

CHAPTER 176--S.F.No. 893

An act relating to notaries public; enacting the Revised Uniform Law on Notarial Acts, as amended, approved by the National Conference of Commissioners on Uniform State Laws; amending Minnesota Statutes 2016, sections 5.15; 325K.23, subdivision 1; 358.50; 359.01, subdivisions 4, 5, by adding a subdivision; 359.04; 507.24, subdivision 2; 508.48; 508A.48; Minnesota Statutes 2017 Supplement, section 358.116; proposing coding for new law in Minnesota Statutes, chapter 358; repealing Minnesota Statutes 2016, sections 358.41; 358.42; 358.43; 358.44; 358.45; 358.46; 358.47; 358.48; 358.49; 359.12.

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

ARTICLE 1**REVISED UNIFORM LAW ON NOTARIAL ACTS****Section 1. [358.51] SHORT TITLE.**

Sections 358.51 to 358.76 may be cited as the "Revised Uniform Law on Notarial Acts."

Sec. 2. [358.52] DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 358.51 to 358.76, the terms defined in subdivisions 2 to 16 have the meanings given them.

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

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

Subd. 4. **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.

Subd. 5. **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.

Subd. 6. **Notarial act.** "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation,

witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

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

Subd. 8. **Notary public.** "Notary public" means an individual commissioned to perform a notarial act.

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

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

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

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

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

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

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

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

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

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

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

Subd. 16. **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.

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

Sections 358.51 to 358.76 apply to a notarial act performed on or after January 1, 2019.

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

Subdivision 1. **Source.** A notarial officer may perform a notarial act authorized by sections 358.51 to 358.76, 359.04, and other law.

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

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

Subdivision 1. **Acknowledgments.** A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual as set forth in section 358.57, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

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

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

Subd. 4. **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.

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

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

Except as otherwise provided in section 358.645, 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.

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

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

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

(1) by means of:

(i) a passport, driver's license, or government-issued nondriver identification card that is currently valid;

or

(ii) another form of government identification issued to an individual that is currently valid, contains the individual's signature or a photograph of the individual, and is satisfactory to the officer; or

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

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

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

Subdivision 1. **Specific grounds.** 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.

Subd. 2. **General limitation.** A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than sections 358.51 to 358.76.

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

If an individual is physically unable to sign a record, the individual's signature may be obtained in the manner provided in section 645.44, subdivision 14.

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

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

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

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

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

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

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

- (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 law of that state to perform the notarial act.

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

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

Sec. 12. [358.62] NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY RECOGNIZED TRIBE.

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

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

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

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

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

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

- (1) a judge, clerk, or deputy clerk 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 United States Department of State for performing notarial acts overseas; or
- (4) any other individual authorized by federal law to perform the notarial act.

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

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

Sec. 14. [358.64] FOREIGN NOTARIAL ACT.

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

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

Subd. 3. **Authority of officer established.** 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.

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

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

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

Sec. 15. [358.645] REMOTE ONLINE NOTARY PUBLIC.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Appear," "personally appear," or "in the presence of" means:

(1) being in the same physical location as another person and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual; or

(2) interacting with another individual by means of communication technology as defined in this section.

(c) "Communication technology" means an electronic device or process that allows a notary public physically located in this state and a remotely located individual to communicate with each other simultaneously by sight and sound and that, as necessary, makes reasonable accommodation for individuals with vision, hearing, or speech impairments.

(d) "Credential analysis" means an automated software- or hardware-based process or service through which a third person affirms the validity of a government-issued identification credential through review of public or proprietary data sources.

(e) "Electronic journal" means a secure electronic record of notarial acts that contains the items listed in and required by subdivision 4, paragraph (a), and performed by the remote online notary public.

(f) "Electronic record" means information that is created, generated, sent, communicated, received, or stored by electronic means.

(g) "Electronic seal" means information within a notarized electronic record that confirms the remote online notary public's name, jurisdiction, identifying number, and commission expiration date and generally corresponds to information in notary seals used on paper documents.

