

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

Shenna Bellows
Secretary of State

Julie L. Flynn
Deputy Secretary of State

Cathy Beaudoin
*Director, Division of
Corporations, UCC &
Commissions*

February 10, 2022

The Honorable Anne Carney
100 State House Station
Augusta, ME 04333-0100

The Honorable Thom Harnett
100 State House Station
Augusta, ME 04333-0100

Dear Senator Carney, Representative Harnett and Distinguished Members of the Joint Standing Committee on Judiciary,

During the first special session of the 130th Legislature, L.D. 1399 "An Act To Continue Temporary Modification of Certain In-person Notarization and Acknowledgement Requirements and Developing Permanent Implementation of Remote and Online Notarization" was passed by the Legislature and signed into law by Governor Janet T. Mills. Public Law Chapter 337, directed the Secretary of State to conduct a study on remote and online notarization and develop recommendations for permanently implementing remote and online notarization in this State. We were also directed to submit a report, including recommended legislation, as well as any other recommendations related to the Revised Uniform Law on Notarial Acts (RULONA) to the Joint Standing Committee on Judiciary. The report consists of this letter and Appendices 1, 2 and 3.

To complete a study of remote and online notarization, the Secretary of State and staff reviewed practices of other states, attended a national conference to discuss remote and online notarization and convened a working group of stakeholders. The working group included representatives from the Maine State Bar Association, Maine Bankers Association, Maine Credit Union League, Legal Services for the Elderly, Disability Rights Maine, Maine Registers of Deeds Association, Maine Real Estate and Development Association, Maine Association of Realtors, Uniform Law Commission, Maine Probate and Trust Law Advisory Commission, and Informed Notaries of Maine among others. A complete list of working group participants is included in Appendix 1.

The working group held eight meetings from August 2021 through February 2022. The working group began by discussing types of notarizations detailed below. The consensus was that the recommendations from the working group should encompass all forms of notarization:

- Notarization Types.
 - TWIN (Traditional wet ink notarization) – in-person notarization of paper documents
 - IPEN (In-person electronic notarization) – notarization done in-person of electronic documents
 - RON (Remote online notarization) – notarization done remotely of electronic documents with use of multi-factor authentication
 - PRON (Paper remote online notarization) – notarization done remotely of paper documents w/use of multi-factor authentication
 - RIN (Remote ink notarization) – notarization done remotely of paper documents via audio-video communication (Maine’s temporary modification)

The working group discussed the benefits and challenges of remote and online notarization. The COVID-19 pandemic has revealed the need for notarial acts that might need to be performed when the parties are in two distinct locations. The real estate industry discussed the importance of the ability to perform notarial acts remotely or online as people from other jurisdictions purchase property in Maine and vice versa. The working group discussed the benefits to seniors, people with disabilities and rural communities who might benefit from the use of technology to assist in notarial acts. The working group discussed the importance of consumer protections to guard against fraud or exploitation in the development of an electronic notarization process.

The working group reviewed discussions taking place in other states and lessons learned for remote online notarization. Eighteen states have adopted some version of RULONA. A list of states that have adopted RULONA is included in Appendix 2. The consensus was, that adherence as close as possible to RULONA was desirable to facilitate the recognition of notarial acts from other states in Maine and from Maine in other states.

The working group reviewed Maine law and discussed some of the aspects of Maine law identified by the Department of Secretary of State in its January 15, 2021, report to the Judiciary Committee that would be advisable to consider changing at the same time as adoption of RULONA. The working group also discussed aspects of Maine notary public law that should be preserved. The working group hosted presentations by the Mortgage Industry Standards Maintenance Organization Inc., (MISMO) and Black Knight, a vendor that provides remote and online notarization services to better understand the technology involved and requirements to ensure the validity and security of electronic transactions.

The working group held three meetings, totaling more than six hours to discuss in detail the RULONA legislation. The proposed legislation is attached in Appendix 3. Below is a summary of key recommendations.

Definitions: The unanimous working group recommendation is to adhere to RULONA definitions for purposes of RULONA except that the official stamp should encompass the official notary seal. Nearly every state that has enacted RULONA has made a slight amendment to remove any potential confusion that might arise with the reliance of evidence codes and or rules on official seals or other legacy laws that reference a notary seal. These states include AZ, IA, KS, KY, MD, MN, MT, OR, and WY. (PA, NJ, and WI already preserved the official seal reference in their RULONA introductions.)

