OHIO REVISED CODE

GENERAL PROVISIONS
CHAPTER 9. MISCELLANEOUS

§ 9.79 List of license disqualifying offenses; determination by licensing authority.

(A) As used in this section:

(1) "License" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing authority to an individual by which the individual has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing authority has jurisdiction.

(2) "Licensing authority" means a state agency that issues licenses under Title XLVII or any other provision of the Revised Code to practice an occupation or profession.

(3) "Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.

(4) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

(5) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(6) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(7) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(8) "Fiduciary duty" means a duty to act for someone else's benefit, while subordinating one's personal interest to that of the other person.

(B) (1) Notwithstanding any provision of the Revised Code to the contrary, for each type of license issued or conferred by a licensing authority, the licensing authority shall establish within one hundred eighty days after the effective date of this section a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining an initial license. The licensing authority shall make the list available to the public on the licensing authority's web site pursuant to division (C) of section 9.78 of the Revised Code. The licensing authority, in adopting the list, shall do both of the following:

(a) Identify each disqualifying offense by name or by the Revised Code section number that creates the offense;

(b) Include in the list only criminal offenses that are directly related to the duties and responsibilities of the licensed occupation.

(2) The licensing authority may include in the list an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any section or offense included in the list adopted under division (B)(1) of this section.

(C) (1) Except as provided in division (C)(2) or (D) of this section, a licensing authority shall not refuse to issue an initial license to an individual based on any of the following:

(a) Solely or in part on a conviction of, judicial finding of guilt of, or plea of guilty to an offense;

(b) A criminal charge that does not result in a conviction, judicial finding of guilt, or plea of guilty;

(c) A nonspecific qualification such as “moral turpitude” or lack of “moral character”;

(d) A disqualifying offense included on the list adopted under division (B) of this section, if consideration of that offense occurs after the time periods permitted in division (D) of this section.

(2) If the individual was convicted of, found guilty pursuant to a judicial finding of, or pleaded guilty to a disqualifying offense included in the list adopted under division (B) of this section for the license for which the individual applied, the licensing authority may take the conviction, judicial finding of guilt, or plea of guilty into consideration in accordance with division (D) of this section.

(D)(1) A licensing authority that may, under this section, consider a conviction of, judicial finding of guilt of, or plea of guilty to an offense in determining whether to refuse to issue an initial license to an individual shall consider all of the following factors and shall use a preponderance of the evidence standard in evaluating those factors to determine whether the conviction, judicial finding of guilt, or plea of guilty disqualifies the individual from receiving the license:

(a) The nature and seriousness of the offense for which the individual was convicted, found guilty pursuant to a judicial finding, or pleaded guilty;

(b) The passage of time since the individual committed the offense;

(c) The relationship of the offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation;

(d) Any evidence of mitigating rehabilitation or treatment undertaken by the individual, including whether the individual has been issued a certificate of qualification for employment under section 2953.25 of the Revised Code or a certificate of achievement and employability under section 2961.22 of the Revised Code;

(e) Whether the denial of a license is reasonably necessary to ensure public safety.

(2) A licensing authority may take a disqualifying offense into account only during the following time periods:

(a) For a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense that does not involve a breach of fiduciary duty and that is not an offense of violence or a sexually oriented offense, whichever of the following is later, provided the individual was not convicted of, found guilty pursuant to a judicial finding of, and did not enter a plea of guilty to any other offense during the applicable period:

(i) Five years from the date of conviction, judicial finding of guilt, or plea of guilty;

(ii) Five years from the date of the release from incarceration;

(iii) The time period specified in division (D)(3) of this section.

(b) For a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense that involves a breach of fiduciary duty and that is not an offense of violence or a sexually oriented offense, whichever of the following is later, provided the individual was not convicted of, found guilty pursuant to a judicial finding of, and did not enter a plea of guilty to any other offense during the applicable period:

(i) Ten years from the date of conviction, judicial finding of guilt, or plea of guilty;

(ii) Ten years from the date of the release from incarceration;

(iii) The time period specified in division (D)(4) of this section.

(c) For a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense that is an offense of violence or a sexually oriented offense, any time.

(3) If an individual is subject to a community control sanction, parole, or post-release

control sanction based on a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense that is not an offense of violence or a sexually oriented offense, a licensing authority may take the offense into account during the following time periods:

(a) If the community control sanction, parole, or post-release control sanction was for a term of less than five years, the period of the community control sanction, parole, or post-release control sanction plus the number of years after the date of final discharge of the community control sanction, parole, or post-release control sanction necessary to equal five years;

(b) If the community control sanction, parole, or post-release control sanction was for a term of five years or more, the period of the community control sanction, parole, or post-release control sanction.

(4) If an individual is subject to a community control sanction, parole, or post-release control sanction based on a conviction of, judicial finding of guilt of, or plea of guilty to a disqualifying offense that involved a breach of fiduciary duty and that is not an offense of violence or a sexually oriented offense, a licensing authority may take the offense into account during the following time periods:

(a) If the community control sanction, parole, or post-release control sanction was for a term of less than ten years, for the period of the community control sanction, parole, or post-release control sanction plus the number of years after the date of final discharge of the community control sanction, parole, or post-release control sanction necessary to equal ten years;

(b) If the community control sanction, parole, or post-release control sanction was for a term of ten years or more, the period of the community control sanction, parole, or post-release control sanction.

(E) If a licensing authority refuses to issue an initial license to an individual pursuant to division (D) of this section, the licensing authority shall notify the individual in writing of all of the following:

(1) The grounds and reasons for the refusal, including an explanation of the licensing authority's application of the factors under division (D) of this section to the evidence the licensing authority used to reach the decision;

(2) The individual's right to a hearing regarding the licensing authority's decision under section 119.06 of the Revised Code;

(3) The earliest date the individual may reapply for a license;

(4) Notice that evidence of rehabilitation may be considered on reapplication.

(F) In an administrative hearing or civil action reviewing a licensing authority's refusal to issue an initial license under this section, the licensing authority has the burden of proof on the question of whether the individual's conviction of, judicial finding of guilt of, or plea of guilty to an offense directly relates to the licensed occupation.

(G) A licensing authority that is authorized by law to limit or otherwise place restrictions on a license may do so to comply with the terms and conditions of a community control sanction, post-release control sanction, or an intervention plan established in accordance with section 2951.041 of the Revised Code.

(H) Each licensing authority shall adopt any rules that it determines are necessary to implement this section.

(I) This section does not apply to any of the following:

(1) Any position for which appointment requires compliance with section 109.77 of

the Revised Code or in which an individual may satisfy the requirements for appointment or election by complying with that section;

(2) Any position for which federal law requires disqualification from licensure or employment based on a conviction of, judicial finding of guilt of, or plea of guilty to an offense;

(3) Community-based long-term care services certificates and community-based long-term care services contracts or grants issued under section 173.381 of the Revised Code;

(4) Certifications of a provider to provide community-based long-term care services under section 173.391 of the Revised Code;

(5) Certificates of authority to a health insuring corporation issued under section 1751.05 of the Revised Code;

(6) Licenses to operate a home or residential care facility issued under section 3721.07 of the Revised Code;

(7) Certificates of authority to make contracts of indemnity issued under section 3931.10 of the Revised Code;

(8) Supported living certificates issued under section 5123.161 of the Revised Code;

(9) Certificates to administer medications and perform health-related activities under section 5123.45 of the Revised Code.

(J) Nothing in this section prohibits a licensing authority from considering either of the following when making a determination whether to issue a license to an individual:

(1) Past disciplinary action taken by the licensing authority against the individual;

(2) Past disciplinary action taken against the individual by an authority in another state that issues a license that is substantially similar to the license for which the individual applies.

(K) Notwithstanding any provision of the Revised Code to the contrary, if a licensing authority issues a license to an individual after considering a conviction of, judicial finding of guilt of, or plea of guilty to an offense under division (D) of this section, the licensing authority shall not refuse to renew the individual's license based on that conviction, judicial finding of guilt, or plea of guilty.

TITLE 1. STATE GOVERNMENT
CHAPTER 147. NOTARIES PUBLIC AND COMMISSIONERS

NOTARIES PUBLIC

§ 147.01 Appointment and commission of notaries public.

(A) The secretary of state may appoint and commission as notaries public as many persons who meet the qualifications of division (B) of this section as the secretary of state considers necessary.

(B) In order for a person to qualify to be appointed and commissioned as a notary public, except as provided in division (F) of this section, the person shall demonstrate to the secretary of state that the person satisfies all of the following:

(1) The person has attained the age of eighteen years.

(2)(a) Except as provided in division (B)(2)(b) of this section, the person is a legal resident of this state.

(b) The person is not a legal resident of this state, but is an attorney admitted to the

practice of law in this state by the Ohio supreme court, and has the person's principal place of business or the person's primary practice in this state.

(3)(a) Except as provided in division (B)(3)(b) of this section, the person has submitted a criminal records check report completed within the preceding six months in accordance with section 147.022 of the Revised Code demonstrating that the applicant has not been convicted of or pleaded guilty or no contest to a disqualifying offense as determined in accordance with section 9.79 of the Revised Code.

(b) A person that is an attorney admitted to the practice of law in this state or a peace officer shall not be required to submit a criminal records check when applying to be appointed a notary public.

(4)(a) Except as provided in divisions (B)(4)(b) and (c) of this section, the person has successfully completed an educational program and passed a test administered by the entities authorized by the secretary of state as required under section 147.021 of the Revised Code.

(b) An attorney who is commissioned as a notary public in this state prior to September 20, 2019, shall not be required to complete an education program or pass a test as required in division (B)(4)(a) of this section.

(c) Any attorney who applies to become commissioned as a notary public in this state after September 20, 2019, shall not be required to pass a test as required in division (B)(4)(a) of this section, but shall be required to complete an education program required by that division.

(C)(1) A notary public shall be appointed and commissioned as a notary public for the state.

(2) The secretary of state may revoke a commission issued to a notary public upon the judgment of a court or presentation of satisfactory evidence of official misconduct or incapacity.

(3) If the secretary of state revokes a person's commission, the person is ineligible for reappointment to the office of notary public.

(D) The secretary of state shall oversee the processing of notary public applications and shall issue all notary public commissions. The secretary of state shall oversee the creation and maintenance of the online database of notaries public commissioned in this state pursuant to section 147.051 of the Revised Code. The secretary of state may perform all other duties as required by this section. The entities authorized by the secretary of state pursuant to section 147.021 or 147.63 of the Revised Code shall administer the educational program and required test or course of instruction and examination, as applicable.

(E) All submissions to the secretary of state for receiving and renewing commissions, or notifications made under section 147.05 of the Revised Code, shall be done electronically.

(F) The secretary of state shall appoint and commission as a notary public for the state an applicant who is commissioned or licensed as a notary public in another state in accordance with Chapter 4796. of the Revised Code.

