5.8 individual to provide additional information or identification credentials necessary to assure
5.9 the officer of the identity of the individual.

5.10 **Sec. 8. [358.58] AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT.**

5.11 Subdivision 1. **Specific grounds.** A notarial officer may refuse to perform a notarial act
5.12 if the officer is not satisfied that:

5.13 (1) the individual executing the record is competent or has the capacity to execute the
5.14 record; or

5.15 (2) the individual's signature is knowingly and voluntarily made.

5.16 Subd. 2. **General limitation.** A notarial officer may refuse to perform a notarial act
5.17 unless refusal is prohibited by law other than sections 358.51 to 358.80.

5.18 **Sec. 9. [358.59] SIGNATURE IF INDIVIDUAL UNABLE TO SIGN.**

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

5.23 **Sec. 10. [358.60] NOTARIAL ACT IN THIS STATE.**

5.24 Subdivision 1. **Authorized persons.** A notarial act may be performed in this state by:

5.25 (1) a notary public of this state;

5.26 (2) a judge, clerk, or deputy clerk of a court of this state;

5.27 (3) an individual licensed to practice law in this state; or

5.28 (4) any other individual authorized to perform the specific act by the law of this state.

6.1 Subd. 2. **Significance of signature and title.** The signature and title of an individual
 6.2 performing a notarial act in this state are prima facie evidence that the signature is genuine
 6.3 and that the individual holds the designated title.

6.4 Subd. 3. **Authority of officer established.** The signature and title of a notarial officer
 6.5 described in subdivision 1, clause (1), (2), or (3), conclusively establish the authority of the
 6.6 officer to perform the notarial act.

6.7 **Sec. 11. [358.61] NOTARIAL ACT IN ANOTHER STATE.**

6.8 Subdivision 1. **Effect.** A notarial act performed in another state has the same effect under
 6.9 the law of this state as if performed by a notarial officer of this state, if the act performed
 6.10 in that state is performed by:

6.11 (1) a notary public of that state;

6.12 (2) a judge, clerk, or deputy clerk of a court of that state; or

6.13 (3) any other individual authorized by the law of that state to perform the notarial act.

6.14 Subd. 2. **Significance of signature and title.** The signature and title of an individual
 6.15 performing a notarial act in another state are prima facie evidence that the signature is
 6.16 genuine and that the individual holds the designated title.

6.17 Subd. 3. **Authority of officer established.** The signature and title of a notarial officer
 6.18 described in subdivision 1, clause (1) or (2), conclusively establish the authority of the
 6.19 officer to perform the notarial act.

6.20 **Sec. 12. [358.62] NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY**
 6.21 **RECOGNIZED INDIAN TRIBE.**

6.22 Subdivision 1. **Effect.** A notarial act performed under the authority and in the jurisdiction
 6.23 of a federally recognized American Indian tribe has the same effect as if performed by a
 6.24 notarial officer of this state, if the act performed in the jurisdiction of that tribe or nation is
 6.25 performed by:

6.26 (1) a notary public of that tribe;

6.27 (2) a judge, clerk, or deputy clerk of a court of that tribe; or

6.28 (3) any other individual authorized by the law of that tribe to perform the notarial act.

6.29 Subd. 2. **Significance of signature and title.** The signature and title of an individual
 6.30 performing a notarial act under the authority of and in the jurisdiction of a federally

7.1 recognized American Indian tribe are prima facie evidence that the signature is genuine and
 7.2 that the individual holds the designated title.

7.3 Subd. 3. **Authority of officer established.** The signature and title of a notarial officer
 7.4 described in subdivision 1, clause (1) or (2), conclusively establish the authority of the
 7.5 officer to perform the notarial act.

7.6 Sec. 13. **[358.63] NOTARIAL ACT UNDER FEDERAL AUTHORITY.**

7.7 Subdivision 1. **Effect.** A notarial act performed under federal law has the same effect
 7.8 under the law of this state as if performed by a notarial officer of this state, if the act
 7.9 performed under federal law is performed by:

7.10 (1) a judge, clerk, or deputy clerk of a court;

7.11 (2) an individual in military service or performing duties under the authority of military
 7.12 service who is authorized to perform notarial acts under federal law;

7.13 (3) an individual designated a notarizing officer by the United States Department of
 7.14 State for performing notarial acts overseas; or

7.15 (4) any other individual authorized by federal law to perform the notarial act.

7.16 Subd. 2. **Significance of signature and title.** The signature and title of an individual
 7.17 acting under federal authority and performing a notarial act are prima facie evidence that
 7.18 the signature is genuine and that the individual holds the designated title.

7.19 Subd. 3. **Authority of officer established.** The signature and title of an officer described
 7.20 in subdivision 1, clause (1), (2), or (3), conclusively establish the authority of the officer to
 7.21 perform the notarial act.

7.22 Sec. 14. **[358.64] FOREIGN NOTARIAL ACT.**

7.23 Subdivision 1. **Definition.** In this section, "foreign state" means a government other
 7.24 than the United States, a state, or a federally recognized Indian tribe.

7.25 Subd. 2. **Effect.** If a notarial act is performed under authority and in the jurisdiction of
 7.26 a foreign state or constituent unit of the foreign state or is performed under the authority of
 7.27 a multinational or international governmental organization, the act has the same effect under
 7.28 the law of this state as if performed by a notarial officer of this state.

7.29 Subd. 3. **Authority of officer established.** If the title of office and indication of authority
 7.30 to perform notarial acts in a foreign state appears in a digest of foreign law or in a list

8.1 customarily used as a source for that information, the authority of an officer with that title
 8.2 to perform notarial acts is conclusively established.

8.3 Subd. 4. **Significance of signature and official stamp.** The signature and official stamp
 8.4 of an individual holding an office described in subdivision 3 are prima facie evidence that
 8.5 the signature is genuine and the individual holds the designated title.

8.6 Subd. 5. **Significance of apostille.** An apostille in the form prescribed by the Hague
 8.7 Convention of October 5, 1961, and issued by a foreign state party to the Convention
 8.8 conclusively establishes that the signature of the notarial officer is genuine and that the
 8.9 officer holds the indicated office.

