

1 AN ACT relating to notaries public.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 30 of this Act:*

6 *(1) "Acknowledgment" means a declaration by an individual before a notarial*  
7 *officer that the individual has signed a record for the purpose stated in the record*  
8 *and, if the record is signed in a representative capacity, that the individual signed*  
9 *the record with proper authority and signed it as the act of the individual or entity*  
10 *identified in the record;*

11 *(2) "Acknowledged before me," "appear personally before," or other similar*  
12 *terminology means to be in the presence of an electronic notary either in person*  
13 *and in the same physical location or by means of real time two (2) way audio-*  
14 *video communication;*

15 *(3) "Communication technology" means an electronic device or process that allows*  
16 *an individual located outside the United States and a notary public located in this*  
17 *state to communicate with each other simultaneously by sight and sound;*

18 *(4) "Credential" means a tangible record evidencing an individual's identity;*

19 *(5) "Dynamic knowledge-based authentication assessment" means an identity*  
20 *assessment that is based on a set of questions formulated from public or private*  
21 *data sources for which the signer of an electronic record has not provided a prior*  
22 *answer;*

23 *(6) "Electronic" means relating to technology having electrical, digital, magnetic,*  
24 *wireless, optical, electromagnetic, or similar capabilities;*

25 *(7) "Electronic signature" means an electronic symbol, sound, or process attached to*  
26 *or logically associated with a record and executed or adopted by an individual*  
27 *with the intent to sign the record;*

- 1 (8) "Identity proofing" means, in the use of communications technology, a process  
2 or service by which a third person provides a notary public with a reasonable  
3 means to verify the identity of an individual by a review of personal information  
4 from public or proprietary data sources;
- 5 (9) "In a representative capacity" means acting as:
- 6 (a) an authorized officer, agent, partner, trustee, or other representative for a  
7 person other than an individual;
- 8 (b) a public officer, personal representative, guardian, or other representative,  
9 in the capacity stated in a record;
- 10 (c) an agent or attorney-in-fact for a principal; or
- 11 (d) an authorized representative of another in any other capacity;
- 12 (10) "Notarial act" means an act, whether performed with respect to a tangible or  
13 electronic record, that a notarial officer may perform under Sections 1 to 3 of this  
14 Act and any other law of the Commonwealth;
- 15 (11) "Notarial officer" means a notary public or other individual authorized to  
16 perform a notarial act;
- 17 (12) "Notary public" means an individual commissioned to perform a notarial act by  
18 the secretary of state and does not mean the other notarial officers who may  
19 perform a notarial act in this state;
- 20 (13) "Official stamp" means a physical image affixed to or embossed on a tangible  
21 record or an electronic image attached to or logically associated with an  
22 electronic record. The term includes an official notary seal;
- 23 (14) "Person" means an individual, corporation, business trust, statutory trust, estate,  
24 trust, partnership, limited liability company, association, joint venture, public  
25 corporation, government or governmental subdivision, agency, or  
26 instrumentality, or any other legal or commercial entity;
- 27 (15) "Record" means information that is inscribed on a tangible medium or that is

1 stored in an electronic or other medium and is retrievable in perceivable form.

2 (16) "Sign" means, with present intent to authenticate or adopt a record:

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

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

6 (17) "Signature" means a tangible symbol or an electronic signature that evidences  
7 the signing of a record.

8 (18) "Stamping device" means:

9 (a) a physical device capable of affixing to or embossing on a tangible record  
10 an official stamp; or

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

13 (19) "State" means a state of the United States, the District of Columbia, Puerto  
14 Rico, the United States Virgin Islands, or any territory or insular possession  
15 subject to the jurisdiction of the United States.

16 (20) "Verification on oath or affirmation" means a declaration, made by an  
17 individual on oath or affirmation before a notarial officer, that a statement in a  
18 record is true.

19 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
20 READ AS FOLLOWS:

21 Sections 1 to 3 of this Act applies to a notarial act performed on or after the effective  
22 date of this Act.

23 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
24 READ AS FOLLOWS:

25 (1) A notarial officer is empowered to perform the following notarial acts:

26 (a) Acknowledgments;

27 (b) Oaths and affirmations;

1 (c) Affidavits and jurats;

2 (d) Certify that a copy of any document, other than a document is recorded or  
3 in the custody of any federal, state or local governmental agency, office or  
4 court, is a true copy thereof; and

5 (e) Certify affidavits or depositions of witnesses.

6 (2) A notarial officer may perform any other notarial act authorized by Sections 1 to  
7 30 of this Act or by law of the Commonwealth other than Sections 1 to 30 of this  
8 Act.

9 (3) A notarial officer may not perform a notarial act with respect to a record to  
10 which the notarial officer or the notarial officer's spouse or other member of the  
11 notarial officer's immediate family is a party, or in which either of them has a  
12 direct beneficial interest. A notarial act performed in violation of this subsection  
13 is voidable.