(G) Before entering upon the duties of office, a notary public shall personally appear before a notary public or any officer authorized by law to administer oaths, who shall administer an oath of office to the notary public.

§ 147.011 Definitions

As used in this chapter:

(A) “Acknowledgment” means a declaration by an individual before a notary public 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.

(B) “Criminal records check” has the same meaning as in section 109.572 of the Revised Code.

(C) “Jurat” means a notarial act in which both of the following are met:

(1) The signer of the notarized document is required to give an oath or affirmation that the statement in the notarized document is true and correct;

(2) The signer signs the notarized document in the presence of a notary public.

(D) “Notarial certificate” means the part of, or attachment to, a document that is completed by the notary public and upon which the notary public places the notary public’s signature and seal.

(E) “Peace officer” has the same meaning as in section 2935.01 of the Revised Code.

(F) “Notary public” means an officer of the state, commissioned to perform notarial acts by the secretary of state, or prior to June 6, 2001, by the governor. A notary public is not considered an occupation or profession under Title XLVII of the Revised Code, and a notary commission is not an occupational or professional license.

§ 147.02 Repealed.

§ 147.021 Educational requirement for notary public.

(A)(1) Except as provided in division (B)(4) of section 147.01 of the Revised Code, no person shall be appointed as a notary public unless that person has completed an educational program related to the requirements of this chapter and passed a test demonstrating knowledge of such requirements.

(2) The secretary of state may authorize that such a program be completed online.

(B) The secretary of state shall adopt, in rules under Chapter 119. of the Revised Code, standards and curricula for the educational program required under this section. The rules shall address all of the following:

(1) The entities authorized to administer the educational program and the required test, which shall include the following entities that meet the minimum requirements established by the secretary of state:

(a) Those entities providing notary public educational programming and testing services prior to the effective date of this section;

(b) Another entity that has a business relationship with an entity described in division (B)(1)(a) of this section.

(2) The standards and curricula of the program, which shall be established in coordination with the entities authorized to administer the program and the required test and shall include all of the following:

(a) The terms of notary commission;

(b) How to renew a commission;

(c) The conditions under which a commission may be revoked;

(d) What constitutes a legal notarial act;

(e) The manner of taking depositions;

(f) The taking of an acknowledgment;

(g) The administration of a jurat.

(3) The provisions and content of the required test, which shall be established in coordination with the entities authorized to administer the educational program and required test.

§ 147.022 Criminal records check required for notary public applicants.

(A)(1) The secretary of state shall require each applicant for a notary commission, other than an attorney licensed to practice law in this state or a peace officer, to complete a criminal records check.

(2) The secretary shall not accept an application for a notary commission that includes the report of a criminal records check that is more than six months old.

(B) The secretary of state shall provide to each person applying for a notary commission, other than an attorney admitted to the practice of law in this state or a peace officer, information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section.

(C) Each person requesting a criminal records check under this section shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The secretary of state and the staff of the secretary of state;

(3) A court, hearing officer, or other necessary individual involved in a case dealing with a commission denial resulting from the criminal records check.

(E) The secretary of state shall deny a notary commission application if, after receiving the information and notification required by this section, a person subject the criminal records check requirement fails to do either of the following:

(1) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(2) Submit the completed report of the criminal records check to the secretary of state.

§ 147.03 Term of office; oath; removal for violating oath.

Each notary public, except an attorney admitted to the practice of law in this state by the Ohio supreme court, shall hold office for the term of five years unless the commission is revoked. An attorney admitted to the practice of law in this state by the Ohio supreme court shall hold office as a notary public as long as the attorney is a resident of this state or has the attorney's principal place of business or primary practice in this state, the attorney is

in good standing before the Ohio supreme court, and the commission is not revoked.

§ 147.031 Expiration and renewal of notary public commission.

(A)(1) Except as provided in division (A)(2) of this section, a commission for a notary public appointed prior to the effective date of this section shall remain valid until that commission's expiration date.

(2) A commission issued to an attorney shall be governed by section 147.03 of the Revised Code.

(B) A commission that is set to expire as described in section 147.03 of the Revised Code or as in division (A) of this section shall not be renewed unless the notary submits to the secretary of state through the entities authorized in section 147.021 of the Revised Code all of the following:

(1) A new criminal records check report as required under division (B)(3) of section 147.01 of the Revised Code;

(2) A fee of not more than sixty dollars, set by the secretary of state in a rule adopted under Chapter 119. of the Revised Code;

(3) An application for renewal on a form prescribed by the secretary.

(C) A notary public may apply to renew the notary's commission beginning three months prior to the expiration date of the commission.

(D) If the notary public's commission expires before the notary submits the application for renewal, the secretary of state shall not renew that expired commission but shall permit the person to apply for a new notary commission.

§ 147.032 Investigation of violations.

(A)(1) If the secretary of state believes that a violation of this chapter has occurred, the secretary of state may investigate such violations.

(2) The secretary of state may investigate possible violations of this chapter upon a signed complaint from any person

(B) After an investigation, the secretary of state may take any of the following actions:

(1) Revoke the notary public's commission;

(2) Suspend the notary public's commission for a specified period of time or until fulfillment of a condition, such as retraining, or both.

(3) Issue a letter of admonition that shall be placed in the notary public's record.

(C) A notary public shall cooperate fully with the secretary of state during the course of an investigation under this section, including by responding in a timely manner to all questions posed by the secretary of state as part of that investigation. The secretary of state shall revoke the commission of a notary public who does not cooperate or respond to questions as required by this division.

(1) Failure to administer an oath or affirmation when executing a jurat;

(2) Performing a notarial act without requiring personal appearance, except in the case of an online notary public performing an online notarization in accordance with sections 147.60 to 147.66 of the Revised Code;

(3) Fraudulent, dishonest, or deceitful misstatement or omission on a notarial certificate.

(E) A person whose notary commission has been revoked may not apply for a subsequent notary commission.

(F) The secretary of state may adopt rules under Chapter 119. of the Revised Code to set forth procedures for investigations and hearings regarding violations of this chapter and disciplinary actions taken.

(G) The secretary of state may establish an advisory board to meet as the secretary of state considers necessary to discuss matters related to notary law and procedures.

§ 147.04 Seal and register.

Before entering upon the discharge of official duties, a notary public shall obtain the seal of a notary public. The seal shall consist of the coat of arms of the state within a circle that is at least three-quarters of an inch, but not larger than one inch, in diameter and shall be surrounded by the words "notary public," "notarial seal," or words to that effect, the name of the notary public, and the words "State of Ohio." The seal may be of either a type that will stamp ink onto a document or one that will emboss it. The name of the notary public may, instead of appearing on the seal, be printed, typewritten, or stamped in legible, printed letters near the notary public's signature on each document signed by the notary public.

§ 147.041 Use of seal by notary publics previously commissioned.

A person commissioned as a notary public prior to the effective date of this section may continue to use a seal that met the requirements of section 147.04 of the Revised Code and that was in that person's possession before that date.

§ 147.05 Commission to be recorded; fee; notice of change of name or address or resignation.

(A) The secretary of state shall maintain a record of the commissions of each notary public appointed and commissioned by the secretary of state under this chapter and make a proper index to that record.

The governor's office shall transfer to the secretary of state's office, on or after June 6, 2001, the record of notaries public formerly kept by the governor's office under section 107.10 of the Revised Code. The secretary of state's office shall maintain that record together with the record and index of commissions of notaries public required by this division.

(B) If a notary public legally changes the notary public's name or address after having been commissioned as a notary public, the notary public shall notify the secretary of state within thirty days after the name or address change. Such a notification shall be on a form prescribed by the secretary of state.

(C) A notary who resigns the person's commission shall deliver to the secretary of state, on a form prescribed by the secretary of state, a written notice indicating the effective date of resignation.

(D)(1) A notary shall inform the secretary of state of being convicted of or pleading guilty or no contest to a crime of moral turpitude as defined in section 4776.10 of the Revised Code, a violation of a provision of Chapter 2913 of the Revised Code, or any offense under an existing or former law of this state, any other state, or the United States that is substantially equivalent to such a disqualifying offense during the term of the notary's commission.

(2) The secretary of state shall revoke the commission of any person who is convicted of or pleads guilty or no contest to a disqualifying offense, including an attorney licensed to practice law in this state.

§ 147.051 Notary public database.

The secretary of state shall maintain a database of notaries public on a publicly accessible web site. The web site shall provide all of the following information in relation to each notary public:

(A) The status of an individual's authority to perform notarial acts;

(B) Whether the notary is authorized to perform online notarizations, as defined in section 147.60 of the Revised Code;

(C) A description of any administrative or disciplinary action taken against the notary.

§ 147.06 Certified copy of commission as evidence; fees.

Upon application, the secretary of state shall make a certified copy of a notary public commission and the endorsements on the commission. The certified copy shall be prima-facie evidence of the matters and facts contained in it. For each certified copy of a notary public commission, the secretary of state shall be entitled to receive a fee of five dollars.

§ 147.07 Jurisdiction.

A notary public has statewide jurisdiction.

§ 147.08 Fees.

(A) A notary public is entitled to the following fees:

(1) Up to five dollars for any notarial act that is not an online notarization;

(2) For an online notarization, up to thirty dollars.

(B) A notary charging the fee authorized under division (A)(2) of this section shall not also charge the fee authorized under division (A)(1) of this section.

(C) The fees charged under division (A) of this section shall not be calculated on a per signature basis.

(D) In addition to the fees authorized under division (A) of this section, a notary may charge either or both of the following:

(1) A reasonable travel fee, as agreed to by the notary and the principal prior to the notarial act.

(2) A technology fee up to ten dollars for the use of an online notarization system when performing an online notarization, as defined in section 147.60 of the Revised Code. A notary may charge a technology fee regardless of whether the notarial act is completed, such as when a signer fails to pass the identification process in the online notarization system, but the total technology fee charged shall not exceed ten dollars per online notarization session.

(E) The secretary of state may adopt rules under Chapter 119. of the Revised Code to increase the fees authorized under this section.

§ 147.09 Repealed.

§ 147.10 Notary public acting after commission expires.

No notary public shall do or perform any act as a notary public knowing that his term of office has expired.

§ 147.11 Forfeiture.

A person appointed notary public who performs any act as such after expiration of his

term of office, knowing that his term has expired, shall forfeit not more than five hundred dollars, to be recovered by an action in the name of the state. Such act shall render such person ineligible for reappointment.

§ 147.12 Acts done by notary public after term valid.

An official act done by a notary public after the expiration of his term of office is as valid as if done during his term of office.

§ 147.13 Repealed.

§ 147.14 Repealed.