8.10 Subd. 6. **Significance of consular authentication.** A consular authentication issued by
 8.11 an individual designated by the United States Department of State as a notarizing officer
 8.12 for performing notarial acts overseas and attached to the record with respect to which the
 8.13 notarial act is performed conclusively establishes that the signature of the notarial officer
 8.14 is genuine and that the officer holds the indicated office.

8.15 **Sec. 15. [358.645] INDIVIDUAL LOCATED OUTSIDE UNITED STATES.**

8.16 Subdivision 1. **Definitions.** For purposes of this section, the following terms have the
 8.17 meanings given:

8.18 (1) "communication technology" means an electronic device or process that allows an
 8.19 individual located outside the United States and a notary public located in this state to
 8.20 communicate with each other simultaneously by sight and sound;

8.21 (2) "identity proofing" means a process or service by which a third person provides a
 8.22 notary public with a reasonable means to verify the identity of an individual by a review of
 8.23 personal information from public or proprietary data sources; and

8.24 (3) "outside the United States" means outside the geographic boundaries of the United
 8.25 States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession
 8.26 subject to the jurisdiction of the United States.

8.27 Subd. 2. **Notarial act; use of communications technology generally.** (a) A notary
 8.28 public in this state may perform by means of communication technology a notarial act
 8.29 relating to a statement made in or signature executed on a record by an individual located
 8.30 outside the United States if:

8.31 (1) the notary public has:

9.1 (i) personal knowledge under section 358.57, subdivision 1, of the identity of the
 9.2 individual; or

9.3 (ii) satisfactory evidence under subdivision 3 of the identity of the individual;

9.4 (2) the record:

9.5 (i) is to be filed with or relates to a matter before a court, governmental entity, public
 9.6 official, or other entity located in the territorial jurisdiction of the United States; or

9.7 (ii) involves property located in the territorial jurisdiction of, or a transaction substantially
 9.8 connected with, the United States;

9.9 (3) the notary public is able, by use of tamper-evident technology or personal
 9.10 acknowledgment of the individual, reasonably to identify the record before the notary public
 9.11 as the same record in which the individual made the statement or on which the individual
 9.12 executed the signature; and

9.13 (4) the act of making the statement or signing the record is not prohibited by the foreign
 9.14 state, as defined in section 358.64, subdivision 1, in which the individual is located.

9.15 (b) If a notarial act relates to a statement made in or a signature executed on a record by
 9.16 an individual located outside the United States, the individual may comply with section
 9.17 358.56 by appearing before the notary public by means of communication technology.

9.18 Subd. 3. **Evidence of identity.** In addition to the methods permitted by section 358.57,
 9.19 subdivision 1, for identification of an individual, a notary public has satisfactory evidence
 9.20 of the identity of an individual appearing before the notary public by means of communication
 9.21 technology if the notary public reasonably can identify the individual by means of identity
 9.22 proofing.

9.23 Subd. 4. **Refusal to perform notarial act.** In addition to the authority of a notary public
 9.24 under section 358.58 to refuse to perform a notarial act, a notary public may refuse to
 9.25 perform a notarial act under this section if the notary public is not satisfied that the individual
 9.26 is located outside the United States.

9.27 Subd. 5. **Certificate of notarial act.** If a notarial act involves a statement made in or a
 9.28 signature executed on a record by an individual by means of communication technology,
 9.29 the certificate of notarial act required by section 358.65 must indicate that the individual
 9.30 making the statement or signing the record declared to the notary public that the individual
 9.31 was located outside the United States at the time the notarial act was performed.

10.1 Subd. 6. Record keeping. If a notarial act involves the use of communication technology,
10.2 the notary public shall retain a video and audio copy of the performance of the notarial act.

10.3 Subd. 7. Short-form certificate. The following short-form certificates of notarial acts
10.4 performed with regard to an individual located outside the United States are sufficient for
10.5 the purposes indicated, if completed with the information required by subdivision 5 and
10.6 section 358.65, subdivisions 1 and 2:

10.7 (1) For a verification on oath or affirmation by an individual located outside the United
10.8 States:

10.9 State of

10.10 [County] of

10.11 Signed and sworn to (or affirmed) before me by use of communication technology on

10.12 by, who declared that (he)(she)(they) (is)(are) located

10.13 Date (Name(s) of Individual(s))

10.14 in and that this record is to be filed with or relates to a matter before a court,
10.15 governmental entity, public official, or other entity located in the territorial jurisdiction of
10.16 the United States, or involves property located in the territorial jurisdiction of, or a
10.17 transaction substantially connected with, the United States.

10.18

10.19 Signature of notary public

10.20

10.21 (Place stamp here)

10.22 [.....]

10.23 Title of office

10.24 [My commission expires:]]

10.25 (2) For an acknowledgment in an individual capacity by an individual located outside
10.26 the United States:

10.27 State of

10.28 [County] of

10.29 This record was acknowledged before me by use of communication technology on

10.30 by, who declared that (he)(she)(they) (is)(are) located

10.31 Date (Name(s) of Individual(s))

10.32 in and that this record is to be filed with or relates to a matter before a court,
10.33 governmental entity, public official, or other entity located in the territorial jurisdiction of
10.34 the United States, or involves property located in the territorial jurisdiction of, or a
10.35 transaction substantially connected with, the United States.

10.36

10.37 Signature of notary public

11.1

11.2 (Place stamp here)

11.3 [.....]

11.4 Title of office

11.5 [My commission expires:]

11.6 (3) For an acknowledgment in a representative capacity by an individual located outside
11.7 the United States:

11.8 State of

11.9 [County] of.....

11.10 This record was acknowledged before me by use of communication technology on
11.11 by, as type of authority, such as officer or trustee) of (name
11.12 Date (Name(s) of Individual(s))
11.13 of party on behalf of whom record was executed), who declared that (he)(she)(they) (is)(are)
11.14 located in and that this record is to be filed with or relates to a matter before a
11.15 court, governmental entity, public official, or other entity located in the territorial jurisdiction
11.16 of the United States, or involves property located in the territorial jurisdiction of, or a
11.17 transaction substantially connected with, the United States.

11.18

11.19 Signature of notary public

11.20

11.21 (Place stamp here)

11.22 [.....]

11.23 Title of office

11.24 [My commission expires:]

11.25 (4) For witnessing or attesting a signature by an individual located outside the United
11.26 States:

11.27 State of

11.28 [County] of.....