Authority to Perform a Notarial Act: The working group recommendation is to adhere to existing Maine law with regards to limitations on the authority to perform a notarial act. Maine statute has strong conflict of interest protections prohibiting performance of the notarial act for an immediate family member (except in the case of a marriage ceremony). The proposed draft incorporates that existing restriction, found at 4 M.R.S. § 954-A, together with RULONA's additional restriction on notarial acts involving records in which the notary public or notary public's family member has a direct beneficial interest. The attached proposal also imports identical language from existing Maine statute, found at 4 M.R.S. § 954, for the corporate conflict of interest provision contained in Section 4, subsection 3. The attached proposal in Section 4, subsection 4 also imports substantively the same language from existing Maine statute, found at 4 M.R.S. § 954-A, that prohibits a notary public from notarizing the petitions for a referendum campaign in which the notary public is otherwise involved. This was an area of disagreement within the working group. At least one member of the working group recommends that the Judiciary Committee recommend striking this prohibition from the proposal and from existing Maine law.

Requirements for Certain Notarial Acts: The unanimous working group recommendation is to adhere to RULONA language in this section but add language to preserve the powers and responsibilities inherent in Title 4, Section 952 for protests of losses, records and copies.

Identification of the Individual: The unanimous working group recommendation is to strike from RULONA language that a license or ID may be expired for no more than three years. For some transactions, particularly in real estate, and for some notaries, an expired license or identification card is never acceptable. In other situations, for example with seniors who may no longer drive, a license that has expired may be an acceptable form of identification. This change would allow the notarial officer the discretion currently allowed in Maine statute.

Who May Perform Notarial Acts: The majority working group recommendation is to import language from existing Maine statute that allows attorneys at law duly admitted and eligible to practice in the courts of this state to perform notarial acts. Additionally, RULONA recommends that judges, clerks or deputy clerks of the court be authorized to perform notarial acts. A majority of the working group would like to include this recommendation as well.

Recognition of Notarial Acts in Other Jurisdictions: The majority working group recommendation is that uniform acknowledgement of the notarial acts of other jurisdictions is fundamental to the constitutional principle of interstate commerce and should be adopted under RULONA. It is important to note that Sections 11 through 14 regarding uniform acknowledgement of notarial acts in other jurisdictions have the same legal meaning as current Maine law under the Uniform Acknowledgements Act passed in 1969. One working group member raised the question of whether the legislature might place limitations on notarial acts performed by notaries public outside the State of Maine. Attorneys in the working group were concerned that such a departure might violate the Commerce Clause of the United States Constitution.

Notarial Acts Performed for a Remotely Located Individual: A majority of the working group (eleven members) recommends permitting any notarial officer, including notaries public, attorneys, judges, clerks and deputy clerks to perform notarial acts for a remotely located individual in accordance with the criteria established in the draft language. Two members of the working group thought only notaries public should be permitted to conduct notarial acts performed for a remotely located individual.

Three members of the working group thought only notaries public and attorneys should be permitted to conduct notarial acts for a remotely located individual. The working group was unanimous in recommending the security measures in the proposed legislation including identity proofing and recording requirements. One member of the working group thought ten years was too long for requirements for retention of recordings.

Other working group members noted that the majority of states require ten-year retention requirements, which is the RULONA recommendation. The Department of Secretary of State added language to this section, that the working group was unanimously in agreement with, to permit the Secretary of State to assess a fee where the Secretary of State accepts service for a civil action in a dispute pursuant to a notarial act performed for a remotely located individual. The Secretary of State currently requires a fee for any service of process made to them.

Certificate of a Notarial Act: The majority working group recommendation is to require a certificate of the notarial act that includes the date of expiration of the notary public's commission and the official stamp. This was viewed as a consumer protection measure to assist in the ease of verification of the validity of the notary public. Requirement of an official stamp and the date of expiration of the commission are departures from existing Maine notary public law. One member of the working group felt that requiring the official stamp would be a burden on notaries public and should not be included. Provisions for destruction of the stamp under RULONA were the unanimous recommendation of the working group and are also a departure from existing Maine law.

Journal: The majority working group recommendation is to adopt the RULONA recommendation that all notarial officers except attorneys at law be required to keep a journal of all notarial acts. Maine is one of very few states that have not previously required notaries public to maintain a journal. Journals can be an important safeguard for consumers and notaries public alike, serving as evidence that a notarial act was performed properly. One member of the working group felt that no journal should be required. Two other members thought attorneys at law should be required to keep journals as well. Ten members of the working group thought attorneys at law already keep substantial records, so a journal was unnecessary for that sector but necessary for notaries public who do not have other professional requirements for recordkeeping.

Performance of notarial act on electronic record: The unanimous working group recommendation was that all notarial officers should be permitted to perform a notarial act with respect to an electronic record. The working group unanimously recommends that any notarial officer be required to notify the Secretary of State prior to performing their first notarial act with respect to an electronic record. It was also unanimously agreed that the Secretary of State should determine what technology is permissible via the rule making process.

