

## INDIANA CODE

### TITLE 2. GENERAL ASSEMBLY ARTICLE 3. COMPENSATION AND RIGHTS OF LEGISLATORS CHAPTER 4. POWER TO TAKE ACKNOWLEDGMENTS

#### **2-3-4-0.5. Legislative notary.**

As used in this chapter, “legislative notary” refers to any of the following:

- (1) A member of the general assembly.
- (2) The principal clerk of the house of representatives.
- (3) The principal secretary of the senate.

*History*

*P.L.130-2024, § 1, effective July 1, 2024.*

#### **2-3-4-1. Legislative notary duties.**

(a) A legislative notary may do any of the following:

- (1) Take acknowledgment to a deed or any other instrument in writing.
- (2) Administer oaths, protest notes, and checks.
- (3) Take the deposition of a witness.
- (4) Take and certify an affidavit or a deposition.
- (5) Perform any other duty conferred upon a notary public Indiana statutes.

(b) An acknowledgment to a deed or other instrument taken by a legislative notary entitles the deed or other instrument to be recorded the same as though acknowledged before a notary public.

*History*

*Acts 1909, ch. 65, § 1, p. 164; 1982, P.L. 6, § 1; P.L.2-1985, § 1; P.L.130-2024, § 2, effective July 1, 2024.*

#### **2-3-4-2. Legislative notary authorization — Seal — Impression — Attestation.**

(a) Except as provided in subsection (c), a legislative notary is not authorized to perform any of the acts described in section 1 [IC 2-3-4-1] of this chapter until the individual procures a seal that will stamp upon paper a distinct impression, in words or letters, sufficiently indicating the individual’s official character as a legislative notary. The individual may add to the seal any other device the individual chooses.

(b) Except as provided in subsection (c), an act not attested by a seal described in subsection (a) is void.

(c) If a legislative notary is performing an act described in section 1(a)(2) [IC 2-3-4-1(a)(2)] of this chapter, the act does not need to be attested by a seal.

*History*

*Acts 1909, ch. 65, § 2, p. 164; 1982, P.L. 2, § 9; P.L.130-2024, § 3, effective July 1, 2024.*

#### **2-3-4-3. Expiration date of legislative notary’s power — Expiration of the power of the legislative notary.**

(a) When performing any of the acts described in section 1 [IC 2-3-4-1] of this chapter, a legislative notary must show the date that the legislative notary’s power expires as provided in subsection (c) on the document at the time the legislative notary signs an acknowledgment, a jurat, or any other official document.

(b) The power of a legislative notary to perform the acts described in section 1 of this chapter extends throughout Indiana.

(c) The power of a legislative notary expires as follows:

(1) If the individual is a member of the general assembly, the date the individual's current term of office expires.

(2) If the legislative notary is not a member of the general assembly, the date the term of the current general assembly expires.

*History*

*Acts 1909, ch. 65, § 3, p. 164; 1982, P.L. 2, § 10; P.L.136-2018, § 2, effective July 1, 2018; P.L.130-2024, § 4, effective July 1, 2024.*

#### **2-3-4-4. Fees — Violation of the law.**

(a) A legislative notary performing any of the acts described in section 1 [IC 2-3-4-1] of this chapter is entitled to the same fees as those charged by a notary public.

(b) If an act by a notary public would be a violation of the law, the same act performed by a legislative notary is a violation of the law.

*History*

*Acts 1909, ch. 65, § 4, p. 164; P.L.130-2024, § 5, effective July 1, 2024.*

## **TITLE 26. COMMERCIAL LAW**

### **ARTICLE 2. COMMERCIAL TRANSACTIONS**

#### **CHAPTER 8. UNIFORM ELECTRONIC TRANSACTIONS ACT**

#### **IC 26-2-8-110. Notarization and acknowledgment**

Sec. 110. If a law requires that a signature be notarized, the requirement is satisfied with respect to an electronic signature if an electronic record includes, in addition to the electronic signature to be notarized, the electronic signature of a notary public together with all other information required to be included in a notarization by other applicable law.