§ 147.141 Prohibited actions by a notary public

(A) A notary public shall not do any of the following:

(1) Perform a notarial act with regard to a record or document executed by the notary;

(2) Notarize the notary's own signature;

(3) Take the notary's own deposition;

(4) Perform a notarial act if the notary has a conflict of interest with regard to the transaction in question;

(5) Certify that a document is either of the following:

(a) An original document;

(b) A true copy of another record.

(6) Use a name or initial in signing certificates other than that by which the notary public is commissioned;

(7) Sign notarial certificates using a facsimile signature stamp unless the notary public has a physical disability that limits or prohibits the notary's ability to make a written signature and unless the notary has first submitted written notice to the secretary of state with an example of the facsimile signature stamp;

(8) Affix the notary's signature to a blank form of an affidavit or certificate of acknowledgment and deliver that form to another person with the intent that it be used as an affidavit or acknowledgment;

(9) Take the acknowledgment of, or administer an oath or affirmation to, a person who the notary public knows to have been adjudicated mentally incompetent by a court of competent jurisdiction, if the acknowledgment or oath or affirmation necessitates the exercise of a right that has been removed;

(10) Notarize a signature on a document if it appears that the person is mentally incapable of understanding the nature and effect of the document at the time of notarization;

(11) Alter anything in a written instrument after it has been signed by anyone;

(12) Amend or alter a notarial certificate after the notarization is complete;

(13) Notarize a signature on a document if the document is incomplete or blank;

(14) Notarize a signature on a document if it appears that the signer may be unduly influenced or coerced so as to be restricted from or compromised in exercising the person's own free will when signing the document;

(15) Take an acknowledgment of execution in lieu of an oath or affirmation if an oath or affirmation is required;

(16) Execute a jurat without administering an oath or affirmation to the signer:

(17) Determine the validity of a power of attorney document or any other form designating a representative capacity, such as trustee, authorized officer, agent, personal representative, or guardian, unless that notary is an attorney licensed to practice law in this state.

(18) Charge or accept a fee greater than the amount prescribed by law.

(B) Division (A)(5) of this section shall not be construed as prohibiting a notary from notarizing the signature of a holder of a document on a written statement certifying that the document is a true copy of an original document.

(C) As used in this section, "conflict of interest" means either of the following:

(1) The notary has a direct financial or other interest in the transaction in question, excluding the fees authorized under this chapter.

(2) The notary is named, individually or as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, lessor, or lessee, or as a party in some other capacity to the transaction.

§ 147.142 Prohibitions on certain actions by a notary public who is not a licensed attorney.

(A) A notary public who is not a licensed attorney in this state shall not represent or advertise himself or herself as an immigration consultant or an expert in immigration matters.

(B) A notary public who is not a licensed attorney in this state shall not do any of the following:

(1) Provide any service that constitutes the unauthorized practice of law in violation of section 4705.07 of the Revised Code;

(2) State or imply that the notary is an attorney licensed to practice law in this state;

(3) Solicit or accept compensation to prepare documents for or otherwise represent the interest of another person in a judicial or administrative proceeding, including a proceeding relating to immigration to the United States, United States citizenship, or related matters;

(4) Solicit or accept compensation to obtain relief of any kind on behalf of another from any officer, agency, or employee of this state or of the United States;

(5) Use the phrase "notario" or "notario publico" to advertise the services of a notary public, whether by sign, pamphlet, stationery, or other written communication, or by radio, television, or other non-written communication.

COMMISSIONERS FOR VETERANS' AFFAIRS

§ 147.31 Repealed.

§ 147.32 Commissioners of state for veterans' affairs.

Representatives of the United Spanish War Veterans, The Disabled American Veterans, The American Legion, Veterans of Foreign Wars of the United States, and other congressionally chartered veterans' organizations, who are recognized as such representatives by the administrator of the veterans' administration, and who are engaged in the preparation and prosecution of claims of veterans and their dependents before the rating agencies of the veterans' administration within the state, may be appointed as commissioners of the state. Such commissioners shall continue in office for a term of three years. Each of such commissioners shall, before performing any of his duties, take and subscribe to an oath of

office before a judge of a court of record within this state. Such oath, with his signature thereto and an impression of his seal of office and his residence address, shall forthwith be transmitted by him to the governor, and filed by the governor in the office of the secretary of state.

Each of such commissioners shall procure and employ a seal of the dimensions and inscription set forth and prescribed for notaries public, in section 147.04 of the Revised Code, except that the words shall be: "Commissioner of the State of Ohio for Veterans' Affairs."

Such commissioners may, without fee and within the state, administer oaths, take acknowledgments, and attest the execution of any instruments of writing only in connection with or used before the veterans' administration.

§ 147.33 Repealed.

§ 147.34 Repealed.

§ 147.35 Repealed.

§ 147.36 Repealed.

MISCELLANEOUS

§ 147.37 Fees for commissions.

(A) The secretary of state shall establish a fee of not more than one hundred fifty dollars to be paid by each person receiving a commission as notary public.

(B) The notary public shall remit the fee to the authorized entity that administered the educational program and test required by section 147.021 of the Revised Code. The notary public shall remit to the secretary of state the portion of that fee specified pursuant to division (C)(2) of this section.

(C) The secretary of state shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(1) Establish the amount of the fee authorized by division (A) of this section;

(2) Establish the portion of the fee, not to exceed fifteen dollars, that the notary public is required to remit to the secretary of state;

(3) Establish the portion of the fee that a notary who is an attorney shall remit to the entity that administered the educational program.

§ 147.371 Duplicate commissions.

(A) Upon receipt of a fee of two dollars and submission of the electronic duplicate commission request form, a duplicate commission as notary public shall be issued by the secretary of state.

(B) Upon receipt of a fee of two dollars and submission of the electronic amendment form for a name and change under division (B) of section 147.05 of the Revised Code, the secretary of state shall issue a duplicate commission as a notary public.

(C) The secretary of state shall prescribe and make available an electronic duplicate commission request form and an electronic amendment form.

§ 147.38 Repealed.

§ 147.39 Prior notarial acts by armed forces officers valid.

Any acknowledgment or proof of execution of a deed, mortgage, lease, power of attorney, or other instrument that was taken, and any other notarial act that was performed, by a commissioned officer in active service with the armed forces of the United States for a person who was a member of the armed forces of the United States, for a person who was accompanying the armed forces of the United States, or for a person who was a dependent of either such category of persons, and that was taken or performed between January 1, 1941, and January 1, 1973, in conformity with the provisions of a prior statute that then was in effect is as valid as if the acknowledgment, proof of execution, or other notarial act was performed in conformity with the provisions of sections 147.51 to 147.58 of the Revised Code.

§ 147.40 Manner of taking depositions.

Depositions taken in pursuance of section 147.07 and 147.51 to 147.58 of The Revised Code by a person described in division of section 147.51 of the Revised Code shall be taken on written interrogatories, on a written notice being given by the party desiring to take such depositions, which notice shall contain the names of the parties plaintiff and defendant, the court or tribunal in which the action is pending the number of the regiment or battalion to which the witness belongs and the names of the witnesses. The notice shall be served upon the adverse party or his agent or attorney of record or left at his usual place of abode with a copy of the interrogatories at least twenty days prior to the taking of such depositions. If the party on whom such notice is served desires to file cross interrogatories a copy of the them shall be served on the adverse party or his agent or attorney of record or left at his usual place of abode within six days after the notice of taking depositions has been served and the party giving the notice to take depositions, shall forward with his notice and interrogatories the cross-interrogatories so served on him; and neither party, by himself, or his agent or attorney, shall be present at the time of taking such depositions.

Sec. 147.49.

(A) A notary public who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the person acknowledging, that the person appearing before the notary public and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the person.

(B) A notary public who takes a verification of a statement on oath or affirmation, a jurat, shall determine from personal knowledge or satisfactory evidence of the identity of the person making the verification, that the person appearing before the notary public and making the verification has the identity claimed and that the signature on the statement verified is the signature of the person.

Sec. 147.50.

(A) A notary public has personal knowledge of the identity of the person appearing before the notary public if the person is personally known to the notary public through dealings sufficient to provide reasonable certainty that the person has the identity claimed.

(B) A notary public has satisfactory evidence of the identity of the person appearing

before the notary public if the notary public can identify the person by either of the following means:

(1) An inspection of a passport, driver's license, government-issued nondriver identification card, or other form of government-issued identification with the signature or photograph of the individual, which is current or expired not more than three years before performance of the notarial act, and is satisfactory to the notary public;

(2) By verification on oath or affirmation of a credible witness personally appearing before the notary public and personally known to the notary public or whom the notary public can identify on the basis of a passport, driver's license, or other government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act. A witness is not credible if the witness has a conflict of interest regarding the transaction.

(C) A notary public may require a person to provide additional information or identification credentials necessary to assure the notary public of the identity of the person.

(D) As used in this section, "conflict of interest" means either of the following:

(1) The person has a direct financial or other interest in the transaction in question.

(2) The person is named, individually or as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, lessor, or lessee, or as a party in some other capacity to the transaction.

UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT

§ 147.51 Notarial acts.

(A) A notary public, or any other individual with similar authority under this section, is authorized to perform the following notarial acts:

(1) Administer oaths or affirmations required or authorized by law;

(2) Take and certify acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments of writing;

(3) Take and certify depositions. In taking depositions, a notary public shall have the power that is by law vested in judges of county courts to compel the attendance of witnesses and punish them for refusing to testify. Sheriffs and constables are required to serve and return all process issued by notaries public in the taking of depositions.

(B) Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments, in addition to any other persons authorized by the laws and regulations of this state:

(1) A notary public authorized to perform notarial acts in the place in which the act is performed;

(2) A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;

(3) An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States department of state to perform notarial acts in the place in which the act is performed;

(4) A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or for a dependent of

one of the following:

(a) A member of the merchant marines of the United States;

(b) A member of the armed forces of the United States;

(c) Any other person serving with or accompanying the armed forces of the United States;

(5) Any other person authorized to perform notarial acts in the place in which the act is performed.

§ 147.52 Notarial acts by authorized person.

(A) If the notarial act is performed by any of the persons described in divisions (A) and (B) of section 147.51 of the Revised Code, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of the person's authority is not required.

(B) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

(1) Either a foreign service officer of the United States residing in the country in which the act is performed or a diplomatic or consular officer of the foreign country residing in the United States certifies that a person holding that office is authorized to perform the act.

(2) The official seal of the person performing the notarial act is affixed to the document; or

(3) The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

(C) If the notarial act is performed by a person other than one described in divisions (A) and (B) of this section, there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to that person's authority to perform the notarial act.

(D) The signature and title of the person performing the act are prima-facie evidence that the person is a person with the designated title and that the signature is genuine.

§ 147.53 Taking an acknowledgment.

