

HOUSE BILL No. 2713

By Committee on Judiciary

2-14

1 AN ACT enacting the revised uniform law on notarial acts; amending
2 K.S.A. 16-1611, 58-2209 and 58-2211 and K.S.A. 2019 Supp. 49-512
3 and 58-4403 and repealing the existing sections; also repealing K.S.A.
4 53-101, 53-102, 53-103, 53-104, 53-105, 53-105a, 53-106, 53-107, 53-
5 109, 53-113, 53-114, 53-115, 53-116, 53-117, 53-118, 53-119, 53-120,
6 53-121, 53-501, 53-502, 53-503, 53-504, 53-505, 53-506, 53-507, 53-
7 508, 53-509, 53-510 and 53-511.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. (a) Sections 1 through 31, and amendments thereto,
11 shall be known and may be cited as the revised uniform law on notarial
12 acts.

13 (b) This section shall take effect on and after January 1, 2022.

14 New Sec. 2. As used in the revised uniform law on notarial acts:

15 (a) "Acknowledgment" means a declaration by an individual before a
16 notarial officer that the individual has signed a record for the purpose
17 stated in the record and, if the record is signed in a representative capacity,
18 that the individual signed the record with proper authority and signed it as
19 the act of the individual or entity identified in the record.

20 (b) "Electronic" means relating to technology having electrical,
21 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

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

25 (d) "In a representative capacity" means acting as:

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

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

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

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

32 (e) "Notarial act" means an act, whether performed with respect to a
33 tangible or electronic record, that a notarial officer may perform under the
34 law of this state. "Notarial act" includes taking an acknowledgment,
35 administering an oath or affirmation, taking a verification on oath or
36 affirmation, witnessing or attesting a signature, certifying or attesting a

1 copy and noting a protest of a negotiable instrument.

2 (f) "Notarial officer" means a notary public or other individual
3 authorized to perform a notarial act.

4 (g) "Notary public" means an individual commissioned to perform a
5 notarial act by the secretary of state.

6 (h) "Official stamp" means a physical image affixed to or embossed
7 on a tangible record or an electronic image attached to or logically
8 associated with an electronic record.

9 (i) "Person" means an individual, corporation, business trust,
10 statutory trust, estate, trust, partnership, limited liability company,
11 association, joint venture, public corporation, government or governmental
12 subdivision, agency or instrumentality or any other legal or commercial
13 entity.

14 (j) "Record" means information that is inscribed on a tangible
15 medium or that is stored in an electronic or other medium and is
16 retrievable in perceivable form.

17 (k) "Sign" means, with present intent to authenticate or adopt a
18 record, to:

19 (1) Execute or adopt a tangible symbol; or

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

22 (l) "Signature" means a tangible symbol or an electronic signature
23 that evidences the signing of a record.

24 (m) "Stamping device" means:

25 (1) A physical device capable of affixing to or embossing on a
26 tangible record an official stamp; or

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

29 (n) "State" means a state of the United States, the District of
30 Columbia, Puerto Rico, the United States Virgin Islands or any territory or
31 insular possession subject to the jurisdiction of the United States.

32 (o) "Verification on oath or affirmation" means a declaration, made
33 by an individual on oath or affirmation before a notarial officer, that a
34 statement in a record is true.

35 (p) This section shall take effect on and after January 1, 2022.

36 New Sec. 3. (a) This act applies to a notarial act performed on or after
37 January 1, 2022.

38 (b) This section shall take effect on and after January 1, 2022.

39 New Sec. 4. (a) A notarial officer may perform the following notarial
40 acts:

41 (1) Taking an acknowledgment;

42 (2) administering an oath or affirmation;

43 (3) taking a verification upon oath or affirmation;

- 1 (4) witnessing or attesting a signature;
- 2 (5) certifying or attesting a copy;
- 3 (6) noting a protest of a negotiable instrument; and
- 4 (7) performing a notarial act authorized by the law of this state.

5 (b) A notarial officer may certify that a tangible copy of an electronic
6 record is an accurate copy of the electronic record.

7 (c) This section shall take effect on and after January 1, 2022.

8 New Sec. 5. (a) A notarial officer who takes an acknowledgment of a
9 record shall determine, from personal knowledge or satisfactory evidence
10 of the identity of the individual, that the individual appearing before the
11 officer and making the acknowledgment has the identity claimed and that
12 the signature on the record is the signature of the individual.

13 (b) A notarial officer who takes a verification of a statement on oath
14 or affirmation shall determine, from personal knowledge or satisfactory
15 evidence of the identity of the individual, that the individual appearing
16 before the officer and making the verification has the identity claimed and
17 that the signature on the statement verified is the signature of the
18 individual.

19 (c) A notarial officer who witnesses or attests to a signature shall
20 determine, from personal knowledge or satisfactory evidence of the
21 identity of the individual, that the individual appearing before the officer
22 and signing the record has the identity claimed.

23 (d) A notarial officer who certifies or attests a copy of a record or an
24 item that was copied shall determine that the copy is a full, true and
25 accurate transcription or reproduction of the record or item.

26 (e) A notarial officer who makes or notes a protest of a negotiable
27 instrument shall determine the matters provided in K.S.A. 84-3-505(b),
28 and amendments thereto.

29 (f) This section shall take effect on and after January 1, 2022.

30 New Sec. 6. (a) If a notarial act relates to a statement made in or a
31 signature executed on a record, the individual making the statement or
32 executing the signature shall appear personally before the notarial officer.

33 (b) This section shall take effect on and after January 1, 2022.

34 New Sec. 7. (a) A notarial officer has personal knowledge of the
35 identity of an individual appearing before the officer if the individual is
36 personally known to the officer through dealings sufficient to provide
37 reasonable certainty that the individual has the identity claimed.

