



January 26, 2021

HOUSE BILL No. 1255

DIGEST OF HB 1255 (Updated January 25, 2021 3:05 pm - DI 106)

Citations Affected: IC 29-1; IC 29-3; IC 30-4; IC 30-5; IC 32-17; IC 32-21; IC 32-39; IC 33-42; IC 34-41; IC 36-2.

Synopsis: Probate and property matters. Provides that a testator may execute a will in two or more counterparts. Specifies certain requirements for a will executed in two or more counterparts. Provides that a self-proving clause may be incorporated into or affixed to a will. Specifies certain requirements for self-proving clauses and wills. Specifies that certain photographic, video, and audio evidence may be used as evidence with respect to the execution of a will. Exempts a will from the need for a recertification or a reexecution in certain instances. Specifies certain requirements concerning the execution of an electronic will. Allows an attorney or paralegal to supervise the execution of an electronic will. Exempts electronic wills from the need for recertification or reexecution in certain instances. Specifies that certain photographic, video, and audio evidence may be used as evidence with respect to the execution of an electronic will. Specifies certain requirements concerning the execution of a power of attorney. Allows a power of attorney to be executed in two or more counterparts. Specifies certain requirements for the execution of a power of attorney in two or more counterparts. Allows a self-proving clause to be incorporated into or affixed to a power of attorney. Specifies certain requirements for self-proving clauses incorporated into or affixed to a power of attorney. Specifies that certain photographic, video, and audio evidence may be used as evidence with respect to the execution of a power of attorney. Provides that an electronically signed and notarized electronic power of attorney is valid if the electronic power of attorney
(Continued next page)

Effective: Upon passage.

Young J, Torr

January 14, 2021, read first time and referred to Committee on Judiciary.
January 26, 2021, amended, reported — Do Pass.

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Digest Continued

complies with certain specified requirements. Specifies certain requirements for attesting witnesses involved in the execution of a power of attorney or an electronic power of attorney. Allows a self-proving clause to be incorporated into or affixed to a power of attorney. Specifies that certain photographic, video, and audio evidence may be used as evidence with respect to the execution of an electronic power of attorney. Provides that certain persons are ineligible to sign certain trust instruments. Requires certain transfer on death conveyances to occur in the presence of a disinterested witness. Repeals certain provisions concerning mortgages, conveyances, and other written instruments that are executed in a foreign country. Repeals certain provisions concerning the affixing of a private seal or ink scroll on certain conveyances involving land or interests in land. Specifies certain requirements concerning land conveyances performed by attorneys in fact. Requires certain notarial acts to accompany the recording of certain conveyances. Requires an English translation for certain instruments, acknowledgments, and proofs when the original document is not in English. Repeals a provision concerning the recording of a conveyance, mortgage, or other instrument in a county other than the county where the conveyance, mortgage, or other instrument is required to be recorded. Repeals a provision concerning the recording of a conveyance that is acknowledged outside Indiana but within the United States. Specifies: (1) certain prerequisites; and (2) a certain form; for the recording of certain instruments. Repeals a provision concerning the receipt of an acknowledgment by a public officer. Specifies that an instrument's acknowledgment or proof is incomplete when an instrument does not include an accompanying certificate. Provides that the transcript of an instrument that is recorded without a certificate cannot be read into or received as evidence. Specifies requirements concerning electronic recording of certain instruments concerning real property. Requires county recorders to implement specified functions concerning the: (1) acceptance; (2) receipt; (3) indexing; (4) storage; (5) archiving; and (6) transmittal; of electronically recorded instruments. Specifies certain requirements concerning the recording of a paper or tangible copy of an electronic instrument. Repeals a provision concerning the acknowledgment of certain instruments and the performance of certain notarial acts for a person serving in the armed forces, merchant marine, or outside the United States in connection with a wartime activity. Repeals provisions concerning: (1) certain notarial acts; and (2) acknowledgments; and their respective uses as prima facie evidence. Repeals a provision concerning certain executed instruments and a failure to state the location of the instrument's execution or any accompanying acknowledgment, if applicable. Provides that certain notarial acts are considered to have been performed in Indiana when certain specified criteria are met. Requires a county recorder's office to provide notice of office closures that last three or more days. Defines certain terms. Makes conforming amendments.

HB 1255—LS 7222/DI 123



January 26, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1255

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 29-1-1-3, AS AMENDED BY P.L.231-2019,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 3. (a) The following definitions apply
4 throughout this article, unless otherwise apparent from the context:
5 (1) "Child" includes an adopted child or a child that is in gestation
6 before the death of a deceased parent and born within forty-three
7 (43) weeks after the death of that parent. The term does not
8 include a grandchild or other more remote descendants, nor,
9 except as provided in IC 29-1-2-7, a child born out of wedlock.
10 (2) "Claimant" means a person having a claim against the
11 decedent's estate as described in IC 29-1-14-1(a).
12 (3) "Claims" includes liabilities of a decedent which survive,
13 whether arising in contract or in tort or otherwise, expenses of
14 administration, and all taxes imposed by reason of the person's
15 death. However, for purposes of IC 29-1-2-1 and IC 29-1-3-1, the

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- 1 term does not include taxes imposed by reason of the person's
 2 death.
- 3 (4) "Court" means the court having probate jurisdiction.
- 4 (5) "Decedent" means one who dies testate or intestate.
- 5 (6) "Devise" or "legacy", when used as a noun, means a
 6 testamentary disposition of either real or personal property or
 7 both.
- 8 (7) "Devise", when used as a verb, means to dispose of either real
 9 or personal property or both by will.
- 10 (8) "Devisee" includes legatee, and "legatee" includes devisee.
- 11 (9) "Distributee" denotes those persons who are entitled to the
 12 real and personal property of a decedent under a will, under the
 13 statutes of intestate succession, or under IC 29-1-4-1.
- 14 (10) "Estate" denotes the real and personal property of the
 15 decedent or protected person, as from time to time changed in
 16 form by sale, reinvestment, or otherwise, and augmented by any
 17 accretions and additions thereto and substitutions therefor and
 18 diminished by any decreases and distributions therefrom.
- 19 (11) "Expenses of administration" includes expenses incurred by
 20 or on behalf of a decedent's estate in the collection of assets, the
 21 payment of debts, and the distribution of property to the persons
 22 entitled to the property, including funeral expenses, expenses of
 23 a tombstone, expenses incurred in the disposition of the
 24 decedent's body, executor's commissions, attorney's fees, and
 25 miscellaneous expenses.
- 26 (12) "Fiduciary" includes a:
 27 (A) personal representative;
 28 (B) guardian;
 29 (C) conservator;
 30 (D) trustee; and
 31 (E) person designated in a protective order to act on behalf of
 32 a protected person.
- 33 (13) "Heirs" denotes those persons, including the surviving
 34 spouse, who are entitled under the statutes of intestate succession
 35 to the real and personal property of a decedent on the decedent's
 36 death intestate, unless otherwise defined or limited by the will.
- 37 **(14) For purposes of IC 29-1-5, and with respect to testators**
 38 **and attesting witnesses, "in the presence of" has the meaning**
 39 **set forth in subdivision (15).**
- 40 **(15) For purposes of IC 29-1-5, and with respect to testators**
 41 **and attesting witnesses, "presence" means a process of signing**
 42 **and witnessing in which:**



- 1 **(A) the testator and witness are:**
 2 **(i) directly present with each other in the same physical**
 3 **space; or**
 4 **(ii) able to interact with each other in real time through**
 5 **use of any audiovisual communications technology now**
 6 **known or later developed;**
 7 **(B) the testator and witness are able to positively identify**
 8 **each other; and**
 9 **(C) each witness is able to interact with the testator and**
 10 **with each other by observing:**
 11 **(i) the testator's expression of intent to make a will;**
 12 **(ii) the testator's actions in executing or directing the**
 13 **execution of the testator's will; and**
 14 **(iii) the actions of other witnesses when signing the will.**
 15 **The term includes the use of technology or learned skills for**
 16 **the purpose of assisting with hearing, eyesight, and speech, or**
 17 **for the purpose of compensating for a hearing, eyesight, or**
 18 **speech impairment.**
 19 ~~(14)~~ **(16)** "Incapacitated" has the meaning set forth in
 20 IC 29-3-1-7.5.
 21 ~~(15)~~ **(17)** "Interested persons" means heirs, devisees, spouses,
 22 creditors, or any others having a property right in or claim against
 23 the estate of a decedent being administered. This meaning may
 24 vary at different stages and different parts of a proceeding and
 25 must be determined according to the particular purpose and
 26 matter involved.
 27 ~~(16)~~ **(18)** "Issue" of a person, when used to refer to persons who
 28 take by intestate succession, includes all lawful lineal descendants
 29 except those who are lineal descendants of living lineal
 30 descendants of the intestate.
 31 ~~(17)~~ **(19)** "Lease" includes an oil and gas lease or other mineral
 32 lease.
 33 ~~(18)~~ **(20)** "Letters" includes letters testamentary, letters of
 34 administration, and letters of guardianship.
 35 ~~(19)~~ **(21)** "Minor" or "minor child" or "minority" refers to any
 36 person under the age of eighteen (18) years.
 37 ~~(20)~~ **(22)** "Mortgage" includes deed of trust, vendor's lien, and
 38 chattel mortgage.
 39 ~~(21)~~ **(23)** "Net estate" refers to the real and personal property of
 40 a decedent less the allowances provided under IC 29-1-4-1 and
 41 enforceable claims against the estate.
 42 ~~(22)~~ **(24)** "No contest provision" refers to a provision of a will



1 that, if given effect, would reduce or eliminate the interest of a
 2 beneficiary of the will who, directly or indirectly, initiates or
 3 otherwise pursues:

- 4 (A) an action to contest the admissibility or validity of the will;
 5 (B) an action to set aside a term of the will; or
 6 (C) any other act to frustrate or defeat the testator's intent as
 7 expressed in the terms of the will.

8 **(25) "Observe" means to perceive another's actions or**
 9 **expressions of intent through the senses of eyesight or**
 10 **hearing, or both. The term includes perceptions involving the**
 11 **use of technology or learned skills to:**

- 12 (A) assist the person's capabilities of eyesight or hearing,
 13 or both; or
 14 (B) compensate for an impairment of the person's
 15 capabilities of eyesight or hearing, or both.

16 **(26) "Observing" has the meaning set forth in subdivision**
 17 **(25).**

18 ~~(23)~~ **(27) "Person" means:**

- 19 (A) an individual;
 20 (B) a corporation;
 21 (C) a trust;
 22 (D) a limited liability company;
 23 (E) a partnership;
 24 (F) a business trust;
 25 (G) an estate;
 26 (H) an association;
 27 (I) a joint venture;
 28 (J) a government or political subdivision;
 29 (K) an agency;
 30 (L) an instrumentality; or
 31 (M) any other legal or commercial entity.

32 ~~(24)~~ **(28) "Personal property" includes interests in goods, money,**
 33 **choses in action, evidences of debt, and chattels real.**

34 ~~(25)~~ **(29) "Personal representative" includes executor,**
 35 **administrator, administrator with the will annexed, administrator**
 36 **de bonis non, and special administrator.**

37 ~~(26)~~ **(30) "Petition for administration" means a petition filed**
 38 **under IC 29-1-7-5 for the:**

- 39 (A) probate of a will and for issuance of letters testamentary;
 40 (B) appointment of an administrator with the will annexed; or
 41 (C) appointment of an administrator.

42 ~~(27)~~ **(31) "Probate estate" denotes the property transferred at the**



- 1 death of a decedent under the decedent's will or under IC 29-1-2,
 2 in the case of a decedent dying intestate.
 3 ~~(28)~~ **(32)** "Property" includes both real and personal property.
 4 ~~(29)~~ **(33)** "Protected person" has the meaning set forth in
 5 IC 29-3-1-13.
 6 ~~(30)~~ **(34)** "Real property" includes estates and interests in land,
 7 corporeal or incorporeal, legal or equitable, other than chattels
 8 real.
 9 ~~(31)~~ **(35)** "Unit" means the estate recovery unit of the office of
 10 Medicaid policy and planning established under IC 12-8-6.5-1.
 11 ~~(32)~~ **(36)** "Unit address" means the unit's mailing address that
 12 appears on the unit's Internet web site.
 13 ~~(33)~~ **(37)** "Will" includes all wills, testaments, and codicils. The
 14 term also includes a testamentary instrument which merely
 15 appoints an executor or revokes or revives another will.
 16 (b) The following rules of construction apply throughout this article
 17 unless otherwise apparent from the context:
 18 (1) The singular number includes the plural and the plural number
 19 includes the singular.
 20 (2) The masculine gender includes the feminine and neuter.
 21 SECTION 2. IC 29-1-5-3 IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This section applies to a
 23 will executed before, on, or after July 1, 2003. A will, other than a
 24 nuncupative will, must be executed by the signature of the testator and
 25 of at least two (2) witnesses on:
 26 (1) a will under subsection (b);
 27 (2) a self-proving clause under section 3.1(c) of this chapter; or
 28 (3) a self-proving clause under section 3.1(d) of this chapter.
 29 (b) A will may be attested as follows:
 30 (1) The testator, in the presence of two (2) or more attesting
 31 witnesses, shall signify to the witnesses that the instrument is the
 32 testator's will and either:
 33 (A) sign the will;
 34 (B) acknowledge the testator's signature already made; or
 35 (C) at the testator's direction and in the testator's presence have
 36 someone else sign the testator's name.
 37 (2) The attesting witnesses must sign in the presence of the
 38 testator and each other.
 39 An attestation or self-proving clause is not required under this
 40 subsection for a valid will.
 41 **(c) The testator and the witnesses may execute and complete the**
 42 **will in two (2) or more original counterparts that exist in a tangible**



1 and readable paper form with:

2 (1) the testator's signature placed on one (1) original
3 counterpart in the presence of attesting witnesses; and

4 (2) the signatures of the witnesses placed on one (1) or more
5 different counterparts of the same will;

6 in a tangible and readable paper form. If a will is signed and
7 witnessed in counterparts under this subsection, the testator or an
8 individual acting at the testator's specific direction must physically
9 assemble all of the separately signed paper counterparts of the will
10 and the signatures of the testator and all attesting witnesses not
11 later than five (5) business days after all the paper counterparts
12 have been signed by the testator and witnesses. If the testator
13 directs another individual to assemble the separate, signed paper
14 counterparts of the will into a single composite paper document,
15 the five (5) business day period does not commence until the
16 compiling individual receives all of the separately signed paper
17 counterparts. Any scanned copy or photocopy of the composite
18 document containing all signatures shall be treated as validly
19 signed under this section and may be electronically filed to offer
20 the will for probate under IC 29-1-7. If the testator dies after
21 executing a will under this subsection but before the separate
22 counterparts are assembled into a single composite paper
23 document, the intervening death of the testator shall not affect the
24 validity of the will.

25 (d) An attorney or paralegal may supervise the execution of a
26 will in counterparts as described in subsection (c). An attorney or
27 paralegal may supervise the execution of a will in counterparts
28 even if the supervising attorney or paralegal is one (1) of the will's
29 attesting witnesses. If an attorney or paralegal supervises the
30 execution of a will in counterparts as described in subsection (c),
31 the attorney or paralegal may sign, date, and complete an affidavit
32 of compliance any time after all paper counterparts of the will have
33 been signed by the testator and the witnesses. An affidavit of
34 compliance under this subsection must be sworn to or affirmed by
35 the signing attorney or paralegal under the penalties of perjury
36 and must contain the following information:

37 (1) The name and residence address of the testator.

38 (2) The name and:

39 (A) residential address; or

40 (B) business address;

41 for each witness who signs the will.

42 (3) The address, city, and state in which the testator was



- 1 physically located at the time the testator signed an original
2 counterpart of the will.
- 3 **(4) The city and state in which each attesting witness was**
4 **physically located when the witness signed an original**
5 **counterpart of the will as a witness.**
- 6 **(5) A description of the method and form of identification**
7 **used to confirm the identity of the testator to the witnesses**
8 **and to the supervising attorney or paralegal, as applicable.**
- 9 **(6) A description of the audiovisual technology or other**
10 **method used by the supervising attorney or paralegal, as**
11 **applicable, the testator, and the witnesses for the purpose of**
12 **interacting with each other in real time during the signing**
13 **process.**
- 14 **(7) A description of the method used by the testator and the**
15 **witnesses to identify the location of each page break within**
16 **the text of the will and to confirm that the separate paper**
17 **counterparts of the will were identical in content.**
- 18 **(8) A general description of how and when the attorney or**
19 **paralegal, as applicable, physically combined the separate,**
20 **signed paper counterparts of the will into a single composite**
21 **paper document containing the will, the signature of the**
22 **testator, and the signatures of all attesting witnesses.**
- 23 **(9) Any other information that the supervising attorney or**
24 **paralegal, as applicable, considers to be material with respect**
25 **to:**
- 26 **(A) the testator's capacity to sign a valid will; and**
27 **(B) the testator's and witnesses' compliance with**
28 **subsection (c).**
- 29 ~~(e)~~ **(e)** A will that is executed substantially in compliance with
30 subsection (b) will not be rendered invalid by the existence of:
31 (1) an attestation or self-proving clause or other language; or
32 (2) additional signatures;
33 not required by subsection (b).
- 34 ~~(f)~~ **(f)** A will executed in accordance with subsection (b) is
35 self-proved if the witness signatures follow an attestation or
36 self-proving clause or other declaration indicating in substance the
37 facts set forth in section 3.1(c) or 3.1(d) of this chapter.
- 38 ~~(g)~~ **(g)** This section shall be construed in favor of effectuating the
39 testator's intent to make a valid will.
- 40 SECTION 3. IC 29-1-5-3.1 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This
42 section applies to a will executed before, on, or after July 1, 2003.



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When a will is executed, the will may be:

- (1) attested; and
- (2) made self-proving;

by incorporating into or attaching to the will a self-proving clause that meets the requirements of subsection (c) or (d). If the testator and witnesses sign a self-proving clause that meets the requirements of subsection (c) or (d) at the time the will is executed, no other signatures of the testator and witnesses are required for the will to be validly executed and self-proved.

