



January 29, 2019

HOUSE BILL No. 1487

DIGEST OF HB 1487 (Updated January 28, 2019 12:44 pm - DI 123)

Citations Affected: IC 4-5; IC 8-1; IC 23-0.5; IC 24-2; IC 26-1; IC 33-42; IC 34-33; noncode.

Synopsis: Business services of the secretary of state. Amends the law concerning the business practices of the secretary of state, including: (1) access to information maintained by the secretary of state; (2) use of electronic information and transmissions; (3) striking the current Uniform Commercial Code (UCC) financing statement form; adding use of a format that meets certain criteria for the filings; and amending the UCC fees; (4) adding to the requirement to include a notary public's Indiana county on an authentication certificate; (5) amending requirements concerning notary public examination and education; (6) prohibiting performance of a notarial act: (a) to benefit oneself or one's spouse; or (b) when a commission is suspended or revoked; (7) specifying a notarial act fee applies; (8) providing for issuance of a certificate of fact for a notary public per signature; (9) requiring maintenance of a remote notary public electronic journal for 10 years; and (10) providing for nonresident corporate service of process on the secretary of state. Repeals current law concerning excavation contractor filings and precontracting documentation of compliance with underground facility damage law. Requires the formatting of certain documents to be approved by the International Association of Commercial Administrators or the secretary of state. Specifies October 1, 2019, as the date for a fee increase concerning the indexing of certain documents. Increases the fee that a notary public may charge for a remote notarial act from \$15 to \$25. Makes a technical amendment and conforming changes.

Effective: Upon passage; July 1, 2019.

Carbaugh

January 16, 2019, read first time and referred to Committee on Judiciary.
January 29, 2019, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

HB 1487—LS 7062/DI 97



January 29, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1487

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

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

- 1 SECTION 1. IC 4-5-10-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 2. The secretary of state may:
3 (1) establish; and
4 (2) modify;
5 at any time fees to provide electronic, **expedited**, and enhanced access
6 to information maintained by the secretary of state.
7 SECTION 2. IC 4-5-10-5, AS AMENDED BY P.L.114-2011,
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 5. (a) The electronic and enhanced access
10 fund is established to do the following:
11 (1) Improve and enhance the technology necessary and desirable
12 to fulfill the duties of the secretary of state and state agencies as
13 provided in section 1 of this chapter.
14 (2) Improve service to customers of the secretary of state and state
15 agencies as provided in section 1 of this chapter.
16 (3) Provide the public electronic and other enhanced access to
17 information maintained by:

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- 1 (A) the secretary of state under IC 23, **IC 24, or IC 26, or**
 2 **IC 33;** and
 3 (B) the secretary of state and state agencies as provided in
 4 section 1 of this chapter.
 5 (4) Allow the public to conduct business electronically with the
 6 secretary of state and state agencies as provided in section 1 of
 7 this chapter.
 8 (5) Acquire and finance technology necessary or desirable to
 9 accomplish the purposes stated in subdivisions (1) through (4),
 10 including the purchase or lease of hardware, software, and other
 11 appropriate goods and services.
 12 The secretary of state may enter into one (1) or more agreements in
 13 furtherance of the purposes of this chapter.
 14 (b) The fund consists solely of the following:
 15 (1) Electronic and enhanced access fees established and collected
 16 by the secretary of state under section 2 of this chapter.
 17 (2) Other money specifically provided to the fund by law.
 18 Fees collected by the secretary of state under IC 23, **IC 24, or IC 26, or**
 19 **IC 33** may not be deposited into the fund.
 20 (c) The secretary of state shall administer the fund.
 21 (d) The expenses of administering the fund shall be paid from
 22 money in the fund.
 23 (e) Money in the fund at the end of a state fiscal year does not revert
 24 to the state general fund.
 25 (f) The secretary of state may use money in the fund to pay expenses
 26 related to the purposes of the fund as set forth in section 5 of the
 27 chapter, to make payments under any agreement authorized by
 28 subsection (a) or authorized by law and directly relating to the purpose
 29 of the fund, and monies in the fund are continuously appropriated for
 30 the purposes set forth in this chapter.
 31 (g) Money in the fund not currently needed to meet the obligations
 32 of the fund may be invested by either of the following:
 33 (1) The treasurer of state in the same manner as other public
 34 funds may be invested.
 35 (2) A financial institution designated by trust agreement with the
 36 secretary of state.
 37 Interest that accrues from investment of money in the fund shall be
 38 deposited into the fund.
 39 SECTION 3. IC 8-1-26.5-7 IS REPEALED [EFFECTIVE UPON
 40 PASSAGE]. ~~Sec. 7. In an entity filing required or permitted under~~
 41 ~~IC 23-0.5, a filing entity that is a contractor must include a statement,~~
 42 ~~signed by or on behalf of a person authorized to sign the filing, that the~~



1 filing entity and its employees will comply with IC 8-1-26. An entity
 2 filing, including a biennial report filed under IC 23-0.5-2-13, that is
 3 submitted to the secretary of state before July 1, 2018, shall be:

- 4 (1) corrected in the manner prescribed by IC 23-0.5-2-5 to include
 5 the statement required by this section; and
 6 (2) delivered to the secretary of state;

7 before the filing entity to whom the entity filing applies may commence
 8 a new excavation or demolition described in IC 8-1-26.

9 SECTION 4. IC 8-1-26.5-8 IS REPEALED [EFFECTIVE UPON
 10 PASSAGE]. Sec. 8. A contractor that is a filing entity shall provide
 11 documentation of the contractor's compliance with section 7 of this
 12 chapter to a communications service provider or a utility before
 13 entering into a contract described in section 4 of this chapter with the
 14 communications service provider or the utility.

15 SECTION 5. IC 23-0.5-1.5-15, AS ADDED BY P.L.118-2017,
 16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2019]: Sec. 15. "Governing person" means:

- 18 (1) a director of a business corporation;
 19 (2) a director or trustee of a nonprofit corporation;
 20 (3) a general partner of a general partnership;
 21 (4) a general partner of a limited partnership;
 22 (5) a manager of a manager-managed limited liability company;
 23 (6) a member of a member-managed limited liability company; or
 24 (7) any other **person individual** under whose authority the powers
 25 of an entity are exercised and under whose direction the activities
 26 and affairs of the entity are managed under the organic law and
 27 organic rules of the entity.

28 SECTION 6. IC 23-0.5-4-3, AS AMENDED BY P.L.52-2018,
 29 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: Sec. 3. (a) A registered agent must be an
 31 individual, a general partnership, a domestic filing entity, or a
 32 registered foreign entity.