14 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
15 READ AS FOLLOWS:

16 (1) A notarial officer who takes an acknowledgment of a record, takes a verification  
17 of a statement on oath or affirmation, or witnesses or attests to a signature shall  
18 determine, from personal knowledge or satisfactory evidence of the identity of the  
19 individual, that the individual appearing before the notarial officer and making  
20 the acknowledgment has the identity claimed and that the signature on the record  
21 is the signature of the individual.

22 (2) (a) A notarial officer may perform a notarial act in any county of the state, by  
23 filing with the county clerk's office in that county his or her written  
24 signature and evidence of his or her authority to perform notarial acts by  
25 providing a certificate of the county clerk of the county for which he or she  
26 was appointed, or other evidence of authority, and by paying a fee pursuant  
27 to KRS 64.012 to the county clerk.

1       **(b) The county clerk of a county in whose office any notary public has filed his**  
 2       **or her signature and certificate shall, when requested, join to any certificate**  
 3       **of proof or acknowledgment signed by the notary, a certificate under the**  
 4       **clerk's hand and seal, stating that the notary public has filed a certificate of**  
 5       **his or her appointment and qualifications with his or her written signature**  
 6       **in the clerk's office, and that the notary public was, at the time of taking the**  
 7       **proof or acknowledgment, duly authorized to take the proof. The clerk shall**  
 8       **state that he or she is well acquainted with the handwriting of the notary**  
 9       **public and believes that the signature is genuine.**

10       ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 11 READ AS FOLLOWS:

12       **If a notarial act relates to a statement made in or a signature executed on a record, the**  
 13       **individual making the statement or executing the signature shall appear personally**  
 14       **before the notarial officer.**

15       ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 16 READ AS FOLLOWS:

17       **(1) A notarial officer has personal knowledge of the identity of an individual**  
 18       **appearing before the officer if the individual is personally known to the officer**  
 19       **through dealings sufficient to provide reasonable certainty that the individual has**  
 20       **the identity claimed.**

21       **(2) Subject to subsection (3) of this section, a notarial officer has satisfactory**  
 22       **evidence of the identity of an individual appearing before the officer if the officer**  
 23       **can identify the individual by means of one (1) of the following credentials:**

24       **(a) A nonexpired passport, driver's license, or government issued identification**  
 25       **card;**

26       **(b) Another current form of identification issued to an individual, which**  
 27       **contains the signature or a photograph of the individual, and is satisfactory**

1 to the notarial officer;

2 (c) Verification on oath or affirmation of a credible witness personally  
3 appearing before the notarial officer and known to the notarial officer or  
4 whom the notarial officer can identify on the basis of a current passport,  
5 driver's license, or government issued identification card; or

6 (d) If the notarial act is required as part of a transaction in which  
7 identification has been previously established identification satisfactory to  
8 satisfy subsection (1) or (2); or

9 (3) In the instance of a notarial act performed using communication technology, a  
10 notary public has satisfactory evidence of identity of an individual who appears  
11 before the notary public if the notary public confirms the identity of the  
12 individual by:

13 (a) Personal knowledge; or

14 (b) The individual's successful completion of an identity proofing process using  
15 a dynamic knowledge-based authentication assessment that is then  
16 combined with at least one (1) of the following:

17 1. The use of software that relies on high resolution imaging and  
18 document classification by which to perform a forensic analysis of the  
19 individual's unexpired government-issued identification credential  
20 containing a photograph;

21 2. Visual inspection by the notary public of a high resolution image of  
22 the unexpired government-issued photo identity credential presented  
23 by the individual and comparison, to the notary public's satisfaction,  
24 of the information thereon to the individual appearing before the  
25 notary public and to the individual's identity as established through  
26 dynamic knowledge-based assessment;

27 3. Any other method that complies with the administrative regulations

1                    *promulgated by the Secretary; or*  
 2                    *4. A valid public key certificate that complies with administrative*  
 3                    *regulations adopted by the Secretary pursuant to Section 25 of this*  
 4                    *Act.*

5                    *(4) A notarial officer may require an individual to provide additional information or*  
 6                    *identification credentials necessary to assure the officer of the identity of the*  
 7                    *individual.*

8                    ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 9 READ AS FOLLOWS:

10 *A notarial officer may refuse to perform a notarial act.*

11                    ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 12 READ AS FOLLOWS:

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

17                    ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 18 READ AS FOLLOWS:

19 *(1) A notarial act may be performed in this state by:*

20                    *(a) A notary public of this state;*

21                    *(b) A county clerk of this state;*

22                    *(c) A judge, or clerk of a court of this state;*

23                    *(d) An individual licensed to practice law in this state; or*

24                    *(e) Any other individual authorized to perform the specific act by the Kentucky*  
 25                    *Revised Statutes.*

26 *(2) The signature and title of an individual performing a notarial act in this state are*  
 27 *prima facie evidence that the signature is genuine and that the individual holds*

1 the designated title.