(A) The person taking an acknowledgment shall certify that the person acknowledging appeared before the notary public and acknowledged executing the instrument;

(B) The words in an acknowledgment notarial certificate "acknowledged before me" mean that:

(1) The person acknowledging appeared before the person taking the acknowledgment;

(2) The person acknowledging acknowledged executing the instrument;

(3) In the case of:

(a) A natural person, the person executed the instrument for the purposes therein stated;

(b) A corporation, the officer or agent acknowledged holding the position or title set forth in the instrument and certificate, the officer or agent signed the instrument on behalf of the corporation

by proper authority, and the instrument was the act of the corporation for the purpose

therein stated;

(c) A limited liability company, the member, manager, or agent acknowledged signing the instrument on behalf of the limited liability company by proper authority and the member, manager, or agent executed the instrument as the act of the limited liability company for the purposes therein stated;

(d) A partnership, the partner or agent acknowledged signing the instrument on behalf of the partnership by proper authority and the partner or agent executed the instrument as the act of the partnership for the purposes therein stated;

(e) A person acknowledging as principal by an attorney in fact, the attorney in fact executed the instrument by proper authority as the act of the principal for the purposes therein stated;

(f) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, the person signed the instrument by proper authority and the person executed the instrument in the capacity and for the purposes stated.

(4) The person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

Sec. 147.54. (A) The person executing a jurat shall certify all of the following:

(1) The signer appeared before the notary public;

(2) The notary public administered an oath or affirmation to the signer that the statement in the jurat is true and correct;

(3) The signer signed the document in the presence of the notary public.

(B) The oath or affirmation administered by the notary public to the signer of a jurat shall include one of the following questions, or substantially similar questions:

(1) "Do you solemnly swear that the statements in this document are true, so help you God?"

(2) "Do you affirm, under penalty of perjury, that the statements in this document are true?"

§ 147.541 Repealed.

§ 147.542 Notarial Certificate Requirement.

(A) A notary public shall provide a completed notarial certificate for every notarial act the notary public performs.

(B) If a notarial certificate incorrectly indicates the type of notarization performed, the notary public shall provide a correct certificate at no charge to the person signing in question.

(C) The form of a notarial certificate used by a person whose authority is recognized under section 147.51 of the Revised Code shall be accepted in this state if any of the following apply:

(1) The notarial certificate is in a form prescribed by the laws or regulations of this state;

(2) The notarial certificate is in a form prescribed by the laws or regulations applicable in the place in which the notarial act is performed;

(3) The certificate contains the words:

(a) "Acknowledged before me," or their substantial equivalent, when taking an

acknowledgment;

(b) "Sworn to and subscribed before me," "affirmed to and subscribed before me," or their substantial equivalent, when executing a jurat.

(D)(1) A notary public shall not use an acknowledgment certificate with regard to a notarial act in which an oath or affirmation has been administered.

(2) A notary public shall not use a jurat certificate with regard to a notarial act in which an oath or affirmation has not been administered.

(E) A certificate required under this section may be provided through any of the following means:

(1) Preprinting on a notarial document;

(2) Ink stamp;

(3) Handwritten note;

(4) A separate, attached document.

(F) A notarial certificate shall show all of the following information:

(1) The state and county venue where the notarization is being performed;

(2) The wording of the acknowledgment or jurat in question;

(3) The date on which the notarial act was performed;

(4) The signature of the notary, exactly as shown on the notary's commission;

(5) The notary's printed name, displayed below the notary's signature or inked stamp;

(6) The notary's notarial seal and commission expiration date;

(7) If an electronic document was signed in the physical presence of a notary and notarized pursuant to section 147.591 of the Revised Code, or if an online notarization was performed pursuant to sections 147.60 to 147.66 of the Revised Code, the certificate shall include a statement to that effect.

(G) A notary public may explain to a signer the difference between an acknowledgment and a jurat, but shall not, unless that notary is an attorney, advise the person on the type of notarial act that best suits a situation.

§ 147.543 Repealed.

§ 147.55 Forms of acknowledgment.

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any section of the Revised Code. The forms shall be known as "statutory short forms of acknowledgment" and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

(A) For an individual acting in the individual's own right:

"State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging).

(Signature of person taking acknowledgment)

(Title or rank)"

(B) For a corporation:

"State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent) (title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation on behalf of the corporation.

(Signature of person taking acknowledgment)

(Title or rank)"

(C) For a limited liability company:

"State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of member or managing member, title of member or managing member) of (name of limited liability company acknowledging), a (jurisdiction of formation) limited liability company, on behalf of the limited liability company.

(Signature of person taking acknowledgment)

(Title or rank)"

(D) For a partnership:

"State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of person taking acknowledgment)

(Title or rank)"

(E) For an individual acting as principal by an attorney in fact:

"State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of person taking acknowledgment)

(Title or rank)"

(F) By any public officer, trustee or personal representative:

"State of .....

County of .....

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of person taking acknowledgment)

(Title or rank)"

§ 147.551 Jurat form.

A jurat may take the following form:

"State of .....

County of .....

Sworn to or affirmed and subscribed before me by (name of signer) this date of (date).

(Signature of notary public administering jurat)

(Affix seal here)

(Title or rank)

(Commission expiration date)"

§ 147.56 Notarial acts performed prior to January 1, 1974.

A notarial act performed prior to January 1, 1974 is not affected by sections 147.51 to 147.58 of the Revised Code. These sections provide an additional method of proving notarial acts and do not diminish or invalidate the recognition accorded to notarial acts by other laws or regulations of this state.

§ 147.57 Uniformity of the law.

Sections 147.51 to 147.58 of the Revised Code shall be so interpreted as to make uniform the laws of those states which enact it.

§ 147.58 Uniform recognition of acknowledgments act.

Sections 147.11 to 137.58 of the Revised Code may be cited as the "Uniform Recognition of Acknowledgments Act."

§ 147.59 Designated alternative signer.

(A) An individual whose physical characteristics limit the individual's ability to sign a document presented for notarization may direct a designated alternative signer to sign on the individual's behalf, if all of the following are met:

(1) The individual clearly indicates, through oral, verbal, physical, electronic, or mechanical means, to the notary public the individual's intent for the designated alternative signer to sign the individual's name on the notarial document.

(2) Both the individual and the designated alternative signer provide satisfactory identification to the notary public.

(3) The designated alternative signer signs the document in the presence of the notary public.

(4) The designated alternative signer is not named in the document.

(5) The notarial certificate provided to the individual gives the name of the designated alternative signer and states that the document was signed under this section at the direction of the individual.

(B) An individual may use a designated alternative signer to perform an online notarial act if all of the requirements of division (A) of this section are met.

§ 147.591 Electronic document, signature, and seal.

(A) As used in this section, "electronic document," "electronic seal," "electronic signature," and "online notarization" have the same meanings as in section 147.60 of the Revised Code.

(B)(1) An electronic document that is signed in the physical presence of the notary public with an electronic signature and notarized with an electronic seal shall be considered an original document.

(2) Notwithstanding any other provision of the Revised Code to the contrary, a digital copy of a document executed electronically by the parties and acknowledged or sworn before a notary acting pursuant to this section shall be accepted by county auditors, clerks of courts of record, deputy registrars, engineers, and recorders for purposes of approval, transfer, and recording to the same extent as any other document that is submitted by an electronic recording method and shall not be rejected solely by reason of containing electronic signatures or an electronic notarization, including an online notarization.

(3) A county auditor, engineer, and recorder shall accept a printed document that was executed electronically for purposes of approval, transfer, and recording if that document contains an attached certificate in the following, or a substantially similar, format:

"AUTHENTICATOR CERTIFICATE

I certify and warrant that the foregoing and annexed paper document being presented for record, to which this certification is attached, represents a true, exact, complete, and unaltered copy of the original electronic document. The county offices of the auditor, treasurer, recorder, and others necessary to effectuate the transfer and recording of the instrument shall be entitled to rely on such certification and warranty for all purposes.

.....[signature of authenticator]

.....[printed name of authenticator]

.....[street address of authenticator]

.....[city, state, zip code of authenticator]

.....[telephone number of authenticator]

State of .....)

): ss

County of.....)

The foregoing authenticator certificate was subscribed and sworn to in my presence by..... [printed name of authenticator] on this.... day of ....., 20...

.....

Notary Public"

(C) An authenticator certificate may not be signed or notarized with an electronic signature or electronic seal, either in person or through the use of an online notarization system.

(D) Any notary public may obtain an electronic seal and an electronic signature for the purposes of notarizing documents under this section.

(E) A notary public shall comply with the provisions of section 147.66 of the Revised Code pertaining to the electronic seal and electronic signature.

§ 147.60 Definitions.

As used in this section and sections 147.61 to 147.66 of the Revised Code:

(A) "Appear in person" means being in the same physical location as another person and being close enough to hear, communicate with, and exchange tangible identification credentials with that individual. "Appear in person" also means being in a different location as another person and interacting with that individual by means of live two-way, audio-video communication.

(B) "Credential analysis" means a process or service operating according to standards adopted by the secretary of state under section 147.62 of the Revised Code through which a third person affirms the validity of a government-issued identification credential through review of public and proprietary data sources.

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

(D) "Electronic document" means information that is created, generated, sent, communicated, received, or stored in an electronic medium and is retrievable in perceivable form.

(E) "Electronic seal" means information within a notarized electronic document to

which all of the following apply:

(1) The information confirms the notary public's name, jurisdiction, and commission expiration date.

(2) The information generally corresponds to the contents, layout, and format of the notary public's seal for use on paper documents, as required under section 147.04 of the Revised Code.

(F) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a natural person with the intent to sign the electronic document.

(G) "Identity proofing" means a process or service operating according to standards adopted by the secretary of state under section 147.62 of the Revised Code through which a third person affirms the identity of a natural person through the review of personal information from public and proprietary data sources.

(H) "Notarial act" means the performance of a function authorized under 147.51 of the Revised Code. "Notarial act" does not include the taking or certifying of depositions.

(I) "Online notarization" means a notarial act performed by means of live two-way video and audio conference technology that conforms to the standards adopted by the secretary of state under section 147.62 of the Revised Code.

(J) "Online notary public" means a notary public who has been duly appointed and commissioned under section 147.01 of the Revised Code and has received authorization by the secretary of state under section 147.63 of the Revised Code to perform online notarizations.

(K) "Principal" means a natural person whose electronic signature is notarized in an online notarization, or the natural person taking an oath or affirmation from the online notary public. "Principal" does not include a natural person taking an oath or giving an affirmation in the capacity of a witness for the online notarization.

(L) "Remote presentation" means transmission to an online notary public through live two-way video and audio conference technology of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to identify the principal seeking the online notary public's services and to perform credential analysis.

(M) "Territory of the United States" means 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.

§ 147.61 Applicability.

Sections 147.60 to 147.66 of the Revised Code apply to online notarizations and online notaries public. To the extent that a provision of sections 147.60 to 147.66 of the Revised Code conflicts with another provision of this chapter or other applicable law, sections 147.60 to 147.66 of the Revised Code supersede the provision.