Qualifications of a Notary Public: The working group unanimously agreed upon the qualifications for notaries public, which are largely aligned with the current qualifications under Maine law, set forth at 5 M.R.S. § 82. The proposed legislation alters Maine's current residency requirements, which limit applicants to residents of Maine and residents of New Hampshire who are employed in Maine or operate a trade or business in Maine, to conform to RULONA's recommendation that applicants must be a resident or have a place of employment or practice in Maine. The working group unanimously agreed that surety bonds should not be required for notaries public. The working group recommends preserving the current requirement in Maine law that a dedimus justice administer a specified oath to the notary before the issuance of a commission.

Length of Commission: The majority working group recommendation was to adopt a four-year notary public commission. RULONA leaves the length of commission up to the state. Thirty-one states have four-year terms for notary publics. Maine's current commission length, like Massachusetts, is seven years. Two working group members advocated for a five-year commission, making the point that New Hampshire and Connecticut have five-year commissions.

Database of Notaries Public: The unanimous working group recommendation was that any notarial officer seeking to perform remote and online notarization be required to notify the Secretary of State who should maintain a database of that information online. The Secretary of State currently maintains a searchable online database of notaries public. This additional information would require some coding and modification and might entail some cost.

Prohibited Acts: The majority working group recommendation was to adopt all of the RULONA recommendations with regards to prohibited acts including requirements for advertising disclaimers. Three working group members thought that the requirements for advertising for notaries public should be restricted to foreign-language advertisements, which is consistent with current Maine statute. The additional language that departs from RULONA was a unanimous recommendation to bring in enforcement provisions of current Maine statute to provide for consumer protection in the event of a fraudulent or improper notarial act.

Performance of Marriages: Currently, Maine is one of only three states that gives notaries public the authority to perform marriages. The authority is found in the Domestic Relations law (19-A MRS section 655), rather than the law on notaries public. RULONA does not address the performance of marriages, so this authority would be a non-uniform provision of RULONA. The department recommends creation of a separate commission as a marriage officiant/celebrant. Department staff cited the problems of notaries who obtain the commission for the sole purpose of performing marriages and who are not knowledgeable or prepared to perform other notarial acts. Additionally, there are many notaries who do not wish to perform marriage ceremonies, but believe they are required to under the current commission. Finally, marriage laws are governed by the Office of Vital Records. The Department of the Secretary of State staff have no oversight in this area of notarial authority and finds it difficult to answer questions or provide guidance to notaries in this area of the law. Establishing a separate commission for a marriage officiant or celebrant and repealing the power of notaries public to perform marriage ceremonies would place Maine in conformity with other states. Alternatively, Maine could establish a separate commission for marriage officiant or celebrant and maintain the power of notaries public to perform marriage ceremonies.

Conclusion: The Secretary of State recommends that the Joint Standing Committee on Judiciary adopt RULONA with the modifications recommended by the majority of the working group members. We believe enacting RULONA and making changes to our existing notary public laws, such as changing the commission length and adding journal requirements, go hand in hand with the modernization of our laws to better serve consumers and businesses alike. We stand ready to work with you to move forward with these recommendations to improve the laws and rules regarding notarial acts in the State of Maine.

Sincerely,



Shenna Bellows
Secretary of State

Appendix 1

Working Group Participants

The Honorable Shenna Bellows

Secretary of State

Julie Flynn

Deputy Secretary of State, Bureau of Corporations, Elections and Commissions

Cathy Beaudoin

Director of Corporations, UCC and Commissions, Department of Secretary of State

Joann Bautista

Deputy Secretary of State – Policy Advisor

Emily Cook

Director of Communications, Department of Secretary of State

Susan Bulay

Penobscot County, Maine Registers of Deeds Association

Kathy Keneborus

Director of Government Relations and Compliance, Maine Bankers Association

Leo Delicata

Legal Services for the Elderly

Molly Liddell

Pierce Atwood, Trust and Estates Practice Group, Maine Probate and Trust Law Advisory Commission

Angela Armstrong

Executive Director, Maine State Bar Association

Paul Chaiken

Uniform Law Commission

Robin Watts

Legislative Liaison MSBA, Real Estate and Titles Division

Andrew Cashman

Preti Flaherty, Maine Association of Realtors

Hal Tippetts

Maine Association of Mortgage Professionals

Robert Caverly
Vice President of Governmental Affairs, Maine Credit Union League

Taanya Pillsbury
Vice President, Informed Notaries of Maine

Elizabeth Frazier
Pierce Atwood, Maine Real Estate and Development Association

Tim Reiniger
Advisor for American Bar Association

Peter Rice
Disability Rights Maine

Kaitlin Wolff
Legislative Program Director, Uniform Law Commission

The Honorable Benjamin Chipman
State Senator, District 27

Appendix 2

States that have adopted RULONA:

1. Arizona
2. Hawaii
3. Idaho
4. Iowa
5. Kansas
6. Kentucky
7. Maryland
8. Minnesota
9. Montana
10. New Hampshire
11. New Jersey
12. New Mexico
13. North Dakota
14. Oregon
15. Pennsylvania
16. South Dakota
17. Washington
18. Wisconsin

States that have introduced RULONA legislation this session:

1. Delaware
2. District of Columbia
3. Rhode Island
4. US Virgin Islands
5. Vermont

Appendix 3

Proposed Legislation

Section 1. Short title.