38 (b) A notarial officer has satisfactory evidence of the identity of an
39 individual appearing before the officer if the officer can identify the
40 individual:

41 (1) By means of:

42 (A) A passport, driver's license or government-issued nondriver
43 identification card that is current or expired not more than three years

1 before performance of the notarial act; or

2 (B) another form of government identification issued to an individual
3 that is current or expired not more than three years before performance of
4 the notarial act, contains the signature and a photograph of the individual
5 and is satisfactory to the officer; or

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

11 (c) A notarial officer may require an individual to provide additional
12 information or identification credentials necessary to assure the officer of
13 the identity of the individual.

14 (d) This section shall take effect on and after January 1, 2022.

15 New Sec. 8. (a) A notarial officer may refuse to perform a notarial act
16 if the officer is not satisfied that the:

17 (1) Individual executing the record is competent or has the capacity to
18 execute the record; or

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

20 (b) A notarial officer may refuse to perform a notarial act unless
21 refusal is prohibited by the law of this state.

22 (c) This section shall take effect on and after January 1, 2022.

23 New Sec. 9. (a) If an individual is physically unable to sign a record,
24 the individual may direct an individual other than the notarial officer to
25 sign the individual's name on the record. The notarial officer shall insert:

26 "Signature affixed by (name other than the individual) at the direction
27 of (name of individual)" or similar words.

28 (b) This section shall take effect on and after January 1, 2022.

29 New Sec. 10. (a) A notarial act may be performed in this state by:

30 (1) A notary public of this state;

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

32 (3) a county clerk or deputy county clerk;

33 (4) an election commissioner or assistant election commissioner; or

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

36 (b) The signature and title of an individual performing a notarial act
37 in this state are prima facie evidence that the signature is genuine and that
38 the individual holds the designated title.

39 (c) The signature and title of a notarial officer described in subsection
40 (a)(1), (a)(2), (a)(3) or (a)(4) conclusively establish the authority of the
41 officer to perform the notarial act.

42 (d) This section shall take effect on and after January 1, 2022.

43 New Sec. 11. (a) A notarial act performed in another state has the

1 same effect under the law of this state as if performed by a notarial officer
2 of this state if:

3 (1) The act performed in that state is performed by:

4 (A) A notary public of that state;

5 (B) a judge, clerk or deputy clerk of a court of that state; or

6 (C) any other individual authorized by the laws of that state to
7 perform the notarial act;

8 (2) the laws of the state that has commissioned the notary public
9 require the notary public to be present in that state while performing the
10 notarial act; and

11 (3) in the case of a notarial act where a physical presence requirement
12 between the notary public and the individual is satisfied by the use of
13 audio and video communication technology between the notary public and
14 a remotely located individual, the laws of the state that has commissioned
15 the notary public require the notary public to ascertain the identity of the
16 remotely located individual by:

17 (A) Personal knowledge of the identity of the individual; or

18 (B) obtaining satisfactory evidence of the identity of the remotely
19 located individual by a review of personal information from two different
20 public or private data sources.

21 (b) The signature and title of an individual performing a notarial act
22 in another state are prima facie evidence that the signature is genuine and
23 that the individual holds the designated title.

24 (c) This section shall take effect on and after January 1, 2022.

25 New Sec. 12. (a) A notarial act performed under the authority and in
26 the jurisdiction of a federally recognized Indian tribe has the same effect
27 under the law of this state as if performed by a notarial officer of this state,
28 if the act performed in the jurisdiction of the tribe is performed by:

29 (1) A notary public of the tribe;

30 (2) a judge, clerk or deputy clerk of a court of the tribe; or

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

33 (b) The signature and title of an individual performing a notarial act
34 under the authority of and in the jurisdiction of a federally recognized
35 Indian tribe are prima facie evidence that the signature is genuine and that
36 the individual holds the designated title.

37 (c) The signature and title of a notarial officer described in subsection
38 (a)(1) or (a)(2) conclusively establish the authority of the officer to
39 perform the notarial act.

40 (d) This section shall take effect on and after January 1, 2022.

41 New Sec. 13. (a) A notarial act performed under federal law has the
42 same effect under the law of this state as if performed by a notarial officer
43 of this state, if the act performed under federal law is performed by:

- 1 (1) A judge, clerk or deputy clerk of a court;
- 2 (2) an individual in military service or performing duties under the
3 authority of military service who is authorized to perform notarial acts
4 under federal law;
- 5 (3) an individual designated a notarizing officer by the United States
6 department of state for performing notarial acts overseas; or
- 7 (4) any other individual authorized by federal law to perform the
8 notarial act.

9 (b) The signature and title of an individual acting under federal
10 authority and performing a notarial act are prima facie evidence that the
11 signature is genuine and that the individual holds the designated title.

12 (c) The signature and title of an officer described in subsection (a)(1),
13 (a)(2) or (a)(3) conclusively establish the authority of the officer to
14 perform the notarial act.

15 (d) This section shall take effect on and after January 1, 2022.

16 New Sec. 14. (a) If a notarial act is performed under authority and in
17 the jurisdiction of a foreign state or constituent unit of the foreign state or
18 is performed under the authority of a multinational or international
19 governmental organization, the act has the same effect under the law of
20 this state as if performed by a notarial officer of this state.

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

25 (c) The signature and official stamp of an individual holding an office
26 described in subsection (b) are prima facie evidence that the signature is
27 genuine and the individual holds the designated title.

28 (d) An apostille in the form prescribed by the hague convention of
29 October 5, 1961, and issued by a foreign state party to the convention
30 conclusively establishes that the signature of the notarial officer is genuine
31 and that the officer holds the indicated office.

32 (e) A consular authentication issued by an individual designated by
33 the United States department of state as a notarizing officer for performing
34 notarial acts overseas and attached to the record with respect to which the
35 notarial act is performed conclusively establishes that the signature of the
36 notarial officer is genuine and that the officer holds the indicated office.