11.29 Signed [or attested] before me by use of communication technology on
11.30 by, who declared that (he)(she)(they) (is)(are) located
11.31 Date (Name(s) of Individual(s))
11.32 in and that this record is to be filed with or relates to a matter before a court,
11.33 governmental entity, public official, or other entity located in the territorial jurisdiction of
11.34 the United States, or involves property located in the territorial jurisdiction of, or a
11.35 transaction substantially connected with, the United States.

11.36

11.37 Signature of notary public

11.38

12.1 (Place stamp here)
 12.2 [.....]
 12.3 Title of office
 12.4 [My commission expires:]

12.5 Subd. 8. **Required notification of notary.** Before a notary public performs the notary
 12.6 public's initial notarial act under this section, the notary public must notify the commissioning
 12.7 officer or agency that the notary public will be performing notarial acts by communication
 12.8 technology and identify the communication technology and any provider of third-person
 12.9 identity verification on whom the notary public intends to rely on for identity proofing. If
 12.10 the commissioning officer or agency has established standards for approval of communication
 12.11 technology under subdivision 9 and section 358.77, the communication technology must
 12.12 conform to the standards. If the communication technology conforms to the standards, the
 12.13 commissioning officer or agency shall approve the use of the communication technology.

12.14 Subd. 9. **Rulemaking.** The commissioning office or agency may adopt rules regarding
 12.15 performance of a notarial act with respect to an individual located outside the United States.
 12.16 The rules may:

12.17 (1) prescribe the means of performing a notarial act involving communication technology
 12.18 to communicate with an individual located outside the United States;

12.19 (2) establish standards for the approval of communication technology;

12.20 (3) approve providers of third-person identity verification and the process of identity
 12.21 proofing; and

12.22 (4) establish standards for the retention of a video and audio copy of the performance
 12.23 of a notarial act under this chapter.

12.24 **Sec. 16. [358.65] CERTIFICATE OF NOTARIAL ACT.**

12.25 Subdivision 1. **Required.** A notarial act must be evidenced by a certificate. The certificate
 12.26 must:

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

12.28 (2) be signed and dated by the notarial officer and, if the notarial officer is a notary
 12.29 public, be signed in the same manner as on file with the commissioning officer or agency;

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

12.31 (4) contain the title of office of the notarial officer; and

13.1 (5) if the officer is a notary public, indicate the date of expiration, if any, of the officer's
13.2 commission.

13.3 Subd. 2. **Official stamp.** If a notarial act regarding a tangible record is performed by a
13.4 notary public, an official stamp must be affixed to or embossed on the certificate. If a notarial
13.5 act is performed regarding a tangible record by a notarial officer other than a notary public
13.6 and the certificate contains the information specified in subdivision 1, clauses (2), (3), and
13.7 (4), an official stamp may be affixed to or embossed on the certificate. If the notarial act
13.8 regarding an electronic record is performed by a notarial officer and the certificate contains
13.9 the information specified in subdivision 1, clauses (2), (3), and (4), an official stamp may
13.10 be attached to or logically associated with the certificate.

13.11 Subd. 3. **Sufficiency.** A certificate of a notarial act is sufficient if it meets the requirements
13.12 of subdivisions 1 and 2 and:

13.13 (1) is in a short form set forth in section 358.66;

13.14 (2) is in a form otherwise permitted by the law of this state;

13.15 (3) is in a form permitted by the law applicable in the jurisdiction in which the notarial
13.16 act was performed; or

13.17 (4) sets forth the actions of the notarial officer and the actions are sufficient to meet the
13.18 requirements of the notarial act as provided in sections 358.55, 358.56, and 358.57 or law
13.19 of this state other than sections 358.51 to 358.80.

13.20 Subd. 4. **Effect.** By executing a certificate of a notarial act, a notarial officer certifies
13.21 that the officer has complied with the requirements and made the determinations specified
13.22 in sections 358.54, 358.55, and 358.56.

13.23 Subd. 5. **When signature is affixed.** A notarial officer may not affix the officer's
13.24 signature to, or logically associate it with, a certificate until the notarial act has been
13.25 performed.

13.26 Subd. 6. **Records.** If a notarial act is performed regarding a tangible record, a certificate
13.27 must be part of, or securely attached to, the record. If a notarial act is performed regarding
13.28 an electronic record, the certificate must be affixed to, or logically associated with, the
13.29 electronic record. If the commissioning officer or agency has established standards pursuant
13.30 to section 358.77 for attaching, affixing, or logically associating the certificate, the process
13.31 must conform to the standards.

14.1 **Sec. 17. [358.66] SHORT FORM CERTIFICATES.**

14.2 The following short form certificates of notarial acts are sufficient for the purposes
14.3 indicated, if completed with the information required by section 358.65, subdivisions 1 and
14.4 2:

14.5 (1) For an acknowledgment in an individual capacity;

14.6 State of

14.7 County of

14.8 This instrument was acknowledged before me on(date) by(name(s))
14.9 of individual(s)).

14.10

14.11 (Signature of notarial officer)

14.12 (Stamp)

14.13

14.14 Title (and Rank)

14.15 My commission expires:

14.16 (2) For an acknowledgment in a representative capacity:

14.17 State of

14.18 County of

14.19 This instrument was acknowledged before me on(date) by(name(s))
14.20 of individual(s)) as(type of authority, e.g., officer, trustee, etc.)
14.21 of(name of party on behalf of whom the instrument was
14.22 executed).