2 (3) The signature and title of a notarial officer described in this section conclusively  
3 establishes the authority of the officer to perform the notarial act.

4 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
5 READ AS FOLLOWS:

6 (1) A notarial act performed in another state, performed under the authority and in  
7 the jurisdiction of a federally recognized Indian tribe, or performed under the  
8 authority of federal law has the same effect under the law of this state as if  
9 performed by a notarial officer of this state, if the act performed in that state or  
10 jurisdiction is performed by any individual authorized by the law of that state or  
11 jurisdiction or federal law to perform the notarial act.

12 (2) The signature and title of an individual performing a notarial act in another state  
13 or jurisdiction or under federal law are prima facie evidence that the signature is  
14 genuine and that the individual holds the designated title.

15 (3) The signature and title of a notarial officer described in this section conclusively  
16 establishes the authority of the officer to perform the notarial act.

17 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
18 READ AS FOLLOWS:

19 (1) In this section, "foreign state" means a government other than the United States,  
20 a state, or a federally recognized Indian tribe.

21 (2) If a notarial act is performed under authority and in the jurisdiction of a foreign  
22 state or constituent unit of the foreign state or is performed under the authority of  
23 a multinational or international governmental organization, the act has the same  
24 effect under the law of this state as if performed by a notarial officer of this state.

25 (3) If the title of office and indication of authority to perform notarial acts in a  
26 foreign state appears in a digest of foreign law or in a list customarily used as a  
27 source for that information, the authority of an officer with that title to perform



1 notarial acts is conclusively established.

2 (4) The signature and official stamp of an individual holding an office described in  
 3 subsection (3) of this section are prima facie evidence that the signature is  
 4 genuine and the individual holds the designated title.

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

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

14 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 15 READ AS FOLLOWS:

16 (1) A notary public in this state may perform by means of communication technology  
 17 a notarial act relating to a statement made in or signature executed on a record  
 18 by an individual if:

19 (a) The notary public has:

20 1. Personal knowledge pursuant to Section 6 of this Act of the identity of  
 21 the individual; or

22 2. Satisfactory evidence of the identity of the individual is obtained  
 23 through identity proofing pursuant to Section 6 of this Act;

24 (b) At the time of the notarial act:

25 1. The signer is within the Commonwealth, or elsewhere within the  
 26 geographic boundaries of the United States, Puerto Rico, the United  
 27 States Virgin Islands, and any territory or insular possession subject

- 1                   to the jurisdiction of the United States; or
- 2                   2. The signer is outside the geographic boundaries of the United States,  
3                   Puerto Rico, the United States Virgin Islands, and any territory or  
4                   insular possession subject to the jurisdiction of the United States, and:
- 5                   a. The signer confirms to the notary that the record is to be filed  
6                   with or relates to a matter before a court, governmental entity,  
7                   public official, or other entity located in the territorial  
8                   jurisdiction of the United States, or involves property located in  
9                   the territorial jurisdiction of, or a transaction substantially  
10                   connected with, the United States, and
- 11                   b. To the notary's actual knowledge, the act of making the  
12                   statement or signing the record is not prohibited by the  
13                   jurisdiction in which the individual is located; and
- 14                   (c) The notary public is able, by use of tamper-evident technology or personal  
15                   acknowledgement of the individual, reasonably to identify the record before  
16                   the notary public as the same record in which the individual made the  
17                   statement or on which the individual executed the signature.
- 18                   (2) In addition to the methods permitted by Section 6 of this Act for identification of  
19                   an individual, a notary public has satisfactory evidence of the identity of an  
20                   individual appearing before the notary public by means of communication  
21                   technology if the notary public reasonably can identify the individual by means of  
22                   identity proofing pursuant to subsection (3) of Section 6 of this Act.
- 23                   (3) In addition to the authority of a notary public under Section 7 of this Act to  
24                   refuse to perform a notarial act, a notary public may refuse to perform a notarial  
25                   act under this section if the notary public is not satisfied respecting the matters  
26                   set forth in subsection (1)(b)2. of this section.
- 27                   (4) If a notarial act involves a statement made in or a signature executed on a record

1 by an individual by means of communication technology, the certificate of  
2 notarial act required by Section 13 of this Act shall indicate that the individual  
3 making the statement or signing the record appeared before the notary by means  
4 of communication technology.

5 (5) If a notarial act involves the use of communication technology, the notary public  
6 shall retain a video and audio copy of the performance of the notarial act.