This Act may be cited as the Revised Uniform Law on Notarial Acts (2022).

Section 2. Definitions. In this Act:

1. **Acknowledgement.** “Acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.
2. **Electronic.** “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
3. **Electronic signature.** “Electronic signature” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.
4. **In a representative capacity.** “In a representative capacity” means acting as:
 - A. an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;
 - B. a public officer, personal representative, guardian, or other representative, in the capacity stated in a record;
 - C. an agent or attorney-in-fact for a principal; or
 - D. an authorized representative of another in any other capacity.
5. **Notarial act.** “Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument or loss in mercantile usage.
6. **Notarial officer.** “Notarial officer” means a notary public or other individual authorized to perform a notarial act.
7. **Notary public.** “Notary public” means an individual commissioned to perform a notarial act by the Secretary of State.
8. **Official stamp.** “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record and includes an official notary seal.

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

10. Record. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

11. Sign. “Sign” means, with present intent to authenticate or adopt a record:
(A) to execute or adopt a tangible symbol; or
(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

12. Signature. “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

13. Stamping device. “Stamping device” means:

A. a physical device capable of affixing to or embossing on a tangible record an official stamp; or

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

14. State. “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

15. Verification on oath or affirmation. “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

Section 3. Applicability.

This Act applies to a notarial act performed on or after [the effective date of this act].

Section 4. Authority to perform notarial act.

1. Notarial acts authorized. A notarial officer may perform a notarial act authorized by this Act or by law of this state other than this Act.

2. Conflict of interest.

A. A notarial officer may not perform any notarial act for any person if that person is the officer’s spouse, domestic partner, parent, sibling, or child, including in-law, step, or half relatives.

B. A notarial officer may not perform any notarial act with respect to a record to which notarial officer or the officer’s spouse, domestic partner, parent, sibling, or child, including in-

law, step, or half relatives is a party or in which any of them has a direct beneficial interest.

C. Notwithstanding paragraphs A and B, a notarial officer authorized by Title 19-A, section 655 to solemnize marriages may solemnize the marriage of a parent, sibling or child including in-law, step or half relatives.

3. Acts of notarial officer who is interested in corporation. Any notarial officer who is a stockholder, director, officer or employee of a bank or other corporation may take the acknowledgement of any party to any written instrument executed to or by such corporation, or may administer an oath to any other stockholder, director, officer, employee or agent of such corporation, or may protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments that may be owned or held for collection by such bank or other corporation. It is unlawful for any notarial officer to take the acknowledgment of an instrument by or to a bank or other corporation of which the notarial officer is a stockholder, director, officer or employee when such notary is a party to such instrument, either individually or as a representative of such bank or other corporation, or to protest any negotiable instrument owned or held for collection by such bank or other corporation, when such notary is individually a party to such instrument.

4. Direct initiatives and people's veto referendums. A notarial officer may not administer an oath or affirmation to a circulator of a petition for a direct initiative or people's veto referendum under Title 21-A, section 902 if the notarial officer also provides services that are not notarial acts to initiate or promote that direct initiative or people's veto referendum.

5. Voidable notarial acts. A notarial act performed in violation of these subsections 2, 3 or 4 is voidable.

6. Certification of electronic records. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

Section 5. Requirements for certain notarial acts.

1. Acknowledgement of a record. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

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

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

4. Certifying or attesting a copy of a record. A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate

transcription or reproduction of the record or item.

5. Protest of a negotiable instrument. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 11 M.R.S. § 3-1505(b).

6. Protests of losses; record and copies. When requested, every notarial officer shall enter on record all losses or damages sustained or apprehended by sea or land, and all averages and such other matters as, by mercantile usage, appertain to the notarial officer's office, grant warrants of survey on vessels, and all facts, extracts from documents and circumstances so noted must be signed and sworn to by all the persons appearing to protest. The notarial officer shall note, extend and record the protest so made, and grant authenticated copies thereof, under the notarial officer's signature and, in the case of a notary public, notarial stamp, to those who request and pay for them.

Section 6. Personal appearance required.

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

Section 7. Identification of individual.

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

2. Evidence of Identity. A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

A. by means of:

(1) a passport, driver's license, or government issued nondriver identification card; or

(2) another form of government identification issued to an individual, which contains the signature or a photograph of the individual, and is satisfactory to the officer; or

B. by a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government issued nondriver identification card.

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

Section 8. Authority to refuse to perform notarial act.