(b) If a will is executed by the signatures of the testator and witnesses on an attestation clause under section 3(b) of this chapter, the will may be made self-proving at a later date by attaching to the will a self-proving clause signed by the testator and witnesses that meets the requirements of subsection (c) or (d).

(c) A self-proving clause must contain the acknowledgment of the will by the testator and the statements of the witnesses, each made under the laws of Indiana and evidenced by the signatures of the testator and witnesses (which may be made under the penalties for perjury) attached or annexed to the will in form and content substantially as follows:

We, the undersigned testator and the undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument declare:

- (1) that the testator executed the instrument as the testator's will;
- (2) that, in the presence of both witnesses, the testator signed or acknowledged the signature already made or directed another to sign for the testator in the testator's presence;
- (3) that the testator executed the will as a free and voluntary act for the purposes expressed in it;
- (4) that each of the witnesses, in the presence of the testator and of each other, signed the will as a witness;
- (5) that the testator was of sound mind when the will was executed; and
- (6) that to the best knowledge of each of the witnesses the testator was, at the time the will was executed, at least eighteen (18) years of age or was a member of the armed forces or of the merchant marine of the United States or its allies.

Testator

Date

Witness



Witness

(d) A will is attested and self-proved if the will includes or has attached a clause signed by the testator and the witnesses that indicates in substance that:

- (1) the testator signified that the instrument is the testator's will;
- (2) in the presence of at least two (2) witnesses, the testator signed the instrument or acknowledged the testator's signature already made or directed another to sign for the testator in the testator's presence;
- (3) the testator executed the instrument freely and voluntarily for the purposes expressed in it;
- (4) each of the witnesses, in the testator's presence and in the presence of all other witnesses, is executing the instrument as a witness;
- (5) the testator was of sound mind when the will was executed; and
- (6) the testator is, to the best of the knowledge of each of the witnesses, either:
 - (A) at least eighteen (18) years of age; or
 - (B) a member of the armed forces or the merchant marine of the United States or its allies.

(e) If the testator and the attesting witnesses executed the will in two (2) or more counterparts on paper under section 3(c) of this chapter, the self-proving clause, if applicable, for the will must substantially be in the following form:

"We, the undersigned testator and undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument, declare the following:

- (1) That the undersigned testator and witnesses interacted with each other in real time through the use of technology, and each witness was able to observe the testator and other witnesses throughout the signing process.**
- (2) That the testator executed a complete counterpart of the instrument, in a readable form on paper, as the testator's will.**
- (3) That, in the presence of both witnesses, the testator:**
 - (A) signed the paper counterpart of the will;**
 - (B) acknowledged the testator's signature already made; or**
 - (C) directed another individual to sign the paper counterpart of the will for the testator in the testator's presence.**
- (4) That the testator executed the will as a free and voluntary act for the purpose expressed in the will.**



- 1 **(5) That each of the witnesses, in the presence of the testator**
- 2 **and of each other, signed one (1) or more other complete**
- 3 **paper counterparts of the will as a witness.**
- 4 **(6) That each paper counterpart of the will that was signed by**
- 5 **the witness was complete, in readable form, and with content**
- 6 **identical to the paper counterpart signed by the testator.**
- 7 **(7) That the testator was of sound mind when the will was**
- 8 **executed.**
- 9 **(8) That, to the best knowledge of each witness, the testator**
- 10 **was at least eighteen (18) years of age at the time the will was**
- 11 **executed or was a member of the armed forces or of the**
- 12 **merchant marine of the United States or its allies."**

13 (e) **(f)** This section shall be construed in favor of effectuating the
 14 testator's intent to make a valid will.

15 SECTION 4. IC 29-1-5-3.2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. Subject to the
 17 applicable Indiana Rules of Trial Procedure **and the Indiana Rules of**
 18 **Evidence, a videotape video recording, one (1) or more**
 19 **photographs, or an audio recording made or captured during part**
 20 **or all of a will's execution** may be admissible as evidence of the
 21 following:

- 22 (1) The proper execution of a will.
- 23 (2) The intentions of a testator.
- 24 (3) The mental state or capacity of a testator.
- 25 (4) The authenticity of a will.
- 26 (5) Matters that are determined by a court to be relevant to the
- 27 probate of a will.

28 SECTION 5. IC 29-1-5-3.3 IS ADDED TO THE INDIANA CODE
 29 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 30 **UPON PASSAGE]: Sec. 3.3. (a) This section applies to a will that is**
 31 **signed and witnessed:**

- 32 **(1) on or after March 31, 2020;**
- 33 **(2) before January 1, 2021; and**
- 34 **(3) in reliance on the Indiana supreme court's order signed**
- 35 **and filed on March 31, 2020, under case number 20S-MS-237,**
- 36 **or, as supplemented or extended by the supreme court's order**
- 37 **signed and filed on May 1, 2020, under case number**
- 38 **20S-MS-237, and by the supreme court's orders signed and**
- 39 **filed on May 29, 2020, and November 10, 2020, under case**
- 40 **number 20S-CB-123.**

41 **(b) Notwithstanding any other law or provision, a will described**
 42 **in subsection (a) that was signed and witnessed in compliance with:**



1 (1) the procedures and requirements set forth in the Indiana
2 supreme court's order signed and filed on March 31, 2020,
3 under case number 20S-MS-237, or, as supplemented or
4 extended by the supreme court's order signed and filed on
5 May 1, 2020, under case number 20S-MS-237 and by the
6 supreme court's order signed and filed on November 10, 2020,
7 under case number 20S-CB-123; or

8 (2) the procedures and requirements set forth in section 3.1 of
9 this chapter or IC 29-1-21-4;

10 is not required to be reexecuted or reratified by the testator or the
11 witnesses in compliance with the witnessing procedures specified
12 under section 3 or 3.1 of this chapter as those chapters existed on
13 June 30, 2020.

14 (c) A proponent who offers a will for probate may demonstrate
15 prima facie compliance with subsection (b) by relying on the
16 contents of a self-proving clause or by describing compliance in a
17 verified petition under IC 29-1-7-4. A person contesting the validity
18 of a will described in subsection (a) has the burden of proving
19 noncompliance with subsection (b).

20 SECTION 6. IC 29-1-21-3, AS AMENDED BY P.L.231-2019,
21 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 3. The following terms are defined for this
23 chapter:

24 (†) "Actual presence" means that:
25 (A) a witness; or
26 (B) another individual who observes the execution of the
27 electronic will;

28 is physically present in the same physical location as the testator.
29 The term does not include any form of observation or interaction
30 that is conducted by means of audio; visual; or audiovisual
31 telecommunication or similar technological means.

32 (‡) (1) "Affidavit of regularity" means an affidavit executed by a
33 custodian or other person under section 13 of this chapter with
34 respect to the electronic record for an electronic will or a
35 complete converted copy of an electronic will.

36 (‡) (2) "Complete converted copy" means a document in any
37 format that:

- 38 (A) can be visually perceived in its entirety on a monitor or
- 39 other display device;
- 40 (B) can be printed; and
- 41 (C) contains:
 - 42 (i) the text of the electronic will;



- 1 (ii) the electronic signatures of the testator and the
 2 witnesses;
 3 (iii) a readable copy of any associated document integrity
 4 evidence that may be a part of or attached to the electronic
 5 will; and
 6 (iv) a self-proving clause concerning the electronic will, if
 7 the electronic will is self-proved.
- 8 ~~(4)~~ **(3)** "Custodian" means a person, other than:
 9 (A) the testator who executed the electronic will;
 10 (B) an attorney;
 11 (C) a person who is named in the electronic will as a personal
 12 representative of the testator's estate; or
 13 (D) a person who is named or defined as a distributee in the
 14 electronic will;
 15 who has authorized possession or control of the electronic will.
 16 The term may include an attorney in fact serving under a living
 17 testator's durable power of attorney who possesses general
 18 authority over records, reports, statements, electronic records, or
 19 estate planning transactions.
- 20 ~~(5)~~ **(4)** "Custody" means the authorized possession and control of
 21 at least one (1) of the following:
 22 (A) A complete copy of the electronic record for the electronic
 23 will, including a self-proving clause if a self-proving clause is
 24 executed.
 25 (B) A complete converted copy of the electronic will, if the
 26 complete electronic record has been lost or destroyed or the
 27 electronic will has been revoked.
- 28 ~~(6)~~ **(5)** "Document integrity evidence" means the part of the
 29 electronic record for the electronic will that:
 30 (A) is created and maintained electronically;
 31 (B) includes digital markers showing that the electronic will
 32 has not been altered after its initial execution and witnessing;
 33 (C) is logically associated with the electronic will in a tamper
 34 evident manner so that any change made to the text of the
 35 electronic will after its execution is visibly perceptible when
 36 the electronic record is displayed or printed;
 37 (D) will generate an error message, invalidate an electronic
 38 signature, make the electronic record unreadable, or otherwise
 39 display evidence that some alteration was made to the
 40 electronic will after its execution; and
 41 (E) displays the following information:
 42 (i) The city and state in which, and the date and time at



- 1 which, the electronic will was executed by the testator and
- 2 the attesting witnesses.
- 3 (ii) The text of the self-proving clause, if the electronic will
- 4 is electronically self-proved through use of a self-proving
- 5 clause executed under section 4(c) of this chapter.
- 6 (iii) The name of the testator and attesting witnesses.
- 7 (iv) The name and address of the person responsible for
- 8 marking the testator's signature on the electronic will at the
- 9 testator's direction and in the ~~actual~~ presence of the testator
- 10 and attesting witnesses.
- 11 (v) Copies of or links to the electronic signatures of the
- 12 testator and the attesting witnesses on the electronic will.
- 13 (vi) A general description of the type of identity verification
- 14 evidence used to verify the testator's identity.
- 15 (vii) The text of the advisory instruction, if any, that is
- 16 provided to the testator under section 6 of this chapter at the
- 17 time of the execution of the electronic will.
- 18 (viii) The content of the cryptographic hash or unique code
- 19 used to complete the electronic record and make the
- 20 electronic will tamper evident if a public key infrastructure
- 21 or similar secure technology was used to sign or authenticate
- 22 the electronic will and if the vendor or the software for the
- 23 technology makes inclusion feasible.
- 24 Document integrity evidence may, but is not required to, contain
- 25 other information about the electronic will such as a unique
- 26 document number, client number, or other identifier that an
- 27 attorney or custodian assigns to the electronic will or a link to a
- 28 secure Internet web site where a complete copy of the electronic
- 29 will is accessible. The title, heading, or label, if any, that is
- 30 assigned to the document integrity evidence (such as "certificate
- 31 of completion", "audit trail", or "audit log") is immaterial.
- 32 ~~(7)~~ (6) "Electronic" has the meaning set forth in IC 26-2-8-102.
- 33 ~~(8)~~ (7) "Electronic record" has the meaning set forth in
- 34 IC 26-2-8-102. The term may include one (1) or both of the
- 35 following:
- 36 (A) The document integrity evidence associated with the
- 37 electronic will.
- 38 (B) The identity verification evidence of the testator who
- 39 executed the electronic will.
- 40 ~~(9)~~ (8) "Electronic signature" has the meaning set forth in
- 41 IC 26-2-8-102.
- 42 ~~(10)~~ (9) "Electronic will" means the will of a testator that:



- 1 (A) is initially created and maintained as an electronic record;
- 2 (B) contains the electronic signatures of:
 - 3 (i) the testator; and
 - 4 (ii) the attesting witnesses; and
- 5 (C) contains the date and times of the electronic signatures
- 6 described by clause (B)(i) and (B)(ii).
- 7 The term may include a codicil that amends an electronic will or
- 8 a traditional paper will if the codicil is executed in accordance
- 9 with the requirements of this chapter.
- 10 ~~(11)~~ **(10)** "Executed" means the signing of an electronic will. The
- 11 term includes the use of an electronic signature.
- 12 ~~(12)~~ **(11)** "Identity verification evidence" means either:
 - 13 (A) a copy of the testator's government issued photo
 - 14 identification card; or
 - 15 (B) any other information that verifies the identity of the
 - 16 testator if derived from one (1) or more of the following
 - 17 sources:
 - 18 (i) A knowledge based authentication method.
 - 19 (ii) A physical device.
 - 20 (iii) A digital certificate using a public key infrastructure.
 - 21 (iv) A verification or authorization code sent to or used by
 - 22 the testator.
 - 23 (v) Biometric identification.
 - 24 (vi) Any other commercially reasonable method for
 - 25 verifying the testator's identity using current or future
 - 26 technology.
- 27 ~~(13)~~ **(12)** "Logically associated" means electronically connected,
- 28 cross referenced, or linked in a reliable manner.
- 29 **(13) "Observe" means to perceive another's actions or**
- 30 **expressions of intent through the senses of eyesight or**
- 31 **hearing, or both. The term includes perceptions involving the**
- 32 **use of technology or learned skills to:**
 - 33 **(A) assist the person's capabilities of eyesight or hearing,**
 - 34 **or both; or**
 - 35 **(B) compensate for an impairment of the person's**
 - 36 **capabilities of eyesight or hearing, or both.**
- 37 **(14) "Observing" has the meaning set forth in subdivision**
- 38 **(13).**
- 39 **(15) "In the presence of" has the meaning set forth in**
- 40 **subdivision (16).**
- 41 **(16) "Presence" means a process of signing and witnessing a**
- 42 **will in which:**



- 1 **(A) the testator and the witnesses:**
- 2 (i) are directly present with each other in the same
- 3 physical space; or
- 4 (ii) are able to interact with each other in real time
- 5 through the use of audiovisual technology now known or
- 6 later developed;
- 7 **(B) the testator and witnesses are able to positively identify**
- 8 each other; and
- 9 **(C) each witness is able to interact with the testator and**
- 10 with each other by observing:
- 11 (i) the testator's expression of intent to execute the
- 12 electronic will;
- 13 (ii) the testator's actions in executing or directing the
- 14 execution of the testator's electronic will; and
- 15 (iii) the actions of every other witness in signing the will.
- 16 **The term includes the use of technology or learned skills for**
- 17 **the purpose of assisting with hearing, eyesight, and speech, or**
- 18 **for the purpose of compensating for a hearing, eyesight, or**
- 19 **speech impairment.**
- 20 ~~(14)~~ **(17) "Sign"** means valid use of a properly executed electronic
- 21 signature.
- 22 ~~(15)~~ **(18) "Signature"** means the authorized use of the testator's
- 23 name to authenticate an electronic will. The term includes an
- 24 electronic signature.
- 25 ~~(16)~~ **(19) "Tamper evident"** means the feature of an electronic
- 26 record, such as an electronic will or document integrity evidence
- 27 for an electronic will, that will cause any alteration of or
- 28 tampering with the electronic record, after it is created or signed,
- 29 to be perceptible to any person viewing the electronic record
- 30 when it is printed on paper or viewed on a monitor or other
- 31 display device. The term applies even if the nature or specific
- 32 content of the alteration is not perceptible.
- 33 ~~(17)~~ **(20) "Traditional paper will"** means a will or codicil that is
- 34 signed by the testator and the attesting witnesses:
- 35 (A) on paper; and
- 36 (B) in the manner specified in IC 29-1-5-3 or IC 29-1-5-3.1.
- 37 ~~(18)~~ **(21) "Will"** includes all wills, testaments, and codicils. The
- 38 term includes:
- 39 (A) an electronic will; and
- 40 (B) any testamentary instrument that:
- 41 (i) appoints an executor; or
- 42 (ii) revives or revokes another will.



1 SECTION 7. IC 29-1-21-4, AS ADDED BY P.L.40-2018,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 4. (a) To be valid as a will under this article,
 4 an electronic will must be executed by the electronic signature of the
 5 testator and attested to by the electronic signatures of at least two (2)
 6 witnesses in the following manner:

7 (1) ~~The testator and the attesting witnesses must be in each other's~~
 8 ~~actual presence when the electronic signatures are made in or on~~
 9 ~~the electronic will. The testator and witnesses must directly~~
 10 ~~observe one another as the electronic will is being signed by the~~
 11 ~~parties. The testator, the attesting witnesses, and any~~
 12 **individual who signs for the testator under subdivision (4)(B)**
 13 **must be in each other's presence when the electronic**
 14 **signatures are made in or on the electronic will. A person,**
 15 **including an attorney or paralegal, who supervises the**
 16 **execution of the electronic will may act and sign as one (1) of**
 17 **the attesting witnesses if the person does not sign the**
 18 **electronic will at the testator's direction under subdivision**
 19 **(4)(B). The testator and witnesses must be able to interact**
 20 **with each other and the witnesses must be able to observe the**
 21 **testator and each other as the electronic will is being signed.**

22 (2) The testator and attesting witnesses must comply with:

23 (A) the prompts, if any, issued by the software being used to
 24 perform the electronic signing; or

25 (B) the instructions by the person, if any, responsible for
 26 supervising the execution of the electronic will.

27 (3) The testator must state, in the ~~actual~~ presence of the attesting
 28 witnesses, that the instrument to be electronically signed is the
 29 testator's will.

30 (4) The testator must:

31 (A) electronically sign the electronic will in the ~~actual~~
 32 presence of the attesting witnesses; or

33 (B) direct another adult individual who is not an attesting
 34 witness to sign the electronic will on the testator's behalf in the
 35 ~~actual~~ presence of the testator and the attesting witnesses.

36 (5) The attesting witnesses must electronically sign the electronic
 37 will in the ~~actual~~ presence of:

38 (A) the testator; and

39 (B) ~~one another; each other;~~

40 after the testator has electronically signed the electronic will.