(h) "Identity proofing" means a process or service through which a third person affirms the identity of an individual through review of personal information from public or proprietary data sources, and that may include dynamic knowledge-based authentication or biometric verification.

(i) "Outside the United States" means outside the geographic boundaries of a state or commonwealth of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(j) "Principal" means an individual:

(1) whose electronic signature is notarized in a remote online notarization; or

(2) making an oath or affirmation or an acknowledgment other than in the capacity of a witness for the remote online notarization.

(k) "Remote online notarial certificate" is the form of an acknowledgment, jurat, verification on oath or affirmation, or verification of witness or attestation that is completed by a remote online notary public and:

(1) contains the online notary public's electronic signature, electronic seal, title, commission number, and commission expiration date;

(2) contains other required information concerning the date and place of the remote online notarization;

(3) otherwise conforms to the requirements for an acknowledgment, jurat, verification on oath or affirmation, or verification of witness or attestation under the laws of this state; and

(4) indicates that the person making the acknowledgment, oath, or affirmation appeared remotely online.

(l) "Remote online notarization" or "remote online notarial act" means a notarial act performed by means of communication technology as defined in this section.

(m) "Remote online notary public" means a notary public who has registered with the secretary of state to perform remote online notarizations.

(n) "Remote presentation" means transmission to the remote online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the remote online notary public to:

(1) identify the individual seeking the remote online notary public's services; and

(2) perform credential analysis.

(o) "Remotely located individual" means an individual who is not in the physical presence of the notary.

Subd. 2. **Qualifications; registration required.** (a) A remote online notary public:

(1) is a notary public for purposes of chapter 359 and is subject to and must be appointed and commissioned under that chapter;

(2) may perform notarial acts as provided by this chapter and chapter 359 in addition to performing remote online notarizations; and

(3) may perform remote online notarizations authorized under this section.

(b) A notary public commissioned in this state may apply for remote online notarization registration according to this section. Before a notary performs a remote online notarization, the notary must register with the secretary of state according to section 359.01, subdivision 5, and must certify that the notary intends to use communication technology that conforms to this section.

(c) Unless terminated under this section, the term of registration to perform remote online notarial acts begins on the registration starting date set by the secretary of state and continues as long as the notary public's current commission to perform notarial acts remains valid.

(d) Upon the applicant's fulfillment of the requirements for remote online notarization registration under this section, the secretary of state shall record the registration under the applicant's notary public commission number.

(e) The secretary of state may reject a registration application if the applicant fails to comply with paragraphs (a) to (d). The commissioner of commerce may revoke a registration if the applicant fails to comply with subdivisions 2 to 6.

Subd. 3. **Authority to perform remote online notarial acts.** (a) A remote online notary public may perform a remote online notarial act authorized under this section only while the remote online notary public is physically located in this state. A remote online notary public physically located in this state may perform

a remote online notarial act using communication technology as defined in this section for a remotely located individual who is physically located:

(1) in this state;

(2) outside this state, but within the United States; or

(3) outside the United States if:

(i) the remote online notary public has no actual knowledge of the remote online notarial act being prohibited in the jurisdiction in which the person is physically located; and

(ii) the person placing an electronic signature on the electronic document confirms to the remote online notary public that the requested remote online notarial act and the electronic document:

(A) are part of or pertain to a matter that is to be filed with or is currently before a court, governmental entity, or other entity in the United States;

(B) relate to property located in the United States; or

(C) relate to a transaction substantially connected to the United States.

(b) The validity of a remote online notarization performed by an online notary public of this state according to this chapter shall be governed by the laws of this state.

(c) A remote online notary public or the remote online notary public's employer may charge a fee not to exceed \$25 for the performance of a remote online notarial act, if the act occurs before January 1, 2023.