1. Basis to refuse. A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

A. the individual executing the record is competent or has the capacity to execute the record; or

B. the individual's signature is knowingly and voluntarily made.

2. **Refusal permitted unless otherwise required.** A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this Act.

Section 9. Signature if individual unable to sign.

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

Section 10. Notarial act in this state.

1. **Persons authorized to perform notarial acts.** A notarial act may be performed in this state by:

A. a notary public of this state;

B. a judge, clerk, or deputy clerk of a court of this state;

C. an attorney at law duly admitted and eligible to practice in the courts of this state; or

D. any other individual authorized to perform the specific act by the law of this state.

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

3. **Signature and title conclusive.** The signature and title of a notarial officer described in subsection 1(A), (B), or (C) conclusively establish the authority of the officer to perform the notarial act.

4. **Laws on notaries public apply to notarial officers.** If a provision of law other than a provision in this Act specifies that an act may be performed by a notary public, such act may be performed by any of the notarial officers described in subsection 1(A), (B), or (C) unless the law expressly provides otherwise.

Section 11. Notarial act in another state.

1. **Notarial acts in other states recognized.** A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

- A. a notary public of that state;
- B. a judge, clerk, or deputy clerk of a court of that state; or
- C. any other individual authorized by the law of that state to perform the notarial act.

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

3. **Signature and title conclusive.** The signature and title of a notarial officer described in subsection 1(A) or (B) conclusively establish the authority of the officer to perform the notarial act.

Section 12. Notarial act under authority of federally recognized Indian tribe.

1. **Notarial acts under authority of federally recognized Indian tribes recognized.** A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

- A. a notary public of the tribe;
- B. a judge, clerk, or deputy clerk of a court of the tribe; or
- C. any other individual authorized by the law of the tribe to perform the notarial act.

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

3. **Signature and title conclusive.** The signature and title of a notarial officer described in subsection 1(A) or (B) conclusively establish the authority of the officer to perform the notarial act.

Section 13. Notarial act under federal authority.

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

- A. a judge, clerk, or deputy clerk of a court;
- B. an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- C. an individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
- D. any other individual authorized by federal law to perform the notarial act.

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

3. **Signature and title conclusive.** The signature and title of an officer described in subsection 1(A), (B), or (C) conclusively establish the authority of the officer to perform the notarial act.

Section 14. Foreign notarial act.

1. **Foreign state.** In this section, “foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.

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

3. **Digest or list conclusive.** If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

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

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

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

Section 14A. Notarial act performed for remotely located individual.

1. **Definitions.** In this section:

A. “Communication technology” means an electronic device or process that:

(1) allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and

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

B. "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

C. "Identity proofing" means a process or service by which a third person provides a notarial officer with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

D. "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

E. "Remotely located individual" means an individual who is not in the physical presence of the notarial officer who performs a notarial act under subsection 3.

2. Personal appearance by communication technology authorized. Except as provided in subsection 16, a remotely located individual may comply with section 6 by using communication technology to appear before a notarial officer.

3. Remote notarization authorized. Except as provided in subsection 16, a notarial officer located in this state may use communication technology to perform a notarial act for a remotely located individual if:

A. the notarial officer:

(1) has personal knowledge under section 7(1) of the identity of the remotely located individual;

(2) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notarial officer under Section 7(2) or this section; or

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

B. the notarial officer is able reasonably to confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

C. the notarial officer, or a person acting on behalf of the notarial officer, creates an audio-visual recording of the performance of the notarial act; and

D. for a remotely located individual located outside the United States:

(1) the record:

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

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

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

4. Remote acknowledgement of tangible record. A notarial officer located in this state may use communication technology under subsection 3 to take an acknowledgment of a signature on a tangible record physically present before the notarial officer if the record is displayed to and identified by the remotely located individual during the audio-visual recording under subsection 3(C).

5. Declaration Required. The requirement under subsection 3(B) for the performance of a notarial act with respect to a tangible record not physically present before the notarial officer is satisfied if:

A. the remotely located individual:

(1) during the audio-visual recording under subsection 3(C), signs:

(i) the record; and

(ii) a declaration, in substantially the following form, that is part of or securely attached to the record:

I declare under penalty of perjury that the record of which this declaration is a part or to which it is attached is the same record on which (name of notarial officer), a notarial officer, performed a notarial act and before whom I appeared by means of communication technology on (date).