41 (6) The:

42 (A) testator; or



1 (B) other adult individual who is:
2 (i) not an attesting witness; and
3 (ii) acting on behalf of the testator;
4 must command the software application or user interface to
5 finalize the electronically signed electronic will as an electronic
6 record.
7 The process described in this section may include as part of the
8 electronic record for the electronic will any identity verification
9 evidence pertaining to the testator or any document integrity evidence
10 for the electronic will.
11 (b) An electronic will may be self-proved:
12 (1) at the time that it is electronically signed; and
13 (2) before it is electronically finalized;
14 by incorporating into the electronic record of the electronic will a
15 self-proving clause described under subsection (c). An electronic will
16 is not required to contain an attestation clause or a self-proving clause
17 in order to be a valid electronic will.
18 (c) A self-proving clause under subsection (b) must substantially be
19 in the following form:
20 "We, the undersigned testator and the undersigned witnesses, whose
21 names are signed to the attached or foregoing instrument, declare:
22 (1) That the testator executed the instrument as the testator's will;
23 (2) That, in the ~~actual and direct physical~~ presence of both
24 witnesses, the testator signed the will or directed another
25 individual who is not one of the witnesses to sign for the testator
26 in the testator's presence and in the witnesses' ~~actual and direct~~
27 ~~physical~~ presence;
28 (3) That the testator executed the will as a free and voluntary act
29 for the purposes expressed in it;
30 (4) That each of the witnesses, in the ~~actual and direct physical~~
31 presence of the testator and each other, signed the will as a
32 witness;
33 (5) That the testator was of sound mind when the will was
34 executed; and
35 (6) That, to the best knowledge of each attesting witness, the
36 testator was, at the time the will was executed, at least eighteen
37 (18) years of age or was a member of the armed forces or of the
38 merchant marine of the United States or its allies.
39 _____
40 (insert date) (insert signature of testator)
41 _____
42 (insert date) (insert signature of witness)



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(insert date) (insert signature of witness)".
A single signature from the testator and from each attesting witness may be provided for any electronic will bearing or containing a self-proving clause.

(d) An electronic will that is executed in compliance with subsection (a) shall not be rendered invalid by the existence of any of the following attributes:

- (1) An attestation clause.
- (2) Additional signatures.
- (3) A self-proving clause that differs in form from the exemplar provided in subsection (c).
- (4) Any additional language that refers to the circumstances or manner in which the electronic will was executed.

(e) This section shall be construed in a manner that gives effect to the testator's intent to execute a valid will.

SECTION 8. IC 29-1-21-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.1. (a) This section applies to a will or codicil that is electronically signed and witnessed:**

- (1) on or after March 31, 2020;**
- (2) before January 1, 2021; and**
- (3) in reliance on the Indiana supreme court's order signed and filed on March 31, 2020, under case number 20S-MS-237, as supplemented or extended by the supreme court's order signed and filed on May 1, 2020, under case number 20S-MS-237, and by the supreme court's orders signed and filed on May 29, 2020, and November 10, 2020, under case number 20S-CB-123.**

(b) Notwithstanding any other law or provision, a will or codicil described in subsection (a) that was electronically signed and witnessed in compliance with:

- (1) the procedures and requirements set forth in the Indiana supreme court's order signed and filed on March 31, 2020, under case number 20S-MS-237 and as supplemented or extended by the supreme court's order signed and filed on May 1, 2020, under case number 20S-MS-237 and by the supreme court's order signed and filed on November 10, 2020, under case number 20S-CB-123; or**
- (2) the procedures and requirements set forth in section 4 of this chapter;**

does not need to be reexecuted or reratified in compliance with the



1 **witnessing procedures specified under section 4 of this chapter or**
 2 **IC 29-1-5-3 as they existed on June 30, 2020.**

3 **(c) A proponent who offers an electronic will for probate may**
 4 **demonstrate prima facie compliance with subsection (b) by relying**
 5 **on the contents of a self-proving clause or by describing**
 6 **compliance in a verified petition under IC 29-1-7-4. A person**
 7 **contesting the validity of an electronic will described in subsection**
 8 **(b) has the burden of proving noncompliance with subsection (b).**

9 SECTION 9. IC 29-1-21-5, AS ADDED BY P.L.40-2018,
 10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]: Sec. 5. Subject to the **applicable** Indiana Rules of
 12 Evidence and the Indiana Rules of Trial Procedure, a video recording,
 13 **one (1) or more photographs, or an audio recording of part or all**
 14 of an electronic will's execution or a video recording of a testator either
 15 before or after the execution of an electronic will may be admissible as
 16 evidence of the following:

- 17 (1) The proper execution of an electronic will in compliance with
- 18 section 4 of this chapter.
- 19 (2) The intentions of the testator.
- 20 (3) The mental state or capacity of the testator.
- 21 (4) The absence of undue influence or duress with respect to the
- 22 testator.
- 23 (5) Verification of the testator's identity.
- 24 (6) Evidence that a complete converted copy of an electronic will
- 25 should be admitted to probate.
- 26 (7) Whether a will whose execution failed to fully comply with
- 27 section 4 of this chapter should be admitted to probate as a valid
- 28 traditional paper will.
- 29 (8) Any other matter the court considers relevant to the probate of
- 30 an electronic will.

31 SECTION 10. IC 29-1-21-6, AS ADDED BY P.L.40-2018,
 32 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: Sec. 6. (a) As used in this section, "form vendor"
 34 means any person who provides a testator with an electronic will form
 35 or a user interface for creating, completing, or executing an electronic
 36 will. The term includes:

- 37 (1) an attorney who prepares an electronic will for a testator; and
- 38 (2) any vendor or licensor of estate planning software of digital
- 39 estate planning forms.

40 (b) It is consistent with best practices to provide the following
 41 advisory instruction with each electronic will:

42 "IMPORTANT Instructions to the **Signatory of Person Signing**



1 an Electronic Will

2 A. The procedure for proper execution (electronic signing and
3 witnessing) of your electronic will is as follows:

4 (1) You (the testator) and the two (2) attesting witnesses must
5 be ~~actually present in the same location~~ **able to interact with**
6 **each other in real time** throughout the execution process **and**
7 **the witnesses must be able to observe you and each other as**
8 **your electronic will is being signed. Effective on and after**
9 **_____**, **2021 and on or after March 31, 2020 in some**
10 **situations covered by emergency orders of the Indiana**
11 **Supreme Court, Indiana law ~~does not permit~~ has permitted**
12 attesting witnesses to observe or participate in the signing
13 process from a location that is apart or separate from the
14 testator's location **or and to act as an attesting witness**
15 **witnesses** through use of remote audio, remote visual, or
16 remote audiovisual software or technology.

17 (2) Both attesting witnesses must be adults and should not be
18 individuals who will be gifted money or other property under
19 the terms of your electronic will. If a witness named in the
20 electronic will is named as a beneficiary or legatee or entitled
21 to money or property under the terms of the electronic will, the
22 beneficiary or legatee named in the electronic will may only
23 receive money, property, or shares reserved for them under
24 state intestacy laws.

25 (3) You, as the testator, must inform the attesting witnesses that
26 the document you will be signing is your will.

27 (4) You (the testator) and the two (2) attesting witnesses may
28 use the same computer or device or different computers and
29 devices to make your respective electronic signatures on the
30 electronic will.

31 (5) The online user interface or software application for your
32 will may require you and the attesting witnesses to use a
33 password, validation code, token, or other security feature in
34 order to prevent identity theft or impersonation and
35 permanently link each of you, as individuals, to your respective
36 electronic signatures.

37 (6) You (the testator) and the two (2) attesting witnesses should
38 follow the instructions provided by the online user interface or
39 software application when making your respective electronic
40 signatures on your electronic will. You (the testator) should
41 electronically sign the electronic will first followed by each of
42 the attesting witnesses. If you (the testator) are physically



1 unable to type, press keys, or otherwise enter commands on the
 2 computer or device being used to electronically sign the
 3 electronic will, you may instruct another adult who is not an
 4 attesting witness to enter your electronic signature on your
 5 electronic will for you. Any individual who enters **or makes**
 6 your electronic signature on your electronic will on your behalf
 7 must do so in your ~~actual~~ presence. **For this purpose, and on**
 8 **and after _____, 2021, the requirement of presence is**
 9 **satisfied by use of any two-way audiovisual communication**
 10 **method that allows you and the witnesses to interact and**
 11 **observe each other in real time as described in subdivision**
 12 **(1).**

13 (7) The software application or online user interface may create
 14 a date and time stamp for your electronic signature and for the
 15 electronic signature of each attesting witness.

16 (8) The execution of your electronic will is complete after you
 17 and the attesting witnesses have completed making your
 18 electronic signatures by clicking or executing a command that
 19 saves or submits your respective electronic signatures in the
 20 software application or online interface.

21 (9) You are strongly encouraged to save a complete copy of
 22 your electronic will in a portable and printable format. An
 23 electronic will preserved in this manner should include all
 24 information related to the execution process of your electronic
 25 will, including information that is compiled or stored by the
 26 software application or online user interface. The related
 27 information described in this subdivision should be viewable
 28 and printable as a self-contained and permanent part of the
 29 electronic record for your electronic will.

30 B. If you used a software application or an online user interface
 31 to generate, finalize, and sign your electronic will, the software or
 32 user interface may also offer you the ability to securely store the
 33 electronic record of your electronic will. You may be required to
 34 create or establish a user identification, password, or other
 35 security feature in order to store the electronic record of your
 36 electronic will in this way. You should carefully safeguard your
 37 user identification, password, security questions, and personal
 38 information used to securely save or store your electronic will.
 39 The information that you are being asked to safeguard will likely
 40 be required in order to:

- 41 (1) generate;
- 42 (2) replace;



- 1 (3) retrieve; or
 2 (4) revoke;
 3 your electronic will at a later date.
 4 C. The only proper and valid way for you to revoke your
 5 electronic will is to:
 6 (1) sign a new electronic will or a traditional paper will that
 7 revokes all previous wills executed by you; or
 8 (2) permanently and irrevocably make unreadable and
 9 nonretrievable the electronic record for your electronic will.
 10 If you are holding the electronic record for your electronic will on
 11 your own computer or digital storage device and not making use
 12 of a third party custodian or online storage or cloud based
 13 document storage service to store or safeguard your electronic
 14 will, you may personally delete permanently or make unreadable
 15 the electronic record associated with your electronic will. Before
 16 doing so, you are encouraged to make and save a printable,
 17 permanent copy of the complete electronic record associated with
 18 your electronic will, including any related information pertaining
 19 to the execution or signing process of your electronic will, so that
 20 the contents of your revoked electronic will may be discovered
 21 later by a probate court or any other interested persons in the
 22 event of a dispute concerning the validity of any later will that you
 23 decide to make.
 24 If you are making use of a third party custodian or online or cloud
 25 based document storage service to store or safeguard your electronic
 26 will, the valid revocation of your electronic will requires you to
 27 personally issue a written or electronic revocation document to each
 28 third party custodian who has custody of a copy of the electronic record
 29 associated with your electronic will. A valid revocation document must
 30 instruct the custodian to permanently delete or make unreadable and
 31 nonretrievable the electronic record associated with your electronic
 32 will. A valid revocation document must be signed by you and two (2)
 33 attesting witnesses while following the same procedures required for
 34 the execution of a new traditional paper will or new electronic will."
 35 (c) A failure to provide the text of the advisory instruction in
 36 subsection (b) does not affect the validity of the electronic will if the
 37 electronic will is otherwise properly executed in the manner set forth
 38 in this chapter.
 39 (d) A failure to provide the advisory instruction described in
 40 subsection (b) may not be the predicate for any form of civil or other
 41 liability.
 42 SECTION 11. IC 29-1-21-8, AS ADDED BY P.L.40-2018,



1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 8. (a) This section describes the exclusive
3 methods for revoking an electronic will. Before a testator completes or
4 directs the revocation of an electronic will, the testator shall:

5 (1) comply with; or

6 (2) direct a third party custodian to comply, as applicable, with;
7 subsection (e).

8 (b) A testator may revoke and supersede a previously executed
9 electronic will by executing a new electronic will or traditional paper
10 will that explicitly revokes and supersedes all prior wills. However, if
11 the revoked or superseded electronic will is held in the custody or
12 control of more than one (1) custodian, the testator shall use the
13 testator's best efforts to contact each custodian and to instruct each
14 custodian to permanently delete and render nonretrievable each
15 revoked or superseded electronic will in the manner described in
16 subsection (d).

17 (c) If a testator is not using the services of a custodian to store the
18 electronic record for an electronic will, the testator may revoke the
19 electronic will by permanently deleting each copy of the electronic
20 record associated with the electronic will in the testator's possession or
21 control or by rendering the electronic record for the associated
22 electronic will unreadable and nonretrievable.

23 (d) The testator may revoke the testator's electronic will by
24 executing a revocation document that:

25 (1) is signed by the testator and two (2) attesting witnesses in a
26 manner that complies with IC 29-1-5-3(b) or with section 4 of this
27 chapter;

28 (2) refers to the date on which the electronic will that is being
29 revoked was signed; and

30 (3) states that the testator is revoking the electronic will described
31 in subdivision (2).

32 A revocation document under this subsection may be signed and
33 witnessed with the electronic signature of the testator and two (2)
34 attesting witnesses, or signed and witnessed with signatures on paper
35 as described in IC 29-1-5-6.

36 (e) If a testator is using the services of an attorney or a custodian to
37 store the electronic record associated with the testator's electronic will,
38 the testator may revoke the electronic will by instructing the custodian
39 or attorney to permanently delete or make unreadable and
40 nonretrievable the electronic record associated with the electronic will.
41 An instruction issued under this subsection must be made in writing to
42 the custodian or attorney as applicable. A custodian or attorney who



- 1 receives a written instruction described in this subsection shall:
- 2 (1) sign an affidavit of regularity under section 13 of this chapter
- 3 with respect to the electronic will to be revoked by the testator;
- 4 (2) create a complete converted copy (as defined in section ~~3(3)~~
- 5 **3(2)** of this chapter) of the electronic will being revoked;
- 6 (3) make the signed affidavit of regularity a permanent attachment
- 7 to or part of the complete converted copy;
- 8 (4) follow the testator's written instruction by:
- 9 (A) permanently deleting the electronic record for the revoked
- 10 electronic will; or
- 11 (B) rendering the electronic record associated with the revoked
- 12 electronic will unreadable and nonretrievable; and
- 13 (5) transmit or issue the complete converted copy of the revoked
- 14 electronic will to the testator.
- 15 (f) If the electronic record for a particular electronic will or a
- 16 complete converted copy of the electronic will cannot be found after
- 17 the testator's death, the presumption that applied to a lost or missing
- 18 traditional paper will shall be applied to the lost or missing electronic
- 19 will.
- 20 SECTION 12. IC 29-1-21-18, AS ADDED BY P.L.40-2018,
- 21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 22 UPON PASSAGE]: Sec. 18. (a) For ~~purpose~~ **purposes** of IC 29-3,
- 23 IC 30-5, and IC 32-39:
- 24 (1) the electronic record for an electronic will is a "digital asset"
- 25 as that term is defined in IC 32-39-1-10;
- 26 (2) the electronic record for an electronic will is not an "electronic
- 27 communication" as defined in 18 U.S.C. 2510(12) or
- 28 IC 32-39-1-12;
- 29 (3) the digital or electronic transfer or transmission of the
- 30 electronic record for an electronic will between any two (2)
- 31 persons other than the testator and the testator's attorney is an
- 32 electronic communication as defined in 18 U.S.C. 2510(12) or
- 33 IC 32-39-1-12;
- 34 (4) a custodian (as defined in section ~~3(4)~~ **3(3)** of this chapter) of
- 35 an electronic will is a "custodian" as defined in IC 32-39-1-8; and
- 36 (5) the following individuals are "users" for purposes of IC 32-39
- 37 if the testator, attorney, or other authorized person contracts with
- 38 another person to store the electronic record for the electronic
- 39 will:
- 40 (A) The testator of an electronic will.
- 41 (B) The attorney representing the testator.
- 42 (C) Any other person with authorized possession of or



1 authorized access to the electronic record for the electronic will.

2 (b) The execution or revocation of an electronic will is not a
3 contract or a "transaction in or affecting interstate or foreign
4 commerce" for purposes of the federal E-SIGN Act, 15 U.S.C. 7001.

5 (c) The execution or revocation of an electronic will is not a contract
6 or "transaction" for purposes of IC 26-2-8 and the exclusion stated in
7 IC 26-2-8-103(b)(1) continues in effect with respect to electronic wills
8 and codicils.

9 SECTION 13. IC 29-3-14-7, AS ADDED BY P.L.68-2019,
10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 7. (a) A supported decision making agreement
12 must:

13 (1) name at least one (1) supporter;
14 (2) describe the decision making assistance that each supporter
15 may provide to the adult and how supporters may work together;
16 and
17 (3) if appropriate, be executed by the adult's guardian.

18 (b) A supported decision making agreement may:
19 (1) appoint more than one (1) supporter;
20 (2) appoint an alternate to act in the place of a supporter under
21 circumstances specified in the agreement; or
22 (3) authorize a supporter to share information with any other
23 supporter or others named in the agreement.

24 (c) A supported decision making agreement must be:
25 (1) in writing;
26 (2) dated; and
27 (3) signed by the adult in the presence of a notary.

28 (d) A supported decision making agreement must contain a separate
29 consent signed by each supporter named in the agreement indicating
30 the supporter's:

31 (1) relationship to the adult;
32 (2) willingness to act as a supporter; and
33 (3) acknowledgment of the duties of a supporter.

34 (e) An adult who meets the requirements to enter into a supported
35 decision making agreement under section 4 of this chapter may sign a
36 supported decision making agreement in any manner, including
37 electronic signature, permitted under ~~IC 30-5-4-1(5)~~ IC 30-5-4-1(b) or
38 IC 30-5-11-4(a).

39 SECTION 14. IC 30-4-1.5-4, AS AMENDED BY P.L.56-2020,
40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 UPON PASSAGE]: Sec. 4. (a) Any of the following persons may create
42 a valid inter vivos trust by electronically signing an electronic trust



1 instrument, with no witness requirement or acknowledgment before
 2 any notary public, if the electronic trust instrument sufficiently states
 3 the terms of the trust in compliance with ~~IC 30-4-2-1(b):~~

4 **IC 30-4-2-1(c):**

- 5 (1) A settlor.
 6 (2) An agent of a settlor who is an attorney in fact.
 7 (3) A person who holds a power of appointment that is
 8 exercisable by appointing money or property to the trustee of a
 9 trust.
 10 (4) An adult who is **not an ineligible person under subsection**
 11 **(b) and who electronically signs the electronic trust**
 12 **instrument:**

13 (A) ~~is not a trustee named in the electronic trust instrument; at~~
 14 ~~the settlor's direction; and~~

15 (B) ~~electronically signs the electronic trust instrument; in the~~
 16 ~~direct physical presence of the settlor.~~

17 (i) ~~at the settlor's direction; and~~

18 (ii) ~~in the direct physical presence of the settlor.~~

19 If an adult electronically signs the trust instrument under subdivision
 20 (4), the trust instrument must indicate that the adult signer is signing at
 21 the direction of the settlor and in the settlor's direct physical presence
 22 **and must state that the adult signer is not a relative of the settlor,**
 23 **is not a trustee named in the electronic trust instrument, and is not**
 24 **entitled to any beneficial interest or power of appointment under**
 25 **the electronic trust instrument.** For all purposes under this article, a
 26 trust instrument electronically signed under ~~subdivisions~~ **subdivision**
 27 (1), (2), or (4) is the creation of the named settlor.