33 (b) A registered agent filing must provide either:

- 34 (1) if the entity has a commercial registered agent, the name of the
 35 entity's commercial registered agent; or
 36 (2) if the entity does not have a commercial registered agent:
 37 (A) the name of the individual, general partnership, domestic
 38 filing entity, or registered foreign entity;
 39 (B) the address of the entity's registered agent; and
 40 (C) the electronic mail address of the registered agent at which
 41 the registered agent will accept electronic service of process
 42 only in the manner prescribed by the Indiana supreme court in



- 1 the Indiana trial rules.
- 2 (c) A registered agent filing must state:
- 3 (1) the registered agent's consent; or
- 4 (2) a representation that the registered agent has consented.
- 5 (d) Each entity registered under the laws of Indiana shall provide to
- 6 the entity's registered agent, and update from time to time as necessary,
- 7 the name, business address, and business telephone number of an
- 8 individual who is:
- 9 (1) an officer, a director, an employee, or a designated agent of
- 10 the entity; and
- 11 (2) authorized to receive communications from the registered
- 12 agent.
- 13 The individual is considered to be the communications contact for the
- 14 entity.
- 15 (e) A registered agent shall retain, in paper or electronic form, the
- 16 information provided by an entity under subsection (d).
- 17 (f) If an entity fails to provide the registered agent with the
- 18 information required under subsection (d), the registered agent may
- 19 resign, as provided in section 9 of this chapter, as the registered agent
- 20 for the entity.
- 21 **(g) The secretary of state may provide to the Indiana supreme**
- 22 **court the electronic mail address of a registered agent.**
- 23 SECTION 7. IC 24-2-1-8, AS AMENDED BY P.L.135-2006,
- 24 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 UPON PASSAGE]: Sec. 8. (a) A mark and the registration of a mark
- 26 under this chapter are assignable with the:
- 27 (1) good will of the business in which the mark is used; or
- 28 (2) part of the good will of the business:
- 29 (A) connected with the use of the mark; and
- 30 (B) symbolized by the mark.
- 31 (b) An assignment:
- 32 (1) must be made by an instrument in writing duly executed; and
- 33 (2) may be **electronically** recorded with the secretary upon the
- 34 payment of a recording fee to the secretary.
- 35 (c) The secretary, after recording an assignment, shall issue in the
- 36 name of the assignee a new certificate of registration for the remainder
- 37 of the term of the:
- 38 (1) registration; or
- 39 (2) most recent renewal of the registration.
- 40 (d) An assignment of a registration under this chapter is void against
- 41 a subsequent purchaser for valuable consideration without notice
- 42 unless the assignment is recorded with the secretary not more than



1 three (3) months:

2 (1) after the date of the assignment; or

3 (2) before the subsequent purchase.

4 SECTION 8. IC 26-1-1-108.1 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 108.1. (a) The
6 secretary of state may provide that a document required to be filed
7 under this article with the secretary of state may be filed by ~~teletype,~~
8 ~~facsimile, or other form~~ of electronic transmission meeting the
9 requirements established by the secretary of state.

10 (b) The secretary of state may accept payment of a filing fee for a
11 document filed by electronic transmission by credit card, debit card,
12 charge card, or similar method. However, if the filing fee is paid by
13 credit card, debit card, charge card, or similar method, the liability is
14 not finally discharged until the secretary of state receives payment or
15 credit from the institution responsible for making the payment or credit.

16 (c) The secretary of state may contract with a bank or credit card
17 vendor for acceptance of bank or credit cards. However, if there is a
18 vendor transaction charge or discount fee, whether billed to the
19 secretary of state or charged directly to the secretary of state's account,
20 the secretary of state or the credit card vendor may collect from the
21 person using the bank or credit card a fee that may not exceed the
22 highest transaction charge or discount fee charged to the secretary of
23 state by the bank or credit card vendor during the most recent
24 collection period. The fee may be collected regardless of any
25 agreement between the bank and a credit card vendor or regardless of
26 any internal policy of the credit card vendor that may prohibit this type
27 of fee. The fee is a permitted additional charge under IC 24-4.5-3-202.

28 SECTION 9. IC 26-1-1.5-1, AS AMENDED BY P.L.54-2011,
29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]: Sec. 1. ~~The forms A format described in~~
31 IC 26-1-9.1-521 may be used for filings under IC 26-1.

32 SECTION 10. IC 26-1-9.1-521, AS AMENDED BY P.L.86-2013,
33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 UPON PASSAGE]: Sec. 521. **Except for a reason set forth in**
35 **IC 26-1-9.1-516(b) or IC 26-1-9.1-901**, a filing office that accepts
36 written records may not refuse to accept a written ~~initial financing~~
37 ~~statement in the following form and format except for a reason set forth~~
38 ~~in IC 26-1-9.1-516(b) or IC 26-1-9.1-901: document for a filing~~
39 **authorized by this chapter if the document conforms to a format**
40 **that is:**

41 (1) approved by the International Association of Commercial
42 Administrators; or



1 (2) adopted by rule by the secretary of state under
2 IC 26-1-9.1-526.
3 UCC FINANCING STATEMENT
4 FOLLOW INSTRUCTIONS
5 A. NAME & PHONE OF CONTACT AT FILER (optional)
6 _____
7 B. E-MAIL CONTACT AT FILER (optional)
8 _____
9 C. SEND ACKNOWLEDGMENT TO: (Name and Address)
10 _____
11 THE ABOVE SPACE IS FOR
12 FILING OFFICE USE ONLY
13 1. DEBTOR'S NAME = provide only one Debtor name (1a or 1b) (use
14 exact, full name;
15 do not omit, modify, or abbreviate any word in the Debtor's name)
16 1a. ORGANIZATION'S NAME
17 _____
18 _____
19 OR
20 1b. INDIVIDUAL'S SURNAME FIRST PERSONAL
21 NAME
22 _____
23 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE
24 PART OF THE NAME OF THIS DEBTOR SUFFIX
25 _____
26 1c. MAILING ADDRESS
27 _____
28 _____
29 CITY STATE POSTAL CODE
30 COUNTRY
31 _____
32 _____
33 2. DEBTOR'S NAME = provide only one Debtor name (2a or 2b) (use
34 exact, full name;
35 do not omit, modify, or abbreviate any word in the Debtor's name)
36 2a. ORGANIZATION'S NAME
37 _____
38 _____
39 OR
40 2b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME
41 _____
42 _____



1 6b. Check only if applicable and check only one box:
2 Agricultural Lien Non-UCC Filing
3 7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor
4 Consignee/Consignor Seller/Buyer Bailee/Bailor
5 Licensee/Licensor
6 8. OPTIONAL FILER REFERENCE DATA
7 _____
8 _____
9 {UCC FINANCING STATEMENT (Form UCC1)}
10 UCC FINANCING STATEMENT ADDENDUM
11 FOLLOW INSTRUCTIONS
12 9. NAME OF FIRST DEBTOR (same as item 1a or 1b on Financing
13 Statement)
14 9a. ORGANIZATION'S NAME
15 _____
16 _____
17 OR
18 9b. INDIVIDUAL'S SURNAME
19 _____
20 FIRST PERSONAL NAME
21 _____
22 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
23 _____
24 THE ABOVE SPACE IS FOR
25 FILING OFFICE USE ONLY
26 10. ADDITIONAL DEBTOR'S NAME = provide only one Debtor
27 name (10a or 10b) (use
28 exact, full name; do not omit, modify; or abbreviate any word in the
29 Debtor's name)
30 10a. ORGANIZATION'S NAME
31 _____
32 _____
33 OR
34 10b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME
35 _____
36 _____
37 ADDITIONAL NAME(S)/INITIAL(S) THAT
38 ARE PART OF THE NAME OF THIS DEBTOR SUFFIX
39 _____
40 10c. MAILING ADDRESS
41 _____
42 _____