37 (f) As used in this section, "foreign state" means a government other
38 than the United States, a state or a federally recognized Indian tribe.

39 (g) This section shall take effect on and after January 1, 2022.

40 New Sec. 15. (a) A remotely located individual may comply with
41 section 6, and amendments thereto, by using communication technology to
42 appear before a notary public.

43 (b) A notary public located in this state may perform a notarial act

1 using communication technology for a remotely located individual if:

2 (1) The notary public:

3 (A) Has personal knowledge under section 7(a), and amendments
4 thereto, of the identity of the individual;

5 (B) has satisfactory evidence of the identity of the remotely located
6 individual by oath or affirmation from a credible witness appearing before
7 the notary public under this section or section 7(b), and amendments
8 thereto; or

9 (C) has obtained satisfactory evidence of the identity of the remotely
10 located individual by using at least two different types of identity proofing;

11 (2) the notary public is able reasonably to confirm that a record
12 before the notary public is the same record in which the remotely located
13 individual made a statement or on which the individual executed a
14 signature;

15 (3) the notary public, or a person acting on behalf of the notary
16 public, creates an audio-visual recording of the performance of the notarial
17 act; and

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

20 (A) The record:

21 (i) Is to be filed with or relates to a matter before a public official or
22 court, governmental entity or other entity subject to the jurisdiction of the
23 United States; or

24 (ii) involves property located in the territorial jurisdiction of the
25 United States or involves a transaction substantially connected with the
26 United States; and

27 (B) the act of making the statement or signing the record is not
28 prohibited by the foreign state in which the remotely located individual is
29 located.

30 (c) If a notarial act is performed under this section, the certificate of
31 notarial act required by section 16, and amendments thereto, and the short-
32 form certificate provided in section 17, and amendments thereto, shall
33 indicate that the notarial act was performed using communication
34 technology.

35 (d) A short-form certificate provided in section 17, and amendments
36 thereto, for a notarial act subject to this section is sufficient if it:

37 (1) Complies with rules and regulations adopted pursuant to section
38 27, and amendments thereto; or

39 (2) is in the form provided in section 17, and amendments thereto,
40 and contains a statement substantially as follows: "This notarial act
41 involved the use of communication technology."

42 (e) A notary public, a guardian, conservator or agent of a notary
43 public or a personal representative of a deceased notary public, shall retain

1 the audio-visual recording created under subsection (b)(3) or cause the
2 recording to be retained by a repository designated by or on behalf of the
3 person required to retain the recording. Unless a different period is
4 required by rules and regulations adopted pursuant to section 27, and
5 amendments thereto, the recording shall be retained for a period of at least
6 10 years after the recording is made.

7 (f) Before a notary public performs the notary public's initial notarial
8 act under this section, the notary public shall notify the secretary of state
9 that the notary public will be performing notarial acts with respect to
10 remotely located individuals, identify the technologies the notary public
11 intends to use and provide evidence of completion of the course of study
12 and passing of the examination required by section 23, and amendments
13 thereto. If the secretary of state has established standards in rules and
14 regulations adopted pursuant to section 27, and amendments thereto, for
15 approval of communication technology or identity proofing, the
16 communication technology and identity proofing shall conform to the
17 standards. A notary public notifying the secretary of state under this
18 section shall pay an information and services fee in an amount to be
19 determined by the secretary of state but not to exceed \$25. The secretary of
20 state shall remit all moneys received under this section to the state
21 treasurer in accordance with the provisions of K.S.A. 75-4215, and
22 amendments thereto. Upon receipt of each such remittance, the state
23 treasurer shall deposit the entire amount in the state treasury to the credit
24 of the information and services fee fund.

25 (g) As used in this section:

26 (1) "Communication technology" means an electronic device or
27 process that:

28 (A) Allows a notary public and a remotely located individual to
29 communicate with each other simultaneously by sight and sound; and

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

33 (2) "Foreign state" means a jurisdiction other than the United States, a
34 state or a federally recognized Indian tribe.

35 (3) "Identity proofing" means a process or service by which a third
36 person provides a notary public with a means to verify the identity of a
37 remotely located individual by a review of personal information from
38 public or private data sources.

39 (4) "Outside the United States" means a location outside the
40 geographic boundaries of the United States, Puerto Rico, the United States
41 Virgin Islands, and any territory, insular possession or other location
42 subject to the jurisdiction of the United States.

43 (5) "Remotely located individual" means an individual who is not in

1 the physical presence of the notary public who performs a notarial act
2 under subsection (b).

3 (h) This section shall take effect on and after January 1, 2022.

4 New Sec. 16. (a) A notarial act shall be evidenced by a certificate that
5 shall:

6 (1) Be executed contemporaneously with the performance of the
7 notarial act;

8 (2) be signed and dated by the notarial officer and, if the notarial
9 officer is a notary public, be signed in the same manner as on file with the
10 secretary of state;

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

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

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

15 (b) If a notarial act regarding a tangible record is performed by a
16 notary public, an official stamp shall be affixed to or embossed on the
17 certificate. If a notarial act is performed regarding a tangible record by a
18 notarial officer other than a notary public and the certificate contains the
19 information specified in subsections (a)(2), (a)(3), (a)(4) and (a)(5), an
20 official stamp may be affixed to or embossed on the certificate. If a
21 notarial act regarding an electronic record is performed by a notarial
22 officer and the certificate contains the information specified in subsections
23 (a)(2), (a)(3), (a)(4) and (a)(5), an official stamp may be attached to or
24 logically associated with the certificate.