28 **(b) The following persons are ineligible to sign an electronic**
 29 **trust instrument at the direction of the settlor under subsection**
 30 **(a)(4):**

- 31 **(1) A trustee named in the electronic instrument.**
 32 **(2) A relative of the settlor.**
 33 **(3) A person who is entitled to receive a beneficial interest in**
 34 **the trust or a power of appointment under the electronic trust**
 35 **instrument.**

36 ~~(b)~~ **(c)** The following persons may use the electronic record
 37 associated with an electronic trust instrument to make a complete
 38 converted copy of an electronic trust instrument immediately after its
 39 execution or at a later time when a complete and intact electronic
 40 record is available:

- 41 (1) The settlor.
 42 (2) A trustee who accepts appointment under the electronic trust



- 1 instrument.
- 2 (3) An attorney representing the settlor or the trustee.
- 3 (4) Any other person authorized by the settlor.
- 4 If a complete converted copy is generated from a complete and intact
- 5 electronic record associated with an electronic trust instrument, the
- 6 person who generates the complete converted copy is not required to
- 7 sign the affidavit described in subsection ~~(d)~~: **(e)**.
- 8 ~~(e)~~ **(d)** If:
- 9 (1) a person discovers an accurate but incomplete copy of an
- 10 electronic trust instrument;
- 11 (2) the electronic record for the electronic trust instrument
- 12 becomes:
- 13 (A) lost; or
- 14 (B) corrupted; or
- 15 (3) freedom from tampering or unauthorized alteration cannot be
- 16 authenticated or verified;
- 17 a living settlor, attorney, custodian, or person responsible for the
- 18 discovery of the incomplete electronic trust instrument may prepare a
- 19 complete converted copy of the electronic trust instrument using all
- 20 available information if the person creating the complete converted
- 21 copy of the electronic trust instrument has access to a substantially
- 22 complete, nonelectronic copy of the electronic trust instrument.
- 23 ~~(d)~~ **(e)** A person who creates a complete converted copy of an
- 24 electronic trust instrument under subsection ~~(e)~~ **(d)** shall sign an
- 25 affidavit that affirms or specifies, as applicable, the following:
- 26 (1) The date the electronic trust instrument was created.
- 27 (2) The time the electronic trust instrument was created.
- 28 (3) How the incomplete electronic trust instrument was
- 29 discovered.
- 30 (4) The method and format used to store the original electronic
- 31 record associated with the electronic trust instrument.
- 32 (5) The methods used, if any, to prevent tampering or the making
- 33 of unauthorized alterations to the electronic record or electronic
- 34 trust instrument.
- 35 (6) Whether the electronic trust instrument has been altered since
- 36 its creation.
- 37 (7) Confirmation that an electronic record, including the
- 38 document integrity evidence, if any, was created at the time the
- 39 settlor made the electronic trust instrument.
- 40 (8) Confirmation that the electronic record has not been altered
- 41 while in the custody of the current custodian or any prior
- 42 custodian.



1 (9) Confirmation that the complete converted copy is a complete
 2 and correct duplication of the electronic trust instrument and the
 3 date, place, and time of its execution by the settlor or the settlor's
 4 authorized agent.

5 ~~(e)~~ (f) A complete converted copy derived from a complete and
 6 correct electronic trust instrument may be docketed under IC 30-4-6-7
 7 or, absent any objection, offered and admitted as evidence of the trust's
 8 terms in the same manner as the original and traditional paper trust
 9 instrument of the settlor. Whenever this article permits or requires the
 10 trustee of a trust to provide a copy of a trust instrument to a beneficiary
 11 or other interested person, the trustee may provide a complete
 12 converted copy of the electronic trust instrument. A complete and
 13 converted copy is conclusive evidence of the trust's terms unless
 14 otherwise determined by a court in an order entered upon notice to all
 15 interested persons and after an opportunity for a hearing.

16 SECTION 15. IC 30-4-2-1, AS AMENDED BY P.L.56-2020,
 17 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: Sec. 1. (a) A trust in either real or personal
 19 property is enforceable only if there is written evidence of the terms of
 20 the trust bearing the signature of any of the following persons:

- 21 (1) The settlor.
 22 (2) The settlor's authorized agent.
 23 (3) An adult who **is not an ineligible person under subsection**
 24 **(b) and who signs the trust's written terms:**
 25 (A) ~~is not a trustee named in the trust's written terms; at the~~
 26 ~~settlor's direction; and~~
 27 (B) ~~signs the trust's written terms; in the direct physical~~
 28 ~~presence of the settlor.~~
 29 (i) ~~at the settlor's direction; and~~
 30 (ii) ~~in the direct physical presence of the settlor.~~

31 If an adult signs at the settlor's direction under subdivision (3), the
 32 written evidence of the trust's terms must identify that adult signer, ~~and~~
 33 must state that the adult is signing at the direction of the settlor and in
 34 the settlor's direct physical presence, **and must state that the adult**
 35 **signer is not a relative of the settlor, is not a trustee named in the**
 36 **trust's terms, and is not entitled to any beneficial interest or power**
 37 **of appointment under the trust's terms.**

38 (b) **The following persons are ineligible to sign the written terms**
 39 **of a trust at the direction of the settlor under subsection (a)(3):**

- 40 (1) **A trustee named in the trust's written terms.**
 41 (2) **A relative of the settlor.**
 42 (3) **A person who is entitled to receive a beneficial interest in**



1 **the trust or a power of appointment under the trust's written**
 2 **terms.**

3 ~~(b)~~ **(c)** Except as required in the applicable probate law for the
 4 execution of wills, no formal language is required to create a trust, but
 5 the terms of the trust must be sufficiently definite so that the trust
 6 property, the identity of the trustee, the nature of the trustee's interest,
 7 the identity of the beneficiary, the nature of the beneficiary's interest,
 8 and the purpose of the trust may be ascertained with reasonable
 9 certainty.

10 ~~(c)~~ **(d)** It is not necessary to the validity of a trust that the trust be
 11 funded with or have a corpus that includes property other than the
 12 present or future, vested or contingent right of the trustee to receive
 13 proceeds or property, including:

- 14 (1) as beneficiary of an estate under IC 29-1-6-1;
- 15 (2) life insurance benefits under section 5 of this chapter;
- 16 (3) retirement plan benefits; or
- 17 (4) the proceeds of an individual retirement account.

18 ~~(d)~~ **(e)** A trust created under:

- 19 (1) section 18 of this chapter for the care of an animal; or
- 20 (2) section 19 of this chapter for a noncharitable purpose;

21 has a beneficiary.

22 ~~(e)~~ **(f)** A trust has a beneficiary if the beneficiary can be presently
 23 ascertained or ascertained in the future, subject to any applicable rule
 24 against perpetuities.

25 ~~(f)~~ **(g)** A power of a trustee to select a beneficiary from an indefinite
 26 class is valid. If the power is not exercised within a reasonable time, the
 27 power fails and the property subject to the power passes to the persons
 28 who would have taken the property had the power not been conferred.

29 ~~(g)~~ **(h)** A trust may be created by exercise of a power of appointment
 30 in favor of a trustee.

31 SECTION 16. IC 30-5-4-1, AS AMENDED BY P.L.101-2008,
 32 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: Sec. 1. **(a)** To be valid, a power of attorney must
 34 meet the following conditions:

- 35 (1) Be in writing.
- 36 (2) Name an attorney in fact.
- 37 (3) Give the attorney in fact the power to act on behalf of the
 38 principal.
- 39 (4) Be signed by the principal or at the principal's direction:
 - 40 **(A)** in the presence of a notary public; **or**
 - 41 **(B)** in the presence of witnesses as described under sections
 42 1.3, 1.5, 1.7, and 1.9 of this chapter.



1 (5) (b) In the case of a power of attorney signed at the direction of
2 the principal, the notary must state that the individual who signed the
3 power of attorney on behalf of the principal did so at the principal's
4 direction.

5 SECTION 17. IC 30-5-4-1.3 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: **Sec. 1.3. (a) This section applies to a power of
8 attorney executed in the presence of witnesses under section 1 of
9 this chapter on or after March 31, 2020.**

10 **(b) Any person who, at the time of attestation, is competent to
11 be a witness in this state may act as an attesting witness to the
12 execution of a power of attorney. A subsequent incapacity of an
13 attesting witness does not impair the effectiveness of a previously
14 executed power of attorney.**

15 **(c) A power of attorney executed under section 1(a)(4)(B) of this
16 chapter is void if:**

17 **(1) a subscribing witness to the execution of the power of
18 attorney has an interest in the power of attorney as described
19 in subsection (d); and**

20 **(2) the power of attorney cannot be proved without the
21 witness's testimony or proof of the witness's signature as a
22 witness.**

23 **(d) A person serving as a subscribing witness to the execution of
24 a power of attorney has an interest in the power of attorney if:**

25 **(1) the power of attorney names the person as the principal's
26 attorney in fact or successor to the attorney in fact;**

27 **(2) the power of attorney grants a power or beneficial interest
28 to the person other than an appointment of the person as the
29 principal's attorney in fact or successor to the attorney in
30 fact; or**

31 **(3) the witness is related to a person described in subdivision
32 (1) or (2).**

33 **(e) For purposes of this section, a witness is related to a person
34 described in subdivision (1) or (2) if the person is:**

35 **(1) the spouse of the witness; or**

36 **(2) a descendant of the witness.**

37 SECTION 18. IC 30-5-4-1.5 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
39 UPON PASSAGE]: **Sec. 1.5. (a) This section applies to a power of
40 attorney executed in the presence of witnesses under section 1 of
41 this chapter on or after March 31, 2020.**

42 **(b) A power of attorney executed in the presence of witnesses**



1 under section 1(a)(4)(A) of this chapter must be executed by the
2 signatures of the principal and at least two (2) witnesses on:

- 3 (1) a power of attorney under subsection (c);
4 (2) a self-proving clause under section 1.7(c) of this chapter;
5 or
6 (3) a self-proving clause under section 1.7(d) of this chapter.

7 (c) A power of attorney may be attested as follows:

8 (1) By having the principal, in the presence of two (2) or more
9 attesting witnesses, signify to the witnesses that the
10 instrument is the principal's power of attorney and:

- 11 (A) sign the power of attorney;
12 (B) acknowledge the principal's signature already made; or
13 (C) at the principal's direction and in the principal's
14 presence, have someone else sign the principal's name.

15 (2) By having the attesting witnesses sign, in the presence of
16 the principal and each other, the power of attorney.

17 An attestation or self-proving clause is not required under this
18 subsection in order to execute a valid power of attorney.

19 (d) A principal and at least two (2) attesting witnesses may
20 execute and complete a power of attorney in two (2) or more
21 original counterparts that exist in a tangible and readable paper
22 form with:

- 23 (1) the principal's signature placed on one (1) original
24 counterpart in the presence of attesting witnesses; and
25 (2) the signatures of the remaining witnesses placed on one (1)
26 or more different counterparts affiliated with the same power
27 of attorney;

28 in a tangible and readable paper form. If a power of attorney is
29 signed and witnessed in counterparts under this subsection, the
30 principal or an individual acting at the principal's specific
31 direction must physically assemble all of the separately signed
32 paper counterparts of the power of attorney and the signatures of
33 the principal and all attesting witnesses not later than five (5)
34 business days after all the paper counterparts have been signed by
35 the principal and witnesses. If the principal directs another
36 individual to assemble the separate, signed paper counterparts of
37 the will into a single composite paper document, the five (5)
38 business day period does not commence until the compiling
39 individual receives all of the separately signed paper counterparts.
40 Any scanned copy or photocopy of the composite document
41 containing all signatures shall be treated as validly signed under
42 this section.



1 (e) An attorney or paralegal may supervise the execution of a
 2 power of attorney in counterparts as described in subsection (d).
 3 An attorney or paralegal may supervise the execution of a power
 4 of attorney in counterparts even if the supervising attorney or
 5 paralegal is one (1) of the power of attorney's attesting witnesses.
 6 If an attorney or paralegal supervises the execution of a power of
 7 attorney in counterparts as described in subsection (d), the
 8 attorney or paralegal may sign, date, and complete an affidavit of
 9 compliance any time after all paper counterparts of the power of
 10 attorney have been signed by the principal and the witnesses. An
 11 affidavit of compliance under this subsection must be sworn to or
 12 affirmed by the signing attorney or paralegal under the penalties
 13 of perjury and must contain the following information:

14 (1) The name and residential address of the principal.

15 (2) The name and:

16 (A) residential address; or

17 (B) business address;

18 for each witness who signs the power of attorney.

19 (3) The address, city, and state in which the principal was
 20 physically located at the time the principal signed an original
 21 counterpart of the power of attorney.

22 (4) The city and state in which each attesting witness was
 23 physically located when the witness signed an original
 24 counterpart of the power of attorney as a witness.

25 (5) A description of the method and form of identification
 26 used to confirm the identity of the principal to the witnesses
 27 and to the supervising attorney or paralegal, as applicable.

28 (6) A description of the audiovisual technology or other
 29 method used by the supervising attorney or paralegal, as
 30 applicable, the principal, and the witnesses for the purpose of
 31 interacting with each other in real time during the signing
 32 process.

33 (7) A description of the method used by the principal and the
 34 witnesses to identify the location of each page break within
 35 the text of the principal and to confirm that the separate
 36 paper counterparts of the power of attorney were identical in
 37 content.

38 (8) A general description of how and when the attorney or
 39 paralegal, as applicable, physically combined the separate,
 40 signed paper counterparts of the power of attorney into a
 41 single composite paper document containing the power of
 42 attorney, the signature of the principal, and the signatures of



1 all attesting witnesses.

2 (9) Any other information that the supervising attorney or
3 paralegal, as applicable, considers to be material with respect
4 to:

5 (A) the principal's capacity to sign a valid power of
6 attorney; and

7 (B) the principal's and witnesses' compliance with
8 subsection (c).

9 If an attorney or paralegal signs an affidavit of compliance under
10 this subsection, the attorney or paralegal must preserve an
11 accurate copy of the signed affidavit with a scanned copy or
12 photocopy of the completely signed power of attorney. An affidavit
13 of compliance signed under this subsection is admissible as prima
14 facie evidence that the principal and witnesses executed the power
15 of attorney in counterparts that comply with the requirements of
16 subsection (c).

17 (f) A power of attorney that substantially complies with
18 subsections (c) and (d) may not be rendered invalid by the
19 existence of:

20 (1) an attestation or self-proving clause;

21 (2) additional signatures; or

22 (3) other additional language;

23 not required by subsection (c).

24 (g) A power of attorney executed in accordance with subsections
25 (c) and (d) is self-proved if the witness signatures follow an
26 attestation or self-proving clause or other declaration indicating,
27 in substance, the facts set forth in section 1.7(d) or 1.7(e) of this
28 chapter.

29 (h) This section shall be construed to favor the effectuating of
30 the principal's intent to make a valid power of attorney.

31 SECTION 19. IC 30-5-4-1.7 IS ADDED TO THE INDIANA CODE
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: Sec. 1.7. (a) This section applies to a power of
34 attorney executed in the presence of witnesses under section 1 of
35 this chapter on or after March 31, 2020.

36 (b) When a power of attorney is executed, the power of attorney
37 may be:

38 (1) attested; and

39 (2) made self-proving;

40 by incorporating into or attaching to the power of attorney a
41 self-proving clause that meets the requirements of subsection (d)
42 or (e). If the principal and witnesses sign a self-proving clause that



1 meets the requirements of subsection (d) or (e) at the time the
2 power of attorney is executed, no other signature of the principal
3 or witnesses is required in order for the power of attorney to be
4 validly executed and self-proved.

5 (c) If a power of attorney is executed by the signatures of the
6 principal and witnesses on an attestation clause under section
7 1.5(c) of this chapter, the power of attorney may be made
8 self-proving at a later date by attaching to the power of attorney a
9 self-proving clause that:

- 10 (1) is signed by the principal and witnesses; and
- 11 (2) meets the requirements specified in subsections (d) and (e).

12 (d) A self-proving clause must:

13 (1) contain the acknowledgment of the power of attorney by
14 the:

- 15 (A) principal; and
 - 16 (B) statements of the witnesses;
- 17 under the laws of Indiana;

18 (2) evidence the acknowledgment described in subdivision (1)
19 by the signatures of the principal and witnesses (which may be
20 made under the penalties of perjury); and

21 (3) be attached or annexed to the power of attorney in a form
22 that is substantially as follows:

23 "We, the undersigned principal and the undersigned witnesses,
24 respectively, whose names are signed to the attached or foregoing
25 instrument declare that:

26 (1) the principal executed the instrument as the principal's
27 power of attorney;

28 (2) in the presence of both witnesses, the principal signed or
29 acknowledged the signature already made or directed another
30 to sign for the principal in the principal's presence;

31 (3) the principal executed the power of attorney as a free and
32 voluntary act for the purposes expressed in it;

33 (4) each of the witnesses, in the presence of the principal and
34 of each other, signed the power of attorney as a witness;

35 (5) the principal was of sound mind when the power of
36 attorney was executed; and

37 (6) to the best knowledge of each witness, the principal was, at
38 the time the power of attorney was executed, at least eighteen
39 (18) years of age or was a member of the armed forces or the
40 merchant marine of the United States or its allies.

41 Date _____

42 Principal _____



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Witness _____
 Witness _____".