7 (6) Before a notary public performs the notary public's initial notarial act under this  
8 section, the notary public must notify the Secretary of State that the notary public  
9 will be performing notarial acts by communication technology and identify the  
10 communication technology and any provider of third-person identity verification  
11 on whom the notary public intends to rely on for identity proofing. If the  
12 Secretary of State has established standards for approval of communication  
13 technology under subsection (7) of this section and Section 25 of this Act, the  
14 communication technology must conform to these standards. If the  
15 communication technology conforms to the standards, the Secretary of State  
16 shall approve the use of the communication technology.

17 (7) The Secretary of State may promulgate administrative regulations regarding  
18 performance of a notarial act with respect to an individual located outside the  
19 United States. The administrative regulations may:

20 (a) Prescribe the means of performing a notarial act involving communication  
21 technology to communicate with an individual located outside the United  
22 States;

23 (b) Establish standards for the approval of communication technology;

24 (c) Approve providers of third-person identity verification and the process of  
25 identity proofing; and

26 (d) Establish standards for the retention of a video and audio copy of the  
27 performance of a notarial act under this section.

1 (8) A notarial act performed pursuant to this section, regardless of the jurisdiction in  
2 which the signer of the record is physically located at the time of the notarial act:

3 (a) Is deemed to have been performed in the Commonwealth of Kentucky, and

4 (b) Shall be governed by the law of the Commonwealth of Kentucky.

5 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
6 READ AS FOLLOWS:

7 (1) A notarial act shall be evidenced by a certificate. The certificate shall:

8 (a) Be executed contemporaneously with the performance of the notarial act;

9 (b) Be signed and dated by the notarial officer and, if the notarial officer is a  
10 notary public, be signed in the same manner as on file with the Secretary of  
11 State;

12 (c) Identify the jurisdiction in which the notarial act is performed;

13 (d) Contain the title of office of the notarial officer; and

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

16 (2) If a notarial act regarding a tangible record is performed by a notary public, an  
17 official stamp must be affixed to or embossed on the certificate. If a notarial act is  
18 performed regarding a tangible record by a notarial officer other than a notary  
19 public and the certificate contains the information specified in subsection (1)(b),  
20 (c), and (d) of this section, an official stamp may be affixed to or embossed on the  
21 certificate. If a notarial act regarding an electronic record is performed by a  
22 notarial officer and the certificate contains the information specified in  
23 subsection (1)(b), (c), and (d) of this section, an official stamp may be attached to  
24 or logically associated with the certificate.

25 (3) A certificate of a notarial act is sufficient if it meets the requirements of  
26 subsections (1) and (2) of this section and:

27 (a) Is in a short form set forth in Section 14 of this Act;

- 1        (b) Is in a form otherwise permitted by the law of this state;
- 2        (c) Is in a form permitted by the law applicable in the jurisdiction in which the
- 3                notarial act was performed; or
- 4        (d) Sets forth the actions of the notarial officer and the actions are sufficient to
- 5                meet the requirements of the notarial act as provided in Sections 1 to 30 of
- 6                this Act or other law of this Commonwealth other than Sections 1 to 30 of
- 7                this Act.
- 8        (4) By executing a certificate of a notarial act, a notarial officer certifies that the
- 9                officer has complied with the requirements and made the determinations
- 10               specified in Sections 1 to 30 of this Act.
- 11        (5) A notarial officer may not affix the officer’s signature to a certificate until the
- 12                notarial act has been performed.
- 13        (6) If a notarial act is performed regarding a tangible record, a certificate must be
- 14                part of, or securely attached to, the record. If a notarial act is performed
- 15                regarding an electronic record, the certificate must be affixed to, or logically
- 16                associated with, the electronic record. If the Secretary of State has established
- 17                standards pursuant to Section 25 of this Act for attaching, affixing, or logically
- 18                associating the certificate, the process must conform to the standards.

19        ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 20 READ AS FOLLOWS:

21        The following short form certificates of notarial acts are sufficient for the purposes  
 22                indicated, if completed with the information required by Subsections (1) and (2)  
 23                of Section 13 of this Act:

24        (1) For an acknowledgment in an individual capacity:  
 25                State of \_\_\_\_\_  
 26                County of \_\_\_\_\_  
 27                This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

1 Date Name(s) of individual(s)  
2 \_\_\_\_\_

3 Signature of notarial officer

4 Stamp

5 [ \_\_\_\_\_ ]

6 Title of office

7 [My commission expires: \_\_\_\_\_]

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

9 State of \_\_\_\_\_

10 County of \_\_\_\_\_

11 This record was acknowledged before me on \_\_\_\_\_ by

12 \_\_\_\_\_  
Date Name(s) of individual(s)

13 as (type of authority, such as officer or trustee) of (name of party on behalf of  
14 whom record was executed).