§ 147.62 Rules adoption.

(A) The secretary of state shall adopt rules under Chapter 119. of the Revised Code necessary to implement, set, and maintain standards for online notarizations and online notaries public. Such rules shall address, at a minimum, all of the following:

(1) The standards, procedures, application forms, and fees for the authorization of a

notary public to act as an online notary public;

(2) The means of performing online notarizations;

(3) Standards for the technology to be used in online notarizations;

(4) Standards for remote presentation, credential analysis, and identity proofing;

(5) Standards for the retention of records relating to online notarizations;

(6) The modification of forms of notarial certificates for any notarial act that is an online notarization;

(7) Standards and requirements for the termination of a notary public's authorization to perform online notarizations.

(B) The office of information technology in the department of administrative services shall provide assistance to the secretary of state relating to the equipment, security, and technological aspects of the standards established under this section.

§ 147.63 Authorization to act as an online notary public.

(A) A notary public who has been duly appointed and commissioned under section 147.01 of the Revised Code, and who is a resident of this state, may apply to the secretary of state to be authorized to act as an online notary public during the term of that notary public's commission. A state resident commissioned as a notary public qualifies to be an online notary public by paying the fee described in section 147.631 of the Revised Code and submitting to the secretary of state an application in the form prescribed by the secretary that demonstrates to the satisfaction of the secretary that the applicant will comply with the standards adopted in rules under section 147.62 of the Revised Code and that the applicant is otherwise qualified to be an online notary.

(B)(1) Before an individual may be authorized to act as an online notary public, that individual shall successfully complete a course of instruction approved by the secretary of state and pass an examination based on the course. The content of the course shall include notarial rules, procedures, and ethical obligations pertaining to online notarization contained in sections 147.60 to 147.66 of the Revised Code or in any other law or rules of this state. The course may be taken in conjunction with the educational program required under section 147.021 of the Revised Code for a notary public commission.

(2) The secretary of state shall approve one business entity comprised of bar associations with statewide scope and regional presence that have expertise and experience in notary laws and processes to provide the course and administer the examination to become an online notary.

(C) The application required under division (A) of this section shall be transmitted electronically to the secretary of state and shall include all of the following information:

(1) The applicant's full legal name and official notary public name to be used in acting as an online notary public;

(2) A description of the technology the applicant intends to use in performing online notarizations;

(3) A certification that the applicant will comply with the rules adopted under section 147.62 of the Revised Code;

(4) An electronic mail address of the applicant;

(5) Any decrypting instructions, keys, codes, or software necessary to enable the application to be read;

(6) Proof of successful completion of the course and passage of the examination

required under division (B) of this section;

(7) A disclosure of any and all license or commission revocations or other professional disciplinary actions taken against the applicant;

(8) Any other information that the secretary of state may require.

(D)(1) If the secretary of state is satisfied that an applicant meets the standards adopted in rules under section 147.62 of the Revised Code, and that the applicant is otherwise qualified to be an online notary public, then the secretary shall issue to the applicant a written authorization to perform online notarizations.

The secretary of state shall issue a written authorization to perform online notarizations to an applicant who holds an authorization or license to perform online notarizations in another state in accordance with Chapter 4796. of the Revised Code

(2) Except as provided in division (D)(4) of this section, the authorization shall expire when the notary public's commission expires or is revoked under section 147.03, 147.031, or 147.032 of the Revised Code.

(3)(a) Except as provided in division (D)(5) of this section, the authorization shall be renewed when the notary public's commission is renewed.

(b) An authorization to perform online notarizations that is set to expire shall not be renewed unless the notary submits to the secretary of state through the entity authorized in this section all of the following:

(i) A fee, set by the secretary of state, of not more than four times the fee prescribed in division (B)(2) of section 147.031 of the Revised Code;

(ii) An application for renewal on a form prescribed by the secretary;

(iii) Evidence of having completed continuing education, as required under division (G) of this section.

(c) If a notary public's online notarization authorization expires before the notary submits the application for renewal, the secretary of state shall not renew that expired authorization but shall permit that person to apply for a new online notarization authorization.

(4) An authorization to perform online notarizations granted to an attorney admitted to the practice of law in this state by the Ohio supreme court shall expire on the earlier of five years after the date the authorization is granted or when the attorney's term of office as a notary public ends.

(5) An attorney authorized to perform online notarizations may apply to renew the attorney's authorization three months prior to the authorization's expiration date.

(6)(a) The secretary may deny an application for an online notary public if any of the required information is missing or incorrect on the application form.

(b) The secretary may also deny an application if the technology the applicant identifies pursuant to division (C)(2) of this section does not conform to the standards developed by the secretary pursuant to section 147.62 of the Revised Code.

(E) Nothing in this section shall be construed as prohibiting an online notary public from receiving, installing, and utilizing a software update to the technology that the online notary public disclosed pursuant to division (C)(2) of this section if that software update does not result in a technology that is materially different from the technology that the online notary public disclosed pursuant to division (C)(2) of this section.

(F)(1) If a notary public changes either the hardware or the software that the notary intends to use to carry out online notarizations, then the notary shall inform the secretary

of this intent on a form prescribed by the secretary.

(2) If the secretary determines that the new hardware or software does not meet the standards prescribed in rules under section 147.62 of the Revised Code, then the secretary may suspend or revoke the notary's authority to perform online notarizations.

(G)(1) The secretary of state shall not renew an online notarization authorization unless the applicant has completed continuing education as required under rules adopted pursuant to division (G)(2) of this section.

(2) The secretary shall adopt rules in accordance with Chapter 119. of the Revised Code related to continuing education requirements for an online notarization authorization. The rules shall specify the number of hours of continuing education a notary must complete over the duration of the notary's license and may specify content to be included in the continuing education.

§ 147.631 Fee for online notary course.

(A)(1) The secretary of state may charge a fee for the online notary course of instruction and examination to each person who is registering to be an online notary.

(2) The secretary shall not charge a fee to a notary obtaining an electronic seal and signature solely for the purpose of conducting notarizations as described in section 147.591 of the Revised Code.

(B) The notary public taking the online notary course of instruction and the examination shall remit the fee to the authorized entity that administered the online notary course of instruction and examination required by division (B) of section 147.63 of the Revised Code. The notary public shall remit to the secretary of state the portion of that fee specified pursuant to division (C)(2) of this section.

(C) The secretary of state shall adopt rules in accordance with Chapter 119. of the Revised Code to do both of the following:

(1) Establish the amount of the fee authorized by division (A) of this section, which shall not exceed four times the amount of the fee established pursuant to division (C)(1) of section 147.37 of the Revised Code;

(2) Establish the portion of the fee, not to exceed twenty dollars, that the notary public is required to remit to the secretary of state.

§ 147.64 Authority of an online notary public.

(A)(1) Except as provided in division (A)(3) of this section, an online notary public has the authority to perform any notarial act as an online notarization.

(2) An electronic document notarized through an online notarization shall be considered an original document.

(3) An online notary public shall not take or certify a deposition as an online notarization.

(B) A notary public of this state who has been authorized by the secretary of state to perform online notarizations may perform online notarizations only if both of the following conditions are met:

(1) The online notary public is a resident of this state.

(2) The online notary public is located within the geographical boundaries of this state at the time of the online notarization.

(C)(1) A notary public may perform an online notarization by means of audio-video communication in compliance with this act and any other rules adopted by the secretary

of state for any principal who is located within the territory of the United States.

(2) A notary public may perform an online notarization for a principal located outside the territory of the United States only if both of the following conditions are met:

(a) The act is not known by the notary public to be prohibited in the jurisdiction in which the principal is physically located at the time of the act.

(b) The record meets any of the following:

(i) Is part of, or pertains to, a matter that is to be filed with or is before a court, governmental entity, or other entity located in the territorial jurisdiction of the United States;

(ii) Involves real or personal property located in the territorial jurisdiction of the United States;

(iii) Is part of, or pertains to, a transaction substantially connected with the United States.

(D) If an online notarization requires a principal to appear before an online notary public, the principal shall appear in person before the notary public and the principal and the notary public shall each sign the record with an electronic signature.

(E)(1) In performing an online notarization, a notary public shall determine from personal knowledge or satisfactory evidence of identity as described in division (E)(2) of this section that the principal appearing before the notary by means of live audio-video communication is the individual that he or she purports to be.

(2) A notary public has satisfactory evidence of identity if the notary can identify the individual who appears in person before the notary by means of audio-video communication based on either of the following:

(a) All of the following:

(i) Remote presentation by the principal of a government-issued identification credential, including a passport or driver's license, that contains the signature and photograph of the principal;

(ii) Credential analysis of the identification credentials provided;

(iii) Identity proofing of the principal.

(b) Verification by one or more credible witnesses who appear in person before the notary and who can be identified by either personal knowledge or all of the following:

(i) Presentation of a government-issued identification credential, including a passport or driver's license, that contains the signature and photograph of the witness;

(ii) Credential analysis of the identification credentials provided;

(iii) Identity proofing of the witness.

(F) The secretary of state shall include in rules adopted under section 147.62 of the Revised Code modified forms of notarial certificates for any notarial act that is an online notarization.

§ 147.65 Online notary public records.

(A) An online notary public shall maintain one or more electronic journals in which the online notary public records, in chronological order, all online notarizations that the online notary public performs. The electronic journal shall enable access by a password or other secure means of authentication and be in a tamper-evident electronic format complying with the rules of the secretary of state adopted under section 147.62 of the Revised Code.

(B) For every online notarization, the online notary public shall record the following information in the electronic journal:

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

(2) The type of notarial act;

(3) The title or a description of the record being notarized, if any;

(4) The electronic signature of each principal;

(5) The printed full name and address of each principal;

(6) If identification of the principal is based on personal knowledge, a statement to that effect;

(7) If identification of the principal is based on satisfactory evidence of identity pursuant to division (E)(2) of section 147.64 of the Revised Code, a description of the evidence relied upon, including the date of issuance or expiration of any identification credential presented;

(8) If identification of the principal is based on a credible witness or witnesses, the name of the witness or witnesses;

(9) If the notarization was not performed at the online notary public's business address, the address where the notarization was performed;

(10) A description of the online notarization system used;

(11) The fee, if any, charged by the notary;

(12) The name of the jurisdiction in which the principal was located at the time of the online notarization;

(13) The recording upon which the identification of the principal is based, as required under division (D)(3) of this section;

(14) Any other information required by the secretary of state.

(C) An online notary public shall not record a social security number in the electronic journal.