(e) A power of attorney is attested and self-proved if the power of attorney includes or has attached a clause signed by the principal and the witnesses that indicates that:

- (1) the principal signified that the instrument is the principal's power of attorney;
- (2) in the presence of least two (2) witnesses, the principal signed the instrument or acknowledged the principal's signature already made or directed another to sign for the principal in the principal's presence;
- (3) the principal executed the instrument freely and voluntarily for the purposes expressed in it;
- (4) each of the witnesses, in the principal's presence and in the presence of all other witnesses, is executing the instrument as a witness;
- (5) the principal was of sound mind when the power of attorney was executed; and
- (6) the principal is, to the best knowledge of each of the witnesses:
 - (A) at least eighteen (18) years of age; or
 - (B) a member of the armed forces or the merchant marine of the United States or its allies.

(f) If the principal and the attesting witnesses executed the power of attorney in two (2) or more counterparts on paper under section 1.5(d) of this chapter, the self-proving clause, if any, for that power of attorney must substantially be in the following form:

"We, the undersigned principal and the undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument declare:

- (1) that the undersigned principal and witnesses interacted with each other in real time through the use of technology and the witnesses were able to observe the principal throughout the signing process;
- (2) that the principal executed a complete counterpart of the instrument, in readable form on paper, as the principal's power of attorney;
- (3) that, in the presence of both witnesses, the principal signed the paper counterpart of the power of attorney or acknowledged the principal's signature already made or directed another individual to sign the paper counterpart of the power of attorney for the principal in the principal's



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- presence;
- (4) that the principal executed the power of attorney as a free and voluntary act for the purposes expressed in it;
- (5) that each of the witnesses, in the presence of the principal and of each other, signed one (1) or more other complete counterparts of the power of attorney as a witness;
- (6) that each paper counterpart of the power of attorney that was signed by a witness was complete, in readable form, and with content identical to the paper counterpart signed by the principal;
- (7) that the principal was of sound mind when the power of attorney was executed; and
- (8) that, to the best knowledge of each of the witnesses, the principal was, at the time the power of attorney was executed, at least eighteen (18) years of age or was a member of the armed forces or the merchant marine of the United States or its allies.

Date _____
 Principal _____
 Witness _____
 Witness _____".

(g) This section shall be construed to favor the effectuating of the principal's intent to make a valid power of attorney.

SECTION 20. IC 30-5-4-1.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.9. (a) Subject to the Indiana Rules of Evidence and the Indiana Rules of Trial Procedure:

- (1) a video or audio recording of a principal captured or made either before or after the execution of a power of attorney; or
- (2) a video recording, one (1) or more photographic images, or an audio recording capture made during part or all of the execution of a power of attorney;

may be admissible as evidence under this section.

(b) Recordings or images described in subsection (a) may be admissible as evidence of the following:

- (1) The proper execution of a power of attorney.
- (2) The intentions of the principal.
- (3) The mental state or capacity of a principal.
- (4) The authenticity of a power of attorney.
- (5) Matters that are determined by a court to be relevant to the probate of a power of attorney.

SECTION 21. IC 30-5-4-2, AS AMENDED BY P.L.143-2009,



1 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b), a
3 power of attorney is effective on the date the power of attorney is
4 signed in accordance with section ~~1(4)~~ **1(a)(4)** of this chapter.

5 (b) A power of attorney may:

- 6 (1) specify the date on which the power will become effective; or
7 (2) become effective upon the occurrence of an event.

8 (c) If a power of attorney becomes effective upon the principal's
9 incapacity and:

- 10 (1) the principal has not authorized a person to determine whether
11 the principal is incapacitated; or
12 (2) the person authorized is unable or unwilling to make the
13 determination;

14 the power of attorney becomes effective upon a determination that the
15 principal is incapacitated that is set forth in a writing or other record by
16 a physician, licensed psychologist, or judge.

17 (d) A person authorized by the principal in the power of attorney to
18 determine that the principal is incapacitated may:

- 19 (1) act as the principal's personal representative under the Health
20 Insurance Portability and Accountability Act of 1996 (42 U.S.C.
21 201 et seq.) and any rules or regulations issued under that act; and
22 (2) obtain access to the principal's health care information and
23 communicate with the principal's health care provider.

24 SECTION 22. IC 30-5-11-3, AS AMENDED BY P.L.231-2019,
25 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: Sec. 3. The following terms are defined for this
27 chapter:

28 (1) "Affidavit of regularity" means an affidavit executed by a
29 custodian or other person under section 9 of this chapter with
30 respect to the electronic record for an electronic power of attorney
31 or a complete converted copy of an electronic power of attorney.

32 (2) "Complete converted copy" means a document in any format
33 that:

- 34 (A) can be visually viewed in its entirety on a monitor or other
35 display device;
36 (B) can be printed; and
37 (C) contains the text of an electronic power of attorney and a
38 readable copy of any associated document integrity evidence
39 that may be a part of or attached to the electronic power of
40 attorney.

41 (3) "Custodian" means a person other than:

- 42 (A) the principal who executed the electronic power of



- 1 attorney;
- 2 (B) an attorney; or
- 3 (C) a person who is named in the electronic power of attorney
- 4 as an attorney in fact or successor attorney in fact under the
- 5 power of attorney.
- 6 (4) "Custody" means the authorized possession and control of at
- 7 least one (1) of the following:
- 8 (A) A complete copy of the electronic record for the electronic
- 9 power of attorney.
- 10 (B) A complete converted copy of the electronic power of
- 11 attorney if the complete electronic record has been lost or
- 12 destroyed or the electronic power of attorney has been revoked.
- 13 (5) "Document integrity evidence" means the part of the
- 14 electronic record for the electronic power of attorney that:
- 15 (A) is created and maintained electronically;
- 16 (B) includes digital markers showing that the electronic power
- 17 of attorney has not been altered after its initial execution by the
- 18 principal;
- 19 (C) is logically associated with the electronic power of attorney
- 20 in a tamper evident manner so that any change made to the text
- 21 of the electronic power of attorney after its execution is visibly
- 22 perceptible when the electronic record is displayed or printed;
- 23 (D) will generate an error message, invalidate an electronic
- 24 signature, make the electronic record unreadable, or otherwise
- 25 display evidence that some alteration was made to the
- 26 electronic power of attorney after its execution; and
- 27 (E) displays the following information:
- 28 (i) The city and state in which, and the date and time at
- 29 which, the electronic power of attorney was executed by the
- 30 principal.
- 31 (ii) The name of the principal.
- 32 (iii) The name and address of the person responsible for
- 33 marking the principal's signature on the electronic power of
- 34 attorney at the principal's direction and in the principal's
- 35 presence, as applicable.
- 36 (iv) A copy of or a link to the electronic signature of the
- 37 principal on the electronic power of attorney.
- 38 (v) A general description of the type of identity verification
- 39 evidence used to verify the principal's identity.
- 40 (vi) The content of the cryptographic hash or unique code
- 41 used to complete the electronic record and make the
- 42 electronic power of attorney tamper evident if a public key



- 1 infrastructure or a similar secure technology was used to sign
2 or authenticate the electronic power of attorney and if the
3 vendor or software for the technology makes inclusion
4 feasible.
- 5 Document integrity evidence may, but is not required to, contain
6 other information about the electronic power of attorney such as
7 a unique document number, client number, or other identifier that
8 an attorney or custodian assigns to the electronic power of
9 attorney or a link to a secure Internet web site where a complete
10 copy of the electronic power of attorney is accessible. The title,
11 heading, or label, if any, that is assigned to the document integrity
12 evidence (such as "certificate of completion", "audit trail", or
13 "audit log") is immaterial.
- 14 (6) "Electronic" has the meaning set forth in IC 26-2-8-102.
- 15 (7) "Electronic power of attorney" means a power of attorney
16 created by a principal that:
- 17 (A) is initially created and maintained as an electronic record;
18 (B) contains the electronic signature of the principal creating
19 the power of attorney;
20 (C) contains the date and time of the electronic signature of the
21 principal creating the power of attorney; and
22 (D) is notarized.
- 23 The term includes an amendment to or a restatement of the power
24 of attorney if the amendment or restatement complies with the
25 requirements described in section 5 of this chapter.
- 26 (8) "Electronic record" has the meaning set forth in
27 IC 26-2-8-102. The term may include one (1) or both of the
28 following:
- 29 (A) The document integrity evidence associated with an
30 electronic power of attorney.
31 (B) The identity verification evidence of the principal who
32 executed the electronic power of attorney.
- 33 (9) "Electronic signature" has the meaning set forth in
34 IC 26-2-8-102.
- 35 (10) "Executed" means the signing of a power of attorney. The
36 term includes the use of an electronic signature.
- 37 (11) "Identity verification evidence" means either:
- 38 (A) a copy of a government issued photo identification card
39 belonging to the principal; or
40 (B) any other information that verifies the identity of the
41 principal if derived from one (1) or more of the following
42 sources:



- 1 (i) A knowledge based authentication method.
 2 (ii) A physical device.
 3 (iii) A digital certificate using a public key infrastructure.
 4 (iv) A verification or authorization code sent to or used by the
 5 principal.
 6 (v) Biometric identification.
 7 (vi) Any other commercially reasonable method for verifying
 8 the principal's identity using current or future technology.
 9 (12) "Logically associated" means electronically connected, cross
 10 referenced, or linked in a reliable manner.
 11 **(13) "Observe" means to perceive another's actions or**
 12 **expressions of intent through the senses of eyesight or**
 13 **hearing, or both. The term includes perceptions involving the**
 14 **use of technology or learned skills to:**
 15 **(A) assist the person's capabilities of eyesight or hearing, or**
 16 **both; or**
 17 **(B) compensate for an impairment of the person's**
 18 **capabilities of eyesight or hearing, or both.**
 19 **(14) "Observing" has the meaning set forth in subdivision**
 20 **(13).**
 21 ~~(13)~~ **(15)** "Sign" means valid use of a properly executed electronic
 22 signature.
 23 ~~(14)~~ **(16)** "Signature" means the authorized use of the principal's
 24 name to authenticate a power of attorney. The term includes an
 25 electronic signature.
 26 ~~(15)~~ **(17)** "Tamper evident" means the feature of an electronic
 27 record, such as an electronic power of attorney or document
 28 integrity evidence for an electronic power of attorney, that will
 29 cause the fact of any alteration or tampering with the electronic
 30 record, after it is created or signed, to be perceptible to any person
 31 viewing the electronic record when it is printed on paper or
 32 viewed on a monitor or other display device. The term applies
 33 even if the nature or specific content of the alteration is not
 34 perceptible.
 35 ~~(16)~~ **(18)** "Traditional paper power of attorney" means a power of
 36 attorney or an amendment to or a restatement of a power of
 37 attorney that is signed by the principal on paper.
 38 SECTION 23. IC 30-5-11-4, AS ADDED BY P.L.40-2018,
 39 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 UPON PASSAGE]: Sec. 4. (a) A principal, or person acting at the
 41 principal's direction, may ~~in the presence of a notary,~~ create a valid
 42 power of attorney by electronically signing an electronic power of



1 attorney:

2 **(1) in the presence of a notary; or**

3 **(2) in the presence of witnesses under sections 4.3, 4.5, 4.7, and**
 4 **4.9 of this chapter.**

5 (b) The:

6 (1) principal;

7 (2) attorney in fact under the electronic power of attorney;

8 (3) attorney representing the principal or attorney in fact; or

9 (4) other person authorized by the principal;

10 may use the electronic record to make a complete converted copy of the
 11 electronic power of attorney on or near the time of its execution or at
 12 a later time when the full electronic record is available.

13 (c) A complete converted copy derived from a complete and correct
 14 electronic power of attorney may be offered and admitted into evidence
 15 as though it were an original and traditional paper power of attorney
 16 without the need for additional proof or evidence of authenticity.
 17 Whenever this article permits or requires an attorney in fact to provide
 18 a copy of a power of attorney to an interested person, the attorney in
 19 fact may provide a complete converted copy of the electronic power of
 20 attorney. A complete and converted copy is conclusive evidence of the
 21 power of attorney's terms unless otherwise determined by a court in an
 22 order entered upon notice to all interested persons and after an
 23 opportunity for a hearing.

24 SECTION 24. IC 30-5-11-4.1 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE UPON PASSAGE]: **Sec. 4.1. (a) This section applies to**
 27 **a power of attorney that is electronically signed and notarized:**

28 **(1) on or after March 31, 2020; and**

29 **(2) before January 1, 2022.**

30 **(b) If a power of attorney described in subsection (a) was**
 31 **electronically signed and notarized by a notary public using**
 32 **audiovisual communication technology to positively identify the**
 33 **principal or someone signing at the principal's direction, the**
 34 **resulting power of attorney must be treated as validly executed**
 35 **under this chapter if it complies with all other requirements of**
 36 **section 4 of this chapter as they existed on June 30, 2020.**

37 SECTION 25. IC 30-5-11-4.3 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE UPON PASSAGE]: **Sec. 4.3. (a) This section applies to**
 40 **an electronic power of attorney executed in the presence of**
 41 **witnesses under section 4(a)(2) of this chapter on or after March**
 42 **31, 2020.**



1 **(b) Any person who, at the time of attestation, is competent to**
 2 **be a witness in this state may act as an attesting witness to the**
 3 **execution of an electronic power of attorney, and the witness's**
 4 **subsequent incapacity will not impair the effectiveness of the**
 5 **power of attorney.**

6 **(c) An electronic power of attorney is void if:**

7 **(1) a subscribing witness to the execution of the power of**
 8 **attorney has an interest in the power of attorney; and**

9 **(2) the power of attorney cannot be proved without the**
 10 **witness's testimony of proof or the witness's signature.**

11 **(d) For purposes of this section, a person serving as a**
 12 **subscribing witness to the execution of an electronic power of**
 13 **attorney has an interest in an electronic power of attorney if:**

14 **(1) the power of attorney names the person as the principal's**
 15 **attorney in fact or successor to the attorney in fact;**

16 **(2) the power of attorney grants a power or beneficial interest**
 17 **to the person other than appointment of the person as the**
 18 **principal's attorney in fact or successor to the attorney in**
 19 **fact; or**

20 **(3) the witness is related to a person described in subdivision**
 21 **(1) or (2).**

22 **(e) For purposes of this section, a witness is related to a person**
 23 **described in subsection (d)(1) or (d)(2) if the person is:**

24 **(1) the spouse of the witness; or**

25 **(2) a descendant of the witness.**

26 **SECTION 26. IC 30-5-11-4.5 IS ADDED TO THE INDIANA**
 27 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 28 **[EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) This section applies to**
 29 **an electronic power of attorney executed in the presence of**
 30 **witnesses under section 4(a)(2) of this chapter on or after March**
 31 **31, 2020.**

32 **(b) An electronic power of attorney executed in the presence of**
 33 **witnesses under section 4(a)(2) of this chapter must be executed by**
 34 **the signatures of the principal and at least two (2) witnesses on:**

35 **(1) an electronic power of attorney under subsection (c);**

36 **(2) a self-proving clause under section 4.7(c) of this chapter;**
 37 **or**

38 **(3) a self-proving clause under section 4.7(d) of this chapter.**

39 **(c) An electronic power of attorney may be attested as follows:**

40 **(1) The principal, in the presence of two (2) or more attesting**
 41 **witnesses, shall signify to the witnesses that the instrument is**
 42 **the principal's power of attorney and:**



- 1 (A) sign the power of attorney;
- 2 (B) acknowledge the principal's signature already made; or
- 3 (C) at the principal's direction and in the principal's
- 4 presence, have someone else sign the principal's name.
- 5 (2) The attesting witnesses must sign in the presence of the
- 6 principal and each other.
- 7 An attestation or self-proving clause is not required under this
- 8 subsection for a valid power of attorney.
- 9 (d) An electronic power of attorney that is executed in
- 10 substantial compliance with subsection (c) will not be rendered
- 11 invalid by the existence of:
- 12 (1) an attestation or self-proving clause or other language; or
- 13 (2) additional signatures;
- 14 not required by subsection (c).
- 15 (e) An electronic power of attorney executed in accordance with
- 16 subsection (c) is self-proved if the witness's signatures follow an
- 17 attestation or self-proving clause or other declaration indicating,
- 18 in substance, the facts set forth in section 4.7(d) or 4.7(e) of this
- 19 chapter.
- 20 (f) This section shall be construed to favor the effectuation of the
- 21 principal's intent to make a valid power of attorney.
- 22 SECTION 27. IC 30-5-11-4.7 IS ADDED TO THE INDIANA
- 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 24 [EFFECTIVE UPON PASSAGE]: **Sec. 4.7. (a) This section applies to**
- 25 **an electronic power of attorney executed in the presence of**
- 26 **witnesses under section 4(a)(2) of this chapter on or after March**
- 27 **31, 2020.**
- 28 (b) When an electronic power of attorney is executed, the power
- 29 of attorney may be:
- 30 (1) attested; and
- 31 (2) made self-proving;
- 32 by incorporating into or attaching to the power of attorney a
- 33 self-proving clause that meets the requirements of subsection (d)
- 34 or (e) at the time the electronic power of attorney is executed and
- 35 no other signatures of the principal and witnesses are required for
- 36 the power of attorney to be validly executed and self-proved.
- 37 (c) If an electronic power of attorney is executed by the
- 38 signatures of the principal and witnesses on an attestation clause
- 39 under section 4.5(c) of this chapter, the power of attorney may be
- 40 made self-proving at a later date by attaching to the power of
- 41 attorney a self-proving clause signed by the principal and witnesses
- 42 that meets the requirements of subsection (d) or (e).



1 (d) A self-proving clause must contain the acknowledgment of
2 the power of attorney by the principal and the statements of the
3 witnesses, each made under the laws of Indiana and evidenced by
4 the signatures of the principal and witnesses (which may be made
5 under the penalties of perjury) attached or annexed to the power
6 of attorney in a form and with content substantially similar to the
7 following:

8 "We the undersigned principal and the undersigned witnesses,
9 respectively, whose names are signed to the attached or foregoing
10 instrument declare:

11 (1) that the principal executed the instrument as the
12 principal's power of attorney;

13 (2) that the principal and the witnesses interacted with each
14 other in real time either in the same physical space or through
15 the use of technology and the witnesses were able to observe
16 the principal throughout the signing process;

17 (3) that, in the presence of both witnesses, the principal
18 electronically signed the power of attorney or acknowledged
19 the principal's electronic signature already made or directed
20 another individual to electronically sign for the principal in
21 the principal's presence;

22 (4) that the principal executed the power of attorney as a free
23 and voluntary act for the purpose expressed in it;

24 (5) that each of the witnesses, in the presence of the principal
25 and each other, signed the electronic power of attorney as a
26 witness;

27 (6) that the principal was of sound mind when the power of
28 attorney was executed; and

29 (7) that, to the best knowledge of each of the witnesses, the
30 principal was, at the time the power of attorney was executed,
31 at least eighteen (18) years of age or was a member of the
32 armed forces or the merchant marine of the United States or
33 its allies.