Subd. 4. **Electronic journal of remote online notarizations.** (a) A remote online notary public shall keep one or more secure electronic journals of notarial acts performed by the remote online notary public. An electronic journal must contain for each remote online notarization:

(1) the date and time of the notarization;

(2) the type of notarial act;

(3) the type, the title, or a description of the electronic document or proceeding;

(4) the printed name and address of each principal involved in the transaction or proceeding;

(5) evidence of identity of each principal involved in the transaction or proceeding in the form of:

(i) a statement that the person is personally known to the remote online notary public;

(ii) a notation of the type of identification document provided to the remote online notary public; or

(iii) the following:

(A) the printed name and address of each credible witness swearing to or affirming the person's identity;
and

(B) for each credible witness not personally known to the remote online notary public, a description of the type of identification documents provided to the remote online notary public; and

(6) the fee, if any, charged for the notarization.

(b) The remote online notary public shall create an audio and video copy of the performance of the notarial act.

(c) The remote online notary public shall take reasonable steps to:

(1) ensure the integrity, security, and authenticity of remote online notarizations;

(2) maintain a backup for the electronic journal required by paragraph (a) and the recordings required by paragraph (b); and

(3) protect the records and backup record in this subdivision from unauthorized access or use.

(d) The electronic journal required by paragraph (a) and the recordings required by paragraph (b) shall be maintained for at least ten years after the date of the transaction or proceeding. The remote online notary public may, by written agreement, designate as a repository of the recording and the electronic journal:

(1) the employer of the remote online notary public if evidenced by a record signed by the remote online notary public and the employer in which the employer agrees to meet the applicable requirements of this paragraph and paragraph (c); or

(2) another repository meeting the applicable requirements of this paragraph and paragraph (c).

Subd. 5. **Identity proofing; minimum standards.** A remote online notarial act performed under this section shall comply with the following minimum standards:

(1) Identity proofing shall include knowledge-based authentication with these or greater security characteristics:

(i) The signer must be presented with five or more questions with a minimum of five possible answer choices per question.

(ii) Each question must be drawn from a third-party provider of public and proprietary data sources and be identifiable to the signer's social security number or other identification information, or the signer's identity and historical events records.

(iii) Responses to all questions must be made within a two-minute time constraint.

(iv) The signer must answer a minimum of 80 percent of the questions correctly.

(v) The signer may be offered an additional attempt in the event of a failed first attempt.

(vi) During the second attempt, the signer may not be presented with more than three questions from the prior attempt.

(2) Credential analysis must confirm that the credential is valid and matches the signer's claimed identity using one or more automated software or hardware processes that scan the credential, including its format features, data, bar codes, or other security elements.

Subd. 6. **Use of electronic journal and seal.** (a) A remote online notary public shall keep the remote online notary public's electronic journal and electronic seal secure and under the remote online notary public's exclusive control, which may be done by password-controlled access. The remote online notary public may, by agreement, use a software platform or service provider to facilitate provision of remote online notarizations and maintenance of and access to records, but may not allow another person to use the remote online notary public's electronic journal or electronic seal to perform notarial acts or for any unauthorized purpose.

(b) A remote online notary public shall attach the remote online notary public's electronic signature and seal to the electronic notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic document evident.

(c) A remote online notary public shall immediately notify an appropriate law enforcement agency and the commissioner of commerce of the theft or vandalism of the remote online notary public's electronic journal, electronic signature, or electronic seal. A remote online notary public shall immediately notify the commissioner of commerce of the loss or use by another person of the remote online notary public's electronic journal or electronic seal.

Subd. 7. Remote online notarization procedures. (a) A remote online notary public may perform a remote online notarization authorized under this section that meets the requirements of this section regardless of whether the principal is physically located in this state at the time of the remote online notarization.

(b) In performing a remote online notarization, a remote online notary public shall verify the identity of a person creating an electronic signature at the time that the signature is taken by using communication technology as defined by this section. Identity may be verified by:

(1) the remote online notary public's personal knowledge of the person creating the electronic signature;
or

(2) all of the following:

(i) remote presentation by the person creating the electronic signature of a currently valid government-issued identification credential, including a passport or driver's license, that contains the signature and a photograph of the person;

(ii) credential analysis of the credential described in item (i); and

(iii) identity proofing of the person described in item (i).