14.23

14.24 (Signature of notarial officer)

14.25 (Stamp)

14.26

14.27 Title (and Rank)

14.28 My commission expires:

14.29 (3) For a verification upon oath or affirmation:

14.30 State of

14.31 County of

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

14.34

15.1 (Signature of notarial officer)
 15.2 (Stamp)
 15.3
 15.4 Title (and Rank)
 15.5 My commission expires:

15.6 (4) For witnessing or attesting a signature:
 15.7 State of
 15.8 County of

15.9 Signed or attested before me on(date) by(name(s) of individual(s)).
 15.10

15.11 (Signature of notarial officer)
 15.12 (Stamp)
 15.13
 15.14 Title (and Rank)
 15.15 My commission expires:

15.16 (5) For attestation of a copy of a document:
 15.17 State of
 15.18 County of

15.19 I certify that this is a true and correct copy of a document in the possession of

15.20 :

15.21 Dated:
 15.22

15.23 (Signature of notarial officer)
 15.24 (Stamp)
 15.25
 15.26 Title (and Rank)
 15.27 My commission expires:

15.28 **Sec. 18. [358.67] OFFICIAL STAMP.**

15.29 The official stamp of a notary public must:

15.30 (1) include the notary public's name, jurisdiction, commission expiration date, and other
 15.31 information required by the commissioning officer or agency; and

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

16.1 Sec. 19. **[358.68] STAMPING DEVICE.**

16.2 Subdivision 1. **Security.** A notary public is responsible for the security of the notary
16.3 public's stamping device and may not allow another individual to use the device to perform
16.4 a notarial act. On resignation from, or the revocation or expiration of, the notary public's
16.5 commission, or on the expiration of the date set forth in the stamping device, if any, the
16.6 notary public shall disable the stamping device by destroying, defacing, damaging, erasing,
16.7 or securing it against use in a manner that renders it unusable. On the death or adjudication
16.8 of incompetency of a notary public, the notary public's personal representative or guardian
16.9 or any other person knowingly in possession of the stamping device shall render it unusable
16.10 by destroying, defacing, damaging, erasing, or securing it against use in a manner that
16.11 renders it unusable.

16.12 Subd. 2. **Notification if lost or stolen.** If a notary public's stamping device is lost or
16.13 stolen, the notary public or the notary public's personal representative or guardian shall
16.14 notify promptly the commissioning officer or agency on discovering that the device is lost
16.15 or stolen.

16.16 Sec. 20. **[358.69] JOURNAL.**

16.17 Subdivision 1. **Requirements.** A notary public other than an individual licensed to
16.18 practice law in this state shall maintain a journal in which the notary public chronicles all
16.19 notarial acts that the notary public performs. The notary public shall retain the journal for
16.20 ten years after the performance of the last notarial act chronicled in the journal.

16.21 Subd. 2. **Form.** A journal may be created on a tangible medium or in an electronic
16.22 format. A notary public shall maintain only one journal at a time to chronicle all notarial
16.23 acts, whether those notarial acts are performed regarding tangible or electronic records. If
16.24 the journal is maintained on a tangible medium, it must be a permanent, bound register with
16.25 numbered pages. If the journal is maintained in an electronic format, it must be in a
16.26 permanent, tamper-evident electronic format complying with the rules of the commissioning
16.27 officer or agency.

16.28 Subd. 3. **Entries.** An entry in a journal must be made contemporaneously with the
16.29 performance of the notarial act and contain the following information:

16.30 (1) the date and time of the notarial act;

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

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

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

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

17.5 (6) the fee, if any, charged by the notary public.

17.6 Subd. 4. **Notification if lost or stolen.** If a notary public's journal is lost or stolen, the
 17.7 notary public promptly shall notify the commissioning officer or agency on discovering
 17.8 that the journal is lost or stolen.

17.9 Subd. 5. **Retention after resignation, revocation, or suspension.** On resignation from,
 17.10 or the revocation or suspension of, a notary public's commission, the notary public shall
 17.11 retain the notary public's journal in accordance with subdivision 1 and inform the
 17.12 commissioning officer or agency where the journal is located.

17.13 Subd. 6. **Alternative to retention.** Instead of personally retaining a journal as provided
 17.14 in subdivisions 1 and 5, a current or former notary public may transmit the journal to the
 17.15 commissioning officer or agency, the official archivist of this state, or a repository approved
 17.16 by the commissioning officer or agency.

17.17 Subd. 7. **Death or adjudication of incompetency.** On the death or adjudication of
 17.18 incompetency of a current or former notary public, the notary public's personal representative
 17.19 or guardian or any other person knowingly in possession of the journal shall transmit it to
 17.20 the commissioning officer or agency, the official archivist of this state, or a repository
 17.21 approved by the commissioning officer or agency.

17.22 Sec. 21. **[358.70] PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC**
 17.23 **RECORD.**

17.24 Subdivision 1. **Selection of technology.** A notary public may select one or more
 17.25 tamper-evident technologies to perform notarial acts with respect to electronic records. A
 17.26 person may not require a notary public to perform a notarial act with respect to an electronic
 17.27 record with a technology that the notary public has not selected.

17.28 Subd. 2. **Notification.** Before a notary public performs the notary public's initial notarial
 17.29 act with respect to an electronic record, a notary public shall notify the commissioning
 17.30 officer or agency that the notary public will be performing notarial acts with respect to
 17.31 electronic records and identify the technology the notary public intends to use. If the
 17.32 commissioning officer or agency has established standards for approval of technology

18.1 pursuant to section 358.77, the technology must conform to the standards. If the technology
 18.2 conforms to the standards, the commissioning officer or agency shall approve the use of
 18.3 the technology.

18.4 Sec. 22. [358.71] COMMISSION AS NOTARY PUBLIC.

18.5 Subdivision 1. **Application.** An individual qualified under subdivision 2 may apply to
 18.6 the commissioning officer or agency for a commission as a notary public. The applicant
 18.7 shall comply with and provide the information required by rules established by the
 18.8 commissioning officer or agency and pay any application fee.

18.9 Subd. 2. **Qualifications.** An applicant for a commission as a notary public must:

18.10 (1) be at least 18 years of age;

18.11 (2) be a citizen or permanent legal resident of the United States;

18.12 (3) be a resident of or have a place of employment or practice in this state;

18.13 (4) be able to read and write English;

18.14 (5) not be disqualified to receive a commission under section 358.73; and

18.15 (6) have passed the examination required under section 358.72, subdivision 1.

18.16 Subd. 3. **Oath of office.** Before issuance of a commission as a notary public, an applicant
 18.17 for the commission shall execute an oath of office and submit it to the commissioning officer
 18.18 or agency.

18.19 Subd. 4. **Surety bond.** Not more than 30 days after issuance of a commission as a notary
 18.20 public, the notary public shall submit to the commissioning officer or agency an assurance
 18.21 in the form of a surety bond or its functional equivalent in the amount of \$..... The assurance
 18.22 must be issued by a surety or other entity licensed or authorized to do business in this state.
 18.23 The assurance must cover acts performed during the term of the notary public's commission
 18.24 and must be in the form prescribed by the commissioning officer or agency. If a notary
 18.25 public violates law with respect to notaries public in this state, the surety or issuing entity
 18.26 is liable under the assurance. The surety or issuing entity shall give 30 days' notice to the
 18.27 commissioning officer or agency before canceling the assurance. The surety or issuing entity
 18.28 shall notify the commissioning officer or agency not later than 30 days after making a
 18.29 payment to a claimant under the assurance. A notary public may perform notarial acts in
 18.30 this state only during the period that a valid assurance is on file with the commissioning
 18.31 officer or agency.