25 (c) A certificate of a notarial act is sufficient if it meets the
26 requirements of subsections (a) and (b) and:

27 (1) Is in a short form set forth in section 17, and amendments thereto;

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

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

31 (4) sets forth the actions of the notarial officer and the actions are
32 sufficient to meet the requirements of the notarial act as provided in
33 sections 5, 6 and 7, and amendments thereto, or the law of this state.

34 (d) By executing a certificate of a notarial act, a notarial officer
35 certifies that the officer has complied with the requirements and made the
36 determinations specified in sections 4, 5 and 6, and amendments thereto.

37 (e) A notarial officer shall not affix the officer's signature to, or
38 logically associate it with, a certificate until the notarial act has been
39 performed.

40 (f) If a notarial act is performed regarding a tangible record, a
41 certificate shall be part of, or securely attached to, the record. If a notarial
42 act is performed regarding an electronic record, the certificate shall be
43 affixed to, or logically associated with, the electronic record. If the

1 secretary of state has established standards in rules and regulations
2 adopted pursuant to section 27, and amendments thereto, for attaching,
3 affixing or logically associating the certificate, the process shall conform
4 to the standards.

5 (g) If a notary public willfully neglects or refuses to attach to a
6 notarial certificate the date of expiration of the notary public's commission,
7 as provided in subsection (a)(5), then the notary public is guilty of a class
8 C nonperson misdemeanor.

9 (h) This section shall take effect on and after January 1, 2022.

10 New Sec. 17. The secretary of state shall adopt rules and regulations
11 providing short-form certificates of notarial acts that are sufficient for the
12 purposes indicated if completed with the information required by section
13 16(a) and (b), and amendments thereto.

14 New Sec. 18. (a) The official stamp of a notary public shall include
15 the notary public's name exactly as it appears on the application for
16 commission as a notary public, the words "notary public" and "State of
17 Kansas", and other information required by the secretary of state, and be
18 capable of being copied together with the record to which it is affixed or
19 attached or with which it is logically associated. No notary public shall use
20 such stamp unless an impression thereof has been filed in the office of the
21 secretary of state.

22 (b) This section shall take effect on and after January 1, 2022.

23 New Sec. 19. (a) A notary public is responsible for the security of the
24 notary public's stamping device and shall not allow another individual to
25 use the device to perform a notarial act. On resignation from, or the
26 revocation or expiration of, the notary public's commission, or on the
27 expiration of the date set forth in the stamping device, if any, the notary
28 public shall disable the stamping device by destroying, defacing,
29 damaging, erasing or securing it against use in a manner that renders it
30 unusable. On the death or adjudication of incompetency of a notary public,
31 the notary public's personal representative or guardian or any other person
32 knowingly in possession of the stamping device shall render it unusable by
33 destroying, defacing, damaging, erasing or securing it against use in a
34 manner that renders it unusable.

35 (b) If a notary public's stamping device is lost or stolen, the notary
36 public or the notary public's personal representative or guardian shall
37 promptly notify the secretary of state on discovering that the device is lost
38 or stolen.

39 (c) This section shall take effect on and after January 1, 2022.

40 New Sec. 20. (a) A notary public shall maintain a journal in which the
41 notary public chronicles all notarial acts that the notary public performs.
42 The notary public shall retain the journal for 10 years after the
43 performance of the last notarial act chronicled in the journal.

1 (b) A journal shall be created on a tangible medium or in an
2 electronic format. A notary public shall maintain a journal to chronicle all
3 notarial acts performed regarding electronic records. If the journal is
4 maintained on a tangible medium, it shall be a permanent, bound register
5 with numbered pages. If the journal is maintained in an electronic format,
6 it shall be in a permanent, tamper-evident electronic format complying
7 with the rules and regulations of the secretary of state.

8 (c) An entry in a journal shall be made contemporaneously with
9 performance of the notarial act and contain the following information:

10 (1) The date and time of the notarial act;

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

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

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

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

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

21 (d) If a notary public's journal is lost or stolen, the notary public shall
22 promptly notify the secretary of state on discovering that the journal is lost
23 or stolen.

24 (e) On resignation from, or the revocation or suspension of, a notary
25 public's commission, the notary public shall retain the notary public's
26 journal in accordance with subsection (a) and inform the secretary of state
27 where the journal is located.

28 (f) Instead of retaining a journal as provided in subsections (a) and
29 (e), a current or former notary public may transmit the journal to a
30 repository approved by the secretary of state.

31 (g) On the death or adjudication of incompetency of a current or
32 former notary public, the notary public's personal representative or
33 guardian or any other person knowingly in possession of the journal shall:

34 (1) Retain the notary public's journal in accordance with subsection
35 (a) or transmit the journal to a repository approved by the secretary of
36 state; and

37 (2) inform the secretary of state where the journal is located.

38 (h) This section shall take effect on and after January 1, 2022.

39 New Sec. 21. (a) A notary public may select one or more tamper-
40 evident technologies to perform notarial acts with respect to electronic
41 records. A person shall not require a notary public to perform a notarial act
42 with respect to an electronic record with a technology that the notary
43 public has not selected.

1 (b) Before a notary public performs the notary public's initial notarial
2 act with respect to an electronic record, a notary public shall notify the
3 secretary of state that the notary public will be performing notarial acts
4 with respect to electronic records, identify the technology the notary public
5 intends to use and provide evidence of completion of the course of study
6 and passing of the examination required by section 23, and amendments
7 thereto. If the secretary of state has established standards in rules and
8 regulations for approval of technology pursuant to section 27, and
9 amendments thereto, the technology shall conform to such standards. If the
10 technology conforms to the standards, the secretary of state shall approve
11 the use of the technology. A notary public notifying the secretary of state
12 pursuant to this section shall pay an information and services fee in an
13 amount determined by the secretary of state adopted in rules and
14 regulations, not to exceed \$25. The secretary of state shall remit all
15 moneys received under this section to the state treasurer in accordance
16 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
17 receipt of each such remittance, the state treasurer shall deposit the entire
18 amount in the state treasury to the credit of the information and services
19 fee fund.