(c) The remote online notary public shall take reasonable steps to provide that the communication technology used in a remote online notarization is secure from unauthorized interception.

(d) The electronic notarial certificate for a remote online notarization must include a notation that the notarization is a remote online notarization.

(e) A remote online notarial act meeting the requirements of this section satisfies the requirement of any law of this state relating to a notarial act that requires a principal to appear or personally appear before a notary or that the notarial act be performed in the presence of a notary.

Subd. 8. Termination of remote online notary public's registration. (a) Except as provided by paragraph (b), a remote online notary public whose registration terminates shall destroy the coding, disk, certificate, card, software, or password that enables electronic affixation of the online notary public's official electronic signature or seal. The remote online notary public shall certify compliance with this paragraph to the secretary of state through the secretary of state's online commission record.

(b) A former remote online notary public whose registration terminated for a reason other than revocation or a denial of renewal is not required to destroy the items described in paragraph (a) if the former remote online notary public is reregistered as a remote online notary public with the same electronic signature and seal within three months after the former remote online notary public's registration terminated.

Subd. 9. Wrongful possession of software or hardware; criminal offense. A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling a remote online notary public to affix an official electronic signature or seal commits a misdemeanor.

Subd. 10. Conflict. In the event of a conflict between this section and any other law in this state, this section shall prevail.

Subd. 11. Certificate forms. In completing the certificate required to document the performance of the notarial act, the form shall indicate that the person appeared before the notary by means of communication technology if that was the method of the person's appearance before the notary.

Subd. 12. Data classification and availability. (a) The data collected by a notary public in compliance with this section is not subject to chapter 13, the Government Data Practices Act, but the notary public and the notary public's agent must make a copy of the individual's data included in the electronic journal and

the audio-video recording available only to the individual whose signature was notarized or to a guardian, conservator, attorney-in-fact, or personal representative of an incapacitated or deceased individual.

(b) The individual whose signature was notarized or the individual's guardian, conservator, attorney-in-fact, or personal representative of an incapacitated or deceased individual may consent to the release of the data to a third party.

Subd. 13. **Course of study.** The secretary of state shall maintain a list of entities that regularly offer a course of study for a remote online notary public in this state. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts performed under this section.

Subd. 14. **Citation.** This section may be cited as the "Remote Online Notarization Act."

Sec. 16. [358.646] RECORDING ELECTRONIC DOCUMENTS IN TANGIBLE FORM.

(a) If a law requires as a condition for recording that a document be an original, be on paper or another tangible medium, be in writing, or be signed, the requirement is satisfied by a paper copy of an electronic document bearing an electronic signature that a notary public has certified to be a true and correct copy of a document that was originally in electronic form and bearing an electronic signature pursuant to paragraph (c).

(b) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a paper copy of an electronic document bearing an electronic signature of the person authorized to perform that act, and all other information required to be included, that a notary public has certified to be a true and correct copy of a document that was originally in electronic form and bearing an electronic signature of the person pursuant to paragraph (c). A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(c) The office of the county recorder or the office of registrar of titles shall record a paper copy of a document that was originally in electronic form and that is otherwise entitled to be recorded under the laws of this state, provided that the paper copy has been certified to be a true and correct copy of the electronic original by a notary public duly commissioned under the laws of this state as evidenced by a certificate attached to or made a part of the document. The certificate must:

(1) be signed and dated by the notary public, and be signed in the same manner as required by section 359.061.

(2) identify the jurisdiction in which the certification is performed;

(3) contain the title of the notary public;

(4) indicate the date of expiration, if any, of the notary public's commission; and

(5) include an official seal or stamp of the notary public affixed to the certificate.

(d) The following form of certificate is sufficient for the purposes of this section if completed with the information required by paragraph (c):

State of

[County] of

I certify that the foregoing and annexed document [entitled (document title, if applicable, or description)] [dated (document date, if applicable)] and containing pages is a true and correct copy of an electronic document bearing one or more electronic signatures this [certification date].

.....
Signature of notary public

Seal/Stamp

[.....]