1 CITY STATE POSTAL CODE
 2 COUNTRY
 3 _____
 4 _____
 5 11: ADDITIONAL SECURED PARTY'S
 6 NAME or ASSIGNOR SECURED
 7 PARTY'S NAME - provide only one name (11a or 11b)
 8 11a: ORGANIZATION'S NAME
 9 _____
 10 _____
 11 OR
 12 11b: INDIVIDUAL'S SURNAME FIRST
 13 PERSONAL NAME
 14 _____
 15 _____
 16 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
 17 _____
 18 11c: MAILING ADDRESS
 19 _____
 20 _____
 21 CITY STATE POSTAL CODE
 22 COUNTRY
 23 _____
 24 _____
 25 12: ADDITIONAL SPACE FOR ITEM 4
 26 (Collateral)
 27 _____
 28 _____
 29 13: This FINANCING STATEMENT is to
 30 be filed [for record] (or recorded) in the
 31 REAL ESTATE RECORDS (if applicable)
 32 14: This FINANCING STATEMENT:
 33 covers timber to be cut covers as-extracted collateral is filed
 34 as a fixture filing
 35 15: Name and address of a RECORD
 36 OWNER of real estate described in item 16 (if
 37 Debtor does not have a record interest):
 38 _____
 39 _____
 40 16: Description of real estate:
 41 _____
 42 _____



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17. MISCELLANEOUS:

{UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)}

(b) A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason described in IC 26-1-9.1-516(b):

UCC FINANCING STATEMENT AMENDMENT
 FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR
 FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS:
 Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13.

2. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b; and address of Assignee in item 7c and name of Assignor in item 9: For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period



1 provided by applicable law
2 5. PARTY INFORMATION CHANGE:
3 Check one of these two boxes:
4 This Change affects Debtor or Secured Party of record.
5 AND
6 Check one of these three boxes to:
7 CHANGE name and/or address: Complete item 6a or 6b; and item
8 7a or 7b and item
9 7c.
10 ADD name: Complete item 7a or 7b; and item 7c.
11 DELETE name: Give record name to be deleted in item 6a or 6b.
12 6. CURRENT RECORD INFORMATION: Complete for Party
13 Information Change =
14 provide only one name (6a or 6b) (use exact, full name; do not omit;
15 modify; or
16 abbreviate any word in the Debtor's name)
17 6a. ORGANIZATION'S NAME
18 _____
19 _____
20 OR
21 6b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME
22 _____
23 _____
24 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
25 _____
26 7. CHANGED OR ADDED INFORMATION: Complete for
27 Assignment or Party
28 Information Change = provide only one name (7a or 7b) (use exact
29 full name; do not
30 omit; modify; or abbreviate any word in the Debtor's name)
31 7a. ORGANIZATION'S NAME
32 _____
33 _____
34 OR
35 7b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME
36 _____
37 _____
38 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE
39 PART OF THE NAME OF THIS DEBTOR SUFFIX
40 _____
41 7c. MAILING ADDRESS
42 _____



1 _____
2 CITY STATE POSTAL CODE
3 COUNTRY
4 _____
5 _____
6 8. COLLATERAL CHANGE:
7 Also check one of these four boxes:
8 ADD collateral DELETE collateral RESTATE covered
9 collateral
10 ASSIGN collateral
11 Indicate collateral:
12 9. NAME OF SECURED PARTY OF RECORD AUTHORIZING
13 THIS AMENDMENT
14 = provide only one name (9a or 9b) (name of Assignor; if this is an
15 Assignment)
16 If this is an Amendment authorized by a DEBTOR, check here
17 and provide name of
18 authorizing Debtor
19 9a. ORGANIZATION'S NAME
20 _____
21 _____
22 OR
23 9b. INDIVIDUAL'S SURNAME
24 _____
25 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
26 _____
27 10. _____ OPTIONAL FILER REFERENCE DATA
28 _____
29 _____
30 [UCC FINANCING STATEMENT AMENDMENT (Form UCC3)]
31 UCC FINANCING STATEMENT AMENDMENT ADDENDUM
32 FOLLOW INSTRUCTIONS
33 11. _____ INITIAL FINANCING STATEMENT
34 FILE NUMBER (same as item 1a on Amendment form)
35 _____
36 _____
37 12. _____ NAME OF PARTY AUTHORIZING
38 THIS AMENDMENT (same as item 9 on
39 Amendment form)
40 12a. ORGANIZATION'S NAME
41 _____
42 _____



1 ~~UCC FINANCING STATEMENT AMENDMENT ADDENDUM~~
 2 ~~(Form UCC3Ad)]"~~.

3 SECTION 11. IC 26-1-9.1-525 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 525. (a) **Beginning**
 5 **on October 1, 2019, and** except as otherwise provided in subsection
 6 (e), the fee for filing and indexing a record under IC 26-1-9.1-501
 7 through IC 26-1-9.1-527, other than an initial financing statement of
 8 the kind described in IC 26-1-9.1-502(c), is:

9 (1) ~~four~~ **twelve** dollars ~~(\$4)~~ **(\$12)** if the record is communicated
 10 in writing; ~~including by facsimile, and consists of one (1) or two~~
 11 ~~(2) pages;~~

12 (2) ~~eight~~ **twelve** dollars ~~(\$8)~~ **(\$12)** if the record is communicated in writing;
 13 ~~including by facsimile, and consists of more than two (2) pages;~~
 14 and

15 ~~(3)~~ **(2)** no **statutory** fee if the record is communicated by
 16 electronic filing.

17 (b) Except as otherwise provided in subsection (e), the fee for filing
 18 and indexing an initial financing statement of the kind described in
 19 IC 26-1-9.1-502(c) is:

20 (1) ~~eight~~ **twelve** dollars ~~(\$8)~~ **(\$12)** if the financing statement
 21 indicates that it is filed in connection with a public-finance
 22 transaction; and

23 (2) ~~eight~~ **twelve** dollars ~~(\$8)~~ **(\$12)** if the financing statement
 24 indicates that it is filed in connection with a manufactured-home
 25 transaction.

26 **(c) The number of names under which a record must be indexed**
 27 **does not affect the amount of a fee under subsection (a) or (b).**

28 ~~(e)~~ **(d)** The fee for responding to a request for information from the
 29 filing office, including for issuing a certificate showing whether there
 30 is on file any financing statement naming a particular debtor, is:

31 (1) five dollars (\$5) if the request is communicated in writing;
 32 ~~including by facsimile;~~ and

33 (2) no **statutory** fee if the request is communicated electronically.