(D) An online notary public shall do all of the following:

(1) Take reasonable steps to ensure the integrity, security, and authenticity of online notarizations;

(2) Take reasonable steps to ensure that the two-way, audio-video communication used in an online notarization is secure from unauthorized interception;

(3) Create and maintain pursuant to this section a complete recording of the audio-video communication that is the basis for identification of a principal for each online notarization;

(4) Maintain a backup for the electronic journal required by division (A) of this section and the audio-video recordings required by division (D)(3) of this section;

(5)(a) Safeguard the electronic journal and all other notarial records by doing all of the following:

(i) Not allowing the electronic journal to be used by another notary;

(ii) Creating the audio-video recording required under division (D)(3) of this section in a tamper-evident electronic format complying with the rules of the secretary of state adopted under section 147.62 of the Revised Code;

(iii) Protecting the electronic journal and audio-video recordings from unauthorized use.

(b) An online notary public may use a third party to keep and store the electronic journal. The secretary of state shall adopt, in rules under Chapter 119. of the Revised Code, standards pertaining to the use of such a third party.

(6) Surrender or destroy the electronic journal and all other notarial records only by rule of law, by court order, or at the direction of the secretary of state;

(7) Not surrender the electronic journal to an employer upon termination of employment.

(E)(1) An employer shall not retain the electronic journal of an employee who is an online notary public when the notary's employment ceases.

(2) Notwithstanding division (E)(1) of this section, an online notary public may make an agreement with a current or former employer pursuant to division (D)(5)(b) of this section.

(3) An online notary public may use any current or former employer approved as a repository by the secretary of state to meet all applicable repository requirements of this section or section 147.66 of the Revised Code and any associated rules.

(F)(1) Except as provided in division (E) of section 147.66 of the Revised Code, an electronic journal required under division (A) of this section and the audio-video recordings required by division (D)(3) of this section shall be maintained by the online notary public during the term of the online notary public's authorization to perform online notarizations.

(2) Upon the expiration, pursuant to division (D) of section 147.63 of the Revised Code, of the notary public's authorization to conduct online notarizations, the online notary public shall transmit the electronic journal to the secretary of state or to a repository approved by the secretary of state. The secretary of state or repository shall maintain the electronic journal for a period of ten years. If the electronic journal is transmitted to a repository, the online notary public shall inform the secretary of state where the journal is located during this period.

(3) If the notary public renews the notary public's authorization to conduct online notarizations pursuant to division (D) of section 147.63 of the Revised Code, the notary public shall, beginning on the date the renewal is effective, maintain a new electronic journal in accordance with this section.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person may inspect or request a copy of an entry or entries in the online notary public's journal, provided that all of the following are met:

(a) The person specifies the month, year, type of record, and name of the principal for the notarial act, in a signed tangible or electronic request.

(b) The notary does not surrender possession or control of the journal.

(c) The person is shown or given a copy of only the entry or entries specified.

(d) A separate new entry is made in the journal, explaining the circumstances of the request and noting any related act of copy certification by the online notary public.

(2) Notwithstanding division (A)(5) of section 147.141 of the Revised Code, an online notary public may certify copies made from the online notary public's electronic journal.

(3) An online notary public who has a reasonable and explainable belief that a person requesting information from the notary's journal has a criminal or other inappropriate purpose may deny access to any entry or entries.

(4) An attorney authorized to conduct online notarizations shall only allow inspection, or provide copies, of an entry or entries in the attorney's journal if the requesting party was a principal in the transaction or transactions to which the journal entry or entries apply or if the requesting party is acting on a principal's behalf. An attorney may deny a request to inspect or receive copies of a journal entry based on attorney-client privilege.

(5) The secretary of state, or a repository approved by the secretary of state, shall only allow inspection, or provide copies of, an entry or entries in a journal deposited with the

secretary or the repository by an attorney authorized to conduct online notarizations if the requesting party was a principal in the transaction or transactions to which the journal entry or entries apply or if the requesting party is acting on a principal's behalf.

(H)(1) The journal may be examined and copied without restriction by a law enforcement officer, as defined in section 2901.01 of the Revised Code, in the course of an official investigation, subpoenaed by court order, or surrendered at the direction of the secretary of state.

(2) Notwithstanding division (H)(1) of this section, an attorney authorized to conduct online notarizations may object to the examination, or copying, of the attorney's journal pursuant to division (H)(1) of this section based on attorney-client privilege.

§ 147.66 Security measures.

(A) An online notary public shall take reasonable steps to ensure that any device or software used to create an official electronic signature is current and has not been recalled or declared vulnerable by the device or software's manufacturer, seller, or developer.

(B)(1) An online notary public shall do both of the following:

(a) Except as provided in division (D)(5)(b) of section 147.65 of the Revised Code, keep the online notary public's electronic journal, official electronic signature, and electronic seal secure and under the online notary public's exclusive control;

(b) Use the online notary public's official electronic signature and electronic seal only for performing online notarizations or notarizations pursuant to section 147.591 of the Revised Code.

(2) An online notary public shall not allow another person to use the online notary public's electronic journal, official electronic signature, or electronic seal.

(C)(1) A third party keeping and storing electronic journals for online notaries public pursuant to division (D)(5)(b) of section 147.65 of the Revised Code shall immediately, upon discovery, notify the secretary of state, an appropriate law enforcement agency, and any affected online notaries public of the unauthorized access, modification, transfer, duplication, or use of any electronic journals in the third party's possession or control.

(2) If notice has not already been given pursuant to division (C)(1) of this section, a third party keeping and storing electronic journals for online notaries public pursuant to division (D)(5)(b) of section 147.65 of the Revised Code shall immediately, upon discovery, notify the secretary of state and any affected online notaries public of the loss of any electronic journals in the third party's possession or control.

(3) If notice has not already been given pursuant to division (C)(1) or (2) of this section, an online notary public shall immediately, upon discovery, notify an appropriate law enforcement agency and the secretary of state of the unauthorized access, modification, transfer, duplication, or use of the online notary public's electronic journal, official electronic signature, or electronic seal.

(4) If notice has not already been given pursuant to division (C)(1), (2), or (3) of this section, an online notary public shall immediately notify the secretary of state of the loss of the online notary public's electronic journal, official electronic signature, or electronic seal.

(D) An online notary public shall attach the online notary public's electronic signature and electronic seal to the notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent change or modification to

the electronic document evident.

(E)(1)(a) Upon resignation, revocation, or expiration without renewal of an online notary public commission, the online notary public shall transmit the electronic journal to the secretary of state or to a repository approved by the secretary of state. This requirement does not apply to electronic journals that, as of the date of the resignation or expiration, were no longer kept in accordance with division (F) of section 147.65 of the Revised Code. If the electronic journal is transmitted to a repository, the online notary public shall inform the secretary of state where the journal is located during this period.

(b) Upon death or adjudicated incompetence of a current or former notary public, the executor or administrator of the online notary public's estate, the notary's guardian, or any other person knowingly in possession of the online notary public's electronic journal, shall transmit the journal to the secretary of state or to a repository approved by the secretary of state.

(2) The online notary public, the notary's personal representative or guardian, or the administrator or the executor of the notary's estate shall provide access instructions to the secretary of state for any electronic journal maintained or stored by the online notary public, upon commission resignation, revocation, or expiration without renewal, or upon the death or adjudicated incompetence of the online notary public, if that person is in possession of such instructions.

(3) The secretary of state or repository receiving a journal transmitted under division (E)(1) of this section shall maintain the journal for a period of ten years.

PENALTIES

§ 147.99 Penalties.

Whoever violates section 147.10 of the Revised Code shall be fined not more than five hundred dollars.

TITLE 47. OCCUPATIONS – PROFESSIONS
CHAPTER 4776. CRIMINAL CHECKS REQUIRED FOR CERTAIN OCCUPATIONAL LICENSES

§ 4776.10 Definitions.

As used in Chapters 4713., 4738., 4740., 4747., 4749., and 4764., and sections 4725.40 to 4725.59 of the Revised Code:

(A) "Crime of moral turpitude" or "moral turpitude" means all of the following:

(1) A violation of section 2903.01 or 2903.02 of the Revised Code;

(2) A sexually oriented offense as defined in section 2950.01 of the Revised Code;

(3) An offense that is an offense of violence as defined in section 2901.01 of the Revised Code, if the offense is a felony of the first or second degree;

(4) Complicity in committing an offense described in division (A)(1) of this section;

(5) An attempt or conspiracy to commit or complicity in committing any offense described in division (A)(1), (2), (3), or (4) of this section if the attempt, conspiracy, or complicity is a felony of the first or second degree;

(6) A violation of any former law of this state, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation

other than the United States that is or was substantially equivalent to any offense listed in division (A)(1), (2), (3), (4), or (5) of this section.

(B) "Direct nexus" means that the nature of the offense for which the individual was convicted or to which the individual pleaded guilty has a direct bearing on the fitness or ability of the individual to perform one or more of the duties or responsibilities necessarily related to a particular occupation, profession, or trade.

(C) "Disqualifying offense" means an offense that is a felony and that has a direct nexus to an individual's proposed or current field of licensure, certification, or employment.

TITLE 51. PUBLIC WELFARE
CHAPTER 5101. DEPARTMENT OF JOB AND FAMILY SERVICES – GENERAL PROVISIONS

5101.60 Adult protective services definitions.

As used in sections 5101.60 to 5101.73 of the Revised Code:

(A) "Abandonment" means desertion of an adult by a caretaker without having made provision for transfer of the adult's care.

(B) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(C) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.

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(J) "Exploitation" means the unlawful or improper act of a person using, in one or more transactions, an adult or an adult's resources for monetary or personal benefit, profit, or gain when the person obtained or exerted control over the adult or the adult's resources in any of the following ways:

(1) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf;

(2) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf;

(3) By deception;

(4) By threat;

(5) By intimidation.

***

(O) "Neglect" means any of the following:

(1) Failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness;

(2) Failure of a caretaker to provide such goods or services;

(3) Abandonment.

***

5101.63 Reporting abuse, neglect or exploitation of adult.

(A)

(1) No person listed in division (A)(2) of this section having reasonable cause to

believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall knowingly fail to immediately report such belief to the county department of job and family services.

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(2)

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(bb) An individual appointed and commissioned under section 147.01 of the Revised Code as a notary public;

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(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.65 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall do any of the following as a result of an employee's having filed a report under this section:

(1) Discharge, demote, transfer, or prepare a negative work performance evaluation;

(2) Reduce benefits, pay, or work privileges;

(3) Take any other action detrimental to an employee or in any way retaliate against the employee.

(F) The written or oral report provided for in this section and the investigatory report provided for in section 5101.65 of the Revised Code are confidential and are not public records, as defined in section 149.43 of the Revised Code. In accordance with rules adopted by the department of job and family services, information contained in the report shall upon request be made available to the adult who is the subject of the report and to legal counsel for the adult. If it determines that there is a risk of harm to a person who makes a report under this section or to the adult who is the subject of the report, the county department of job and family services may redact the name and identifying information related to the person who made the report.