*As added by P.L. 62-2000, SEC. 1.*

## **TITLE 32. PROPERTY**

### **ARTICLE 21. CONVEYANCE PROCEDURES FOR REAL PROPERTY**

#### **CHAPTER 2. RECORDING PROCESS**

#### **IC 32-21-2-1.7**

Sec. 1.7. As used in this chapter, "proof", with respect to a notarial act, means a proof:

(1) under common law; or

(2) where the witness:

(A) appears before a notarial officer;

(B) was personally known by the notarial officer or identified by the notarial officer through satisfactory evidence;

(C) was not a party to, or a beneficiary of, the record being signed by the principal and the witness; and

(D) took an oath or gave an affirmation and testified to the following:

(i) The witness signed the record.

(ii) The witness identified the principal who signed the record.

(iii) The witness personally observed the principal sign the same record that the witness signed.

*As added by P.L. 2-2021, SEC. 2.*

#### **IC 32-21-2-3. Recording requirements; acknowledgment and proof; address of grantee**

(a) Any instrument to be recorded must have one (1) of the following notarial acts:

- (1) An acknowledgment (as defined in IC 33-42-0.5-2).
- (2) A proof.

(b) A notarial act described in subsection (a)(1) must be performed:

- (1) by a notarial officer (as defined in IC 33-42-0.5-19);
- (2) by a remote notary public (as defined in IC 33-42-0.5-27); or
- (3) in compliance with:
  - (A) IC 33-42-9-8;
  - (B) IC 33-42-9-9;
  - (C) IC 33-42-9-10; or
  - (D) IC 33-42-9-11.

(c) The notarial act described in subsection (a)(2) must be performed:

- (1) by a notarial officer (as defined in IC 33-42-0.5-19); or
- (2) in compliance with:
  - (A) IC 33-42-9-8;
  - (B) IC 33-42-9-9;
  - (C) IC 33-42-9-10; or
  - (D) IC 33-42-9-11.

(d) In addition to the requirements specified under subsections (a) and (b), an instrument may not be recorded unless it meets the requirements of:

- (1) this article;
- (2) the notarial requirements for an acknowledgment or for a proof; and
- (3) IC 36-2-11.

(e) A conveyance must include a statement containing substantially the following information:

“The mailing address to which statements should be mailed under IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing address of the grantee is [insert proper mailing address].”.

The mailing address for the grantee must be a street address or a rural route address. A conveyance complies with this subsection if it contains the address or addresses required by this subsection at the end of the conveyance and immediately preceding or following the statements required by IC 36-2-11-15.

(f) If the instrument is executed in a foreign country, where the instrument, its acknowledgment, or its proof is in a language other than English, the instrument must include a translation from the other language into English.

[Pre-2002 Recodification Citation: 32-1-2-18.]

*As added by P.L. 2-2002, SEC. 6. Amended by P.L. 135-2007, SEC. 1; P.L. 194-2007, SEC. 7; P.L. 143-2009, SEC. 42; P.L. 187-2018, SEC.4; P.L. 14-2019, SEC. 4.*

### **IC 32-21-2-6. Proving deeds**

Sec. 6. A deed may be proved according to the rules of common law before any officer who is authorized to take acknowledgments. A deed that is proved in the manner provided in this section is entitled to be recorded.

[Pre-2002 Recodification Citation: 32-1-2-21.]

*As added by P.L. 2-2002, SEC. 6.*

### **IC 32-21-2-7. Acknowledgment of deed or mortgage; form**

Sec. 7. The following or any other form substantially the same is a good or sufficient form of acknowledgment of a deed or mortgage: “Before me, E.F. (judge or justice, as the case may be)

this \_\_\_ day of \_\_\_, A.B. acknowledged the execution of the annexed deed, (or mortgage, as the case may be.)”

[Pre-2002 Recodification Citation: 32-1-2-23.]  
*As added by P.L. 2-2002, SEC. 6.*

### **IC 32-21-2-8. Duty of officer to explain deed to grantor**

Sec. 8. (a) If before a public officer authorized to receive acknowledgment of deeds:

- (1) the grantor of a deed intends to sign the deed with the grantor’s mark; and
  - (2) in all other cases when the public officer has good cause to believe that the contents and purport of the deed are not fully known to the grantor;
- it is the duty of the public officer before signature to fully explain to the grantor the contents and purport of the deed.