Signature of remotely located individual

Printed name of remotely located individual; and

(2) sends the record and declaration to the notarial officer not later than 4 days after the notarial act was performed; and

B. the notarial officer:

(1) in the audio-visual recording under subsection 3(C), records the individual signing the record and declaration; and

(2) after receipt of the record and declaration from the individual, executes a certificate of notarial act under Section 15, which must include a statement in substantially the following form:

I (name of notarial officer) witnessed, by means of communication technology, (name of remotely located individual) sign the attached record and declaration on (date).

6. Notarial act deemed contemporaneous. A notarial act performed in compliance with subsection 5 complies with Section 15(1)(A) and is effective on the date the remotely located individual signed the declaration under subsection 5(A)(1)(ii).

7. Other procedures not precluded. Subsection 5 does not preclude use of another procedure to satisfy subsection 3(B) for a notarial act performed with respect to a tangible record.

8. Remote oaths authorized. A notarial officer located in this state may use communication technology under subsection 3 to administer an oath or affirmation to a remotely located individual if, except as otherwise provided by other law of this state, the notarial officer:

A. identifies the individual under subsection 3(A);

B. creates or causes the creation under subsection 3(C) of an audio-visual recording of the individual taking the oath or affirmation; and

C. retains or causes the retention under subsection 11 of the recording.

9. Certificate must indicate use of communication technology. If a notarial act is performed under this section, the certificate of notarial act under Section 15 and the short-form certificate under Section 16 must indicate that the notarial act was performed using communication technology.

10. Form of short-form certificate. A short-form certificate under Section 16 for a notarial act subject to this section is sufficient if it:

A. complies with rules adopted under subsection 13(A); or

B. is in the form under Section 16 and contains a statement in substantially the following form:

This notarial act involved the use of communication technology.

11. Retention of recording. A notarial officer, a guardian, conservator, or agent of a notarial officer, or a personal representative of a deceased notarial officer shall retain the audio-visual recording created under subsection 3(C) or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection 13(D), the recording must be retained for at least 10 years.

12. Notice to Secretary of State. Before a notarial officer performs the notarial officer's initial notarial act under this section, the notarial officer must notify the Secretary of State that the notarial officer will be performing notarial acts with respect to remotely located individuals and identify the technologies the notarial officer intends to use. If the Secretary of State has established standards under subsection 13 and Section 27 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

13. Rules. In addition to adopting rules under Section 27, the Secretary of State may adopt rules regarding performance of a notarial act under this section. The rules may:

- A. prescribe the means of performing a notarial act involving a remotely located individual using communication technology;
- B. establish standards for communication technology and identity proofing;
- C. establish requirements or procedures to approve providers of communication technology and the process of identity proofing;
- D. establish standards and a period for the retention of an audio-visual recording under subsection 3(C); and
- E. prescribe methods for a notarial officer to confirm under subsections 4 and 5 the identity of a tangible record.

14. Rulemaking considerations. Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the Secretary of State must consider:

- A. the most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the National Association of Secretaries of State;
- B. standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and
- C. the views of governmental officials and entities and other interested persons.

15. Service of process. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording under subsection 3(C), the provider of the communication technology, identity proofing, or storage appoints the Secretary of State as the provider's agent for service of process in any civil action in this state related to the notarial act. The Secretary of State may specify by rule a reasonable fee for accepting service of process under this subsection.

16. Certain remote notarial acts prohibited. Notwithstanding any other provision of this Act, a notarial officer may not perform the following notarial acts for a remotely located individual:

- A. solemnizing a marriage pursuant to Title 19-A, section 655;
- B. witnessing the marking and sealing of an absentee ballot pursuant to Title 21-A, section 754-A;
- C. administering an oath or affirmation to a candidate for office under Title 21-A sections 336 or 355;
- D. administering an oath or affirmation to the circulator of a candidate petition under Title 21-A, sections 335 or 354;

E. witnessing the signing of an application for a people's veto referendum or the direct initiative of legislation under Title 21-A, section 901;

F. administering an oath or affirmation to the circulator of a people's veto referendum or the direct initiative of legislation under Title 21-A, section 902.

Section 15. Certificate of notarial act.

1. **Certificate required.** A notarial act must be evidenced by a certificate. The certificate must:

A. be executed contemporaneously with the performance of the notarial act;

B. be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State;

C. identify the jurisdiction in which the notarial act is performed;

D. contain the title of office of the notarial officer; and

E. if the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

2. **Stamp required.** If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection 1(B), (C), and (D), an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection 1(B), (C), and (D), an official stamp may be attached to or logically associated with the certificate.

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

A. is in a short form set forth in Section 16;

B. is in a form otherwise permitted by the law of this state;

C. is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

D. sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in Sections 5, 6, and 7 or law of this state other than this Act.

4. **Execution of certificate certifies compliance.** By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in Sections 4, 5, and 6.