15 \_\_\_\_\_

16 Signature of notarial officer

17 Stamp

18 [ \_\_\_\_\_ ]

19 Title of office

20 [My commission expires: \_\_\_\_\_]

21 (3) For a verification on oath or affirmation:

22 State of \_\_\_\_\_

23 County of \_\_\_\_\_

24 Signed and sworn to (or affirmed) before me on \_\_\_\_\_ by

25 \_\_\_\_\_

26 Date Name(s) of individual(s) making statement

27 \_\_\_\_\_

1        Signature of notarial officer  
 2        Stamp  
 3        [ \_\_\_\_\_ ]  
 4        Title of office  
 5        [My commission expires: \_\_\_\_\_ ]

6        **(4) For witnessing or attesting a signature:**

7        State of \_\_\_\_\_  
 8        [County] of \_\_\_\_\_  
 9        Signed [or attested] before me on \_\_\_\_\_ by \_\_\_\_\_  
 10       Date Name(s) of individual(s)  
 11       \_\_\_\_\_

12       Signature of notarial officer  
 13       Stamp  
 14       [ \_\_\_\_\_ ]  
 15       Title of office  
 16       [My commission expires: \_\_\_\_\_ ]

17       **(5) For notarial acts performed with regard to an individual who appeared before the**  
 18       **notary by means of communication technology, the foregoing forms of certificate**  
 19       **may be used, with the addition of a notation that the individual appeared before**  
 20       **the notary public by means of communications technology.**

21       ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 22       READ AS FOLLOWS:

23       **The official stamp of a notary public shall:**

- 24       **(1) Include the notary public’s name, jurisdiction, and commission expiration**  
 25       **date; and**  
 26       **(2) Be capable of being copied together with the record to which it is affixed or**  
 27       **attached or with which it is logically associated.**

1       ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
2 READ AS FOLLOWS:

3       *(1) A notary public is responsible for the security of the notary public's stamping*  
4       *device and may not allow another individual to use the device to perform a*  
5       *notarial act. On resignation from, or the revocation or expiration of, the notary*  
6       *public's commission, or on the expiration of the date set forth in the stamping*  
7       *device, if any, the notary public shall disable the stamping device by destroying,*  
8       *defacing, damaging, erasing, or securing it against use in a manner that renders*  
9       *it unusable. On the death or adjudication of incompetency of a notary public, the*  
10       *notary public's personal representative or guardian or any other person*  
11       *knowingly in possession of the stamping device shall render it unusable by*  
12       *destroying, defacing, damaging, erasing, or securing it against use in a manner*  
13       *that renders it unusable.*

14       *(2) If a notary public's stamping device is lost or stolen, the notary public or the*  
15       *notary public's personal representative or guardian shall promptly notify the*  
16       *Secretary of State on discovering that the device is lost or stolen.*

17       ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
18 READ AS FOLLOWS:

19       *(1) A notary public, other than in instances where the notarial act is required as part*  
20       *of a transaction which has already established identification through the*  
21       *presentation of a current passport, driver's license or government issued*  
22       *identification card, shall maintain a journal in which the notary public*  
23       *chronicles all notarial acts that the notary public performs. The notary public*  
24       *shall retain the journal for ten (10) years after the performance of the last*  
25       *notarial act chronicled in the journal.*

26       *(2) A journal may be created on a tangible medium or in an electronic format. A*  
27       *notary public shall maintain only one (1) journal at a time to chronicle all*



1 notarial acts, whether those notarial acts are performed regarding tangible or  
2 electronic records. If the journal is maintained on a tangible medium, it must be  
3 a permanent, bound register with numbered pages. If the journal is maintained  
4 in an electronic format, it shall be in a permanent, tamper-evident electronic  
5 format complying with administrative regulations promulgated in accordance  
6 with Section 25 of this Act.

7 (3) An entry in a journal must be made contemporaneously with performance of the  
8 notarial act and contain the following information:

9 (a) The date and time of the notarial act;

10 (b) A brief description of the record, if any, and type of notarial act as  
11 authorized in Section 3 of this Act;

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

14 (d) If identity of the individual is based on personal knowledge, a statement to  
15 that effect, or if identity of the individual is based on satisfactory evidence, a  
16 brief description of the method of identification and the means used,  
17 including identity proofing, as well as the identification credential  
18 presented, if any, including the date of issuance and expiration of any  
19 identification credential; and

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

21 (4) If a notarial act involves the use of communication technology, the notary public  
22 shall retain a video and audio copy of the performance of the notarial act in  
23 compliance with administrative regulations promulgated in accordance with  
24 Section 25.

25 (5) If a notary public's journal is lost or stolen, the notary public promptly shall  
26 notify the Secretary of State on discovering that the journal is lost or stolen.

27 (6) On resignation from, or the revocation or suspension of, a notary public's

1 commission, the notary public shall retain the notary public's journal in  
2 accordance with subsection (1) of this section.