(b) The failure of the public officer to comply with subsection (a) does not affect the validity of a deed.

[Pre-2002 Recodification Citation: 32-1-2-24.]  
*As added by P.L. 2-2002, SEC. 6.*

### **IC 32-21-2-9. Certificate of acknowledgment; attaching to instrument; contents**

Sec. 9. A certificate of the acknowledgment of a conveyance or other instrument in writing that is required to be recorded, signed, and sealed by the officer taking the acknowledgment shall be written on or attached to the deed. When by law the certificate of the clerk of the proper county is required to accompany the acknowledgment, the certificate shall state that:

- (1) the officer before whom the acknowledgment was taken was, at the time of the acknowledgment, acting lawfully; and
- (2) the clerk’s signature to the certificate of acknowledgment is genuine.

[Pre-2002 Recodification Citation: 32-1-2-26.]  
*As added by P.L. 2-2002, SEC. 6.*

## **CHAPTER 2.5. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT**

### **IC 32-21-2.5-7 Certain legal requirements satisfied by electronic document, electronic signature**

Sec. 7. (a) This section is effective January 1, 2018.

(b) If a law requires, as a condition for recording, that a document:

- (1) be an original;
- (2) be on paper or another tangible medium; or
- (3) be in writing;

the requirement is satisfied by an electronic document satisfying this chapter.

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

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

*As added by P.L.127-2017, SEC.8.*

Sec. 12.

....

(c) A notarial officer who makes an acknowledgment or proof under IC 32-21 or IC 33-42 may certify that a paper or tangible copy of an electronic record is a true and correct copy of an electronic record by:

(1) executing and attaching the notarial officer’s official seal to a tangible paper certificate;

or

(2) affixing or attaching the certificate to the paper or tangible copy of an electronic record.

(d) The form of the certificate required under subsection (c) must be substantially as follows:

“State of \_\_\_\_\_

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

I certify that the foregoing and attached document entitled \_\_\_\_\_ (insert document title), dated \_\_\_\_\_ (insert document date) and containing \_\_\_\_\_ pages, is a true and correct copy of an electronic record printed by me or under my supervision. I further certify that, at the time of printing, no security features present on the electronic record indicated any changes or errors in an electronic signature or other information in the electronic record after the electronic record’s creation or execution.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ (signature of notarial officer)

\_\_\_\_\_ (printed name of notarial officer)

\_\_\_\_\_ (include notarial officer’s commission number, official seal, commission county of residence or employment, and commission expiration date as required by applicable law).”.

## **TITLE 33. COURTS AND COURT OFFICERS**

### **ARTICLE 42. NOTARIES PUBLIC**

Ch. 0.5. Definitions

Ch. 1. Repealed

Ch. 2. Repealed

Ch. 3. Repealed

Ch. 4. Repealed

Ch. 5. Authority of Township Trustee to Perform Notarial Acts

Ch. 6. Federal Land Bank Employees Acting as Notaries in Certain Transactions

Ch. 7. Acknowledgment of Lot Sales by a Notary Who Is a Member of Cemetery Association

Ch. 8. Repealed

Ch. 9. Notarial Acts

Ch. 10. Official Seals and Stamping Devices

Ch. 12. Commission Requirements and Qualifications

Ch. 13. Notary Discipline

Ch. 14. Notary Fees

Ch. 15. Apostilles

Ch. 16. Miscellaneous Provisions

Ch. 17. Remote Notarial Acts

## **CHAPTER 0.5. DEFINITIONS**

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### **IC 33-42-0.5-1 Application of law**

Sec. 1. (a) The definitions in this chapter apply throughout this article.

(b) Amendments to this article that are effective after June 30, 2017, do not affect the validity or effect of a notarial act performed under this article before July 1, 2019.

(c) This article applies only to a notary public commissioned or recommissioned after June 30, 2019.

(d) To the extent that IC 26-2-8 conflicts with this article, IC 26-2-8 is controlling.