20 (c) A register of deeds may accept for recording a tangible copy of an
21 electronic record containing a notarial certificate as satisfying any
22 requirement that a record accepted for recording be an original, if the
23 notarial officer executing the notarial certificate certifies that the tangible
24 copy is an accurate copy of the electronic record.

25 (d) This section shall take effect on and after January 1, 2022.

26 New Sec. 22. (a) An individual qualified under subsection (c) may
27 apply to the secretary of state for a commission as a notary public. The
28 applicant shall file with the secretary of state an application for
29 appointment as a notary public that includes:

30 (1) An oath of office;

31 (2) an assurance in the form of a surety bond or its functional
32 equivalent in the amount of \$12,000 that shall be issued by a surety or
33 other entity licensed or authorized to do business in this state;

34 (3) evidence of completion of the course of study and passing of the
35 examination required by section 23, and amendments thereto, if required;

36 (4) the official signature and an impression of the stamp to be used by
37 the notary public; and

38 (5) an application fee in the amount of \$10.

39 (b) An application, oath of office and surety bond or its functional
40 equivalent received pursuant to this section and a record of commission
41 issued under this section shall be filed in the office of the secretary of state
42 and properly indexed in that office. The secretary of state shall remit all
43 moneys received under this section to the state treasurer in accordance

1 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
2 receipt of each such remittance, the state treasurer shall deposit the entire
3 amount in the state treasury to the credit of the state general fund.

4 (c) An applicant for a commission as a notary public shall:

5 (1) Be at least 18 years of age;

6 (2) be a citizen of the United States;

7 (3) be a resident of this state or be a resident of a state bordering on
8 this state and have a regular place of employment or practice in this state;

9 (4) be able to read and write the English language; and

10 (5) not be disqualified to receive a commission by section 24, and
11 amendments thereto.

12 (d) The assurance required in subsection (a) shall cover acts
13 performed during the term of the notary public's commission and shall be
14 in the form prescribed by the secretary of state. If a notary public violates
15 law with respect to notaries public in this state, the surety or issuing entity
16 is liable under the assurance. No suit shall be instituted against a notary
17 public or the surety or issuing entity under the notary public's assurance
18 more than three years after the cause of action accrues. The surety or
19 issuing entity shall give notice to the secretary of state 30 days before
20 canceling the assurance. The surety or issuing entity shall no longer be
21 liable on such assurance 30 days after receipt of such notice by the
22 secretary of state. Whenever the secretary of state receives such notice of
23 intent to cancel a notary public's assurance, the secretary of state shall
24 notify the affected notary public that unless such notary public files
25 another assurance satisfying the requirements of this subsection with the
26 secretary of state on or before the cancellation date, then such notary
27 public will no longer be authorized to perform notarial acts within this
28 state. The surety or issuing entity shall notify the secretary of state not later
29 than 30 days after making a payment to a claimant under the assurance or
30 the denial of a claim under the assurance. A notary public may perform
31 notarial acts in this state only during the period that a valid assurance is on
32 file with the secretary of state.

33 (e) Any person injured by the failure of a notary public to faithfully
34 perform any notarial act for which a bond or its functional equivalent is
35 given under the laws of this state may sue in the person's own name in any
36 court of competent jurisdiction to recover the damages the person may
37 have sustained by such failure.

38 (f) The secretary of state shall issue a commission as a notary public
39 to an applicant for a term of four years, unless sooner revoked under
40 section 24, and amendments thereto, if such applicant complies with the
41 provisions of this section.

42 (g) A commission to act as a notary public authorizes the notary
43 public to perform notarial acts. The commission does not provide the

1 notary public any immunity or benefit conferred by law of this state on
2 public officials or employees. A notary public shall not be considered a
3 state officer.

4 (h) If a notary public changes name by any legal action, such notary
5 shall obtain a new official stamp that meets the requirements established
6 by section 18, and amendments thereto, and the stamp shall contain the
7 new name of the notary public. Prior to performing any acts as a notary
8 public after such change, the notary shall mail or deliver to the secretary of
9 state notice of the change of name and shall include a specimen of the new
10 stamp and a specimen of the notary's new official signature.

11 (i) If a notary public obtains a new stamp for any reason, the notary
12 shall mail or deliver to the secretary of state notice of the change of stamp
13 that shall include an impression of the new stamp.

14 (j) An individual may resign from the office of notary public by
15 sending by mail or delivering to the secretary of state a notification of the
16 individual's resignation or intent or desire to resign. The individual's
17 commission as notary public shall terminate upon delivery of the
18 notification.

19 (k) A notary public's commission may not be automatically renewed.
20 A notary public who desires to renew a commission shall be qualified and
21 apply for a new commission pursuant to this section.

22 (l) This section shall take effect on and after January 1, 2022.

23 New Sec. 23. (a) Before a notary public performs the notary public's
24 initial notarial act with respect to an electronic record, a notary public shall
25 pass an examination administered by the secretary of state or an entity
26 approved by the secretary of state. The examination shall be based on the
27 course of study described in subsection (b).

28 (b) The secretary of state or an entity approved by the secretary of state
29 shall offer regularly a course of study to notaries public in this state. The
30 course shall cover the laws, rules, procedures and ethics relevant to
31 notarial acts with respect to electronic records.

32 (c) This section shall take effect on and after January 1, 2022.