3 (7) On the death or adjudication of incompetency of a current or former notary  
4 public, the notary public's personal representative or guardian or any other  
5 person knowingly in possession of the journal shall transmit it to the Secretary of  
6 State.

7 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
8 READ AS FOLLOWS:

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

13 (2) Before a notary public performs the notary public's initial notarial act with  
14 respect to an electronic record, a notary public shall notify the Secretary of State  
15 that the notary public will be performing notarial acts with respect to electronic  
16 records and identify the technology the notary public intends to use. If the  
17 Secretary of State has established standards for approval of technology pursuant  
18 to Section 25 of this Act, the technology shall conform to the standards. If the  
19 technology conforms to the standards, the Secretary of State shall approve the use  
20 of the technology.

21 (3) Sections 1 to 30 of this Act is to be construed and applied in a manner consistent  
22 with KRS 369.101 to 369.120. In accordance with KRS 369.105, nothing in  
23 Sections 1 to 30 of this Act shall affirmatively require any person to create,  
24 generate, send, communicate, receive, store, or otherwise process or use  
25 electronic records or complete a transaction using electronic means, and in  
26 accordance with KRS 369.118, nothing shall require any governmental agency to  
27 send and accept electronic records and electronic signatures to and from other

1 persons, or to otherwise create, generate, communicate, store, process, use, and  
 2 rely upon electronic records and electronic signatures, except as may be  
 3 otherwise required by law.

4 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 5 READ AS FOLLOWS:

6 (1) Before a notary public performs the notary public's initial notarial act pursuant  
 7 to communication technology, the notary public shall notify the Secretary of State  
 8 that the notary public will be performing notarial acts by communication  
 9 technology and identify the communication technology and any provider of third-  
 10 person identity verification on whom the notary public intends to rely on for  
 11 identity proofing. If the Secretary of State has established standards for approval  
 12 of communication technology, the communication technology must conform to  
 13 the standards. If the communication technology conforms to the standards, the  
 14 Secretary of State shall approve the use of the communication technology.

15 (2) The Secretary of State may promulgate administrative regulations regarding  
 16 performance of a notarial act by communication technology. The administrative  
 17 regulations may:

18 (a) Prescribe the means of performing a notarial act involving communication  
 19 technology;

20 (b) Establish standards for the approval of communication technology; and

21 (c) Establish standards for the retention of a video and audio copy of the  
 22 performance of a notarial act under Sections 1 to 30 of this Act.

23 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 24 READ AS FOLLOWS:

25 (1) An individual qualified under subsection (2) of this section may apply to the  
 26 Secretary of State for a commission as a notary public. The applicant shall  
 27 comply with and provide the information required by administrative regulations

- 1        *promulgated and pay any application fee.*
- 2        *(2) An applicant for a commission as a notary public shall:*
- 3            *(a) Be at least eighteen (18) years of age;*
- 4            *(b) Be a citizen or permanent legal resident of the United States;*
- 5            *(c) Be a resident of or have a place of employment or practice in the county*
- 6                    *within this Commonwealth where the application is made;*
- 7            *(d) Be able to read and write; and*
- 8            *(e) Not be disqualified to receive a commission under Section 21 of this Act.*
- 9        *(3) Before issuance of a commission as a notary public, an applicant for the*
- 10            *commission shall execute an oath before any person authorized to administer an*
- 11            *oath as set forth in KRS 62.020 that the applicant will honestly and diligently*
- 12            *discharge the duties of the office.*
- 13        *(4) Before issuance of a commission as a notary public, the applicant shall submit to*
- 14            *the person administering the oath in subsection (3) of this section an assurance*
- 15            *in the form of a surety bond or its functional equivalent. The assurance shall be*
- 16            *issued by a surety or other entity licensed or authorized to do business in this*
- 17            *state. The assurance shall cover acts performed during the term of the notary*
- 18            *public's commission and must be in the form prescribed by the Secretary of State.*
- 19            *If a notary public violates law with respect to notaries public in this state, the*
- 20            *surety or issuing entity is liable under the assurance. The surety or issuing entity*
- 21            *shall give thirty (30) days notice to the Secretary of State before canceling the*
- 22            *assurance. A notary public may perform notarial acts in this state only during the*
- 23            *period that a valid assurance is on file with the Secretary of State.*
- 24        *(5) On compliance with this section, the Secretary of State shall issue a commission*
- 25            *as a notary public to an applicant for a term of four (4) years.*
- 26        *(6) A commission to act as a notary public authorizes the notary public to perform*
- 27            *notarial acts. The commission does not provide the notary public any immunity*

1 or benefit conferred by law of this state on public officials or employees.