Notary Public

[My commission expires:]

[My notary commission number is:]

(e) A notary public duly commissioned under the laws of this state has the authority to make the certification provided in this section.

(f) A notary public making the certification provided in this section shall:

(1) confirm that the electronic document contains an electronic signature that is capable of independent verification and renders any subsequent changes or modifications to the electronic document evident;

(2) personally print or supervise the printing of the electronic document onto paper; and

(3) not make any changes or modifications to the electronic document other than the certification described in paragraph (c).

(g) If a certificate is completed with the information required by paragraph (c) and is attached to or made a part of a paper document, the certificate shall be prima facie evidence that the requirements of paragraph (f) have been satisfied with respect to the document.

(h) A document purporting to convey or encumber real property or any interest in the property that has been recorded by the office of the county recorder or the office of registrar of titles for the jurisdiction in which the real property is located, although the document may not have been certified according to this section, shall give the same notice to third persons and be effective from the time of recording as if the document had been certified according to this section.

(i) This section does not apply to a plat, map, or survey of real property if under another law of this state or, if under a rule, regulation, or ordinance applicable to the office of the county recorder or the office of registrar of titles:

(1) there are requirements of format or medium for the execution, creation, or recording of the plat, map, or survey beyond the requirements applicable to a deed to real property; or

(2) the plat, map, or survey must be recorded in a different location than a deed to real property.

Sec. 17. **[358.65] CERTIFICATE OF NOTARIAL ACT.**

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

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

(2) 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 commissioning officer or agency;

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

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

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

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

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

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

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

(3) is in a form permitted by the law 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 notarial act as provided in sections 358.55, 358.56, and 358.57 or law of this state other than sections 358.51 to 358.76.

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

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

Subd. 6. **Records.** If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the commissioning officer or agency has established standards pursuant to section 358.73 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

Sec. 18. **[358.66] SHORT FORM CERTIFICATES.**

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

(1) For an acknowledgment in an individual capacity;

State of

County of

This instrument was acknowledged before me on(date) by(name(s) of individual(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 individual(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:

State of

County of

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

(Signature of notarial officer)

(Stamp)

Title (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 individual(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:

(b) For a remote notarization, use of alternate (1) or (2), as appropriate, is sufficient to satisfy the requirements of section 358.645, subdivision 7, paragraph (d):

(1) For a remote notarization when the signer is located outside the United States:

This record was (acknowledged)(signed and sworn to or affirmed)(signed or attested to) by use of communication technology on

..... by

Date who declared that (he)(she)(they) (is)(are) located

(Name(s) of Individual(s))

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

Or;

(2) For a remote notarization when the signer is located in Minnesota or the United States:

This record was (acknowledged)(signed and sworn to or affirmed)(signed or attested to) by use of communication technology on

..... by

Date who declared that (he)(she)(they) (is)(are) located

(Name(s) of Individual(s))

in (jurisdiction and location name).

Sec. 19. **[358.67] OFFICIAL STAMP.**

The official stamp of a notary public must:

- (1) satisfy the requirements of section 359.03; 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.

Sec. 20. **[358.68] STAMPING DEVICE SECURITY.**

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

Sec. 21. **[358.69] PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD.**

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

(b) For purposes of this subdivision, "tamper-evident" means that any changes to an electronic document must display evidence of the change.

Subd. 2. **Notification.** Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall satisfy the requirements of section 359.01, subdivision 5, and shall notify the commissioning officer or agency that the notary public will be performing notarial acts with respect to electronic records.

Sec. 22. **[358.70] GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC.**

Subdivision 1. **Generally.** The commissioner of commerce has all the powers provided by section 45.027 and may proceed in the manner provided by that section in actions against a notary public for any act or omission that demonstrates an individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

- (1) failure to comply with sections 358.51 to 358.76;
- (2) fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the commissioning officer or agency;
- (3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;
- (4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;
- (5) failure by the notary public to discharge any duty required of a notarial officer, whether by sections 358.51 to 358.76 or any federal or state law or regulation;
- (6) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;

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

(8) suspension or revocation of a license for the conduct of a profession, occupation, trade, or business of a notary public who is performing notarial acts in connection with the profession, occupation, trade, or business.