19.1 Subd. 5. **Term of commission.** Upon compliance with this section, the commissioning
 19.2 officer or agency shall issue a commission as a notary public to an applicant for a term of
 19.3 ... years.

19.4 Subd. 6. **No immunity or benefit.** A commission to act as a notary public authorizes
 19.5 the notary public to perform notarial acts. The commission does not provide the notary
 19.6 public any immunity or benefit conferred by law of this state on public officials or employees.

19.7 **Sec. 23. [358.72] EXAMINATION OF NOTARY PUBLIC.**

19.8 Subdivision 1. **Requirements.** An applicant for a commission as a notary public who
 19.9 does not hold a commission in this state must pass an examination administered by the
 19.10 commissioning officer or agency or an entity approved by the commissioning officer or
 19.11 agency. The examination must be based on the course of study described in subdivision 2.

19.12 Subd. 2. **Course of study.** The commissioning officer or agency or an entity approved
 19.13 by the commissioning officer or agency shall offer regularly a course of study to applicants
 19.14 who do not hold commissions as notaries public in this state. The course must cover the
 19.15 laws, rules, procedures, and ethics relevant to notarial acts.

19.16 **Sec. 24. [358.73] GROUNDS TO DENY, REFUSE TO RENEW, REVOKE,**
 19.17 **SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC.**

19.18 Subdivision 1. **Generally.** The commissioning officer or agency may deny, refuse to
 19.19 renew, revoke, suspend, or impose a condition on a notary public for any act or omission
 19.20 that demonstrates an individual lacks the honesty, integrity, competence, or reliability to
 19.21 act as a notary public, including:

19.22 (1) failure to comply with sections 358.51 to 358.80;

19.23 (2) fraudulent, dishonest, or deceitful misstatement or omission in the application for a
 19.24 commission as a notary public submitted to the commissioning officer or agency;

19.25 (3) a conviction of the applicant or notary public of any felony or a crime involving
 19.26 fraud, dishonesty, or deceit;

19.27 (4) a finding against, or admission of liability by, the applicant or notary public in any
 19.28 legal proceeding or disciplinary action based on the applicant's or notary public's fraud,
 19.29 dishonesty, or deceit;

20.1 (5) failure by the notary public to discharge any duty required of a notarial officer,
 20.2 whether by sections 358.51 to 358.80, rules of the commissioning officer or agency, or any
 20.3 federal or state law;

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

20.6 (7) violation by the notary public of a rule of the commissioning officer or agency
 20.7 regarding a notary public;

20.8 (8) denial, refusal to renew, revocation, suspension, or conditioning of a notary public
 20.9 commission in another state; or

20.10 (9) failure of the notary public to maintain an assurance as provided in section 358.71,
 20.11 subdivision 4.

20.12 Subd. 2. **Notice and hearing.** If the commissioning officer or agency denies, refuses to
 20.13 renew, revokes, suspends, or imposes conditions on a commission as a notary public, the
 20.14 applicant or notary public is entitled to timely notice and hearing in accordance with chapter
 20.15 14.

20.16 Subd. 3. **Other remedies.** The authority of the commissioning officer or agency to deny,
 20.17 refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public
 20.18 does not prevent a person from seeking and obtaining other criminal or civil remedies
 20.19 provided by law.

20.20 Sec. 25. **[358.74] DATABASE OF NOTARIES PUBLIC.**

20.21 The commissioning officer or agency shall maintain an electronic database of notaries
 20.22 public:

20.23 (1) through which a person may verify the authority of a notary public to perform notarial
 20.24 acts; and

20.25 (2) which indicates whether a notary public has notified the commissioning officer or
 20.26 agency that the notary public will be performing notarial acts on electronic records.

20.27 Sec. 26. **[358.75] PROHIBITED ACTS.**

20.28 Subdivision 1. **Generally.** A commission as a notary public does not authorize an
 20.29 individual to:

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

21.1 (2) act as an immigration consultant or an expert on immigration matters;

21.2 (3) represent a person in a judicial or administrative proceeding relating to immigration
 21.3 to the United States, United States citizenship, or related matters; or

21.4 (4) receive compensation for performing any of the activities listed in this subdivision.

21.5 Subd. 2. **False or deceptive advertising.** A notary public may not engage in false or
 21.6 deceptive advertising.

21.7 Subd. 3. **Terms.** A notary public, other than an attorney licensed to practice law in this
 21.8 state, may not use the term "notario" or "notario publico."

21.9 Subd. 4. **Unauthorized practice of law.** A notary public, other than an attorney licensed
 21.10 to practice law in this state, may not advertise or represent that the notary public may assist
 21.11 persons in drafting legal records, give legal advice, or otherwise practice law. If a notary
 21.12 public who is not an attorney licensed to practice law in this state in any manner advertises
 21.13 or represents that the notary public offers notarial services, whether orally or in a record,
 21.14 including broadcast media, print media, and the Internet, the notary public shall include the
 21.15 following statement, or an alternate statement authorized or required by the commissioning
 21.16 officer or agency, in the advertisement or representation, prominently and in each language
 21.17 used in the advertisement or representation: "I am not an attorney licensed to practice law
 21.18 in this state. I am not allowed to draft legal records, give advice on legal matters, including
 21.19 immigration, or charge a fee for those activities." If the form of advertisement or
 21.20 representation is not broadcast media, print media, or the Internet, and does not permit the
 21.21 inclusion of the statement required by this subdivision because of size, it must be prominently
 21.22 displayed or provided at the place of performance of the notarial act before the notarial act
 21.23 is performed.

21.24 Subd. 5. **Withholding access to, or possession of, an original record.** Except as
 21.25 otherwise allowed by law, a notary public may not withhold access to or possession of an
 21.26 original record provided by a person that seeks performance of a notarial act by the notary
 21.27 public.