(G) The county department of job and family services shall be available to receive the written or oral report provided for in this section twenty-four hours a day and seven days a week.

5101.631 Uniform statewide automated adult protective services information system.

(A) The department of job and family services shall establish and maintain a uniform statewide automated adult protective services information system. The information system shall contain records regarding all of the following:

(1) All reports of abuse, neglect, or exploitation of adults made to county departments of job and family services under section 5101.63 of the Revised Code;

(2) Investigations conducted under section 5101.65 of the Revised Code;

(3) Protective services provided to adults pursuant to sections 5101.60 to 5101.73 of the Revised Code;

(4) Any other information related to adults in need of protective services that state or federal law, regulation, or rule requires the department or a county department to maintain.

(B) The department shall plan implementation of the information system on a county-by-county basis. The department shall promptly notify all county departments of the initiation and completion of statewide implementation of the information system.

(C)(1) The department shall, upon request, release information in the information system to county departments conducting investigations pursuant to section 5101.65 of the Revised Code and to local law enforcement agencies conducting criminal investigations. The department may release information in the information system to law enforcement agencies through the Ohio law enforcement gateway established under section 109.57 of the Revised Code. Information contained in the information system may be accessed or used only in a manner, to the extent, and for the purposes authorized by this section and rules adopted by the department.

(2) Except as provided in division (C)(1) of this section and in rules adopted by the department pursuant to that division, no person shall knowingly do either of the following:

(a) Access or use information contained in the information system;

(b) Disclose information obtained from the information system.

5101.632 Access to educational materials.

Each entity that employs or is responsible for licensing or regulating the individuals required under section 5101.63 of the Revised Code to make reports of abuse, neglect, or exploitation of adults shall ensure that the individuals have access to the educational materials developed under division (B) of section 5101.62 of the Revised Code.

5101.99 Penalties.

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(B) Whoever violates section 5101.11, division A of section 5101.63, or division (C)(2) of section 5101.631 of the Revised Code is guilty of a misdemeanor in the fourth degree.

TITLE 53. REAL PROPERTY
CHAPTER 5301. CONVEYANCES, ENCUMBRANCES

§ 5301.071 Validity of instruments.

No instrument conveying real estate, or any interest therein, and of record in the office of the county recorder of the county within this state in which such real estate is situated shall be deemed defective nor shall the validity of such conveyance be affected because:

(A) The dower interest of the spouse of any grantor was not specifically released but

such spouse executed said instrument in the manner provided in section 5301.01 of the Revised Code.

(B) The officer taking the acknowledgment of such instrument having an official seal did not affix such seal to the certificate of acknowledgment.

(C) The certificate of acknowledgment is not on the same sheet of paper as the instrument.

(D) The executor, administrator, guardian, assignee, or trustee making such instrument signed or acknowledged the same individually instead of in his representative or official capacity.

§ 5301.01 Acknowledgment of deed, mortgage, land contract, lease or memorandum of trust.

(A) A deed, mortgage, land contract as referred to in division (A) (2) (b) of section 317.08 of the Revised Code, or lease of any interest in real property and a memorandum of trust as described in division of section 5301.255 (5301.25.5) of the Revised Code shall be signed by the grantor, mortgagor, vendor, or lessor in the case of a deed, mortgage, land contract, or lease or shall be signed by the settlor and trustee in the case of a memorandum of trust. The signing shall be acknowledged by the grantor, mortgagor, vendor, or lessor, or by the settlor and trustee, before a judge or clerk of a court of record in this state, or a county auditor, county engineer, notary public, or mayor, who shall certify the acknowledgement and subscribe the official's name to the certificate of the acknowledgement.

(B)(1) If a deed, mortgage, land contract as referred to in division (A) (2) (b) of section 317.0 of the Revised Code, lease of any interest in real property, or a memorandum of trust as described in division of section 5301.255 (5301.25.5) of the Revised Code was executed prior to February 1, 2002, and was not acknowledged in the presence of, or was not attested by, two witnesses as required by this section prior to that date, both of the following apply:

(a) The instrument is deemed properly executed and is presumed to be valid unless the signature of the grantor, mortgagor, vendor, or lessor in the case of a deed, mortgage, land contract, or lease or of the settlor and trustee in the case of a memorandum of trust was obtained by fraud.

(b) The recording of the instrument in the office of the county recorder of the county in which the subject property is situated is constructive notice of the instrument to all persons, including without limitation, a subsequent purchaser in good faith or any other subsequent holder of an interest in the property, regardless of whether the instrument was recorded prior to, on, or after February 1, 2002.

(2) Division (B) (1) of this section does not affect any accrued substantive rights or vested rights that came into existence prior to February 1, 2002.

TITLE XIII. COMMERCIAL TRANSACTIONS
OHIO UNIFORM COMMERCIAL CODE
CHAPTER 1306. UNIFORM ELECTRONIC TRANSACTIONS ACT

§ 1306.10. Notary, acknowledgment, verification or oath requirement.

If a law requires a signature or record to be notarized, acknowledged, verified, or

made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

OHIO ADMINISTRATIVE CODE
111 SECRETARY OF STATE
CHAPTER 111:6 NOTARY

111: 6-1 Definitions.

(A) "Applicant" means any person applying for a notary commission pursuant to section 147.01 or an online notary authorization pursuant to section 147.63 of the Revised Code.

(B) "Authorized education and testing provider" and "authorized provider" mean those entities approved by the secretary of state to offer education and testing to notary commission applicants and attorneys pursuant to section 147.021 of the Revised Code and section 147.63 for online notary authorization.

(C) "Credential analysis" means the same as provided in division (B) of section 147.60 of the Revised Code.

(D) "Dynamic knowledge-based authentication" means a form of identity proofing as defined by division (G) of section 147.60 of the Revised Code that is based on a set of questions formulated from public or private data sources for which the principal has not provided a prior answer.

(E) "Document" means a record consisting of information inscribed on a tangible medium or that is created, generated, sent, communicated, received, or stored in an electronic medium and is retrievable in perceivable form. The term includes "electronic document."

(F) "Electronic document" means the same as provided in division (D) of section 147.60 of the Revised Code.

(G) "Electronic notarial act" means a notarial act listed in section 147.51 of the Revised Code that is performed using an official electronic signature and seal on an electronic document, by an individual commissioned as a notary public pursuant to section 147.01 of the Revised Code.

(H) "Electronic Seal" means the same as provided in division (E) of section 147.60 of the Revised Code.

(I) "Electronic Signature" means the same as provided in division (F) of section 147.60 of the Revised Code.

(J) "Exclusive control" means accessible by and attributable solely to the notary public to the exclusion of all other persons and entities, either through being in the direct physical custody of the notary public or through being secured with one or more biometric password, token or other authentication technologies.

(K) "Notarial Act" for purposes of this chapter means an official act that a notary public is authorized to perform by law and as provided in section 147.60(H) of the Revised Code.

(L) "Notarial Certificate" means the portion of a notarized document that is completed by a notary public and that bears the notary public's signature, seal and

language as required by law.

(M) “Notary commission” is a commission issued to a notary public pursuant to sections 147.01 – 147.12 of the Revised Code.

(N) “Notary Public” means an individual commissioned by the secretary of state under section 147.01 of the Revised Code. A notary public does not have the authority to perform online notarizations unless also authorized by the secretary of state to perform an online notarization, however, a notary public may engage in an electronic notarial act as permitted under section 147.591 of the Revised Code.

(O) “Official electronic signature” means the electronic signature used by a notary public commissioned pursuant to section 147.01 of the Revised Code; and the electronic signature used by a notary public who is authorized as an online notary public pursuant to section 147.63 of the Revised Code.

(P) “Online notarization” means the same as provided in section 147.60(I) of Revised Code. The term includes “online notarial act.”

(Q) “Online notarization system” means a set of applications, programs, hardware, software, or technology designed to enable a notary public to perform online notarial acts.

(R) “Online Notary Public” means the same as division (J) of section 147.60 of the Revised Code.

(S) “Principal” means a person whose signature is notarized or a person, other than a credible witness, taking an oath or affirmation from the notary.

(T) “Real time” means the actual span of uninterrupted, simultaneous communication during which all parts of an online notarial act using audio-video communication occur.

(U) “Record” includes a document as defined in this chapter; an entry in a journal maintained by an online notary public pursuant to section 147.65 of the Revised Code; the audio-video recording required in section 147.65(D)(3) of the Revised Code; and a notary public’s record kept by the secretary of state under section 147.05 of the revised code.

(V) “Remote presentation” means the same as provided in division (L) of section 147.60 of the Revised Code.

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111: 6-02 Notary Commission Education and Testing Requirements.

(A) An authorized education and testing provider, as described in sections 147.21 and 147.63 of the Revised Code, must be approved by the secretary of state. A potential authorized education and testing provider must submit a request to be approved as an authorized provider to the secretary of state and must respond to the secretary of state’s request for information.

(B) The secretary of state shall provide information on its official website to inform applicants of the authorized providers’ names and contact information.

(C) Curriculum for notary commission education shall include, but is not limited to, all of the following:

(1) The terms of a notary commission;

(2) Requirements to update and renew a commission;

(3) Reporting requirement if a notary public is convicted or pleads guilty or no contest to a disqualifying offense;

(4) Geographic jurisdiction of a notary public;

(5) Maintaining a notarial journal;

(6) Requirements for a notary seal;

(7) What constitutes a notarial act that complies with applicable Ohio law and administrative rules;

(8) How to perform a compliant notarial act, including examples involving commonly notarized documents;

(9) Administration of an oath or affirmation;

(10) Verifying the identity of the principal;

(11) The taking of an acknowledgment;

(12) The administration of a jurat;

(13) The manner of taking depositions;

(14) Signatures by mark;

(15) Method to notarize a document signed by a designated alternative signer;

(16) Overview and examples of prohibited acts;

(17) Explanation of electronic notarizations;

(18) What constitutes unauthorized immigration consultant acts and the unauthorized practice of law by a notary;

(19) The fees a notary public is permitted to charge;

(20) Mandatory reporting that is required of a notary;

(21) The conditions under which a commission may be revoked; and

(22) Investigation and disciplinary processes.

(D) Curriculum for online notary authorizations education shall include but not be limited to all notarial rules, procedures and ethical obligations pertaining to online notarizations under sections 147.60 to 147.66 of the Revised Code.

(E) Curriculum for continuing education for commissions and online authorizations shall include, but not be limited to, any updates to Ohio notary law or the administrative rules.

(F) Applicants for a notary commission who are required to successfully pass a test pursuant to sections 147.021 and 147.63 of the Revised Code must be tested on all of topics listed in division (C) and (D) of this rule and any updates to this state’s notary law or the administrative rules. An authorized education and testing provider must offer multiple curriculum tests so that there is not one uniform test in circulation.