For purposes of this clause, "license" means a permit, registration, certification, or other form of approval authorized by statute or rule issued by the state or a political subdivision of the state as a condition of doing business, or conducting a trade, profession, or occupation in Minnesota.

Subd. 2. **Removal from office.** A notary may be removed from office only by the governor, the district court, or the commissioner of commerce.

Subd. 3. **Notice and hearing.** If the commissioner of commerce denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 14.

Subd. 4. **Other remedies.** The authority of the commissioner of commerce to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

Subd. 5. **Surrender of stamp.** Notwithstanding section 359.03, subdivision 1, upon removal from office by the commissioner of commerce, a notary public shall deliver the notary's official stamp to the commissioner of commerce.

Sec. 23. **[358.71] DATABASE OF NOTARIES PUBLIC.**

The secretary of state shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts, including notarial acts pursuant to section 358.645; and

(2) which indicates whether a notary public has applied to the commissioning officer or agency to perform notarial acts on electronic records or to perform notarial acts pursuant to section 358.645.

Sec. 24. **[358.72] PROHIBITED ACTS.**

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

(1) assist persons 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 this subdivision.

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

Subd. 3. **Terms.** A notary public may not use the term "notario" or "notario publico."

Subd. 4. **Unauthorized practice of law.** A notary public, other than an attorney licensed to practice law in this state, may not advertise that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises that the notary public offers notarial services, whether orally or in a record,

including broadcast media, print media, digital media, and the Internet, the notary public shall include the following statement, or an alternate statement authorized or required by the commissioning officer or agency, in the advertisement or representation, prominently and in each language used in the advertisement: "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." If the form of advertisement is not broadcast media, print media, or the Internet, and does not permit the inclusion of the statement required by this subdivision because of size, it must be prominently displayed or provided at the place of performance of the notarial act before the notarial act is performed.

Subd. 5. **Withholding access to, or possession of, an 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.

Sec. 25. [358.73] VALIDITY OF NOTARIAL ACTS.

Except as otherwise provided in section 358.54, subdivision 2, the failure of a notarial officer to perform a duty or meet a requirement specified in sections 358.51 to 358.76 does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under sections 358.51 to 358.76 does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject the notarial act or from seeking other remedies based on law of this state other than sections 358.51 to 358.76 or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

Sec. 26. [358.74] NOTARY PUBLIC COMMISSION IN EFFECT.

A commission as a notary public in effect on the effective date of sections 358.51 to 358.76 continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of sections 358.51 to 358.76 is subject to and shall comply with sections 358.51 to 358.76. A notary public, in performing notarial acts after the effective date of sections 358.51 to 358.76, shall comply with sections 358.51 to 358.76.

Sec. 27. [358.75] SAVINGS CLAUSE.

Sections 358.51 to 358.76 do not affect the validity or effect of a notarial act performed before the effective date of sections 358.51 to 358.76.

Sec. 28. [358.76] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

Sections 358.51 to 358.76 modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001, et seq., but do not modify, limit, or supersede section 101(c) of that act, United States Code, title 15, section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, United States Code, title 15, section 7003(b).

Sec. 29. REPEALER.

Minnesota Statutes 2016, sections 358.41; 358.42; 358.43; 358.44; 358.45; 358.46; 358.47; 358.48; 358.49; and 359.12, are repealed.

Sec. 30. EFFECTIVE DATE.

This act is effective January 1, 2019.

ARTICLE 2**ADMINISTRATIVE AND CONFORMING CHANGES**

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

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

(a) No document submitted to the Office of the Secretary of State shall be required to be notarized. Signing a document submitted to the secretary of state constitutes "acknowledgment" as defined in section ~~358.41, clause (2)~~ 358.52, subdivision 2, and "verification upon oath or affirmation" as defined in section ~~358.41, clause (3)~~ 358.52, subdivision 3. A person who signs a document submitted to the secretary of state without authority to sign that document or who signs the document knowing that the document is false in any material respect is subject to the penalties of perjury set forth in section 609.48.