34 Date _____

35 Principal _____

36 Witness _____

37 Witness _____".

38 (e) An electronic power of attorney is attested and self-proved
39 if the electronic record for the power of attorney includes a clause
40 signed by the principal and the witnesses that indicates, in
41 substance, that:

42 (1) the principal signified that the instrument is the principal's



1 power of attorney;

2 (2) in the presence of at least two (2) witnesses, the principal
3 electronically signed the instrument or acknowledged the
4 principal's electronic signature already made or directed
5 another individual to sign for the principal in the principal's
6 presence;

7 (3) the principal executed the instrument freely and
8 voluntarily for the purposes expressed in it;

9 (4) each of the witnesses, in the principal's presence and in the
10 presence of each other, electronically signed the instrument as
11 a witness;

12 (5) the principal was of sound mind when the power of
13 attorney was executed;

14 (6) the principal was, to the best knowledge of each witness,
15 either:

16 (A) at least eighteen (18) years of age; or

17 (B) a member of the armed forces or the merchant marine
18 of the United States or its allies.

19 (f) This section shall be construed to favor the effectuating of the
20 principal's intent to make a valid power of attorney.

21 SECTION 28. IC 30-5-11-4.9 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE UPON PASSAGE]: Sec. 4.9. (a) Subject to the Indiana
24 Rules of Evidence and the Indiana Rules of Trial Procedure:

25 (1) a video or audio recording of a principal captured or made
26 either before or after the execution of an electronic power of
27 attorney; or

28 (2) a video recording, one (1) or more photographic images,
29 or an audio recording captured or made during part or all of
30 the execution of an electronic power of attorney;

31 may be admissible as evidence under this section.

32 (b) Recordings for images described in subsection (a) may be
33 admissible as evidence of the following:

34 (1) The proper execution of an electronic power of attorney.

35 (2) The intentions of the principal.

36 (3) The mental state or capacity of a principal.

37 (4) The authenticity of an electronic power of attorney.

38 (5) Matters that are determined by a court to be relevant to
39 the probate of an electronic power of attorney.

40 SECTION 29. IC 32-17-14-12, AS ADDED BY P.L.143-2009,
41 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: Sec. 12. (a) A deed of gift, bill of sale, or other



1 writing intended to transfer an interest in tangible personal property is
 2 effective on the death of the owner and transfers ownership to the
 3 designated transferee beneficiary if the document:

- 4 (1) expressly creates ownership in beneficiary form;
 5 (2) is in other respects sufficient to transfer the type of property
 6 involved; and
 7 (3) is executed by the owner and acknowledged before a notary
 8 public or other person authorized to administer oaths **or executed**
 9 **in the presence of a disinterested witness.**

10 (b) A beneficiary transfer document described in this section is not
 11 required to be supported by consideration or delivered to the transferee
 12 beneficiary.

13 (c) This section does not preclude other methods of transferring
 14 ownership of tangible personal property that are permitted by law and
 15 have the effect of postponing enjoyment of the property until after the
 16 death of the owner.

17 **(d) For purposes of this section, a witness is disinterested if the**
 18 **witness is not:**

- 19 **(1) the designated transferee beneficiary;**
 20 **(2) the spouse of the designated transferee beneficiary;**
 21 **(3) a descendant of the designated transferee beneficiary; or**
 22 **(4) the spouse of a descendant of the designated transferee**
 23 **beneficiary.**

24 **(e) A disinterested witness may prove the owner's execution of**
 25 **a deed of gift, bill of sale, or other writing under this section as a**
 26 **witness may prove the signature of a grantor, principal, or affiant**
 27 **making a conveyance, mortgage, or other instrument of writing**
 28 **under IC 32-21-2-3(a).**

29 SECTION 30. IC 32-21-1-11 IS REPEALED [EFFECTIVE UPON
 30 PASSAGE]. Sec. 11. If executed in a foreign country; conveyances;
 31 mortgages; and other instruments in writing that would be admitted to
 32 record under the recording laws of this state must be acknowledged by
 33 the grantor or person executing the instrument and proved before any
 34 diplomatic or consular officer of the United States, duly accredited; or
 35 before any officer of the foreign country who, by the laws of that
 36 country, is authorized to take acknowledgments or proof of
 37 conveyances. If the acknowledgment or proof is in the English
 38 language and attested by the official seal of the officer acknowledging
 39 it, the instrument may be admitted to record. However, if the
 40 acknowledgment or proof is in a language other than English or is not
 41 attested by an official seal, then the instrument must be accompanied
 42 by a certificate of a diplomatic or consular officer of the United States



1 attesting:

- 2 (1) that the instrument is duly executed according to the laws of
 3 the foreign country;
 4 (2) that the officer certifying the acknowledgment or proof had
 5 legal authority to do so; and
 6 (3) to the meaning of the instrument, if the instrument is made in
 7 a foreign language.

8 SECTION 31. IC 32-21-1-12 IS REPEALED [EFFECTIVE UPON
 9 PASSAGE]. Sec. ~~12~~. It is not necessary to affix a private seal or ink
 10 scroll necessary to validate a conveyance of land or an interest in land
 11 executed by a natural person, business trust, or corporation. It is not
 12 necessary for the officer taking the acknowledgment of the conveyance
 13 to use an ink scroll or seal unless the officer is required by law to keep
 14 an official seal.

15 SECTION 32. IC 32-21-1-13, AS AMENDED BY P.L.231-2019,
 16 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 13. (a) **As used in subsection (b),**
 18 **"conveyance" means any electronic record (as defined in**
 19 **IC 26-2-8-102) or any paper or other tangible medium or**
 20 **document that is:**

- 21 (1) Except for a bona fide a lease or memorandum of lease for
 22 a term not exceeding three (3) years;
 23 (2) a conveyance deed of:
 24 (A) land; or
 25 (B) of any interest in land; shall be made by a deed that is:
 26 (3) a mortgage; or
 27 (4) a land contract or memorandum of land contract for the
 28 sale and purchase of land.

29 **(b) A conveyance must:**

- 30 (1) ~~written; and be in writing;~~
 31 (2) ~~subscribed, sealed, and acknowledged be executed or signed~~
 32 ~~by the:~~
 33 (A) ~~lessor or landlord;~~
 34 (B) ~~grantor (as defined in IC 32-17-1-1); or by the grantor's~~
 35 ~~attorney.~~
 36 (C) ~~land contract seller; and~~
 37 (3) ~~have an acknowledgment (as defined in IC 33-42-0.5-2) or~~
 38 ~~a proof (as defined in and permitted under IC 32-21-2).~~

39 ~~(b)~~ (c) If a transfer on death deed under IC 32-17-14 has been
 40 recorded before the death of the owner (as defined in IC 32-17-14-3)
 41 with the recorder of deeds in the county in which the real property is
 42 situated, a subsequent conveyance of the real property is void if it is not



1 recorded before the death of the owner with the recorder of deeds in the
2 county in which the real property is situated.

3 SECTION 33. IC 32-21-1-14 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. A conveyance
5 of land by **an attorney in fact (as defined in IC 30-5-2-2)** is not good
6 unless the attorney **in fact** is empowered by a ~~written instrument~~ **power**
7 **of attorney (as defined in IC 30-5-2-7)** that:

8 (1) is subscribed, sealed, and acknowledged by the attorney's
9 principal in the same manner that is required for a conveyance by
10 the attorney's principal; ~~executed or signed by the principal (as~~
11 **defined in IC 30-5-2-8); and**

12 (2) **has an acknowledgment (as defined in IC 33-42-0.5-2) or**
13 **a proof (as defined in and permitted under IC 32-21-2).**

14 SECTION 34. IC 32-21-2-1.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE UPON PASSAGE]: Sec. 1.5. As used in this chapter,
17 "instrument" means:

18 (1) any electronic document defined under IC 32-21-2.5-3; or

19 (2) any paper document defined under IC 32-21-2.5-8(a) that
20 is submitted to a county recorder for recording under one (1)
21 or more of the following statutes:

22 (A) IC 29-1-7-23(d).

23 (B) This chapter.

24 (C) IC 32-21-2.5.

25 (D) IC 32-21-3.

26 (E) IC 32-21-4.

27 (F) IC 32-21-8-7(b).

28 (G) IC 36-2-11.

29 SECTION 35. IC 32-21-2-1.7 IS ADDED TO THE INDIANA
30 CODE AS A NEW SECTION TO READ AS FOLLOWS
31 [EFFECTIVE UPON PASSAGE]: Sec. 1.7. As used in this chapter,
32 "proof", with respect to a notarial act, means:

33 (1) a proof under common law; or

34 (2) a proof where the witness:

35 (A) appears before a notarial officer;

36 (B) is personally known by the notarial officer or identified
37 by the notarial officer through satisfactory evidence;

38 (C) is not a party to, or beneficiary of, the record being
39 signed by the principal and the witness; and

40 (D) takes an oath or gave an affirmation and testified to the
41 following:

42 (i) The witness signed the record.



- 1 (ii) The witness identified the principal who signed the
- 2 record.
- 3 (iii) The witness personally observed the principal sign the
- 4 same record the witness signed.
- 5 SECTION 36. IC 32-21-2-3, AS AMENDED BY P.L.80-2020,
- 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 UPON PASSAGE]: Sec. 3. (a) ~~Except as provided in subsection (e); a~~
- 8 conveyance; a mortgage; or an ~~Any~~ instrument of writing to be
- 9 recorded must ~~be:~~ **have one (1) of the following notarial acts:**
- 10 (1) acknowledged by the grantor; and **An acknowledgment (as**
- 11 **defined in IC 33-42-0.5-2).**
- 12 (2) proved before a: **A proof.**
- 13 (A) judge;
- 14 (B) clerk of a court of record;
- 15 (C) county auditor;
- 16 (D) county recorder;
- 17 (E) notary public;
- 18 (F) mayor of a city in Indiana or any other state;
- 19 (G) commissioner appointed in a state other than Indiana by the
- 20 governor of Indiana;
- 21 (H) minister, charge d'affaires, or consul of the United States in
- 22 any foreign country;
- 23 (I) clerk of the city county council for a consolidated city; city
- 24 clerk for a second class city; or clerk-treasurer for a third class
- 25 city;
- 26 (J) clerk-treasurer for a town; or
- 27 (K) ~~person authorized under IC 2-3-4-1.~~
- 28 (b) **A notarial act described in subsection (a)(1) must be**
- 29 **performed:**
- 30 (1) **by a notarial officer (as defined in IC 33-42-0.5-19);**
- 31 (2) **by a remote notary public (as defined in IC 33-42-0.5-27);**
- 32 **or**
- 33 (3) **in compliance with:**
- 34 (A) **IC 33-42-9-8;**
- 35 (B) **IC 33-42-9-9;**
- 36 (C) **IC 33-42-9-10; or**
- 37 (D) **IC 33-42-9-11.**
- 38 (c) **A notarial act described in subsection (a)(2) must be**
- 39 **performed:**
- 40 (1) **by a notarial officer (as defined in IC 33-42-0.5-19); or**
- 41 (2) **in compliance with:**
- 42 (A) **IC 33-42-9-8;**



- 1 **(B) IC 33-42-9-9;**
 2 **(C) IC 33-42-9-10; or**
 3 **(D) IC 33-42-9-11.**

4 ~~(b)~~ **(d)** In addition to the requirements **specified** under ~~subsection~~
 5 **subsections (a) and (b)**, a conveyance **an instrument** may not be
 6 recorded after ~~June 30, 2007~~; unless it meets the requirements of:

- 7 **(1) this subsection: article;**
 8 **(2) the notarial requirements specified in IC 33-42 for an**
 9 **acknowledgment or for a proof; and**
 10 **(3) IC 36-2-11.**

11 ~~The~~ **A** conveyance must include a statement containing
 12 ~~substantially~~ the following information:

13 "The mailing address to which statements should be mailed under
 14 IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing
 15 address of the grantee is [insert proper mailing address]."

16 The mailing address for the grantee must be a street address or a rural
 17 route address. A conveyance complies with this subsection if it
 18 contains the address or addresses required by this subsection at the end
 19 of the conveyance and immediately preceding or following the
 20 statements required by IC 36-2-11-15.

21 **(f) If the instrument is executed in a foreign country where the**
 22 **instrument, its acknowledgment, or its proof is in a language other**
 23 **than English, the instrument must include an English translation**
 24 **of that other language.**

25 ~~(c) This section does not apply to the Indiana department of~~
 26 ~~transportation:~~

27 SECTION 37. IC 32-21-2-4 IS REPEALED [EFFECTIVE UPON
 28 PASSAGE]. Sec. 4: ~~(a) This section applies when a conveyance,~~
 29 ~~mortgage, or other instrument that is required to be recorded is~~
 30 ~~acknowledged in any county in Indiana other than the county in which~~
 31 ~~the instrument is required to be recorded:~~

- 32 ~~(b) The acknowledgment must be:~~
 33 ~~(1) certified by the clerk of the circuit court of the county in which~~
 34 ~~the officer resides; and~~
 35 ~~(2) attested by the seal of that court.~~

36 ~~However, an acknowledgment before an officer having an official seal,~~
 37 ~~if the acknowledgment is attested by that official seal, is sufficient~~
 38 ~~without a certificate.~~

39 SECTION 38. IC 32-21-2-5 IS REPEALED [EFFECTIVE UPON
 40 PASSAGE]. Sec. 5: ~~To record in Indiana a conveyance that is~~
 41 ~~acknowledged outside Indiana but within the United States, the~~
 42 ~~conveyance must be:~~



- 1 (1) certified by the clerk of any court of record of the county in
- 2 which the officer receiving the acknowledgment resides; and
- 3 (2) attested by the seal of that court.

4 However, an acknowledgment before an officer having an official seal
 5 that is attested by the officer's official seal is sufficient without a
 6 certificate:

7 SECTION 39. IC 32-21-2-6 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A deed may be
 9 proved according to the rules of common law before any officer who
 10 is authorized to take acknowledgments. A deed that is proved in the
 11 manner provided in this section **An instrument that complies with**
 12 **this article, IC 33-42, and IC 36-2-11** is entitled to be recorded.

13 SECTION 40. IC 32-21-2-7 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The
 15 following form set forth in this subsection ~~or~~ and any other form
 16 substantially the same ~~is a~~ **are** good or sufficient ~~form of forms for an~~
 17 acknowledgment of ~~a~~ **an instrument that is described in section 3 of**
 18 **this chapter and to be recorded: deed or mortgage:**

19 (1) **An acknowledgment that complies with IC 33-42-0.5-2 and**
 20 **IC 33-42-9-12.**

21 (2) **An acknowledgment for a remote notarial act that**
 22 **complies with:**

- 23 (A) IC 33-42-0.5-2;
- 24 (B) IC 33-42-0.5-26;
- 25 (C) IC 33-42-9-12; and
- 26 (D) IC 33-42-17-7.

27 (3) **An acknowledgment that complies with IC 33-42-0.5-2 and**
 28 **IC 33-42-9-12(a) and contains the following or substantially**
 29 **the same information:**

30 "Before me, E.F., a _____ (judge or justice, as the
 31 case may be) (describe the notarial officer type) this _____ day
 32 of _____, A.B. acknowledged the execution of the **foregoing**
 33 **or annexed _____ deed; (or mortgage, as the case**
 34 **may be.) (describe the type of instrument)."**

35 (b) **The form set forth in this subsection and any other forms**
 36 **substantially the same are good or sufficient forms for a proof of**
 37 **an instrument that is described in section 3 of this chapter and to**
 38 **be recorded:**

39 (1) **A proof that complies with section 1.7 of this chapter and**
 40 **IC 33-42-9-12.**

41 (2) **A proof that complies with section 1.7 of this chapter and**
 42 **IC 33-42-9-12(a) and contains the following or substantially**



1 the same information:

2 "Before me, E.F., a _____ (describe the notarial
3 officer type) this _____ day of _____, appeared A.B. being
4 personally known to me or identified to me by a sufficient
5 credential, whose name is subscribed as a witness to the
6 foregoing instrument, who, being duly sworn by me, deposes
7 and says that the foregoing instrument was executed and
8 delivered by C.D. (describe the signer or principal to the
9 instrument) while being personally observed by A.B."

10 SECTION 41. IC 32-21-2-8 IS REPEALED [EFFECTIVE UPON
11 PASSAGE]. Sec. 8: (a) If before a public officer authorized to receive
12 acknowledgment of deeds:

13 (1) the grantor of a deed intends to sign the deed with the grantor's
14 mark; and

15 (2) in all other cases when the public officer has good cause to
16 believe that the contents and purport of the deed are not fully
17 known to the grantor;

18 it is the duty of the public officer before signature to fully explain to the
19 grantor the contents and purport of the deed.

20 (b) The failure of the public officer to comply with subsection (a)
21 does not affect the validity of a deed.

22 SECTION 42. IC 32-21-2-9 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. A certificate of
24 the acknowledgment of a conveyance or other instrument in writing
25 that is required to be recorded; signed; and sealed by the officer taking
26 the acknowledgment shall be written on or attached to the deed. When
27 by law the certificate of the clerk of the proper county is required to
28 accompany the acknowledgment, the certificate shall state that:

29 (1) the officer before whom the acknowledgment was taken was;
30 at the time of the acknowledgment; acting lawfully; and

31 (2) the clerk's signature to the certificate of acknowledgment is
32 genuine.

33 **An instrument's acknowledgment or proof as required under
34 section 3 of this chapter is incomplete when the instrument does
35 not include the certificate described in IC 33-42-9-12.**

36 SECTION 43. IC 32-21-2-11 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This section
38 applies to a conveyance or other instrument entitled by law to be
39 recorded.