(G) An authorized education and testing provider must seek approval from the secretary of state prior to providing education and testing services to applicants. The secretary of state may request documentation to ensure the authorized provider has met the standards. An authorized provider must notify the secretary of state of material modifications to its educational program and testing at least ten days prior to such modifications, and implement such modifications only upon receiving the approval of the secretary of state.

(H) An authorized education and testing provider must update its continuing education curriculum and testing when there are legislative updates to this state's notary law or changes to the administrative rules.

(I) Updated education and testing materials must be submitted electronically to the secretary of state for review. The updates must be identified and submitted to the secretary of state by the established deadline.

(J) Authorized education and testing providers are expected to be subject matter experts on this state's notary law and the administrative rules. It is the education and testing provider's responsibility to track and understand legislative and rule changes, and update continuing education and testing materials accordingly.

(K) An authorized provider must electronically share data related to an applicant's education completion and testing results with the secretary of state, upon request of the secretary of state.

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111: 6-03 Fee for Application, Education and Testing.

(A) Non-Attorney Notary Commission Application, Education and Testing Requirements.

(1) Non-attorney notary commission applicants must complete a three-hour education program and pass a test administered by an authorized provider.

(2) The applicant shall submit to the authorized provider a fee of one hundred thirty dollars for the required education and testing as described in (A)(1) of this rule.

(3) An applicant who fails the test required by section 147.021 of the Revised Code, may apply to retake the exam not sooner than 30 days following the date of his or her last examination, and no later than 6 months following the issuance of the criminal records check. Should an applicant fail the exam a second time, the applicant must re-start the process with a new application including the fee as described in (A)(2) of this rule.

(4) An applicant must pay a fee of fifteen dollars to the secretary of state upon filing the application for a commission.

(B) Attorney Notary Commission Application and Education Requirements.

(1) Attorney notary commission applicants must successfully complete a three-hour education program conducted by an authorized provider.

(2) The applicant shall submit to the authorized provider a fee of seventy-five dollars for the required education described in (B)(1) of this rule.

(3) An applicant must pay a fee of fifteen dollars to the secretary of state upon filing the application for a commission.

(C) Notary Commission Renewal Application and Education Requirements

(1) A non-attorney notary commission renewal applicant must successfully complete a one-hour education program, no earlier than twelve (12) months prior to the expiration of their commission, conducted by an authorized provider.

(2) The applicant shall submit to the authorized provider a fee of forty-five dollars for the required education described in (C)(1) of this rule.

(3) An applicant must pay a fee of fifteen dollars to the secretary of state upon filing the application for a commission.

(D) Online Notarization Authorization Application, Education and Testing Requirements

(1) A notary public who has been duly appointed and commissioned under section 147.01 of the Revised Code, and who is a resident of this state, may apply to the secretary of state for authorization to perform online notarizations public during the term of that notary public's commission.

(2) The applicant must successfully complete a two-hour education program and pass a test administered by an authorized provider.

(3) The applicant shall submit to the authorized education and testing provider a fee of two hundred fifty dollars for the required education and testing program.

(4) Should an applicant fail the test required by section 147.63 of the Revised Code, the applicant may apply to retake the exam not sooner than 30 days following the date of the applicant's most recent examination, and no later than 6 months following date of completion of the education program. Should the applicant fail the exam a second time, the applicant must re-start the process with a new application including the fee described in (D)(3) of this rule.

(5) An applicant must pay a fee of twenty dollars to the secretary of state upon filing the application for authorization to perform online notarizations.

(E) Online Notarization Authorization Renewal Application and Education Requirements

(1) A non-attorney notary public authorized to perform online notarial acts may apply to renew the authorization to perform online notarizations no earlier than three months prior to expiration of the applicant's notary commission.

(2) An attorney notary public authorized to perform online notarial acts may apply to renew the authorization to perform online notarizations no earlier than three months prior to expiration of the online notary authorization.

(3) An applicant must successfully complete a one-hour education program, no earlier than twelve (12) months prior to the expiration of their commission, conducted by an authorized provider.

(4) The applicant shall submit a fee to an authorized provider of one hundred sixty dollars for the required continuing education described in division (E)(3) of this rule.

(5) An applicant must pay a fee of twenty dollars to the secretary of state upon filing the application for a commission.

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111: 6-04 Electronic Notarial Certificate Forms

For electronic notarial acts performed by a notary public for a principal in the notary public's physical presence; and for electronic notarial acts performed by an online notary public using audio-video communication for a principal not in the online notary public's physical presence; the notarial certificate forms provided in section 147.55 of the Revised Code may be used and are sufficient for their respective purposes under any section of the Revised Code, if the forms include these or similar statements, as applicable:

(a) "This certificate pertains to an electronic notarial act performed with the

principal(s) in my physical presence"; or

(b) "This certificate pertains to an electronic notarial act performed with the principal(s) appearing online using audio-video communication."

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111: 6-05 Requirements for Online Notarial Acts.

(A) An online notary public must be physically located within the boundaries of Ohio at the time the notarial act takes place; however, the signer may be located anywhere within the territory of the United States or outside the United States only if the conditions set forth in section 147.64(C)(2) are met.

(B) Online notarizations must occur with the use of an online notarization system, which has two-way live audio and video conference technology, and that meets the following requirements:

(1) The online notary public must be able to verify the identity of the remotely located individual at the time the signature is taken by one of the following methods:

(a) The online notary public's personal knowledge of the individual;

(b) Each of the following:

(i) Remote presentation of an unexpired government-issued identification credential that contains the photograph and signature of the individual to the online notary public by means of communication technology;

(ii) Credential analysis of the identification credential in accordance with section (B)(4) of this rule; and

(iii) Identity proofing of the individual in accordance with section (B)(5) of this rule.

(c) Oath or affirmation of a single credible witness who personally knows the individual and either is personally known to the online notary public or who is identified by the online notary public under paragraph (b) of this subsection.

(2) A credible witness under subsection (B)(1)(c) may appear before the online notary public by means of communication technology that complies with Chapter 147 of the Ohio Revised Code and these rules.

(3) Credential analysis and identity proofing must be performed by a reputable third person who has provided reasonable evidence to the online notary public of the person's ability to satisfy the requirements of Chapter 147 of the Ohio Revised Code and this rule.

(4) Credential analysis must utilize public or private data sources to confirm the validity of an identification credential and must, at a minimum:

(a) use automated software processes to aid the online notary public in verifying the identity of a remotely located individual;

(b) ensure that the identification credential passes an authenticity test, consistent with sound commercial practices that:

(i) use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features;

(ii) use appropriate technologies to confirm that the identification credential is not fraudulent or inappropriately modified;

(iii) use information held or published by the issuing source or an authoritative source, as available, to confirm the validity of identification credential details; and

(iv) provide output of the authenticity test to the online notary public;

(c) enable the online notary public to visually compare for consistency:

(i) the information and photograph on the presented credential, and

(ii) the remotely located individual as viewed by the online notary public in real time through communication technology;

(d) require a government-issued identification credential that:

(i) is an unexpired government-issued identification credential that contains the photograph and signature of the individual; and

(ii) may be imaged, photographed, and video recorded under applicable state and federal law; and

(iii) can be subjected to credential analysis.

(e) include an image capture procedure that confirms that:

(i) the remotely located individual is in possession of the credential at the time of the notarial act;

(ii) credential images submitted for credential analysis have not been manipulated; and

(iii) credential images match the credential in the possession of the remotely located individual; and

(f) require the captured image of the identification credential to:

(i) be of sufficient image resolution to perform credential analysis in accordance with the requirements of this subsection;

(ii) be of sufficient image resolution to enable visual inspection of the credential by the notary public; and

(iii) include all images necessary to perform visual inspection and credential analysis in accordance with the requirements of this subsection, including the identity page of any passport and the front and back images of any identification card.

(5) Identity proofing shall be performed by means of a dynamic knowledge-based authentication or through another process approved by the secretary of state. The dynamic knowledge based authentication must, at a minimum, meet the following requirements:

(a) each remotely located individual must answer, at a minimum, five questions related to the remotely located individual's personal history or identity, formulated from public or private data sources;

(b) each question must have a minimum of five possible answer choices;

(c) at least 80% of the questions must be answered correctly;

(d) all questions must be answered within two minutes;

(e) if the remotely located individual fails the first attempt, the individual may retake the quiz two times within 48 hours;

(f) during a retake of the quiz, a minimum of 40% of the prior questions must be replaced;

(g) if the remotely located individual fails the second attempt, the individual is not permitted to retry with the same notary or the same third person providing the identity proofing service within 24 hours of the second failed attempt; and

(h) the online notary public must not be able to see or record the questions or answers.

(6) The online notarization system used must meet the following criteria:

(a) The persons communicating must simultaneously see and speak to one another.

(b) The signal transmission must be live, real time audio-visual feeds.

(c) The signal transmission must be secure from interception or access by anyone other than the persons communicating.

(d) The technology must provide sufficient audio clarity and video resolution to enable the notary to communicate with the signer and utilize the permissible signer identification methods.

(e) The system must provide confirmation that the electronic document presented is the same as the electronic document notarized.

(f) Allow for the affixation of the notarial certificate, signature and seal.

(g) Allow for viewing the notarial certificate, signature and seal.

(h) Provide a method for determining if the electronic document has been altered after the electronic notarial seal has been affixed and the electronic notarial act has been completed.

(i) Provide a method of generating a paper copy of the document including the notarial certificate, signature and seal and any other document associated with the execution of the notarial act.

(C) If the signer or online notary public must exit the audio-video communication session, the audio-video communication link is broken, or the resolution or quality of the transmission becomes such that the electronic notary public believes the process has been compromised and cannot be completed, the identity authentication process and any incomplete online notarial acts must be started from the beginning.

(D) The online notary public shall refuse to perform an online notarization if:

(1) the online notary public is unable to verify the identity of the principal;

(2) the online notary public is unable to verify the security of the two way audio visual transmission;

(3) the signature of the principal cannot be attached to the electronic document; or

(4) the online notarization system or technology cannot render the notarial act tamper-evident.

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111: 6-06 Complaints.

Any person may submit a complaint alleging that a notary public has violated one or more of the provisions of Chapter 147. of the Revised Code. The complaint shall be submitted to the secretary of state on a form prescribed by the secretary of state. The form shall be made available on the secretary of state's website or by contacting the business services division of the secretary of state's office. The complaint must include: Any person may submit a complaint in writing to the secretary of state and allege that a notary public has violated one or more of the provisions of Chapter 147 of the Revised Code. The complaint must include:

(a) the name of the notary public;

(b) the notary public's commission number, if known;

(c) an explanation of the reason for the complaint and, if known, the citation of each statutory provision which the notary public is alleged to have violated;

(d) a copy of each document related to the matter; and

(e) the name, phone number, address, email address and signature of the person submitting the complaint.

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111: 6-07 Investigations and Discipline. (RESCINDED)

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