33 New Sec. 24. (a) The secretary of state may deny, refuse to renew,
34 revoke, suspend or impose a condition on a commission as notary public
35 for any act or omission that demonstrates the individual lacks the honesty,
36 integrity, competence or reliability to act as a notary public, including:

- 37 (1) Failure to comply with this act;
- 38 (2) a fraudulent, dishonest, deceitful, misstatement or omission in the
39 application for a commission as a notary public submitted to the secretary
40 of state;
- 41 (3) a conviction of the applicant or notary public of any felony or a
42 crime involving fraud, dishonesty or deceit, including entering into a
43 diversion agreement in lieu of further criminal proceedings for such crime;

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

4 (5) failure by the notary public to discharge any duty required of a
5 notary public, whether by this act, rules and regulations of the secretary of
6 state or any federal or state law;

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

10 (7) violation by the notary public of a rule and regulation of the
11 secretary of state regarding a notary public;

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

14 (9) failure of the notary public to maintain an assurance as provided
15 in section 22(d), and amendments thereto;

16 (10) denial, revocation or suspension of a professional license, if such
17 denial, revocation or suspension was for fraud, dishonesty, deceit or any
18 cause substantially relating to the duties or responsibilities of a notary
19 public;

20 (11) cessation of United States citizenship;

21 (12) incapacitation to such a degree that the person is incapable of
22 reading or writing the English language;

23 (13) violation of section 25(b), (c) or (d), and amendments thereto; or

24 (14) violation of section 25(a), (e), (f), (g) or (h), and amendments
25 thereto.

26 (b) An individual whose commission as a notary public has been
27 revoked for a reason described in subsections (a)(1) through (a)(13) may
28 not apply for a new commission until the expiration of four years from the
29 date of such revocation. An individual whose commission as a notary
30 public has been revoked for the reason described in subsection (a)(14) may
31 not apply for or receive a new commission for such individual's lifetime.

32 (c) The authority of the secretary of state to deny, refuse to renew,
33 suspend, revoke or impose conditions on a commission as a notary public
34 does not prevent a person from seeking and obtaining other criminal or
35 civil remedies provided by law.

36 (d) This section shall take effect on and after January 1, 2022.

37 New Sec. 25. (a) A commission as a notary public does not authorize
38 an individual to:

39 (1) Assist persons in drafting legal records, give legal advice or
40 otherwise practice law;

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

43 (3) represent a person in a judicial or administrative proceeding

1 relating to immigration to the United States, United States citizenship or
2 related matters; or

3 (4) receive compensation for performing any of the activities listed in
4 this subsection.

5 (b) A notary public may not perform a notarial act with respect to a
6 record to which the officer or the officer's spouse is a party or in which
7 either of them has a direct financial or beneficial interest. A notarial act
8 performed in violation of this subsection is voidable.

9 (c) For purposes of subsection (b), a notarial officer has a direct
10 financial or beneficial interest in a transaction if the notarial officer:

11 (1) With respect to a financial transaction, is named in a record,
12 individually, as a principal to the transaction; or

13 (2) with respect to a real property transaction, is named in a record,
14 individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee,
15 beneficiary, vendor, vendee, lessor or lessee to the transaction.

16 (d) For purposes of subsection (b), a notarial officer has no direct
17 financial or beneficial interest in a transaction when the notarial officer
18 acts in the capacity of an agent, employee, insurer, attorney, escrow agent
19 or lender for a person having a direct financial or beneficial interest in the
20 transaction.

21 (e) A notary public shall not engage in false or deceptive advertising.

22 (f) A notary public, other than an attorney licensed to practice law in
23 this state, may not use the term "notario" or "notario publico" or any
24 equivalent non-English term in any business card, advertisement, notice or
25 sign.

26 (g) A notary public, other than an attorney licensed to practice law in
27 this state, shall not advertise or represent that the notary public may assist
28 persons in drafting legal records, give legal advice or otherwise practice
29 law. If a notary public who is not an attorney licensed to practice law in
30 this state in any manner advertises or represents that the notary public
31 offers notarial services, whether orally or in a record, including broadcast
32 media, print media, and the internet, the notary public shall include the
33 following statement, or an alternate statement authorized or required by
34 the secretary of state, in the advertisement or representation, prominently
35 and in each language used in the advertisement or representation and in
36 each language in which notarial services are offered: "I am not an attorney
37 licensed to practice law in this state. I am not allowed to draft legal
38 records, give advice on legal matters, including immigration, or charge a
39 fee for those activities." If the form of advertisement or representation is
40 not broadcast media, print media or the internet and does not permit
41 inclusion of the statement required by this subsection because of size, it
42 shall be displayed prominently or provided at the place of performance of
43 the notarial act before the notarial act is performed.

1 (h) Except as otherwise allowed by law, a notary public shall not
2 withhold access to or possession of an original record provided by a
3 person that seeks performance of a notarial act by the notary public.

4 (i) Violation of subsections (f) or (g) is a class B nonperson
5 misdemeanor.

6 (j) Violation of subsections (e), (f) or (g) constitutes a deceptive act or
7 practice pursuant to K.S.A. 50-626, and amendments thereto, and shall be
8 subject to the remedies and penalties provided by the Kansas consumer
9 protection act.

10 (k) This section shall take effect on and after January 1, 2022.

11 New Sec. 26. (a) Except as otherwise provided in section 4(b), and
12 amendments thereto, the failure of a notarial officer to perform a duty or
13 meet a requirement specified in this act does not invalidate a notarial act
14 performed by the notarial officer. The validity of a notarial act under this
15 act does not prevent an aggrieved person from seeking to invalidate the
16 record or transaction that is the subject of the notarial act or from seeking
17 other remedies based on state or federal law. This section does not validate
18 a purported notarial act performed by an individual who does not have the
19 authority to perform notarial acts.

20 (b) This section shall take effect on and after January 1, 2022.