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

6. **Certificate to be attached.** If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards pursuant to Section 27 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

Section 16. Short form certificates. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by Section 15(1) and (2):

(1) For an acknowledgment in an individual capacity:

State of _____
[County] of _____
This record was acknowledged before me on _____ by _____
Date Name(s) of individual(s)

Signature of notarial officer
Stamp
[_____]
Title of office
[My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of _____
[County] of _____
This record was acknowledged before me on _____ by _____
Date Name(s) of individual(s)
as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

Signature of notarial officer
Stamp
[_____]
Title of office
[My commission expires: _____]

(3) For a verification on oath or affirmation:

State of _____
[County] of _____
Signed and sworn to (or affirmed) before me on _____ by _____
Date Name(s) of individual(s)
making statement

Signature of notarial officer
Stamp
[_____]_____
Title of office
[My commission expires: _____]

(4) For witnessing or attesting a signature:

State of _____
[County] of _____
Signed [or attested] before me on _____ by _____
Date Name(s) of individual(s)

Signature of notarial officer
Stamp
[_____]_____
Title of office
[My commission expires: _____]

(5) For certifying a copy of a record:

State of _____
[County] of _____
I certify that this is a true and correct copy of a record in the possession
of _____
Dated _____

Signature of notarial officer
Stamp
[_____]_____
Title of office
[My commission expires: _____]

Section 17. Official stamp. The official stamp of a notary public must:

1. include the notary public's name, jurisdiction, commission expiration date, and other information required by the Secretary of State; and
2. be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

Section 18. Stamping device.

1. **Notary public's responsibility.** A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner

that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

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

Section 19. Journal.

1. Journal required. A notarial officer other than an attorney at law duly admitted and eligible to practice in the courts of this state shall maintain a journal in which the officer chronicles all notarial acts that the officer performs. The officer shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

2. Tangible medium or electronic format permitted. A journal may be created on a tangible medium or in an electronic format. A notarial officer shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the Secretary of State.

3. Requirements. An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- A. the date and time of the notarial act;
- B. a description of the record, if any, and type of notarial act;
- C. the full name and address of each individual for whom the notarial act is performed;
- D. if identity of the individual is based on personal knowledge, a statement to that effect;
- E. if identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential; and
- F. the fee, if any, charged by the notarial officer.

4. Lost or stolen journal. If a notarial officer's journal is lost or stolen, the officer promptly shall notify the Secretary of State on discovering that the journal is lost or stolen.

5. Retention. On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection 1 and inform the Secretary of State where the journal is located.

6. Alternative to retention. Instead of retaining a journal as provided in subsection 5, a

former notary public may transmit the journal to the Secretary of State or a repository approved by the Secretary of State.

7. Death or incompetency of notary public. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall transmit it to the Secretary of State or a repository approved by the Secretary of State.

Section 20. Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record.

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

2. Notification to Secretary of State. Before a notarial officer performs the notarial officer's initial notarial act with respect to an electronic record, a notarial officer shall notify the Secretary of State that the notarial officer will be performing notarial acts with respect to electronic records and identify the technology the notarial officer intends to use. If the Secretary of State has established standards for approval of technology pursuant to Section 27, the technology must conform to the rules. The Secretary of State shall determine whether the technology proposed by the notarial officer is approved for use in the State of Maine.

3. Tangible copy of electronic record. A register of deeds may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

Section 21. Commission as notary public; qualifications; no immunity or benefit.

1. Application. An individual qualified under subsection 2 may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the Secretary of State and pay any application fee.

2. Qualifications. An applicant for a commission as a notary public must:

A. be at least 18 years of age;

B. be a resident of or have a place of employment or practice in this state;

C. be able to read and write English;

D. not be disqualified to receive a commission under Section 23; and

E. have passed the examination required under Section 22(1).

3. Oath required. Before issuance of a commission as a notary public, an applicant for the commission shall take and subscribe the following oath or affirmation before a dedimus justice: "I,

(name), do swear that I will support the Constitution of the United States and of this State, so help me God.” “I, (name), do swear that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as a Notary Public according to the Constitution of Maine and laws of this State, so help me God.”

4. Commission issued. On compliance with this section, the Secretary of State shall issue a commission as a notary public to an applicant for a term of 4 years.

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

Section 22. Examination of notary public.

1. Examination required. An applicant for a commission as a notary public who does not hold a commission in this state must pass an examination administered by the Secretary of State or an entity approved by the Secretary of State. The examination must be based on the course of study described in subsection 2.

2. Course of study. The Secretary of State or an entity approved by the Secretary of State shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts.]

Section 23. Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public.