21.28 Sec. 27. **[358.76] VALIDITY OF NOTARIAL ACTS.**

21.29 Except as otherwise provided in section 358.54, subdivision 2, the failure of a notarial
 21.30 officer to perform a duty or meet a requirement specified in sections 358.51 to 358.80 does
 21.31 not invalidate a notarial act performed by the notarial officer. The validity of a notarial act
 21.32 under sections 358.51 to 358.80 does not prevent an aggrieved person from seeking to
 21.33 invalidate the record or transaction that is the subject the notarial act or from seeking other

22.1 remedies based on law of this state other than sections 358.51 to 358.80 or law of the United
22.2 States. This section does not validate a purported notarial act performed by an individual
22.3 who does not have the authority to perform notarial acts.

22.4 Sec. 28. [358.77] RULES.

22.5 Subdivision 1. Authority to adopt. The commissioning officer or agency may adopt
22.6 rules to implement sections 358.51 to 358.80. Rules adopted regarding the performance of
22.7 notarial acts with respect to electronic records may not require, or accord greater legal status
22.8 or effect to, the implementation or application of a specific technology or technical
22.9 specification. The rules may:

22.10 (1) prescribe the manner of performing notarial acts regarding tangible and electronic
22.11 records;

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

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

22.16 (4) prescribe the process of granting, renewing, conditioning, denying, suspending, or
22.17 revoking a notary public commission and assuring the trustworthiness of an individual
22.18 holding a commission as notary public;

22.19 (5) include provisions to prevent fraud or mistake in the performance of notarial acts;

22.20 (6) establish the process for approving and accepting surety bonds and other forms of
22.21 assurance under section 358.71, subdivision 4; and

22.22 (7) provide for the administration of the examination under section 358.72, subdivision
22.23 1, and the course of study under section 358.72, subdivision 2.

22.24 Subd. 2. Electronic records rules. In adopting, amending, or repealing rules about
22.25 notarial acts with respect to electronic records, the commissioning officer or agency shall
22.26 consider, so far as is consistent with sections 358.51 to 358.80:

22.27 (1) the most recent standards regarding electronic records promulgated by national
22.28 bodies, such as the National Association of Secretaries of State;

22.29 (2) standards, practices, and customs of other jurisdictions that substantially enact sections
22.30 358.51 to 358.80; and

22.31 (3) the views of governmental officials and entities and other interested persons.

23.1 Sec. 29. **[358.78] NOTARY PUBLIC COMMISSION IN EFFECT.**

23.2 A commission as a notary public in effect on the effective date of sections 358.51 to
 23.3 358.80 continues until its date of expiration. A notary public who applies to renew a
 23.4 commission as a notary public on or after the effective date of sections 358.51 to 358.80 is
 23.5 subject to and shall comply with sections 358.51 to 358.80. A notary public, in performing
 23.6 notarial acts after the effective date of sections 358.51 to 358.80, shall comply with sections
 23.7 358.51 to 358.80.

23.8 Sec. 30. **[358.79] SAVINGS CLAUSE.**

23.9 Sections 358.51 to 358.80 do not affect the validity or effect of a notarial act performed
 23.10 before the effective date of sections 358.51 to 358.80.

23.11 Sec. 31. **[358.80] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
 23.12 **NATIONAL COMMERCE ACT.**

23.13 Sections 358.51 to 358.80 modify, limit, and supersede the Electronic Signatures in
 23.14 Global and National Commerce Act, United States Code, title 15, section 7001, et seq., but
 23.15 do not modify, limit, or supersede section 101(c) of that act, United States Code, title 15,
 23.16 section 7001(c), or authorize electronic delivery of any of the notices described in section
 23.17 103(b) of that act, United States Code, title 15, section 7003(b).

23.18 Sec. 32. **REPEALER.**

23.19 Minnesota Statutes 2016, sections 358.41; 358.42; 358.43; 358.44; 358.45; 358.46;
 23.20 358.47; 358.48; and 358.49, are repealed.

23.21 Sec. 33. **EFFECTIVE DATE.**

23.22 This act is effective August, 1, 2018.

23.23 **ARTICLE 2**

23.24 **CONFORMING CHANGES**

23.25 Section 1. Minnesota Statutes 2016, section 5.15, is amended to read:

23.26 **5.15 ONLINE SIGNATURES, ACKNOWLEDGMENT OR NOTARIZATION**
 23.27 **ON DOCUMENTS; PENALTIES OF PERJURY.**

23.28 (a) No document submitted to the Office of the Secretary of State shall be required to
 23.29 be notarized. Signing a document submitted to the secretary of state constitutes

24.1 "acknowledgment" as defined in section ~~358.41, clause (2)~~ 358.52, subdivision 2, and
 24.2 "verification upon oath or affirmation" as defined in section ~~358.41, clause (3)~~ 358.52,
 24.3 subdivision 3. A person who signs a document submitted to the secretary of state without
 24.4 authority to sign that document or who signs the document knowing that the document is
 24.5 false in any material respect is subject to the penalties of perjury set forth in section 609.48.

24.6 (b) Any document submitted to the Office of the Secretary of State online may be signed
 24.7 by any person as agent of any person whose signature is required by law. The signing party
 24.8 must indicate on the application that the person is acting as the agent of the person whose
 24.9 signature would be required and that the person has been authorized to sign on behalf of
 24.10 the applicant. The name of the person signing, entered on the online application, constitutes
 24.11 a valid signature by such an agent.

24.12 (c) Any document relating to a filing by a business entity or assumed name, or the filing
 24.13 of a document under chapter 270C, 272, 336, or 336A, submitted to the Office of the
 24.14 Secretary of State on paper may be signed by any person as agent of any person whose
 24.15 signature is required by law. The signing party must indicate on the document that it is
 24.16 acting as the agent of the person whose signature would be required and that it has been
 24.17 authorized to sign on behalf of that person.

24.18 Sec. 2. Minnesota Statutes 2016, section 325K.23, subdivision 1, is amended to read:

24.19 Subdivision 1. **Certificates.** Unless otherwise provided by law or contract, a certificate
 24.20 issued by a licensed certification authority satisfies the requirement for an acknowledgment
 24.21 pursuant to section ~~358.41~~ 358.52 of a digital signature verified by reference to the public
 24.22 key listed in the certificate, regardless of whether words of an express acknowledgment
 24.23 appear with the digital signature and regardless of whether the signer physically appeared
 24.24 before the certification authority when the digital signature was created, if that digital
 24.25 signature is:

- 24.26 (1) verifiable by that certificate; and
 24.27 (2) affixed when that certificate was valid.