21 New Sec. 27. (a) The secretary of state shall adopt rules and
22 regulations to implement this act. Rules and regulations adopted regarding
23 the performance of notarial acts with respect to electronic records shall not
24 require, or accord greater legal status or effect to, the implementation or
25 application of a specific technology or technical specification. The rules
26 and regulations may include, but are not limited to:

27 (1) Prescribing the manner of performing notarial acts regarding
28 tangible and electronic records;

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

31 (3) including provisions to ensure integrity in the creation,
32 transmittal, storage or authentication of electronic records or signatures;

33 (4) prescribing the process of granting, renewing, conditioning,
34 denying, suspending or revoking a notary public commission and assuring
35 the trustworthiness of an individual holding a commission as notary
36 public;

37 (5) including provisions to prevent fraud or mistake in the
38 performance of notarial acts;

39 (6) establishing the process for approving and accepting surety bonds
40 and other forms of assurance pursuant to section 22(d), and amendments
41 thereto; and

42 (7) providing for the administration of the examination and the course
43 of study required by section 23, and amendments thereto.

1 (b) The secretary of state shall adopt rules and regulations regarding
2 notarial acts using communication technology for a remotely located
3 individual including, but not limited to:

4 (1) Prescribing the means of performing a notarial act involving a
5 remotely located individual using communication technology;

6 (2) establishing standards for communication technology and identity
7 proofing;

8 (3) establishing requirements or procedures to approve providers of
9 communication technology and the process of identity proofing; and

10 (4) establishing standards and a period for the retention of an audio-
11 visual recording created pursuant to section 15, and amendments thereto.

12 (c) In adopting rules and regulations about notarial acts with respect
13 to electronic records, the secretary of state shall consider, so far as is
14 consistent with this act:

15 (1) The most recent standards regarding electronic records
16 promulgated by national bodies, such as the national association of
17 secretaries of state; and

18 (2) standards, practices and customs of other jurisdictions that
19 substantially enact this act.

20 New Sec. 28. (a) A commission or appointment as a notary public in
21 effect on January 1, 2022, continues until its date of expiration. A notary
22 public who applies to renew a commission as a notary public on or after
23 January 1, 2022, is subject to and shall comply with this act. A notary
24 public, in performing notarial acts after January 1, 2022, shall comply with
25 this act.

26 (b) This section shall take effect on and after January 1, 2022.

27 New Sec. 29. (a) This act does not affect the validity or effect of a
28 notarial act performed before January 1, 2022.

29 (b) A cause of action that has accrued against a notary public or the
30 notary public's securities before January 1, 2022, are governed by any
31 statute or other rule amended or repealed by this act as if amendment or
32 repeal had not occurred.

33 (c) This section shall take effect on and after January 1, 2022.

34 New Sec. 30. (a) In applying and construing this uniform act,
35 consideration shall be given to the need to promote uniformity of the law
36 with respect to its subject matter among states that enact it.

37 (b) This section shall take effect on and after January 1, 2022.

38 New Sec. 31. (a) This act modifies, limits and supersedes the federal
39 electronic signatures in global and national commerce act, 15 U.S.C. §
40 7001 et seq., except that nothing in this act modifies, limits or supersedes §
41 7001(c) of that act or authorizes electronic delivery of any of the notices
42 described in § 7003(b) of that act.

43 (b) This section shall take effect on and after January 1, 2022.

1 Sec. 32. On and after January 1, 2022, K.S.A. 16-1611 is hereby
2 amended to read as follows: 16-1611. ~~(a)~~ If a law requires a signature or
3 record to be notarized, acknowledged, verified or made under oath, the
4 requirement is satisfied if the electronic signature of the person authorized
5 to perform those acts, together with all other information required to be
6 included by other applicable law, is attached to or logically associated with
7 the signature or record.

8 ~~(b) The secretary of state is hereby authorized to promulgate rules
9 and regulations establishing procedures for an electronic notarization.~~

10 Sec. 33. On and after January 1, 2022, K.S.A. 2019 Supp. 49-512 is
11 hereby amended to read as follows: 49-512. (a) A state public trust shall be
12 created to administer relocation assistance pursuant to this act and to
13 acquire, hold and dispose of property as specified in this act.

14 (b) The trust shall have five trustees appointed by the governor,
15 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
16 amendments thereto. Except as provided by K.S.A. 46-2601, and
17 amendments thereto, no person appointed as trustee shall exercise any
18 power, duty or function as a trustee until confirmed by the senate. The
19 terms of trustees first appointed shall be as follows: One trustee shall serve
20 for a term expiring the first March 15 following appointment, one for a
21 term expiring the second March 15 following appointment, and two for terms
22 expiring the third March 15 following appointment and one for a term
23 expiring the fourth March 15 following appointment. Thereafter, trustees
24 shall be appointed for terms of four years and until their successors are
25 appointed and confirmed. Whenever a vacancy on the trust occurs, the
26 governor shall fill the vacancy by appointment and the appointee shall
27 hold office for the unexpired term. Each trustee shall hold office until a
28 successor has been appointed and confirmed. A trustee may be removed
29 only for cause.

30 (c) The trustees, who shall be deemed public officers, shall be paid
31 amounts from funds of the trust for per diem compensation as provided in
32 K.S.A. 75-3212, and amendments thereto, for members of the legislature,
33 for each day of actual attendance at any meeting of the trust.

34 (d) Every person becoming a trustee first shall take the oath of office
35 required of a state elected official. The oath of office shall be administered
36 by a person authorized to administer oaths in the state of Kansas and shall
37 be filed with the secretary of state.

38 (e) Every officer and employee who handles funds of the trust shall
39 furnish bond or other good and sufficient security in an amount and upon
40 such terms as established by the state committee on surety bonds and
41 insurance pursuant to K.S.A. 75-4101 et seq., and amendments thereto, but
42 in no event shall any bond or other security be required of a trustee. The
43 cost of the bond shall be paid from funds of the trust.