*As added by P.L. 128-2017, SEC. 12. Amended by P.L. 59-2018, SEC. 8.*

### **IC 33-42-0.5-2 “Acknowledgment”**

Sec. 2. “Acknowledgment” means:

(1) a principal’s declaration, before a notarial officer, that a record has been signed for the purpose stated in the record; or

(2) if the record was signed in a representative capacity, a declaration by the individual, before a notarial officer, that the individual signed the record with the proper authority and signed it as the act of the individual or entity identified in the record.

*As added by P.L. 59-2018, SEC. 9.*

### **IC 33-42-0.5-3 “Appearance” or “appear”**

Sec. 3. “Appearance” or “appear”, with respect to a notarial act, refers to an individual’s presence before a notarial officer by:

(1) being:

(A) physically present before the notarial officer;

- (B) able to interact with the notarial officer; and
- (C) able to physically exchange tangible credentials or other documentation with the notarial officer; or

(2) the use of audio visual communication.

*As added by P.L. 59-2018, SEC. 10.*

#### **IC 33-42-0.5-4 “Assurance”**

Sec. 4. “Assurance” means a surety bond or the functional equivalent of a surety bond that covers a notary public’s acts or omissions during the course of the notary public’s commission.

*As added by P.L. 59-2018, SEC. 11.*

#### **IC 33-42-0.5-5 “Audio visual communication”**

Sec. 5. “Audio visual communication” means real time, two-way, visual and auditory communication through technology.

*As added by P.L. 59-2018, SEC. 12.*

#### **IC 33-42-0.5-6 “Credential”**

Sec. 6. “Credential” means a valid, government issued form of identification that bears:

- (1) a photograph; and
- (2) the signature;

of the individual identified.

*As added by P.L. 59-2018, SEC. 13.*

#### **IC 33-42-0.5-7 “Credential analysis”**

Sec. 7. “Credential analysis” means a process or service:

- (1) approved by the secretary of state;
- (2) performed by a third person; and
- (3) through which review of public and proprietary data sources provides confidence concerning the validity of a credential.

*As added by P.L. 59-2018, SEC. 14.*

#### **IC 33-42-0.5-8 “Credible witness”**

Sec. 8. “Credible witness” means an individual who:

- (1) appears before a notarial officer;
- (2) swears or affirms that the signer of a document is the individual whom the signer claims to be; and
- (3) is known personally to the signer of the document and the notarial officer.

*As added by P.L. 59-2018, SEC. 15.*

#### **IC 33-42-0.5-9 “Dynamic knowledge based authentication assessment”**

Sec. 9. “Dynamic knowledge based authentication assessment” means a questionnaire that:

- (1) consists of questions about a principal that:
  - (A) are derived from private and public sources; and
  - (B) have not been previously answered by the principal;
- (2) is answered by the principal; and
- (3) is reviewed by a remote notary public to assist in verifying the identity of the principal.

*As added by P.L. 59-2018, SEC. 16.*

#### **IC 33-42-0.5-10 “Electronic”**

Sec. 10. “Electronic” means relating to technology that has electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

*As added by P.L. 59-2018, SEC. 17.*

**IC 33-42-0.5-11 “Electronic notarial certificate”**

Sec. 11. “Electronic notarial certificate” means the part of or attachment to an electronic record that:

- (1) is completed by a notarial officer;
- (2) bears the notarial officer’s:
  - (A) electronic signature; and
  - (B) electronic seal; and
- (3) states the facts attested to by the notarial officer in a notarial act.

*As added by P.L. 59-2018, SEC. 18.*

**IC 33-42-0.5-12 “Electronic record”**

Sec. 12. “Electronic record” means a record communicated, created, generated, received, sent, or stored by electronic means.

*As added by P.L. 59-2018, SEC. 19.*

**IC 33-42-0.5-13 “Electronic seal”**

Sec. 13. “Electronic seal” means information that:

- (1) is specific to an individual notary public;
- (2) is attached to or associated with a notarized electronic record; and
- (3) contains:
  - (A) the words, “notary public”;
  - (B) the words, “state of Indiana”;
  - (C) the notary public’s name as it appears on the notary public’s commission certificate;
  - (D) the words, “commission number”, followed by the commission number of the notary public; and
  - (E) the words, “my commission expires”, followed by the expiration date of the notary public’s commission.