34 ~~(d)~~ **(e)** This section does not require a fee with respect to a record of
 35 a mortgage which is effective as a financing statement filed as a fixture
 36 filing or as a financing statement covering as-extracted collateral or
 37 timber to be cut under IC 26-1-9.1-502(c). However, the recording and
 38 satisfaction fees that otherwise would be applicable to the record of the
 39 mortgage apply.

40 SECTION 12. IC 33-42-9-12, AS ADDED BY P.L.128-2017,
 41 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 12. (a) A notarial act must be authenticated



1 by a certificate bearing the date of the notarial act and the signature of
 2 the notarial officer. A properly completed certificate must conform to
 3 the following conditions:

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

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

10 (3) The certificate must identify the jurisdiction in which the
 11 notarial act is performed.

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

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

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

16 (B) **either of the following:**

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

18 (ii) **If the notary public is not a resident of Indiana but is**
 19 **primarily employed in Indiana, the Indiana county**
 20 **where the notary public is primarily employed.**

21 (b) A notary public who performs a notarial act shall do the
 22 following:

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

24 (2) print or type the notary public's name underneath the notary
 25 public's signature on a certificate of acknowledgment, jurat, or
 26 other official record unless the name of the notary public:

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

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

29 is legible when the record is photocopied.

30 (c) If a notarial act is performed on a public record by a notarial
 31 officer other than a notary public, the information described in
 32 subsection (a)(2) through (a)(4) must be affixed, displayed, or
 33 embossed upon the certificate and accompanied by an official seal.

34 (d) A certificate of a notarial act is sufficient if it meets the
 35 requirements described in subsections (a) and (b) and:

36 (1) is in a form permitted by the laws of this state;

37 (2) is in a form permitted by the laws of the jurisdiction in which
 38 the notarial act was performed; or

39 (3) sets forth the actions of the notarial officer.

40 (e) By executing a certificate of a notarial act, a notarial officer
 41 certifies that the officer has complied with the requirements of this
 42 chapter.



1 (f) A notarial officer may not affix a signature to or associate a
2 certificate with a record until a notarial act has been performed.

3 (g) All notarized records must have a certificate attached or
4 associated with them. The affixing, attaching, or associating of
5 certificates to notarial acts must conform to subsections (a) through (d).

6 (h) An official certificate bearing a notary public's seal constitutes
7 presumptive evidence of the facts stated in cases, where, by law, the
8 notary public is authorized to certify facts.

9 (i) A notarial officer may subsequently correct any information
10 included or omitted from a certificate executed by the notarial officer.

11 (j) Changes or corrections may never be made to the impression of
12 an official seal.

13 SECTION 13. IC 33-42-9-12, AS ADDED BY P.L.128-2017,
14 SECTION 18, AND AS AMENDED BY P.L.59-2018, SECTION 52,
15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
16 2019]: Sec. 12. (a) A notarial act must be authenticated by a certificate
17 bearing the date of the notarial act and the signature of the notarial
18 officer. A properly completed certificate must conform to the following
19 conditions:

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

22 (2) The certificate must be signed and dated by the notarial
23 officer. If the notarial officer is a notary public, the certificate
24 must be signed in the manner on file with the secretary of state for
25 the specific notary public.

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

28 (A) For a notarial act that is not a remote notarial act, the
29 county and state in which the principal appears before the
30 notarial officer.

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

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

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

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

37 (B) **either of the following:**

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

39 (ii) **If the notary public is not a resident of Indiana but is**
40 **primarily employed in Indiana, the Indiana county**
41 **where the notary public is primarily employed.**

42 (b) A notary public who performs a notarial act on a tangible record



- 1 shall:
- 2 (1) affix, display, or emboss the notary public's official seal; and
- 3 (2) print or type the notary public's name underneath the notary
- 4 public's signature on a certificate of acknowledgment, jurat, or
- 5 other official record unless the name of the notary public:
- 6 (A) appears in printed form on the record; or
- 7 (B) appears as part of the notary public's official seal; and
- 8 is legible when the record is photocopied.
- 9 (c) If a notarial act is performed on a public record by a notarial
- 10 officer other than a notary public, the information described in
- 11 subsection (a)(2) through (a)(4) must be affixed, displayed, or
- 12 embossed upon the certificate and accompanied by the notarial officer's
- 13 official seal.
- 14 (d) If a notarial act is performed on an electronic record by a notary
- 15 public:
- 16 (1) the electronic notarial certificate must contain the information
- 17 described in subsection (a)(2) through (a)(5); and
- 18 (2) the notary public's electronic seal must be attached to or
- 19 associated with the electronic notarial certificate.
- 20 (e) If a notarial act is performed on an electronic record by a notarial
- 21 officer other than a notary public:
- 22 (1) the electronic notarial certificate must contain the information
- 23 described in subsection (a)(2) through (a)(4); and
- 24 (2) the notarial officer's official seal must be attached to or
- 25 associated with the electronic notarial certificate.
- 26 (f) A certificate of a notarial act or an electronic notarial certificate
- 27 is sufficient if it meets the requirements described in subsections (a)
- 28 and (b) and:
- 29 (1) is in a form permitted by the laws of this state;
- 30 (2) is in a form permitted by the laws of the jurisdiction in which
- 31 the notarial act was performed; or
- 32 (3) sets forth the actions of the notarial officer.
- 33 (g) By executing a certificate of a notarial act or an electronic
- 34 notarial certificate, a notarial officer certifies that the notarial officer
- 35 has complied with this chapter.
- 36 (h) A notarial officer may not affix a signature to or associate a
- 37 certificate of a notarial act or an electronic notarial certificate with a
- 38 record until a notarial act has been performed.
- 39 (i) A certificate of a notarial act or an electronic notarial certificate
- 40 must be attached to or associated with each tangible record or
- 41 electronic record in a manner consistent with the applicable
- 42 requirements of subsections (a) through (f).



- 1 (j) An official:
- 2 (1) certificate of a notarial act bearing a notarial officer's official
- 3 seal; or
- 4 (2) electronic notarial certificate bearing a notarial officer's
- 5 electronic seal;
- 6 constitutes presumptive evidence of the facts stated in cases, where, by
- 7 law, the notarial officer is authorized to certify facts.
- 8 (k) A notarial officer may subsequently correct any information
- 9 included or omitted from a certificate of a notarial act or an electronic
- 10 notarial certificate executed by the notarial officer.
- 11 (l) Changes or corrections may never be made to the impression of
- 12 an official seal.
- 13 SECTION 14. IC 33-42-12-2, AS ADDED BY P.L.128-2017,
- 14 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 UPON PASSAGE]: Sec. 2. (a) An applicant seeking a commission as
- 16 a notary public, including an applicant reapplying for a subsequent
- 17 commission, must complete:
- 18 (1) a course of education; and
- 19 (2) an examination.
- 20 ~~administered by the secretary of state.~~
- 21 (b) A notary public must fulfill a continuing education requirement
- 22 ~~administered by the secretary of state~~, not to exceed two (2) hours of
- 23 continuing education every two (2) years.
- 24 SECTION 15. IC 33-42-13-3, AS ADDED BY P.L.128-2017,
- 25 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 UPON PASSAGE]: Sec. 3. (a) A commission as a notary public does
- 27 not allow a person to perform the following:
- 28 (1) Provide legal advice or otherwise practice law.
- 29 (2) Act as an immigration consultant or provide advice on
- 30 immigration matters.
- 31 (3) Represent a person in an administrative or judicial proceeding
- 32 related to citizenship or immigration.
- 33 (4) Use an initial or name, other than the initial or name under
- 34 which the notary public has been commissioned, to sign an
- 35 acknowledgment.
- 36 (5) At the time the notary takes the acknowledgment or
- 37 administers an oath to any person the notary public knows to be:
- 38 (A) adjudicated mentally incompetent; or
- 39 (B) under a guardianship described in IC 29-3.
- 40 (6) Take an acknowledgment from any person who is blind
- 41 without first reading the record to the person who is blind.
- 42 (7) Take the acknowledgment of any person who does not speak