1 (f) The trustees shall adopt bylaws for the administration and
2 regulation of the affairs of the trust. All such bylaws shall be submitted in
3 writing to the governor and must be approved by the governor before
4 taking effect.

5 (g) The trustees shall cause an audit to be made of the financial
6 statements of the trust within 30 days after the close of each fiscal year of
7 the trust. The expense of the audit shall be paid from funds of the trust.
8 The trust annually shall file with the governor and the legislature copies of
9 financial documents and reports sufficient to demonstrate the fiscal
10 activity of the trust, including, but not limited to, budgets, financial reports
11 and audits. Amendments to the adopted budget shall be approved by the
12 trustees of the trust and recorded as such in the official minutes of the
13 trust.

14 (h) Meetings of the trustees shall be subject to the open meetings law.
15 Records of the trust and minutes of meetings of the trust shall be written
16 and kept in a place, the location of which shall be recorded in the office of
17 the secretary of state, and shall be subject to the Kansas open records act.
18 The trust shall file a monthly report of all expenditures with the governor,
19 the speaker of the house of representatives and the president of the senate.

20 (i) Any real or personal property may be acquired and held in the
21 name of the trust. When acquired, any conveyance, assignment or other
22 transfer shall be made in the name of the trust by the chairperson of the
23 trust, attested by the secretary of the trust, with the seal of the trust affixed
24 thereto.

25 (j) Any conveyance, assignment or other transfer of any estate in real
26 property, executed by a trust, must be acknowledged by the president or
27 chairperson of the trust subscribing the name of the trust thereto, which
28 acknowledgment shall be in substantially the form provided in the *revised*
29 uniform law on notarial acts. Any instrument of conveyance, assignment
30 or other transfer executed in the name of the trust pursuant to this act and
31 bearing a signature which purports to be the signature of the chairperson of
32 the trust, shall be deemed prima facie evidence that the conveyance,
33 assignment or other transfer is the act of the trust and the trustees thereof,
34 that it was duly executed and signed by the chairperson of the trust who
35 was a trustee of the trust and that the instrument conforms in all respects to
36 the requirements of law, and such conveyance, assignment or other
37 transfer shall be admissible in evidence without further proof of execution.

38 (k) The trust shall not engage in any activity or transaction that is not
39 expressly authorized by this act.

40 (l) No trustee shall be charged personally with any liability
41 whatsoever by reason of any act or omission in the performance of the
42 trust or in the operation of the trust property but any act, liability for any
43 omission or obligation of a trustee or trustees, in the execution of the trust,

1 or in the operation of the trust property, shall extend to the whole of the
2 trust, or so much thereof as may be necessary to discharge such liability or
3 obligation, and not otherwise.

4 (m) Moneys from grants made to the trust pursuant to this act shall be
5 used only for the purposes provided by this act, including payment of the
6 costs of the department of health and environment in implementing and
7 administering this act.

8 (n) On July 1, 2014, or on the date that all of the rights and title to all
9 real and personal property acquired by the trust have been conveyed,
10 assigned or otherwise transferred in the name of the trust pursuant to
11 K.S.A. 2019 Supp. 49-511 through 49-517, and amendments thereto, and
12 the instruments of conveyance, assignment or other transfer have been
13 finally executed, whichever date occurs first, the trust is hereby abolished
14 and the office of each member of the trust is hereby abolished.

15 Sec. 34. On and after January 1, 2022, K.S.A. 58-2209 is hereby
16 amended to read as follows: 58-2209. All deeds or other conveyances of
17 lands, or of any estate or interest therein, shall be subscribed by the party
18 granting the same, or by the party's lawful agent or attorney, and may be
19 acknowledged or proved and certified in the manner prescribed by the
20 *revised* uniform law on notarial acts and K.S.A. 58-2216, and amendments
21 thereto.

22 Sec. 35. On and after January 1, 2022, K.S.A. 58-2211 is hereby
23 amended to read as follows: 58-2211. All conveyances, and other
24 instruments affecting real estate must be acknowledged before a person
25 authorized by the *revised* uniform law on notarial acts to perform notarial
26 acts or, if acknowledged within this state, by a county clerk, register of
27 deeds or mayor or clerk of an incorporated city.

28 Sec. 36. On and after January 1, 2022, K.S.A. 2019 Supp. 58-4403 is
29 hereby amended to read as follows: 58-4403. ~~On and after July 1, 2007:~~(a)
30 If a law requires, as a condition for recording, that a document be an
31 original, be on paper or another tangible medium, or be in writing, the
32 requirement is satisfied by an electronic document satisfying this act.

33 (b) If a law requires, as a condition for recording, that a document be
34 signed, the requirement is satisfied by an electronic signature.

35 (c) *A requirement that a document or a signature associated with a*
36 *document be notarized, acknowledged, verified, witnessed or made under*
37 *oath is satisfied if the electronic signature of the person authorized to*
38 *perform that act, and all other information required to be included, is*
39 *attached to or logically associated with the document or signature. A*
40 *physical or electronic image of a stamp, impression or seal is not required*
41 *to accompany an electronic signature.*

42 Sec. 37. On and after January 1, 2022, K.S.A. 16-1611, 53-101, 53-
43 102, 53-103, 53-104, 53-105, 53-105a, 53-106, 53-107, 53-109, 53-113,

1 53-114, 53-115, 53-116, 53-117, 53-118, 53-119, 53-120, 53-121, 53-501,
2 53-502, 53-503, 53-504, 53-505, 53-506, 53-507, 53-508, 53-509, 53-510,
3 53-511, 58-2209 and 58-2211 and K.S.A. 2019 Supp. 49-512 and 58-4403
4 are hereby repealed.

5 Sec. 38. This act shall take effect and be in force from and after its
6 publication in the statute book.