*As added by P.L. 59-2018, SEC. 20.; P.L.130-2024, § 6, effective July 1, 2024.*

**IC 33-42-0.5-14 “Electronic signature”**

Sec. 14. “Electronic signature” means an electronic process, sound, or symbol that is adopted by an individual for the purpose of electronically signing an electronic record.

*As added by P.L. 59-2018, SEC. 21.*

**IC 33-42-0.5-15 “Exclusive control”**

Sec. 15. “Exclusive control” means exclusively having, at all times, direct physical or intellectual custody of:

- (1) a password to access; or
  - (2) the ability to use another secure means of authentication of;
- an electronic record.

*As added by P.L. 59-2018, SEC. 22.*

**IC 33-42-0.5-16 “Identity proofing”**

Sec. 16. “Identity proofing” means a process or service:



- (1) that is approved by the secretary of state; and
- (2) through which review by a third person of personal information:
  - (A) about an individual; and
  - (B) obtained from public and proprietary data sources;affirms the identity of the individual.

The term may include dynamic knowledge based authentication assessment.

*As added by P.L. 59-2018, SEC. 23.*

### **IC 33-42-0.5-17 “In a representative capacity”**

Sec. 17. “In a representative capacity” means acting:

- (1) as an authorized agent, officer, representative, or trustee of another person;
- (2) in any capacity as:
  - (A) provided by law; and
  - (B) stated in a record;
- (3) as an agent or attorney in fact for a principal; or
- (4) in any other authorized capacity.

*As added by P.L. 59-2018, SEC. 24.*

### **IC 33-42-0.5-18 “Notarial act”**

Sec. 18. “Notarial act” means the following acts with respect to either a tangible or an electronic record:

- (1) Taking an acknowledgment.
- (2) Administering an oath or affirmation.
- (3) Taking a verification on an oath or affirmation.
- (4) Attesting to or witnessing a signature.
- (5) Attesting to or certifying a copy of:
  - (A) a tangible document or record; or
  - (B) an electronic document or record.
- (6) Taking a proof (as defined in IC 32-21-2-1.7).
- (7) Noting a protest of a negotiable record.
- (8) Any other act authorized by common law or the custom of merchants.

*As added by P.L. 59-2018, SEC. 25; P.L. 185-2021, SEC. 58.*

### **IC 33-42-0.5-19 “Notarial officer”**

Sec. 19. “Notarial officer” means an individual authorized under IC 33-42-9-7(a) to perform a notarial act.

*As added by P.L. 59-2018, SEC. 26.*

### **IC 33-42-0.5-20 “Notary public”**

Sec. 20. “Notary public” means an individual commissioned by the secretary of state to perform a notarial act.

*As added by P.L. 59-2018, SEC. 27.*

### **IC 33-42-0.5-21 “Official seal”**

Sec. 21. (a) “Official seal” means either of the following:

- (1) A physical image that is affixed to or embossed upon a tangible record.
  - (2) An electronic image that is attached to or associated with an electronic record.
- (b) An “official seal” does not require the word “seal” to be contained within the physical or

electronic image described in subsection (a).

*As added by P.L. 59-2018, SEC. 28; P.L.130-2024, § 7, effective July 1, 2024.*

### **IC 33-42-0.5-22 “Person”**

Sec. 22. “Person” means:

- (1) an agency;
- (2) an association;
- (3) a business trust;
- (4) a corporation;
- (5) an estate;
- (6) an individual;
- (7) an instrumentality;
- (8) a joint venture;
- (9) a limited liability company;
- (10) a partnership;
- (11) a public corporation;
- (12) a trust;
- (13) a statutory trust;
- (14) any other legal or commercial entity; or
- (15) any local or state government:
  - (A) agency; or
  - (B) instrumentality.

*As added by P.L. 59-2018, SEC. 29.*

### **IC 33-42-0.5-23 “Principal”**

Sec. 23. (a) “Principal” means an individual:

- (1) whose signature is reflected on a document that is notarized;
- (2) who has taken an oath or affirmation administered by a notarial officer; or
- (3) whose signature is reflected on a document that is notarized after the individual has taken an oath or affirmation administered by a notarial officer.