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

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

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

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

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

Sec. 3. Minnesota Statutes 2017 Supplement, section 358.116, is amended to read:

358.116 COURT DOCUMENTS.

Unless specifically required by court rule, a pleading, motion, affidavit, or other document filed with a court of the Minnesota judicial branch, or presented to a judge or judicial officer in support of a request for a court order, warrant, or other relief, is not required to be notarized. Signing a document filed with the court or presented to a judge or judicial officer constitutes "verification upon oath or affirmation" as defined in section ~~358.41, clause (3)~~ 358.52, without administration of an oath under section 358.07, provided that the signature, as defined by court rules, is affixed immediately below a declaration using substantially the

following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document. A person who signs knowing that the document is false in any material respect is guilty of perjury under section 609.48, even if the date, county, and state of signing are omitted from the document.

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

358.50 EFFECT OF ACKNOWLEDGMENT.

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

Sec. 5. Minnesota Statutes 2016, section 359.01, subdivision 4, is amended to read:

Subd. 4. **Application.** The secretary of state shall prepare the application form for a commission. The form may request personal information about the applicant, including, but not limited to, relevant civil litigation, occupational license history, and criminal background, if any. For the purposes of this section, "criminal background" includes, but is not limited to, criminal charges, arrests, indictments, pleas, and convictions. The form must also include an oath of office statement.

Sec. 6. Minnesota Statutes 2016, section 359.01, subdivision 5, is amended to read:

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

Sec. 7. Minnesota Statutes 2016, section 359.01, is amended by adding a subdivision to read:

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

Sec. 8. Minnesota Statutes 2016, section 359.04, is amended to read:

359.04 POWERS.

Every notary public so appointed, commissioned, and qualified shall have power throughout this state to administer all oaths required or authorized to be administered in this state; to take and certify all depositions to be used in any of the courts of this state; to take and certify all acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments in writing or electronic records; ~~and~~ to receive, make out, and record notarial protests; and to perform online remote notarial acts in compliance with the requirements of sections 358.645 and 358.646.

Sec. 9. Minnesota Statutes 2016, section 507.24, subdivision 2, is amended to read:

Subd. 2. **Original signatures required.** (a) Unless otherwise provided by law, an instrument affecting real estate that is to be recorded as provided in this section or other applicable law must contain the original signatures of the parties who execute it and of the notary public or other officer taking an acknowledgment. However, a financing statement that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the signatures of the debtor or the secured party; or (2) an acknowledgment. An instrument acknowledged in a representative capacity as defined in section ~~358.41~~ 358.52 on behalf of a corporation, partnership, limited liability company, or trust that is otherwise entitled to be recorded shall be recorded if the acknowledgment made in a representative capacity is substantially in the form prescribed in chapter 358, without further inquiry into the authority of the person making the acknowledgment.

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

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

Sec. 10. Minnesota Statutes 2016, section 508.48, is amended to read:

508.48 INSTRUMENTS AFFECTING TITLE FILED WITH REGISTRAR; NOTICE.

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

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

Sec. 11. Minnesota Statutes 2016, section 508A.48, is amended to read:

508A.48 FILED INSTRUMENT AFFECTING TITLE IS NOTICE.

(a) Every conveyance, lien, attachment, order, decree, or judgment, or other instrument or proceeding, which would affect the title to unregistered land under existing laws, if recorded, or filed with the county recorder, shall, in like manner, affect the title to land registered under sections 508A.01 to 508A.85 if filed and registered with the registrar in the county where the real estate is situated, and shall be notice to all persons from the time of the registering or filing of the interests therein created. Neither the reference in a registered instrument to an unregistered instrument or interest nor the joinder in a registered instrument by

a party or parties with no registered interest shall constitute notice, either actual or constructive, of an unregistered interest.

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

Presented to the governor May 17, 2018

Signed by the governor May 20, 2018, 3:22 p.m.