24.28 Sec. 3. Minnesota Statutes 2016, section 358.116, is amended to read:

24.29 **358.116 COURT DOCUMENTS.**

24.30 Unless specifically required by court rule, a pleading, motion, affidavit, or other document
 24.31 filed with a court of the Minnesota judicial branch is not required to be notarized. Signing
 24.32 a document filed with the court constitutes "verification upon oath or affirmation" as defined

25.1 in section ~~358.41, clause (3)~~ 358.52, without administration of an oath under section 358.07,
 25.2 provided that the signature, as defined by court rules, is affixed immediately below a
 25.3 declaration using substantially the following language: "I declare under penalty of perjury
 25.4 that everything I have stated in this document is true and correct." In addition to the signature,
 25.5 the date of signing and the county and state where the document was signed shall be noted
 25.6 on the document. A person who signs knowing that the document is false in any material
 25.7 respect is guilty of perjury under section 609.48, even if the date, county, and state of signing
 25.8 are omitted from the document.

25.9 Sec. 4. Minnesota Statutes 2016, section 358.50, is amended to read:

25.10 **358.50 EFFECT OF ACKNOWLEDGMENT.**

25.11 An acknowledgment made in a representative capacity as defined in section ~~358.41,~~
 25.12 ~~clause (4)~~ 358.52, subdivision 5, and certified substantially in the form prescribed in this
 25.13 chapter is prima facie evidence that the instrument or electronic record was executed and
 25.14 delivered with proper authority and as the act of the person or entity represented and
 25.15 identified in the instrument or electronic record.

25.16 Sec. 5. Minnesota Statutes 2016, section 359.01, subdivision 5, is amended to read:

25.17 Subd. 5. **Registration to perform electronic notarizations.** Before performing electronic
 25.18 notarial acts, a notary public shall register the capability to notarize electronically with the
 25.19 secretary of state. Before performing electronic notarial acts after recommissioning, a notary
 25.20 public shall reregister with the secretary of state. The requirements of this chapter relating
 25.21 to electronic notarial acts do not apply to notarial acts performed under sections 358.15,
 25.22 paragraph (a), clause (4), and ~~358.43, paragraph (a), clause (2)~~ 358.60, subdivision 1, clause
 25.23 (2).

25.24 Sec. 6. Minnesota Statutes 2016, section 507.24, subdivision 2, is amended to read:

25.25 Subd. 2. **Original signatures required.** (a) Unless otherwise provided by law, an
 25.26 instrument affecting real estate that is to be recorded as provided in this section or other
 25.27 applicable law must contain the original signatures of the parties who execute it and of the
 25.28 notary public or other officer taking an acknowledgment. However, a financing statement
 25.29 that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the
 25.30 signatures of the debtor or the secured party; or (2) an acknowledgment. An instrument
 25.31 acknowledged in a representative capacity as defined in section ~~358.41~~ 358.52 on behalf
 25.32 of a corporation, partnership, limited liability company, or trust that is otherwise entitled

26.1 to be recorded shall be recorded if the acknowledgment made in a representative capacity
 26.2 is substantially in the form prescribed in chapter 358, without further inquiry into the
 26.3 authority of the person making the acknowledgment.

26.4 (b) Any electronic instruments, including signatures and seals, affecting real estate may
 26.5 only be recorded in conformance with standards implemented by the Electronic Real Estate
 26.6 Recording Commission created under the Minnesota Real Property Electronic Recording
 26.7 Act, sections 507.0941 to 507.0948. The Electronic Real Estate Recording Commission
 26.8 created under the Minnesota Real Property Electronic Recording Act may adopt or amend
 26.9 standards set by the task force created in Laws 2000, chapter 391, and the Electronic Real
 26.10 Estate Recording Task Force created under Laws 2005, chapter 156, article 2, section 41,
 26.11 and may set new or additional standards to the full extent permitted in section 507.0945.
 26.12 Documents recorded in conformity with the standards created as part of a pilot project for
 26.13 the electronic filing of real estate documents implemented by the task force created in Laws
 26.14 2000, chapter 391, or by the Electronic Real Estate Recording Task Force created under
 26.15 Laws 2005, chapter 156, article 2, section 41, are deemed to meet the requirements of this
 26.16 section.

26.17 (c) Notices filed pursuant to section 168A.141, subdivisions 1 and 3, need not contain
 26.18 an acknowledgment.

26.19 Sec. 7. Minnesota Statutes 2016, section 508.48, is amended to read:

26.20 **508.48 INSTRUMENTS AFFECTING TITLE FILED WITH REGISTRAR;**
 26.21 **NOTICE.**

26.22 (a) Every conveyance, lien, attachment, order, decree, or judgment, or other instrument
 26.23 or proceeding, which would affect the title to unregistered land under existing laws, if
 26.24 recorded, or filed with the county recorder, shall, in like manner, affect the title to registered
 26.25 land if filed and registered with the registrar in the county where the real estate is situated,
 26.26 and shall be notice to all persons from the time of such registering or filing of the interests
 26.27 therein created. Neither the reference in a registered instrument to an unregistered instrument
 26.28 or interest nor the joinder in a registered instrument by a party or parties with no registered
 26.29 interest shall constitute notice, either actual or constructive, of an unregistered interest.

26.30 (b) An instrument acknowledged in a representative capacity as defined in section ~~358.41~~
 26.31 358.52 on behalf of a corporation, partnership, limited liability company, or trust that is
 26.32 otherwise entitled to be recorded shall be recorded if the acknowledgment made in a
 26.33 representative capacity is substantially in the form prescribed in chapter 358, without further
 26.34 inquiry into the authority of the person making the acknowledgment.