(b) Except as provided in subsection (c), for purposes of a remote notarial act, “principal” means an individual:

- (1) whose electronic signature is reflected on a document that is notarized and contained in an electronic record;
- (2) who has taken an oath or affirmation administered by a remote notary public; or
- (3) whose electronic signature is reflected on a document that is notarized and contained in an electronic record after an individual has taken an oath or affirmation administered by a remote notary public.

(c) A principal, for purposes of a remote notarial act, does not include an individual who has taken an oath or affirmation administered by a remote notary public in the capacity of a witness for a remote notarial act.

*As added by P.L. 59-2018, SEC. 30.*

### **IC 33-42-0.5-24 “Public key infrastructure”**

Sec. 24. “Public key infrastructure” means a method of enabling a user of an unsecured public computer network, including the Internet, to securely and privately exchange data and money through a public and private cryptographic key pair that is obtained and shared through a trusted certificate authority, providing for a:

- (1) digital certificate that is able to identify an individual or organization; and
- (2) directory service that is able to store and, if necessary, revoke the digital certificate.

*As added by P.L. 59-2018, SEC. 31.*

#### **IC 33-42-0.5-25 “Record”**

Sec. 25. “Record” means retrievable information that is:

- (1) memorialized upon a tangible medium; or
- (2) stored electronically.

*As added by P.L. 59-2018, SEC. 32.*

#### **IC 33-42-0.5-26 “Remote notarial act”**

Sec. 26. “Remote notarial act” means a notarial act described in section 18(1) through 18(5) of this chapter:

- (1) performed through audio visual communication; and
- (2) involving an electronic record.

*As added by P.L. 59-2018, SEC. 33.*

#### **IC 33-42-0.5-27 “Remote notary public”**

Sec. 27. “Remote notary public” means a notary public who is authorized by the secretary of state to perform a remote notarial act under IC 33-42-17.

*As added by P.L. 59-2018, SEC. 34.*

#### **IC 33-42-0.5-28 “Remote presentation”**

Sec. 28. “Remote presentation” means an electronic transmission:

- (1) by a principal;
- (2) to a remote notary public; and
- (3) of an image:
  - (A) of a credential; and
  - (B) that is of sufficient quality to allow for use of the image in credential analysis to identify the principal.

*As added by P.L. 59-2018, SEC. 35.*

#### **IC 33-42-0.5-29 “Sign”**

Sec. 29. “Sign” means:

- (1) to adopt or execute a record with a tangible symbol; or
- (2) to:
  - (A) associate with; or
  - (B) attach to;

a record an electronic process, sound, or symbol;  
with the intent to adopt or authenticate the record.

*As added by P.L. 59-2018, SEC. 36.*

#### **IC 33-42-0.5-30 “Signature”**

Sec. 30. “Signature” means a tangible symbol or an electronic process, sound, or symbol that evidences the signing of a record.

*As added by P.L. 59-2018, SEC. 37.*

#### **IC 33-42-0.5-31 “Stamping device”**

Sec. 31. “Stamping device” means:

- (1) a physical device capable of affixing or embossing a tangible record with an official seal; or
- (2) an electronic device or process capable of pairing an electronic seal with an electronic record.

*As added by P.L. 59-2018, SEC. 38.*

### **IC 33-42-0.5-32 “State”**

Sec. 32. “State” means a state of the United States, the District of Columbia, or a territory or possession subject to the jurisdiction of the United States.

*As added by P.L. 59-2018, SEC. 39.*

### **IC 33-42-0.5-33 “Surety”**

Sec. 33. “Surety” means an entity that:

- (1) is licensed or authorized to do the business described in subdivision (2) in Indiana; and
- (2) guarantees the legal liability of a notary public for:
  - (A) debt;
  - (B) default; or
  - (C) failure to perform a duty of a notary public.

*As added by P.L. 59-2018, SEC. 40.*

### **IC 33-42-0.5-34 “Technology”**

Sec. 34. “Technology” means an application, a device, or a program that allows a notarial officer to perform a:

- (1) notarial act electronically; or
- (2) remote notarial act.