- 1 or understand the English language unless the nature and effect
 2 of the record is translated into a language the person speaks or
 3 understands.
- 4 (8) Take the acknowledgment of a record without witnessing a
 5 signature or receiving an acknowledgment from the principal that
 6 the signature is authentic.
- 7 (9) Take a verification of an affidavit or oath in the absence of an
 8 affirmation of truth by the affiant.
- 9 (10) Perform a notarial act for:
 10 (A) oneself;
 11 (B) one's spouse; or
 12 (C) any party;
 13 that may directly benefit ~~any~~ a person described in ~~clauses~~ **clause**
 14 **(A) through (C); or (B).**
- 15 (b) A notary public may not engage in false or deceptive advertising.
- 16 (c) A notary public, other than an attorney licensed to practice law
 17 in Indiana, may not use the term "notario" or "notario publico".
- 18 (d) Except as provided in subsection (g), a notary public may not
 19 advertise or represent that the notary public can draft legal documents,
 20 provide legal advice, or otherwise practice law. Any notary public who
 21 advertises notarial services shall include the following statement in
 22 each advertisement:
 23 "I am not an attorney licensed to practice law in Indiana. I am not
 24 allowed to draft legal records, give advice on legal matters, including
 25 immigration, or charge a fee for those activities."
 26 (e) The disclaimer described in subsection (d) shall be translated
 27 into every language used in an advertisement.
- 28 (f) If size or space restrictions make it impossible for the disclaimer
 29 to be incorporated into an advertisement, the disclaimer described in
 30 subsection (d) shall be prominently displayed at the site of the notarial
 31 service. A display described in this subsection must be shown before
 32 the performance of a notarial act.
- 33 (g) Subsections (c) through (f) do not apply to a notary public who
 34 is licensed to practice law in Indiana.
- 35 (h) Unless otherwise permitted by law, a notary public may not
 36 withhold access to or possession of an original record provided by a
 37 person seeking the performance of a notarial act by a notary public.
- 38 (i) A notary public who violates this chapter may have the notary
 39 public's commission revoked by a judge with jurisdiction in the county
 40 in which the notary public resides or is primarily employed.
- 41 (j) The secretary of state may:
 42 (1) investigate any violation of this chapter by a notary public;



- 1 and
- 2 (2) revoke the commission of a notary public as described in
- 3 section 1 of this chapter.
- 4 (k) A notary public whose commission has been revoked may not
- 5 reapply for a new commission until five (5) years after the revocation.
- 6 (l) A notary public who has been convicted of notario publico
- 7 deception under section 4 of this chapter may not reapply for a new
- 8 commission.
- 9 (m) If the secretary of state revokes the commission of a notary
- 10 public, the notary public may not reapply for a new commission for five
- 11 (5) years.
- 12 **(n) A notary public may not perform a notarial act when the**
- 13 **notary public's commission is suspended or revoked.**
- 14 SECTION 16. IC 33-42-13-3, AS ADDED BY P.L.128-2017,
- 15 SECTION 21, AND AS AMENDED BY P.L.59-2018, SECTION 58,
- 16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 17 2019]: Sec. 3. (a) A commission as a notary public does not allow a
- 18 person to do the following:
- 19 (1) Provide legal advice or otherwise practice law.
- 20 (2) Act as an immigration consultant or provide advice on
- 21 immigration matters.
- 22 (3) Represent a person in an administrative or judicial proceeding
- 23 related to citizenship or immigration.
- 24 (4) Use an initial or name, other than the initial or name under
- 25 which the notary public has been commissioned, to sign an
- 26 acknowledgment.
- 27 (5) Take an acknowledgment or administer an oath to any person
- 28 the notary public knows at the time to be:
- 29 (A) adjudicated mentally incompetent; or
- 30 (B) under a guardianship described in IC 29-3.
- 31 (6) Take an acknowledgment from any person who is blind
- 32 without first reading the record to the person who is blind.
- 33 (7) Take the acknowledgment of any person who does not speak
- 34 or understand the English language unless the nature and effect
- 35 of the record is translated into a language the person speaks or
- 36 understands.
- 37 (8) Take the acknowledgment of a record without witnessing a
- 38 signature or receiving an acknowledgment from the principal that
- 39 the signature is authentic.
- 40 (9) Take a verification of an affidavit or oath in the absence of an
- 41 affirmation of truth by the affiant.
- 42 (10) Perform a notarial act for:



- 1 (A) oneself;
 2 (B) one's spouse; or
 3 (C) any party;
 4 that may directly benefit ~~any a~~ person described in ~~clauses~~ **clause**
 5 **(A) through (C): or (B).**
 6 (b) A notary public may not engage in false or deceptive advertising.
 7 (c) A notary public, other than an attorney licensed to practice law
 8 in Indiana, may not use the term "notario" or "notario publico".
 9 (d) Except as provided in subsection (g), a notary public may not
 10 advertise or represent that the notary public can draft legal documents,
 11 provide legal advice, or otherwise practice law. Any notary public who
 12 advertises notarial services shall include the following statement in
 13 each advertisement:
 14 "I am not an attorney licensed to practice law in Indiana. I am not
 15 allowed to draft legal records, give advice on legal matters,
 16 including immigration, or charge a fee for those activities."
 17 (e) The statement described in subsection (d) shall be translated into
 18 every language used in an advertisement.
 19 (f) If size or space restrictions make it impossible for the statement
 20 to be incorporated into an advertisement, the statement described in
 21 subsection (d) shall be prominently displayed at the site where the
 22 notarial act is performed. A display described in this subsection must
 23 be shown before the performance of a notarial act.
 24 (g) Subsections (c) through (f) do not apply to a notary public who
 25 is licensed to practice law in Indiana.
 26 (h) Unless otherwise permitted by law, a notary public may not
 27 withhold access to or possession of an original record provided by a
 28 person seeking the performance of a notarial act by a notary public.
 29 (i) A notary public who violates this chapter may have the notary
 30 public's commission revoked by a judge with jurisdiction in the county
 31 in which the notary public resides or is primarily employed.
 32 (j) A notary public whose commission has been revoked may not
 33 reapply for a new commission until five (5) years after the revocation.
 34 (k) A notary public who has been convicted of notario publico
 35 deception under section 4 of this chapter may not reapply for a new
 36 commission.
 37 (l) If the secretary of state revokes the commission of a notary
 38 public, the notary public may not reapply for a new commission for five
 39 (5) years.
 40 **(m) A notary public may not perform a notarial act when the**
 41 **notary public's commission is suspended or revoked.**
 42 SECTION 17. IC 33-42-14-1, AS ADDED BY P.L.128-2017,