2 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
3 READ AS FOLLOWS:

- 4 (1) The Secretary of State may deny, refuse to renew, revoke, suspend, or impose a  
5 condition on a commission as notary public for any act or omission that  
6 demonstrates the individual lacks the honesty, integrity, competence, or reliability  
7 to act as a notary public, including:
- 8 (a) Failure to comply with Sections 1 to 30 of this Act;
- 9 (b) A fraudulent, dishonest, or deceitful misstatement or omission in the  
10 application for a commission as a notary public submitted to the Secretary  
11 of State.
- 12 (c) A conviction of the applicant or notary public of any felony or a crime  
13 involving fraud, dishonesty, or deceit;
- 14 (d) A finding against, or admission of liability by, the applicant or notary public  
15 in any legal proceeding or disciplinary action based on the applicant's or  
16 notary public's fraud, dishonesty, or deceit;
- 17 (e) Failure by the notary public to discharge any duty required of a notary  
18 public, whether by Sections 1 to 30 of this Act, administrative regulations of  
19 the Secretary of State, or any federal or state law;
- 20 (f) Use of false or misleading advertising or representation by the notary public  
21 representing that the notary has a duty, right, or privilege that the notary  
22 does not have;
- 23 (g) Violation by the notary public of an administrative regulations of the  
24 Secretary of State regarding a notary public;
- 25 (h) Denial, refusal to renew, revocation, or suspension, of a notary public  
26 commission in another state; or
- 27 (i) Failure of the notary public to maintain an assurance.

1 (2) If the Secretary of State denies, refuses to renew, revokes, suspends, or imposes  
2 conditions on a commission as a notary public, the applicant or notary public is  
3 entitled to timely notice and hearing.

4 (3) The authority of the Secretary of State to deny, refuse to renew, suspend, revoke,  
5 or impose conditions on a commission as a notary public does not prevent a  
6 person from seeking and obtaining other criminal or civil remedies provided by  
7 law.

8 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
9 READ AS FOLLOWS:

10 The Secretary of State shall maintain an electronic database of notaries public:

11 (1) Through which a person may verify the authority of a notary public to  
12 perform notarial acts; and

13 (2) Which indicates whether a notary public has notified the Secretary of State  
14 that the notary public will be performing notarial acts on electronic records.

15 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
16 READ AS FOLLOWS:

17 (1) A commission as a notary public does not authorize an individual to engage in  
18 the practice of law.

19 (2) A notary public may not engage in false or deceptive advertising.

20 (3) A notary public, other than an attorney licensed to practice law in this state, may  
21 not advertise or represent that the notary public may assist persons in drafting  
22 legal records, give legal advice, or otherwise practice law.

23 (4) Except as otherwise allowed by law, a notary public may not withhold access to or  
24 possession of an original record provided by a person that seeks performance of a  
25 notarial act by the notary public.

26 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
27 READ AS FOLLOWS:

1 Except as otherwise provided in subsection (2) of Section 4 of this Act, the failure of a  
2 notarial officer to perform a duty or meet a requirement specified in Sections 1 to 30 of  
3 this Act does not invalidate a notarial act performed by the notarial officer. The validity  
4 of a notarial act does not prevent an aggrieved person from seeking to invalidate the  
5 record or transaction that is the subject of the notarial act or from seeking other  
6 remedies based on other law of this state. This section does not validate a purported  
7 notarial act performed by an individual who does not have the authority to perform  
8 notarial acts.

9       ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
10 READ AS FOLLOWS:

11 The Secretary of State may promulgate administrative regulations to implement  
12 Sections 1 to 30 of this Act. Administrative regulations regarding the performance of  
13 notarial acts with respect to electronic records may not require, or accord greater legal  
14 status or effect to, the implementation or application of a specific technology or  
15 technical specification. The administrative regulations may:

16       (1) Prescribe the manner of performing notarial acts regarding tangible and  
17       electronic records;

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

20       (3) Include provisions to ensure integrity in the creation, transmittal, storage,  
21       or authentication of electronic records or signatures;

22       (4) Prescribe the process of granting, renewing, conditioning, denying,  
23       suspending, or revoking a notary public commission and assuring the  
24       trustworthiness of an individual holding a commission as notary public;

25       (5) Include provisions to prevent fraud or mistake in the performance of  
26       notarial acts; and

27       (6) Establish the process for approving and accepting surety bonds and other

1                   *forms of assurance under Section 20 of this Act.*

2           ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
3 READ AS FOLLOWS:

4 *A commission as a notary public in effect on the effective date of this Act continues*  
5 *until its date of expiration. A notary public who applies to renew a commission as a*  
6 *notary public on or after the effective date of this Act is subject to and shall comply*  
7 *with Sections 1 to 30 of this Act. A notary public, in performing notarial acts after the*  
8 *effective date of this Act, shall comply with Sections 1 to 30 of this Act.*