40 (b) The recorder of the county in which the land included in a
41 conveyance or other instrument is situated shall record the deed or
42 other instrument together with the requisite certificate of



1 acknowledgment or proof endorsed on the deed or other instrument or
 2 annexed to the deed or other instrument.

3 ~~(c) Unless a~~ **If an instrument is recorded without an**
 4 **acknowledgment's or proof's** certificate of acknowledgment is
 5 recorded with a deed; as required under this article and
 6 **IC 33-42-9-12**, the record of the conveyance or other instrument or a
 7 transcript of the instrument may not be read or received in evidence.

8 SECTION 44. IC 32-21-2-12 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The:

10 (1) **acknowledgment's or proof's** certificate of the
 11 **acknowledgment of a conveyance or an instrument of writing; as**
 12 **required under this article and IC 33-42-9-12;**

13 (2) ~~the record; instrument; or~~

14 (3) ~~the transcript of the record; instrument;~~

15 is not conclusive and may be rebutted and the force and effect of it
 16 contested by a party affected by the ~~conveyance or~~ instrument.

17 SECTION 45. IC 32-21-2-15, AS ADDED BY P.L.127-2017,
 18 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 UPON PASSAGE]: Sec. 15. ~~Beginning January 1, 2018; a document~~
 20 **An instrument** concerning real property that may be recorded with a
 21 county recorder under this title may be recorded electronically **as an**
 22 **electronic document** as provided under IC 32-21-2.5.

23 SECTION 46. IC 32-21-2.5-1, AS ADDED BY P.L.127-2017,
 24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 1. As used in this chapter, "document" or
 26 **"documents"** means ~~information that is:~~

27 ~~(+) an electronic record (as defined in IC 26-2-8-102) or~~
 28 **information that is:**

29 (1) inscribed on a tangible medium or that is stored in a
 30 electronic or other medium and is retrievable in perceivable form;
 31 and

32 (2) eligible to be recorded in the land records maintained by a
 33 county recorder.

34 SECTION 47. IC 32-21-2.5-7, AS ADDED BY P.L.127-2017,
 35 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 UPON PASSAGE]: Sec. 7. ~~(a) This section is effective January 1,~~
 37 ~~2018.~~

38 ~~(b) (a)~~ **(a)** If a law requires, as a condition for recording, that a
 39 document:

40 (1) be an original;

41 (2) be on paper or another tangible medium; or

42 (3) be in writing;



1 the requirement is satisfied by an electronic document ~~satisfying that~~
 2 ~~satisfies~~ this chapter, **IC 32-21-2, IC 36-2-11, and the notarial act**
 3 **requirements set forth under IC 33-42 for an acknowledgment as**
 4 **defined under IC 33-42-0.5-2 or for a proof as defined under**
 5 **IC 32-21-2-1.7.**

6 ~~(e)~~ **(b)** If a law requires, as a condition for recording, that a
 7 document be signed, the requirement is satisfied by an electronic
 8 signature.

9 ~~(d)~~ **(c)** ~~A requirement~~ **If a law requires, as a condition for**
 10 **recording**, that a document or a signature associated with a document
 11 be notarized, ~~acknowledged, verified, witnessed, or made under oath~~
 12 **the requirement** is satisfied if the electronic signature of the person
 13 authorized to perform that act, and all other information required to be
 14 included, is attached to or logically associated with the document or
 15 signature. ~~A physical or an electronic image of a stamp, impression, or~~
 16 ~~seal does not have to accompany an electronic signature.~~ **document:**

17 **(1) has an electronic signature; and**

18 **(2) complies with IC 32-21-2-3.**

19 SECTION 48. IC 32-21-2.5-8, AS ADDED BY P.L.127-2017,
 20 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 8. (a) As used in this section, "paper
 22 document" or "paper documents" means a ~~document~~ **tangible record**
 23 that is received by a county recorder in a form that is not electronic.

24 (b) ~~Beginning January 1, 2018;~~ **On or before July 1, 2022,** a county
 25 recorder **shall receive for recording, indexing, storage, archiving,**
 26 **access to, searching of, retrieval, and transmittal all electronic**
 27 **documents proper for recording. A county recorder shall also**
 28 **accept electronically any fee or tax that the county recorder is**
 29 **authorized to collect under applicable laws. A county recorder**
 30 **shall**

31 ~~(1) who implements any of~~ **implement** the **processing of**
 32 **electronic documents proper for recording** ~~functions listed in~~
 33 ~~this section shall do so in compliance with:~~

34 **(1) this article;**

35 **(2) IC 33-42;**

36 **(3) IC 36-2-7.5;**

37 **(4) IC 36-2-11; and**

38 **(5) IC 36-2-13; and**

39 **the standards established adopted** by the electronic recording
 40 commission created under section 9 of this chapter.

41 ~~(2) may receive, index, store, archive, and transmit electronic~~
 42 ~~documents;~~



- 1 (3) may provide for access to, and for search and retrieval of;
 2 documents and information by electronic means.
- 3 ~~(4)~~ (c) A recorder who accepts electronic documents for recording
 4 shall:
- 5 ~~(A)~~ (1) continue to accept paper documents as authorized by state
 6 law; and
- 7 ~~(B)~~ (2) place entries for both types of paper documents and
 8 electronic documents in the same index.
- 9 ~~(5)~~ (d) A recorder who accepts electronic documents for
 10 recording may:
- 11 (1) convert paper documents accepted for recording into
 12 electronic form;
- 13 ~~(6)~~ (2) may convert into electronic form information recorded
 14 before the county recorder began to record accept and index
 15 electronic documents; or
- 16 (7) may accept electronically any fee or tax that the county
 17 recorder is authorized to collect; and
- 18 ~~(8)~~ (3) may agree with other officials of a state or a political
 19 subdivision of a state, or of the United States, on procedures or
 20 processes to facilitate the electronic satisfaction of prior approvals
 21 and conditions precedent to recording and the electronic payment
 22 of fees and taxes.
- 23 SECTION 49. IC 32-21-2.5-10, AS ADDED BY P.L.127-2017,
 24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 10. In applying and construing this chapter,
 26 consideration must be given to the need to promote uniformity of the
 27 law with respect to its subject matter among states that enact it: **this**
 28 **article, the Uniform Electronic Transactions Act under IC 26-2-8,**
 29 **IC 33-42, IC 36-2-7.5, and IC 36-2-11, as well as similar laws**
 30 **enacted in other states.**
- 31 SECTION 50. IC 32-21-2.5-12 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) The recorder shall**
 33 **record a paper or tangible copy of an electronic record (as defined**
 34 **in IC 26-2-8-102) that is otherwise eligible under Indiana law to be**
 35 **recorded if the paper or tangible copy of the electronic record:**
- 36 (1) contains an image of an electronic signature or signatures;
 37 (2) contains an acknowledgment or proof as required by
 38 IC 32-21-2-3; and
 39 (3) has been certified by a notarial officer, as described in
 40 IC 33-42-9-7(a), to be a true and correct copy of the electronic
 41 record as provided in subsection (c).
 42



1 **(b) A printed document that is a paper or tangible copy of an**
 2 **electronic record and certified to be a true and correct copy as**
 3 **described in subsection (c) satisfies any requirement of law that, as**
 4 **a condition for recording, requires the printed document to:**

5 **(1) be an original or be in writing;**

6 **(2) be signed or contain an original signature if the document**
 7 **contains an electronic signature of the person required to sign**
 8 **the document; and**

9 **(3) have an acknowledgment or proof according to Indiana**
 10 **law if the document contains an electronic signature of the**
 11 **notarial officer authorized to perform that act and all other**
 12 **information required to be included.**

13 **(c) A notarial officer who makes an acknowledgment or proof**
 14 **under IC 32-21 or IC 33-42 may certify that a paper or tangible**
 15 **copy of an electronic record is a true and correct copy of an**
 16 **electronic record by:**

17 **(1) executing and attaching the notarial officer's official seal**
 18 **to a tangible paper certificate; or**

19 **(2) affixing or attaching the certificate to the paper or tangible**
 20 **copy of an electronic record.**

21 **(d) The form of the certificate required under subsection (c)**
 22 **must be substantially as follows:**

23 "State of _____

24 County of _____

25 I certify that the foregoing and attached document entitled
 26 _____ (insert document title), dated _____ (insert
 27 document date) and containing _____ pages, is a true and correct
 28 copy of an electronic record printed by me or under my
 29 supervision. I further certify that, at the time of printing, no
 30 security features present on the electronic record indicated any
 31 changes or errors in an electronic signature or other information
 32 in the electronic record after the electronic record's creation or
 33 execution.

34 Signed this _____ day of _____, _____

35 _____ (signature of notarial officer)

36 _____ (printed name of notarial officer)

37 _____ (include notarial officer's commission number, official
 38 seal, commission county of residence or employment, and
 39 commission expiration date as required by applicable law)."

40 SECTION 51. IC 32-21-3-2.5 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. As used in this chapter,**



1 **"proof" has the meaning set forth in IC 32-21-2-1.7.**

2 SECTION 52. IC 32-21-3-2.6 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: **Sec. 2.6. As used in this chapter,**
5 **"proved" has the meaning set forth in IC 32-21-2-1.8.**

6 SECTION 53. IC 32-21-4-0.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. For purposes of section**
9 **1 of this chapter, the general assembly makes the following**
10 **findings:**

11 (1) **It is in the public interest for any conveyance, as described**
12 **in section 1(a) of this chapter, and any mortgage recorded in**
13 **the office of an Indiana county recorder to not be attacked**
14 **due to technical deficiencies.**

15 (2) **The ability to rely upon documents indexed and recorded**
16 **in the public land records of an Indiana county recorder**
17 **provides stability to the ownership of Indiana real property**
18 **and to Indiana's statewide and local real estate economies.**

19 (3) **Making or keeping these subsections in section 1 of this**
20 **chapter retroactive will not upset any vested substantive**
21 **rights, liabilities, or duties.**

22 (4) **This section is intended to express the original legislative**
23 **intent of section 1 of this chapter more clearly.**

24 SECTION 54. IC 32-21-9-1 IS REPEALED [EFFECTIVE UPON
25 PASSAGE]. **Sec. 1. (a) In addition to the acknowledgment of written**
26 **instruments and the performance of other notarial acts in the manner**
27 **and form otherwise authorized by the laws of this state, a person:**

28 (1) **who is serving in or with the armed forces of the United States**
29 **wherever located;**

30 (2) **who is serving as a merchant seaman outside the limits of the**
31 **United States included within the fifty (50) states and the District**
32 **of Columbia; or**

33 (3) **who is outside the limits of the United States by permission,**
34 **assignment, or direction of any department or office of the United**
35 **States government in connection with any activity pertaining to**
36 **the prosecution of any war in which the United States is engaged;**
37 **may acknowledge any instruments; attest documents; subscribe oaths**
38 **and affirmations; give depositions; execute affidavits; and perform**
39 **other notarial acts before any commissioned officer with the rank of**
40 **second lieutenant or higher in the active services of the Army of the**
41 **United States or the United States Marine Corps or before any**
42 **commissioned officer with the rank of ensign or higher in the active**



1 service of the United States Navy or the United States Coast Guard; or
2 with equivalent rank in any other component part of the armed forces
3 of the United States:

4 (b) The commissioned officer before whom a notarial act is
5 performed under this section shall certify the instrument with the
6 officer's official signature and title in substantially the following form:

7 With the Armed Forces (or other component part of _____)
8 _____) ss
9 the armed forces) of the United States at ⁺ _____)
10 The foregoing instrument was acknowledged this _____
11 day of _____ 20____ by ² _____ serving (in) the armed forces of the
12 (with)

13 United States) _____ (as a merchant seaman outside the limits
14 of the United States) (as a person not in the armed forces; but outside
15 the limits of the United States by permission; assignment; or direction
16 of a department of the United States Government in connection with an
17 activity pertaining to the prosecution of the war); before me, a
18 commissioned officer in the active service of the (Army of the United
19 States) (United States Marine Corps) (United States Navy) (United
20 States Coast Guard) (or equivalent rank in any other component part of
21 the armed forces):

(Signature of officer)

Rank and Branch

25 Footnote 1: In the event that military considerations preclude
26 disclosure of the place of execution or acknowledgment the words "an
27 undisclosed place" may be supplied instead of the appropriate city or
28 county; state; and country:

29 Footnote 2: If by a natural person or persons; insert name or names;
30 if by a person acting in a representative or official capacity or as
31 attorney-in-fact; then insert name of person acknowledging the
32 instrument; followed by an accurate description of the capacity in
33 which he acts including the name of the person; corporation; or other
34 entity represented:

35 SECTION 55. IC 32-21-9-2 IS REPEALED [EFFECTIVE UPON
36 PASSAGE]. Sec. 2: An acknowledgment or other notarial act made
37 substantially in the form prescribed by section 1 of this chapter is prima
38 facie evidence:

39 (1) that the person named in the instrument as having
40 acknowledged or executed the instrument:

41 (A) appeared in person before the officer taking the
42 acknowledgment;



- 1 (B) was personally known to the officer to be the person whose
 2 name was subscribed to the instrument; and
 3 (C) acknowledged that the person signed the instrument as a
 4 free and voluntary act for the uses and purposes set forth in the
 5 instrument;
 6 (2) if the acknowledgment or execution is by a person in a
 7 representative or official capacity, that the person acknowledging
 8 or executing the instrument acknowledged it to be the person's
 9 free and voluntary act in such capacity or the free and voluntary
 10 act of the principal; person; or entity represented; and
 11 (3) if the acknowledgment or other notarial act is by a person as
 12 an officer of a corporation, that the person was known to the
 13 officer taking the acknowledgment or performing any other
 14 notarial act to be a corporate officer and that the instrument was
 15 executed and acknowledged for and on behalf of the corporation
 16 by the corporate officer with proper authority from the
 17 corporation; as the free and voluntary act of the corporation.

18 SECTION 56. IC 32-21-9-3 IS REPEALED [EFFECTIVE UPON
 19 PASSAGE]. Sec. 3: An instrument acknowledged or executed as
 20 provided in this chapter is not invalid because of a failure to state in the
 21 instrument the place of execution or acknowledgment.

22 SECTION 57. IC 32-21-9-4 IS REPEALED [EFFECTIVE UPON
 23 PASSAGE]. Sec. 4: An acknowledgment or other notarial act made
 24 substantially as provided in this chapter constitutes prima facie proof
 25 of the facts recited in the instrument and, without further or other
 26 authentication, entitles any document so acknowledged or executed to
 27 be filed and recorded in the proper offices of record and received in
 28 evidence before the courts of this state; to the same extent and with the
 29 same effect as documents acknowledged or executed in accordance
 30 with any other provision of law now in force or that may be enacted.

31 SECTION 58. IC 32-39-2-4, AS AMENDED BY P.L.163-2018,
 32 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: Sec. 4. If a deceased user consented to, or a court
 34 directs, disclosure of the contents of electronic communications of the
 35 user, the custodian shall disclose to the personal representative of the
 36 estate of the user the content of an electronic communication sent or
 37 received by the user if the personal representative gives the custodian
 38 the following:

- 39 (1) A written request for disclosure in physical or electronic form.
 40 (2) A certified or authenticated copy of the death certificate of the
 41 user.
 42 (3) A copy of the letters (as defined in IC 29-1-1-3(a)(18))



1 **IC 29-1-1-3(a)(20)** of the personal representative or of the order
 2 of no supervision or order of unsupervised administration issued
 3 to the personal representative under IC 29-1-7.5.

4 (4) Unless the user provided direction using an online tool, a copy
 5 of the user's will, trust, power of attorney, or other record
 6 evidencing the user's consent to disclosure of the content of
 7 electronic communications.

8 (5) If requested by the custodian:

9 (A) a number, username, address, or other unique subscriber
 10 identifier or account identifier assigned by the custodian to
 11 identify the user's account;

12 (B) evidence linking the account to the user; or

13 (C) a finding by the court that:

14 (i) the user had a specific account with the custodian,
 15 identifiable by the information specified in clause (A);

16 (ii) disclosure of the content of electronic communications of
 17 the user would not violate 18 U.S.C. 2701 et seq., 47 U.S.C.
 18 222, or other applicable law;

19 (iii) unless the user provided direction using an online tool,
 20 the user consented to disclosure of the content of electronic
 21 communications; or

22 (iv) disclosure of the content of electronic communications of
 23 the user is reasonably necessary for administration of the
 24 user's estate.