1 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 1. (a) A notary public may charge a fee of not
3 more than ten dollars (\$10) **per signature** for each of the following
4 notarial acts:

- 5 (1) Taking an acknowledgment.
- 6 (2) Administering an affirmation or oath.
- 7 (3) Attesting to or witnessing a signature.
- 8 (4) Taking a verification on an oath or affirmation.
- 9 (5) Attesting to or certifying a copy.

10 (b) Fees for notarial acts not described in subsection (a) are
11 negotiable.

12 (c) If a fee is charged for a notarial act, the notary public shall
13 display, in advance, a list of the fees that the notary public will charge.

14 (d) Notarial acts that:

- 15 (1) are performed as part of the notary public's employment; or
- 16 (2) do not require record keeping;

17 are subject to private agreement and are not governed by this section.

18 (e) A notary public may charge a reasonable fee for traveling to
19 perform a notarial act. The travel fee requested may not exceed the
20 federal travel fees established by the United States General Services
21 Administration.

22 (f) Except as provided in subsection (g), a person who is a:

- 23 (1) public official; or
- 24 (2) deputy or appointee of a public official;

25 may not charge for services as a notary public in connection with any
26 official business of that office or any other office belonging to the
27 governmental unit in which the person serves.

28 (g) Subsection (f) does not apply to a person or transaction
29 authorized to charge a fee for notarial services by another statute.

30 SECTION 18. IC 33-42-14-1, AS ADDED BY P.L.128-2017,
31 SECTION 22, AND AS AMENDED BY P.L.59-2018, SECTION 60,
32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
33 2019]: Sec. 1. (a) A notary public may charge a fee of not more than
34 ten dollars (\$10) **per signature** for each of the following notarial acts:

- 35 (1) Taking an acknowledgment.
- 36 (2) Administering an affirmation or oath.
- 37 (3) Attesting to or witnessing a signature.
- 38 (4) Taking a verification on an oath or affirmation.
- 39 (5) Attesting to or certifying a copy.

40 (b) Fees for notarial acts not described in subsection (a) are
41 negotiable.

42 (c) If a fee is charged for a notarial act, the notary public shall



1 display, in advance, a list of the fees that the notary public will charge.

2 (d) Notarial acts that:

3 (1) are performed as part of the notary public's employment; or

4 (2) do not require record keeping;

5 are subject to private agreement and are not governed by this section.

6 (e) A notary public may charge a reasonable fee for traveling to
7 perform a notarial act. The travel fee requested may not exceed the
8 federal travel fees established by the United States General Services
9 Administration.

10 (f) Except as provided in subsection (g), an individual who is a:

11 (1) public official; or

12 (2) deputy or appointee of a public official;

13 may not charge for notarial acts performed by the individual in
14 connection with any official business of the public official or any other
15 office belonging to the governmental unit in which the individual
16 serves.

17 (g) Subsection (f) does not apply to a person or transaction
18 authorized by another statute to charge a fee for performing notarial
19 acts.

20 SECTION 19. IC 33-42-15-2, AS ADDED BY P.L.128-2017,
21 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 2. (a) The secretary of state shall collect two
23 dollars (\$2) for each attestation provided under this chapter. However,
24 no fee may be collected for an attestation pertaining to the following:

25 (1) An adoption.

26 (2) A birth certificate **issued by the state of Indiana.**

27 (3) A death certificate **issued by the state of Indiana.**

28 (4) A student:

29 (A) transcript; or

30 (B) diploma;

31 **issued by an academic institution domiciled in Indiana and**
32 **attested to in a notarial act by the academic institution's**
33 **registrar or equivalent official.**

34 (5) A document prepared by the secretary of state.

35 (b) **A fee collected under subsection (a) is nonrefundable.**

36 SECTION 20. IC 33-42-16-2, AS AMENDED BY P.L.59-2018,
37 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 UPON PASSAGE]: Sec. 2. (a) The secretary of state shall adopt rules
39 under IC 4-22-2 to implement this article, including rules to do the
40 following:

41 (1) Prescribe the process for conditioning, denying, granting,
42 renewing, revoking, or suspending the following:



- 1 (A) A commission as a notary public.
 2 (B) A remote notary public registration.
 3 (2) Prescribe standards to ensure the trustworthiness of
 4 individuals applying for or in possession of the following:
 5 (A) A commission as a notary public.
 6 (B) A remote notary public registration.
 7 (3) Establish processes for accepting and approving assurances.
 8 (4) Prescribe the manner by which notarial acts are performed
 9 with respect to tangible records and electronic records.
 10 (5) Ensure that a change to or tampering with a record bearing an
 11 electronic notarial certificate is self-evident.
 12 (6) Specify requirements to ensure the secure creation, storage,
 13 transmission, and authentication of electronic records, electronic
 14 seals, and electronic signatures.
 15 (7) Establish standards for approval of the following for use in
 16 Indiana:
 17 (A) Audio visual communication technology.
 18 (B) Identity proofing.
 19 (C) Credential analysis.
 20 (D) Dynamic knowledge based authentication.
 21 (E) Biometrics.
 22 (F) Other methods of identification.
 23 (8) Establish standards related to electronic notarial certificates.
 24 (b) When adopting, amending, or repealing rules governing
 25 electronic records or remote notarial acts, the secretary of state shall
 26 consider the following:
 27 (1) Recent standards regarding electronic records issued by
 28 national bodies, including the National Association of Secretaries
 29 of State.
 30 (2) The customs, practices, and standards of other jurisdictions.
 31 (3) Actions of other governmental entities and officials.
 32 (c) The administrative rules for remote notarial acts must be in
 33 effect before the secretary of state approves vendors of technology
 34 under IC 33-42-17-6.
 35 (d) Remote notary public applications will not be accepted for
 36 processing until the administrative rules are in effect and vendors of
 37 technology are approved by the secretary of state.
 38 (e) **The secretary of state may amend rules adopted under this**
 39 **section as determined necessary as a result of changes in electronic**
 40 **and remote notarial act technology.**
 41 SECTION 21. IC 33-42-16-5 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2019]: **Sec. 5. (a) On the request of any**
 2 **person, the secretary of state shall issue a certificate of fact for a**
 3 **notary public.**

4 **(b) A certificate of fact issued under subsection (a) must state**
 5 **the following:**

6 **(1) The notary public's name.**

7 **(2) The notary public's commission expiration date.**

8 **(3) The notary public's county of commission.**

9 **(4) That the records of the secretary of state indicate that the**
 10 **notary public's commission is active.**

11 **(c) Subject to any qualification specified in a certificate of fact**
 12 **issued under subsection (a), the certificate may be relied upon as**
 13 **conclusive evidence of the facts stated in the certificate.**

14 SECTION 22. IC 33-42-17-2, AS ADDED BY P.L.59-2018,
 15 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2019]: Sec. 2. (a) A notary public may perform a remote
 17 notarial act only after registering as a remote notary public with the
 18 secretary of state.