9           ➔SECTION 27. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
10 READ AS FOLLOWS:

11 *Sections 1 to 30 of this Act does not affect the validity or effect of a notarial act*  
12 *performed before the effective date of this Act.*

13           ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
14 READ AS FOLLOWS:

15 *Sections 1 to 30 of this Act modifies, limits, and supersedes the Electronic Signatures*  
16 *in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not*  
17 *modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or*  
18 *authorize electronic delivery of any of the notices described in Section 103(b) of that*  
19 *act, 15 U.S.C. Section 7003(b).*

20           ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
21 READ AS FOLLOWS:

22 *(1) For a notarial act relating to an electronic record, a notary public may charge a*  
23 *fee:*

24 *(a) In compliance with KRS 64.300; and*

25 *(b) Which has been clearly disclosed to the person requesting the service in*  
26 *advance.*

27 *(2) Compensation for services provided by a notary public which do not constitute*



1        *notarial acts is not governed by this section.*

2        ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
3 READ AS FOLLOWS:

4        *If an electronic record or instrument that is defectively electronically notarized is*  
5        *otherwise validly recorded, the electronic record or instrument shall be deemed to be*  
6        *validly recorded for the purposes of this chapter and KRS Chapter 382, and all*  
7        *interested parties shall be on constructive notice of the contents of the instrument. All*  
8        *electronic records or instruments validly recorded and in compliance with this chapter*  
9        *and KRS Chapter 382, shall be given full force and effect for purposes of providing*  
10       *constructive notice.*

11       ➔Section 31. KRS 423.200 is amended to read as follows:

12 Notwithstanding any other provision of law, any certificate of an acknowledgment given  
13 and certified as provided by *Sections 1 to 30 of this Act*~~[KRS 423.110 to 423.190]~~ or as  
14 provided by those sections and other provisions of law, together with the instrument  
15 acknowledged, may be admitted to the public record provided for the type of instrument  
16 so acknowledged, and any instrument required to be sworn to or affirmed in order to be  
17 recorded may be admitted to record upon a jurat recognized under the provisions of  
18 *Sections 1 to 30 of this Act*~~[KRS 423.110 to 423.190]~~.

19       ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO  
20 READ AS FOLLOWS:

21       *A county clerk may accept for recording any record or instrument otherwise required*  
22       *or allowed to be recorded in the form of an electronic record or a complete paper*  
23       *printout copy of the electronic record.*

24       ➔Section 33. KRS 369.103 is amended to read as follows:

25 (1) Except as otherwise provided in subsection (2) of this section, KRS 369.101 to  
26 369.120 applies to electronic records and electronic signatures relating to a  
27 transaction.

- 1 (2) KRS 369.101 to 369.120 does not apply to a transaction to the extent it is governed  
2 by:
- 3 (a) A law governing the creation and execution of wills, codicils, or testamentary  
4 trusts;
- 5 (b) KRS Chapter 355 other than KRS 355.1-107 and 355.1-206, and Articles 2  
6 and 2A of KRS Chapter 355[;]
- 7 ~~(c) A law governing the conveyance of any interest in real property; and~~
- 8 ~~(d) A law governing the creation or transfer of any negotiable instrument or any~~  
9 ~~instrument establishing title or an interest in title].~~
- 10 (3) KRS 369.101 to 369.120 applies to an electronic record or electronic signature  
11 otherwise excluded from the application of KRS 369.101 to 369.120 under  
12 subsection (2) of this section to the extent it is governed by a law other than those  
13 specified in subsection (2) of this section.
- 14 (4) A transaction subject to KRS 369.101 to 369.120 is also subject to other applicable  
15 substantive law.
- 16 ➔Section 34. The following KRS sections are repealed:
- 17 423.010 Appointment, term, and qualifications of notaries -- County clerk has powers of  
18 notary when acting in capacity as clerk.
- 19 423.020 Notary may act in any county -- Certification of notary's authority.
- 20 423.030 Protests to be recorded -- Copies as evidence.
- 21 423.040 Notice of dishonor -- To whom sent.
- 22 423.050 Records of notary to be delivered to county clerk, when.
- 23 423.060 Foreign notary -- When protest by is evidence.
- 24 423.070 Commissioners of foreign deeds -- Appointment, term.
- 25 423.080 Powers of commissioners.
- 26 423.110 Recognition of notarial acts performed outside this state.
- 27 423.130 Certificate of person taking acknowledgment.

- 1 423.140 Recognition of certificate of acknowledgment.
- 2 423.150 Certificate of acknowledgment.
- 3 423.160 Short forms of acknowledgment.
- 4 423.170 Acknowledgments not affected by KRS 423.110 to 423.190.
- 5 423.180 Uniformity of interpretation.
- 6 423.190 Short title.
- 7 423.990 Penalties.