25 SECTION 59. IC 32-39-2-5, AS AMENDED BY P.L.163-2018,
 26 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 UPON PASSAGE]: Sec. 5. Unless the user prohibited disclosure of the
 28 user's digital assets or a court directs otherwise, a custodian shall
 29 disclose to the personal representative of the estate of a deceased user
 30 a catalogue of electronic communications sent or received by the user
 31 and digital assets, other than the content of electronic communications,
 32 of the user, if the personal representative gives the custodian:

33 (1) a written request for disclosure in physical or electronic form;

34 (2) a certified or authenticated copy of the death certificate of the
 35 user;

36 (3) a copy of the letters ~~(as defined in IC 29-1-1-3(a)(18))~~ **(as**
 37 **defined in IC 29-1-1-3(a)(20))** of the personal representative or
 38 of the order of no supervision or order of unsupervised
 39 administration issued to the personal representative under
 40 IC 29-1-7.5; or

41 (4) if requested by the custodian:

42 (A) a number, username, address, or other unique subscriber



- 1 identifier or account identifier assigned by the custodian to
 2 identify the user's account;
 3 (B) evidence linking the account to the user;
 4 (C) an affidavit stating that disclosure of the user's digital assets
 5 is reasonably necessary for administration of the user's estate;
 6 or
 7 (D) a finding by the court that:
 8 (i) the user had a specific account with the custodian,
 9 identifiable by the information specified in clause (A); or
 10 (ii) disclosure of the user's digital assets is reasonably
 11 necessary for administration of the user's estate.
- 12 SECTION 60. IC 32-39-2-12, AS AMENDED BY P.L.163-2018,
 13 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 12. (a) The legal duties imposed on a
 15 fiduciary charged with managing tangible property, including:
 16 (1) the duty of care;
 17 (2) the duty of loyalty; and
 18 (3) the duty of confidentiality;
 19 also apply to a fiduciary charged with managing digital assets.
- 20 (b) A fiduciary's or designated recipient's authority with respect to
 21 a digital asset of a user:
 22 (1) except as otherwise provided in section 1 of this chapter, is
 23 subject to the applicable terms of service;
 24 (2) is subject to other applicable law, including copyright law;
 25 (3) is limited by the scope of the fiduciary's duties; and
 26 (4) may not be used to impersonate the user.
- 27 (c) A fiduciary with authority over the property of a decedent,
 28 protected person, principal, or settlor has the right to access any digital
 29 asset:
 30 (1) in which the decedent, protected person, principal, or settlor
 31 had a right or interest; and
 32 (2) that is not held by a custodian or subject to a terms-of-service
 33 agreement.
- 34 (d) A fiduciary acting within the scope of the fiduciary's duties is an
 35 authorized user of the property of the decedent, protected person,
 36 principal, or settlor for the purpose of applicable computer fraud and
 37 unauthorized computer access laws, including IC 24-4.8-2, IC 24-5-22,
 38 IC 35-43-1-7, IC 35-43-1-8, IC 35-43-2-3, and IC 35-45-13.
- 39 (e) A fiduciary with authority over the tangible, personal property
 40 of a decedent, protected person, principal, or settlor:
 41 (1) has the right to access the property and any digital asset stored
 42 in the property; and



- 1 (2) is an authorized user for the purpose of computer fraud and
 2 unauthorized computer access laws, including IC 24-4.8-2,
 3 IC 24-5-22, IC 35-43-2-3, and IC 35-45-13.
- 4 (f) A custodian may disclose information in an account to a
 5 fiduciary of the user when the information is required to terminate an
 6 account used to access digital assets licensed to the user.
- 7 (g) A fiduciary of a user may request that a custodian terminate the
 8 user's account. A request for termination must be in writing, in either
 9 physical or electronic form, and must be accompanied by:
- 10 (1) if the user is deceased, a certified or authenticated copy of the
 11 death certificate of the user;
- 12 (2) a copy of:
- 13 (A) the letters ~~(as defined in IC 29-1-1-3(a)(18))~~ **(as defined in**
 14 **IC 29-1-1-3(a)(20))** of the personal representative or of the
 15 order of no supervision or order of unsupervised administration
 16 issued to the personal representative under IC 29-1-7.5;
- 17 (B) the court order;
- 18 (C) the power of attorney; or
- 19 (D) the trust;
- 20 giving the fiduciary authority over the account; and
- 21 (3) if requested by the custodian:
- 22 (A) a number, username, address, or other unique subscriber
 23 identifier or account identifier assigned by the custodian to
 24 identify the user's account;
- 25 (B) evidence linking the account to the user; or
- 26 (C) a finding by the court that the user had a specific account
 27 with the custodian, identifiable by the information specified in
 28 clause (A).
- 29 SECTION 61. IC 33-42-0.5-18, AS ADDED BY P.L.59-2018,
 30 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 18. "Notarial act" means the following acts
 32 with respect to either a tangible or an electronic record:
- 33 (1) Taking an acknowledgment.
- 34 (2) Administering an oath or affirmation.
- 35 (3) Taking a verification on an oath or affirmation.
- 36 (4) Attesting to or witnessing a signature.
- 37 (5) Attesting to or certifying a copy of:
- 38 (A) a tangible document or record; or
- 39 (B) an electronic document or record.
- 40 **(6) Taking a proof (as defined in IC 32-21-2-1.7).**
- 41 ~~(7)~~ (7) Noting a protest of a negotiable record.
- 42 ~~(7)~~ (8) Any other act authorized by common law or the custom of



- 1 merchants.
- 2 SECTION 62. IC 33-42-9-7, AS AMENDED BY P.L.59-2018,
 3 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 UPON PASSAGE]: Sec. 7. (a) A notarial act may be performed by the
 5 following individuals:
- 6 (1) Notaries public.
 - 7 (2) An official court reporter acting under IC 33-41-1-6.
 - 8 (3) Judges and justices of Indiana courts.
 - 9 (4) The secretary of state.
 - 10 (5) The clerk of the supreme court.
 - 11 (6) Mayors, clerks, clerk-treasurers of towns and cities, township
 12 trustees, in their respective towns, cities, and townships.
 - 13 (7) Clerks of circuit courts and master commissioners in their
 14 respective counties.
 - 15 (8) Judges of United States district courts of Indiana, in their
 16 respective jurisdictions.
 - 17 (9) United States commissioners appointed for any United States
 18 district court of Indiana, in their respective jurisdictions.
 - 19 (10) A precinct election officer (as defined in IC 3-5-2-40.1) and
 20 an absentee voter board member appointed under IC 3-11-10 or
 21 IC 3-11.5-4, for any purpose authorized under IC 3.
 - 22 (11) A member of the Indiana election commission, a co-director
 23 of the election division, or an employee of the election division as
 24 defined under IC 3-6-4.2.
 - 25 (12) County auditors in their respective counties.
 - 26 **(13) County recorders in their respective counties.**
 - 27 ~~(13)~~ **(14)** Any member of the Indiana general assembly anywhere
 28 in Indiana.
 - 29 ~~(14)~~ **(15)** The adjutant general of the Indiana National Guard,
 30 specific active duty members, reserve duty members, or civilian
 31 employees of the Indiana National Guard designated by the
 32 adjutant general of the Indiana National Guard for any purpose
 33 related to the service of an active duty or reserve member of the
 34 Indiana National Guard.
 - 35 (b) The signature and title of an individual performing a notarial act
 36 in Indiana is prima facie evidence of the fact that:
 - 37 (1) the signature is genuine; and
 - 38 (2) the individual holds the designated title.
 - 39 SECTION 63. IC 33-42-9-12, AS AMENDED BY P.L.177-2019,
 40 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 12. (a) A notarial act must be authenticated
 42 by a certificate bearing the date of the notarial act and the signature of



1 the notarial officer. A properly completed certificate must conform to
2 the following conditions:

3 (1) The certificate must be completed contemporaneously with
4 the performance of the notarial act.

5 (2) The certificate must be signed and dated by the notarial
6 officer. If the notarial officer is a notary public, the certificate
7 must be signed in the manner on file with the secretary of state for
8 the specific notary public.

9 (3) The certificate must identify the jurisdiction in which the
10 notarial act is performed as follows:

11 (A) For a notarial act that is not a remote notarial act, the
12 county and state in which the principal **or witness** appears
13 before the notarial officer.

14 (B) For a remote notarial act, the information required by
15 IC 33-42-17-7(a)(3).

16 (4) The certificate must display the title of the notarial officer.

17 (5) If the notarial officer is a notary public, the certificate must
18 display:

19 (A) the expiration date of the notary public's commission; and

20 (B) either of the following:

21 (i) The Indiana county of the notary public's commission.

22 (ii) If the notary public is not a resident of Indiana but is
23 primarily employed in Indiana, the Indiana county where the
24 notary public is primarily employed.

25 (b) A notary public who performs a notarial act on a tangible record
26 shall:

27 (1) affix, display, or emboss the notary public's official seal; and

28 (2) print or type the notary public's name underneath the notary
29 public's signature on a certificate of acknowledgment, ~~jurat~~, **proof**
30 **(as defined in and permitted under IC 32-21-2)**, or other
31 official record unless the name of the notary public:

32 (A) appears in printed form on the record; or

33 (B) appears as part of the notary public's official seal; and

34 is legible when the record is photocopied.

35 (c) If a notarial act is performed on a public record by a notarial
36 officer other than a notary public, the information described in
37 subsection (a)(2) through (a)(4) must be affixed, displayed, or
38 embossed upon the certificate and accompanied by the notarial officer's
39 official seal.

40 (d) If a notarial act is performed on an electronic record by a notary
41 public:

42 (1) the electronic notarial certificate must contain the information



- 1 described in subsection (a)(2) through (a)(5); and
 2 (2) the notary public's electronic seal must be attached to or
 3 associated with the electronic notarial certificate.
 4 (e) If a notarial act is performed on an electronic record by a notarial
 5 officer other than a notary public:
 6 (1) the electronic notarial certificate must contain the information
 7 described in subsection (a)(2) through (a)(4); and
 8 (2) the notarial officer's official seal must be attached to or
 9 associated with the electronic notarial certificate.
 10 (f) A certificate of a notarial act or an electronic notarial certificate
 11 is sufficient if it meets the requirements described in subsections (a)
 12 and (b) and:
 13 (1) is in a form permitted by the laws of this state;
 14 (2) is in a form permitted by the laws of the jurisdiction in which
 15 the notarial act was performed; or
 16 (3) sets forth the actions of the notarial officer.
 17 (g) By executing a certificate of a notarial act or an electronic
 18 notarial certificate, a notarial officer certifies that the notarial officer
 19 has complied with this chapter.
 20 (h) A notarial officer may not affix a signature to or associate a
 21 certificate of a notarial act or an electronic notarial certificate with a
 22 record until a notarial act has been performed.
 23 (i) A certificate of a notarial act or an electronic notarial certificate
 24 must be attached to or associated with each tangible record or
 25 electronic record in a manner consistent with the applicable
 26 requirements of subsections (a) through (f).
 27 (j) An official:
 28 (1) certificate of a notarial act bearing a notarial officer's official
 29 seal; or
 30 (2) electronic notarial certificate bearing a notarial officer's
 31 electronic seal;
 32 constitutes presumptive evidence of the facts stated in cases, where, by
 33 law, the notarial officer is authorized to certify facts.
 34 (k) A notarial officer may subsequently correct any information
 35 included or omitted from a certificate of a notarial act or an electronic
 36 notarial certificate executed by the notarial officer.
 37 (l) Changes or corrections may never be made to the impression of
 38 an official seal.
 39 SECTION 64. IC 33-42-17-7, AS ADDED BY P.L.59-2018,
 40 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 7. (a) An electronic notarial certificate of a
 42 remote notarial act must:



- 1 (1) specify that the notarial act is a remote notarial act;
- 2 (2) include a space in which a remote notary public may indicate
- 3 whether the principal in the remote notarial act appeared before
- 4 the remote notary public under section 4(a)(1) or 4(a)(2) of this
- 5 chapter; and
- 6 (3) specify the:
- 7 (A) city and county in Indiana in which the remote notary
- 8 public is physically located when the remote notary public
- 9 performs the remote notarial act; and
- 10 (B) city, county, state or province, and country in which the
- 11 principal is physically located when the principal signs the
- 12 document.

13 (b) Completion of either of the following forms satisfies the
 14 requirements of this section **where a principal appears before a**
 15 **remote notary public:**

16 "State of Indiana
 17 County of _____
 18 City of _____

19 I certify that the attached or associated electronic record
 20 entitled _____ and
 21 dated _____ was signed by the
 22 principal _____ who was located in this
 23 city _____, county _____, state or
 24 province _____, and country _____ and
 25 notarized by me, the remote notary public, on this
 26 date _____ in this city and county _____,
 27 Indiana.
 28 Signed _____, remote notary public.
 29 Printed name of remote notary public _____
 30 Date notary public commission expires _____".

31 "State of Indiana
 32 County of _____
 33 City of _____

34 I certify that the attached or associated electronic record
 35 entitled _____ and
 36 dated _____ was acknowledged and signed by the
 37 principal _____ who was located in this
 38 city _____, county _____, state or
 39 province _____, and country _____ and who
 40 appeared by audio visual communication on this date, was
 41 notarized by me, the remote notary public, on this
 42 date _____ in this city and county _____,



- 1 Indiana.
 2 Signed _____, remote notary public.
 3 Printed name of remote notary public _____
 4 Date notary public commission expires _____".
- 5 SECTION 65. IC 33-42-17-12, AS ADDED BY P.L.59-2018,
 6 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 UPON PASSAGE]: Sec. 12. (a) ~~An individual performing a notarial act~~
 8 ~~as described in IC 33-42-9-8, IC 33-42-9-9, IC 33-42-9-10, or~~
 9 ~~IC 33-42-9-11 may not perform the notarial act as a remote notarial act~~
 10 unless:
- 11 (1) ~~the individual performing the remote notarial act is:~~
 12 (A) ~~a notary public commissioned by the secretary of state~~
 13 ~~under IC 33-42-2; and~~
 14 (B) ~~registered as a remote notary public under section 2 of this~~
 15 ~~chapter;~~
 16 (2) ~~the remote notarial act is performed in accordance with this~~
 17 ~~chapter; and~~
 18 (3) ~~the individual performing the remote notarial act complies~~
 19 ~~with this chapter.~~
- 20 (b) ~~A remote notarial act performed in accordance with this chapter~~
 21 ~~is considered to have been performed in Indiana, regardless of the~~
 22 ~~physical location of the principal at the time the remote notarial act is~~
 23 ~~performed.~~
- 24 SECTION 66. IC 34-41-1-2 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The
 26 circumstances under which seals are required on deeds and other
 27 instruments conveying land are governed by ~~IC 32-21-1-12 and~~
 28 IC 34-37-1.
- 29 SECTION 67. IC 36-2-11-3, AS AMENDED BY P.L.127-2017,
 30 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 3. (a) The recorder shall keep the recorder's
 32 office in a building provided at the county seat by the county executive.
 33 The recorder shall keep the recorder's office open for business during
 34 regular business hours on every day of the year except Sundays and
 35 legal holidays. However, the recorder may close the recorder's office
 36 on days specified by the county executive according to the custom and
 37 practice of the county.
- 38 (b) **If a county office is closed for three (3) or more business**
 39 **days pursuant to an executive order issued under IC 10-14-3, the**
 40 **county executive and the county recorder shall provide notice to**
 41 **the public on an Internet web site maintained by or on behalf of the**
 42 **county executive and the recorder. The notice must be provided to**



1 the public within five (5) business days of the executive order being
 2 issued. The notice may include information on how the public can
 3 submit documents to the recorder's office in paper, electronic, or
 4 digital formats and how payment must be provided for services
 5 rendered by a specific county office.

6 (c) A county office's failure to comply with subsection (b) shall
 7 not:

8 (1) invalidate any instrument submitted to the recorder
 9 pursuant to:

10 (A) IC 29-1-7-23(d);

11 (B) IC 32-21; or

12 (C) this chapter; or

13 (2) subject the recorder, the recorder's office, or any county
 14 office personnel to civil liability under IC 34-13-3 or any other
 15 provision of Indiana law.

16 SECTION 68. IC 36-2-11-16, AS AMENDED BY P.L.129-2008,
 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: Sec. 16. (a) This section does not apply to:

19 (1) an instrument executed before November 4, 1943;

20 (2) a judgment, order, or writ of a court;

21 (3) a will or death certificate; or

22 (4) an instrument executed or acknowledged outside Indiana.

23 (b) Whenever this section prescribes that the name of a person be
 24 printed, typewritten, or stamped immediately beneath the person's
 25 signature, the signature must be written on the instrument, directly
 26 preceding the printed, typewritten, or stamped name, and may not be
 27 superimposed on that name so as to render either illegible. However,
 28 the instrument may be received for record if the name and signature
 29 are, in the discretion of the county recorder, placed on the instrument
 30 so as to render the connection between the two apparent.

31 (c) Except as provided in subsection (d), the recorder may receive
 32 for record an instrument only if all of the following requirements are
 33 met:

34 (1) The name of each person who executed the instrument is
 35 legibly printed, typewritten, or stamped immediately beneath the
 36 person's signature or the signature itself is printed, typewritten, or
 37 stamped, **or logically associated with the instrument.**

38 (2) The name of each witness to the instrument is legibly printed,
 39 typewritten, or stamped immediately beneath the signature of the
 40 witness or the signature itself is printed, typewritten, or stamped,
 41 **or logically associated with the instrument.**

42 (3) The name of each ~~notary public~~ **notarial officer** whose



1 signature appears on the instrument is legibly printed, typewritten,
 2 or stamped immediately beneath the signature of the ~~notary public~~
 3 **notarial officer** or the signature itself is printed, typewritten, or
 4 stamped, **or logically associated with the instrument.**

5 (4) The name of each person who executed the instrument appears
 6 identically in the body of the instrument, in the acknowledgment
 7 or ~~jurat~~, **proof (as defined in and permitted under IC 32-21-2)**
 8 in the person's signature, and beneath the person's signature.

9 **(5) The execution of the instrument and the acknowledgment**
 10 **or proof (as defined in and permitted under IC 32-21-2),**
 11 **complies with IC 33-42.**

12 ~~(5)~~ **(6)** If the instrument is a copy, the instrument is marked
 13 "Copy".

14 (d) The recorder may receive for record an instrument that does not
 15 comply with subsection (c) if all of the following requirements are met:

16 (1) A printed or typewritten affidavit of a person with personal
 17 knowledge of the facts is recorded with the instrument.

18 (2) The affidavit complies with this section.

19 (3) The affidavit states the correct name of a person, if any, whose
 20 signature cannot be identified or whose name is not printed,
 21 typewritten, or stamped on the instrument as prescribed by this
 22 section.

23 (4) When the instrument does not comply with subsection (c)(4),
 24 the affidavit states the correct name of the person and states that
 25 each of the names used in the instrument refers to the person.

26 (5) If the instrument is a copy, the instrument is marked "Copy".

27 (e) The recorder shall record a document presented for recording or
 28 a copy produced by a photographic process of the document presented
 29 for recording if:

30 (1) the document complies with other statutory recording
 31 requirements; and

32 (2) the document or copy will produce a clear and unobstructed
 33 copy.

34 (f) An instrument, document, or copy received and recorded by a
 35 county recorder is conclusively presumed to comply with this section.
 36 A recorded copy shall have the same effect as if the original document
 37 had been recorded.

38 **SECTION 69. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1255, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 30, line 41, delete "May 15, 2020." and insert "**March 31, 2020.**".

Page 33, line 35, delete "May 15, 2020." and insert "**March 31, 2020.**".

Page 41, line 41, delete "May 15," and insert "**March 31,**".

Page 42, line 30, delete "May 15," and insert "**March 31,**".

Page 43, line 26, delete "May 15," and insert "**March 31,**".

Page 48, line 38, after "is" insert "**not**".

and when so amended that said bill do pass.

(Reference is to HB 1255 as introduced.)

TORR

Committee Vote: yeas 9, nays 0.