19 (b) A notary public is eligible to register under subsection (a) if the
 20 notary public:

21 (1) holds a current commission as a notary public in Indiana;

22 (2) complies with the continuing education requirements
 23 described in IC 33-42-12-2, and prescribed under IC 33-42-16-2;

24 (3) is able to competently:

25 (A) operate audiovisual communication technology; and

26 (B) use identity proofing and credential analysis technology;

27 **and**

28 (4) pays a registration fee in the amount of five dollars (\$5); **and**

29 (5) **passes a remote notarial act examination administered by**
 30 **the secretary of state.**

31 (c) The registration fee described in subsection (b) is in addition to
 32 the processing fee described in IC 33-42-12-1(c).

33 (d) Unless a registration under this section is revoked under
 34 IC 33-42-13, the term of registration:

35 (1) begins on the registration starting date set by the secretary of
 36 state; and

37 (2) expires on the date on which the remote notary public's current
 38 commission ends.

39 (e) A remote notary public whose registration expires under
 40 subsection (d) may not perform a remote notarial act until the remote
 41 notary public has reregistered under this section.

42 (f) A notary public is not required to perform remote notarial acts.



1 (g) A remote notary public may perform a remote notarial act only
 2 if the remote notary public is physically present in Indiana at the time
 3 the remote notarial act is performed.

4 SECTION 23. IC 33-42-17-3, AS ADDED BY P.L.59-2018,
 5 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2019]: Sec. 3. (a) A remote notary public:

7 (1) is a notary public subject to IC 33-42-12 to the same extent as
 8 a notary public who is not registered under this chapter;

9 (2) may perform notarial acts under IC 33-42-9 in addition to
 10 performing remote notarial acts; and

11 (3) may perform remote notarial acts in accordance with this
 12 chapter.

13 (b) A remote notary public who is physically present in Indiana may
 14 perform the following notarial acts as remote notarial acts:

15 (1) Taking an acknowledgment.

16 (2) Administering an affirmation or oath.

17 (3) Taking a verification on an oath or affirmation.

18 (4) Attesting to or witnessing a signature.

19 (5) Attesting to or certifying a copy of a document or record.

20 (c) A remote notary public may use audiovisual communication
 21 technology in performance of a remote notarial act described in
 22 subsection (b) if the remote notary public has first:

23 (1) selected an audiovisual communication technology that has
 24 been approved by the secretary of state under rules adopted under
 25 IC 4-22-2; and

26 (2) notified the secretary of state of the selection.

27 (d) Subject to subsection (e), a remote notarial act performed:

28 (1) by a remote notary public commissioned in Indiana; and

29 (2) using audiovisual communication technology described in
 30 subsection (c);

31 is considered to have been performed in Indiana, regardless of the
 32 physical location of the principal at the time the remote notarial act is
 33 performed, and is governed by Indiana law.

34 (e) A remote notary public may perform a remote notarial act using
 35 audiovisual communication technology described in subsection (c) for
 36 a principal that is present:

37 (1) in Indiana;

38 (2) outside Indiana, but within the United States; or

39 (3) outside the United States if:

40 (A) the requested notarial act is not prohibited in the
 41 jurisdiction where the principal is present at the time of the
 42 remote notarial act; and



- 1 (B) the remote notarial act concerns a matter that:
 2 (i) is before a court, a governmental entity, or another entity
 3 in;
 4 (ii) concerns a property located in; or
 5 (iii) relates to a transaction substantially connected to a
 6 territory or jurisdiction of;
 7 the United States.
- 8 (f) A remote notarial act that is performed using audiovisual
 9 communication technology described in subsection (c) must be
 10 captured by an audiovisual recording, regardless of whether the
 11 requested remote notarial act is completed.
- 12 (g) Before performing a remote notarial act described in subsections
 13 (b) and (c), a remote notary public shall inform the participating parties
 14 that the remote notarial act will be captured by an audiovisual
 15 recording.
- 16 (h) An audiovisual recording of a remote notarial act must include
 17 the following:
- 18 (1) A recitation of the following by the remote notary public:
 19 (A) Identifying information sufficient to identify the specific
 20 remote notarial act performed.
 21 (B) A statement explaining one (1) of the following:
 22 (i) That the principal's identity is authenticated through the
 23 remote notary public's personal knowledge of the principal's
 24 identity.
 25 (ii) That the identity of the principal is authenticated by a
 26 credible witness.
- 27 (2) A confirmation by the principal that the principal's electronic
 28 signature is freely and voluntarily issued.
- 29 (i) Regardless of the physical location of the principal at the time of
 30 the notarial act, the validity of a remote ~~notarization~~ **notarial act**
 31 performed by a remote notary public commissioned in Indiana must be
 32 determined under the laws of this state.
- 33 SECTION 24. IC 33-42-17-6, AS ADDED BY P.L.59-2018,
 34 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2019]: Sec. 6. (a) Technology used by a remote notary public
 36 for use in performing remote notarial acts must first be approved by the
 37 secretary of state.
- 38 (b) The secretary of state may approve technology described in
 39 subsection (a) only if the:
- 40 (1) technology:
 41 (A) is tamper evident;
 42 (B) allows a remote notarial act to be completed in accordance



- 1 with this article;
- 2 (C) conforms to rules adopted by the secretary of state under
- 3 IC 4-22-2; and
- 4 (D) if the technology is to be used for a remote notarial act
- 5 described in section 4(a) of this chapter, allows for audiovisual
- 6 communication between the parties; and
- 7 (2) vendor of the technology described in subdivision (1):
- 8 (A) uses a ~~traditional or cloud based~~ backup strategy that is
- 9 acceptable to the secretary of state for use as a record keeper
- 10 for any record that is related to a remote notarial act; and
- 11 (B) signs an agreement with the owner of the backup strategy
- 12 described in clause (A) that, in the event that the vendor
- 13 ceases business operations, the owner is required to release to
- 14 the secretary of state any record described in clause (A).
- 15 (c) A remote notary public:
- 16 (1) may select one (1) or more technologies approved by the
- 17 secretary of state under this section to perform remote notarial
- 18 acts; and
- 19 (2) may not be required to use a particular technology not
- 20 previously selected by the remote notary public.
- 21 (d) A remote notary public shall do the following:
- 22 (1) Take reasonable steps to ensure that audiovisual technology
- 23 used in a remote notarial act is secure from unauthorized
- 24 interception.
- 25 (2) Not later than thirty (30) days after the change occurs, notify
- 26 the secretary of state of any change in technology used by the
- 27 remote notary public to perform remote notarial acts.
- 28 SECTION 25. IC 33-42-17-8, AS ADDED BY P.L.59-2018,
- 29 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2019]: Sec. 8. (a) A remote notary public who performs a
- 31 remote notarial act shall personally do the following:
- 32 (1) Enter each remote notarial act in an electronic journal.
- 33 (2) Maintain the electronic journal.
- 34 (3) Keep the electronic journal in the exclusive control of the
- 35 remote notary public.
- 36 (4) Use commercially reasonable means to prevent unauthorized
- 37 access to the electronic journal.
- 38 (5) Provide for the lawful copying and inspection of the electronic
- 39 journal.
- 40 (b) An employer may not perform the responsibilities described in
- 41 subsection (a) on behalf of a remote notary public.
- 42 (c) A remote notary public may maintain more than one (1)