27.1 Sec. 8. Minnesota Statutes 2016, section 508A.48, is amended to read:

27.2 **508A.48 FILED INSTRUMENT AFFECTING TITLE IS NOTICE.**

27.3 (a) Every conveyance, lien, attachment, order, decree, or judgment, or other instrument
27.4 or proceeding, which would affect the title to unregistered land under existing laws, if
27.5 recorded, or filed with the county recorder, shall, in like manner, affect the title to land
27.6 registered under sections 508A.01 to 508A.85 if filed and registered with the registrar in
27.7 the county where the real estate is situated, and shall be notice to all persons from the time
27.8 of the registering or filing of the interests therein created. Neither the reference in a registered
27.9 instrument to an unregistered instrument or interest nor the joinder in a registered instrument
27.10 by a party or parties with no registered interest shall constitute notice, either actual or
27.11 constructive, of an unregistered interest.

27.12 (b) An instrument acknowledged in a representative capacity as defined in section ~~358.41~~
27.13 358.52 on behalf of a corporation, partnership, limited liability company, or trust that is
27.14 otherwise entitled to be recorded shall be recorded if the acknowledgment made in a
27.15 representative capacity is substantially in the form prescribed in chapter 358, without further
27.16 inquiry into the authority of the person making the acknowledgment.

APPENDIX
Article locations in 17-0305

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358.41 DEFINITIONS.

As used in sections 358.41 to 358.49:

(1) "Notarial act" means any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument. A notary public may perform a notarial act by electronic means.

(2) "Acknowledgment" means a declaration by a person that the person has executed an instrument or electronic record for the purposes stated therein and, if the instrument or electronic record is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.

(3) "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

(4) "In a representative capacity" means:

(i) for and on behalf of a corporation, partnership, limited liability company, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(ii) as a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(iii) as an attorney in fact for a principal; or

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

(5) "Notarial officer" means a notary public or other officer authorized to perform notarial acts.

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

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

358.42 NOTARIAL ACTS.

(a) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument or electronic record.

(b) In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is made in the presence of the officer on the statement verified.

(c) In witnessing or attesting a signature the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein. When witnessing or attesting a signature, the officer must be present when the signature is made.

(d) In certifying or attesting a copy of a document, electronic record, or other item, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(e) In making or noting a protest of a negotiable instrument or electronic record the notarial officer must determine the matters set forth in section 336.3-505.

(f) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document or electronic record if that person (i) is personally known to the notarial officer, (ii) is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or (iii) is identified on the basis of identification documents.

358.43 NOTARIAL ACTS IN THIS STATE.

(a) A notarial act may be performed within this state by the following persons:

(1) a notary public of this state,

(2) a judge, court administrator, or deputy court administrator of any court of this state,

(3) a person authorized by the law of this state to administer oaths, or

(4) any other person authorized to perform the specific act by the law of this state.

(b) Notarial acts performed within this state under federal authority as provided in section 358.45 have the same effect as if performed by a notarial officer of this state.

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(c) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

358.44 NOTARIAL ACTS IN OTHER JURISDICTIONS OF THE UNITED STATES.

(a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

- (1) a notary public of that jurisdiction;
- (2) a judge, clerk, or deputy clerk of a court of that jurisdiction; or
- (3) any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in section 358.45 have the same effect as if performed by a notarial officer of this state.

(c) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(d) The signature and indicated title of an officer listed in subsection (a)(1) or (a)(2) conclusively establish the authority of a holder of that title to perform a notarial act.

358.45 NOTARIAL ACTS UNDER FEDERAL AUTHORITY.

(a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by the law of the United States:

- (1) a judge, clerk, or deputy clerk of a court;
- (2) a commissioned officer on active duty in the military service of the United States;
- (3) an officer of the foreign service or consular officer of the United States; or
- (4) any other person authorized by federal law to perform notarial acts.

(b) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(c) The signature and indicated title of an officer listed in subsection (a)(1), (a)(2), or (a)(3) conclusively establish the authority of a holder of that title to perform a notarial act.

358.46 FOREIGN NOTARIAL ACTS.

(a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

- (1) a notary public or notary;
- (2) a judge, clerk, or deputy clerk of a court of record; or
- (3) any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) An "Apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(c) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

(d) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

(e) An official stamp or seal of an officer listed in subsection (a)(1) or (a)(2) is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

(f) If the title of office and indication of authority to perform notarial acts appears either 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.

358.47 CERTIFICATE OF NOTARIAL ACTS.

(a) A notarial act must be evidenced by a certificate physically or electronically signed and dated by a notarial officer in a manner that attributes such signature to the notary public. The notary's name as it appears on the official notarial stamp and on any jurat or certificate of

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acknowledgment and in the notary's commission must be identical. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and must include the official notarial stamp, pursuant to section 359.03, except: (1) a plat as described in section 505.021; (2) a registered land survey as described in section 508.47 or 508A.47; or (3) a CIC plat or a supplemental CIC plat as described in chapter 515B shall be recorded regardless of whether a notary stamp was used or was illegible if used, if a certificate of notarial act that includes the jurisdiction of the notarial act, the name and title of the notarial officer, and the date the notary commission expires is printed in pen and ink or typewritten on the plat, the registered land survey, or the CIC plat or supplemental CIC plat. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it is in English and meets the requirements of subsection (a) and it:

- (1) is in the short form set forth in section 358.48;
- (2) is in a form otherwise prescribed by the law of this state;
- (3) is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(4) sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by section 358.42.

358.48 SHORT FORMS.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 358.47, subsection (a):

- (1) For an acknowledgment in an individual capacity:

State of

County of

This instrument was acknowledged before me on(date) by(name(s) of person(s)).

.....
(Signature of notarial officer)

(Stamp)

.....
Title (and Rank)
My commission expires:

- (2) For an acknowledgment in a representative capacity:

State of

County of

This instrument was acknowledged before me on(date) by(name(s) of person(s)) as(type of authority, e.g., officer, trustee, etc.) of(name of party on behalf of whom the instrument was executed).

.....
(Signature of notarial officer)

(Stamp)

.....
Title (and Rank)
My commission expires:

- (3) For a verification upon oath or affirmation:

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State of

County of

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

.....
(Signature of notarial officer)

(Stamp)

.....
Title (and Rank)
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 person(s)).

.....
(Signature of notarial officer)

(Stamp)

.....
Title (and Rank)
My commission expires:

(5) For attestation of a copy of a document:

State of

County of

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

Dated:

.....
(Signature of notarial officer)

(Stamp)

.....
Title (and Rank)
My commission expires:

358.49 SHORT TITLE.

Sections 358.41 to 358.49 may be cited as the "Uniform Law on Notarial Acts."