1. Grounds. The Secretary of State may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

- A. failure to comply with this Act;
- B. a fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Secretary of State;
- C. a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;
- D. a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant’s or notary public’s fraud, dishonesty, or deceit;
- E. failure by the notary public to discharge any duty required of a notary public, whether by this Act, rules of the Secretary of State, or any federal or state law;
- F. use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;
- G. violation by the notary public of a rule of the Secretary of State regarding a notary public;

H. denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; or

I. violation of Title 21-A, section 903-E.

2. **Right to hearing.** If the Secretary of State denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with Title 5, Chapter 375, subchapter 4 of the Maine Revised Statutes.

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

Section 24. Database of notaries public. The Secretary of State shall maintain an electronic database of notaries public:

1. through which a person may verify the authority of a notary public to perform notarial acts; and
2. which indicates whether a notarial officer has notified the Secretary of State that the notary public will be performing notarial acts on electronic records.

Section 25. Prohibited acts.

1. **Prohibited acts.** A commission as a notary public does not authorize an individual to:
 - A. assist persons in drafting legal records, give legal advice, or otherwise practice law;
 - B. act as an immigration consultant or an expert on immigration matters;
 - C. represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or
 - D. receive compensation for performing any of the activities listed in this subsection.
2. **False or deceptive advertising prohibited.** A notary public may not engage in false or deceptive advertising.
3. **Restricted terms.** A notary public, other than an attorney licensed to practice law in this state, may not use the term “notario” or “notario publico”
4. **Advertising requirements.** A notary public, other than an attorney licensed to practice law in this state, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the Internet, the notary public shall include the following statement, or an alternate statement authorized or

required by the Secretary of State, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities". If the form of advertisement or representation is not broadcast media, print media, or the Internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

5. Access to original records. Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

6. Civil violation. Any violation of this section constitutes a civil violation for which a fine of not more than \$5,000 may be adjudged.

7. Civil action. In addition to any other remedy that may be available, a customer who is aggrieved by a violation of this section may initiate a civil action in the Superior Court against the violator for injunctive relief or damages or both. If a court finds a violation of this section, the court may award to the customer:

A. An amount equal to actual damages sustained by the customer as a result of the violation;

B. An amount equal to 3 times the actual damages; and

C. The costs of the action together with reasonable attorney's fees as determined by the court.

8. Attorney General action. Whenever the Attorney General has reason to believe that a person in the State has engaged in or is engaging in activities that violate this section, the Attorney General may initiate an action in the Superior Court to enforce this section.

Section 26. Validity of notarial acts.

Except as otherwise provided in subsection 4(5), the failure of a notarial officer to perform a duty or meet a requirement specified in this Act does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this Act does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this Act or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts. This section does not limit the authority of the Secretary of State to reject candidate and initiative or referendum petitions under Title 21-A of the Maine Revised Statutes on the basis of improper notarizations.

Section 27. Rules.

1. Rules. The Secretary of State may adopt rules to implement this Act. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical

specification. The rules may:

- A. prescribe the manner of performing notarial acts regarding tangible and electronic records;
- B. include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- C. include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;
- D. prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;
- E. include provisions to prevent fraud or mistake in the performance of notarial acts; and
- F. provide for the administration of the examination under Section 22(1) and the course of study under Section 22(2).

2. Rulemaking considerations. In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the Secretary of State shall consider, so far as is consistent with this Act:

- A. the most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;
- B. standards, practices, and customs of other jurisdictions that substantially enact this Act; and
- C. the views of governmental officials and entities and other interested persons.

Section 28. Notary public commission in effect.

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

Section 29. Savings clause.

This Act does not affect the validity or effect of a notarial act performed before [the effective date of this Act].

Section 30. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 31. Relation to electronic signatures in global and national commerce act.

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

Section 32. Repeals. The following are repealed:

1. Title 4, Chapter 19;
2. Title 4, Chapter 22.
3. Title 4, section 1056;
4. Title 5, section 82.

Section 33. 5 MRSA §5, as amended by P.L. 2009, c. 74, § 2, is further amended to read:

The Justices of the Supreme Judicial Court and of the Superior Court, the Judges of the District Court and all state officials elected by the Legislature shall take and subscribe the oath or affirmation required by the Constitution, before the Governor. Every other person elected or appointed to any civil office shall take and subscribe the oath before any dedimus justice commissioned by the Governor for that purpose, except when the Constitution otherwise provides. A newly appointed notary public shall take and subscribe the oath or affirmation before a dedimus justice as required by [section 21, subsection 3 of RULONA]section 82, subsection 3-A.

Section 34. 33 MRSA § 203, fifth paragraph, as amended by P.L. 1999, c. 699, Pt. D, § 30, is further amended to read:

Notwithstanding any of the requirements in this section, an instrument with an acknowledgment conforming to the requirements of the Revised Uniform Law on Notarial Acts, Uniform Recognition of Acknowledgments Act, Title 4, section [#####] et seq., must be accepted for recording purposes.

Section 35. Effective date. This Act takes effect