- 1 electronic journal.
- 2 (d) The following apply to an electronic journal:
- 3 (1) Access to the information contained in the electronic journal
- 4 must be contingent upon the use of a password or other secure
- 5 means of authentication.
- 6 (2) It must be possible to print or produce a tangible record of any
- 7 entry logged in the electronic journal.
- 8 (e) A journal entry for each remote notarial act must consist of the
- 9 following:
- 10 (1) The date and time of the remote notarial act.
- 11 (2) The type of remote notarial act.
- 12 (3) A title or description of the electronic record for each remote
- 13 notarial act.
- 14 (4) The full name of the principal.
- 15 (5) A description of the manner by which the identity of the
- 16 principal was authenticated or verified.
- 17 (6) A description of any credential and the credential's
- 18 corresponding date of expiration used to authenticate or verify the
- 19 identity of the principal.
- 20 (7) A listing of:
- 21 (A) every type of fee; and
- 22 (B) every fee amount;
- 23 charged by the remote notary public for each remote notarial act.
- 24 (8) Any other information required by the secretary of state.
- 25 (f) A remote notary public shall not delete, destroy, overwrite, or
- 26 render inaccessible an electronic journal unless the remote notary
- 27 public is ordered to do so by the secretary of state or judicial order.
- 28 (g) Upon a remote notary public's learning that an electronic journal
- 29 is lost, stolen, or compromised, the remote notary public shall notify
- 30 the secretary of state.
- 31 (h) A remote notary public who resigns or whose commission
- 32 expires shall maintain the contents of an electronic journal for at least
- 33 ~~five (5) ten (10)~~ years after the performance of the last recorded remote
- 34 notarial act.
- 35 SECTION 26. IC 33-42-17-9, AS ADDED BY P.L.59-2018,
- 36 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 2019]: Sec. 9. (a) A remote notary public may charge a fee of
- 38 not more than ~~fifteen dollars (\$15)~~ **twenty-five dollars (\$25)** for each
- 39 remote notarial act.
- 40 (b) A remote notary public may charge a reasonable fee to recover
- 41 expenses related to ~~the~~ copying of:
- 42 (1) electronic journal entries; or



(2) audiovisual recording of remote notarial acts.

SECTION 27. IC 34-33-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An action may be filed in the county:

(1) where the plaintiff resides; or

(2) where the accident or collision occurred;

at the election of the plaintiff. Service of process shall be made by leaving a copy of the action and a fee of five dollars (\$5) with the secretary of state for the defendant to be served on the secretary of state in accordance with Trial Rule 4.10 of the Indiana Rules of Trial Procedure, together with the fee set forth in IC 23-0.5-9-56. The service is sufficient service upon the person if notice of service and a copy of the process are immediately sent by registered mail to the defendant and the defendant's return receipt is appended to the original process and filed in the court.

SECTION 28. IC 34-33-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. If a defendant refuses to accept or claim registered mail, the secretary of state shall return the registered mail to the plaintiff or to the plaintiff's attorney. The mail shall be appended to the original process, together with an affidavit of the plaintiff or of the attorney or agent that the summons was delivered to the secretary of state together with a fee of five dollars (\$5); in accordance with Trial Rule 4.10 of the Indiana Rules of Trial Procedure, together with the fee set forth in IC 23-0.5-9-56, and was returned unclaimed by the United States Postal Service. The affidavit, together with the returned envelope including the summons, is considered sufficient service upon the defendant.

SECTION 29. [EFFECTIVE UPON PASSAGE] (a) It is the intent of the general assembly that the following sections amended by this act are effective until July 1, 2019:

(1) IC 33-42-9-12, as added by P.L.128-2017, SECTION 18, as amended by this act.

(2) IC 33-42-13-3, as added by P.L.128-2017, SECTION 21, as amended by this act.

(3) IC 33-42-14-1, as added by P.L.128-2017, SECTION 22, as amended by this act.

(b) It is the intent of the general assembly that the following sections amended by this act are effective July 1, 2019:

(1) IC 33-42-9-12, as added by P.L.128-2017, SECTION 18, and as amended by P.L.59-2018, SECTION 52, as amended by this act.

(2) IC 33-42-13-3, as added by P.L.128-2017, SECTION 21,



1 **and as amended by P.L.59-2018, SECTION 58, as amended by**
2 **this act.**
3 **(3) IC 33-42-14-1, as added by P.L.128-2017, SECTION 22,**
4 **and as amended by P.L.59-2018, SECTION 60, as amended by**
5 **this act.**
6 **(c) This SECTION expires July 1, 2020.**
7 **SECTION 30. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1487, 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 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 5. IC 23-0.5-1.5-15, AS ADDED BY P.L.118-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. "Governing person" means:

- (1) a director of a business corporation;
- (2) a director or trustee of a nonprofit corporation;
- (3) a general partner of a general partnership;
- (4) a general partner of a limited partnership;
- (5) a manager of a manager-managed limited liability company;
- (6) a member of a member-managed limited liability company; or
- (7) any other ~~person~~ **individual** under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed under the organic law and organic rules of the entity."

Page 4, line 19, reset in roman "an instrument in writing duly executed;"

Page 4, line 20, delete "electronic application;"

Page 5, line 29, delete "established" and insert "**approved**".

Page 5, line 30, delete "Administrators;" and insert "**Administrators; or**".

Page 5, line 31, delete "a rule adopted" and insert "**rule**".

Page 5, line 32, delete "; and" and insert ".".

Page 5, delete line 33.

Page 13, line 35, delete "Except as" and insert "**Beginning on October 1, 2019, and** except as".

Page 29, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 25. IC 33-42-17-9, AS ADDED BY P.L.59-2018, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) A remote notary public may charge a fee of not more than ~~fifteen dollars (\$15)~~ **twenty-five dollars (\$25)** for each remote notarial act.

(b) A remote notary public may charge a reasonable fee to recover expenses related to **the** copying of:



- (1) electronic journal entries; or
- (2) audiovisual recording of remote notarial acts."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1487 as introduced.)

TORR

Committee Vote: yeas 9, nays 1.