*As added by P.L. 59-2018, SEC. 41.*

### **IC 33-42-0.5-35 “Verification on an oath or affirmation”**

Sec. 35. “Verification on an oath or affirmation” means a declaration that a statement in a record is true.

*As added by P.L. 59-2018, SEC. 42.*

## **CHAPTER 1. REPEALED**

[Pre-2004 Recodification Citation:  
33-42-1-1 formerly 33-16-1-1.]  
*Repealed by P.L. 128-2017, SEC. 13.*

## **CHAPTER 2. REPEALED**

[Pre-2004 Recodification Citations:  
33-42-2-1 formerly 33-16-2-1  
33-42-2-2 formerly 33-16-2-2  
33-42-2-3 formerly 33-16-2-3  
33-42-2-4 formerly 33-16-2-4  
33-42-2-5 formerly 33-16-2-5  
33-42-2-6 formerly 33-16-2-6  
33-42-2-7 formerly 33-16-2-7  
33-42-2-8 formerly 33-16-2-8  
33-42-2-9 formerly 33-16-2-9  
33-42-2-10 formerly 33-16-2-10.]  
*Repealed by P.L. 128-2017, SEC. 14.*

## CHAPTER 3. REPEALED

[Pre-2004 Recodification Citations:  
33-42-3-1 formerly 33-16-3-1  
33-42-3-2 formerly 33-16-3-2.]  
*Repealed by P.L. 128-2017, SEC. 15.*

## CHAPTER 4. REPEALED

[Pre-2004 Recodification Citations:  
33-42-4-1 formerly 33-16-4-1  
33-42-4-2 formerly 33-16-4-2  
33-42-4-3 formerly 33-16-4-3.]  
*Repealed by P.L. 128-2017, SEC. 16.*

## CHAPTER 5. AUTHORITY OF TOWNSHIP TRUSTEE TO PERFORM NOTARIAL ACTS

33-42-5-1 Authorization; recording  
33-42-5-2 Seal; requirements  
33-42-5-3 Appendage of trustee's date of election  
33-42-5-4 Prohibition on collecting fee  
33-42-5-5 Prohibited acts

### **IC 33-42-5-1 Authorization; recording**

Sec. 1. A township trustee may perform any act that a notary public may perform in Indiana. Acknowledgments to deeds or other instruments taken by a trustee shall be recorded as if the acknowledgments had been acknowledged before a notary public.

[Pre-2004 Recodification Citation: 33-16-8-1.]  
*As added by P.L. 98-2004, SEC. 21.*

### **IC 33-42-5-2 Seal; requirements**

Sec. 2. Before a trustee may perform a notarial act, the trustee must obtain a seal that can stamp upon paper a distinct impression that indicates the trustee's official character, along with any other information that the trustee chooses. A notarial act of a trustee that is not attested by a seal is void.

[Pre-2004 Recodification Citation: 33-16-8-2.]  
*As added by P.L. 98-2004, SEC. 21.*

### **IC 33-42-5-3 Appendage of trustee's date of election**

Sec. 3. When signing any certificate of acknowledgment, jurat, or other official document, the trustee must append to it the trustee's date of election as a trustee.

[Pre-2004 Recodification Citation: 33-16-8-3.]  
*As added by P.L. 98-2004, SEC. 21.*

### **IC 33-42-5-4 Prohibition on collecting fee**

Sec. 4. A trustee may not receive a fee for performing a notarial act.

[Pre-2004 Recodification Citation: 33-16-8-4.]  
*As added by P.L. 98-2004, SEC. 21.*

### **IC 33-42-5-5 Prohibited acts**

Sec. 5. A trustee may not perform an act that is prohibited to a notary public.

[Pre-2004 Recodification Citation: 33-16-8-5.]  
*As added by P.L. 98-2004, SEC. 21.*

## **CHAPTER 6. FEDERAL LAND BANK EMPLOYEES ACTING AS NOTARIES IN CERTAIN TRANSACTIONS**

33-42-6-1 Federal land bank association managers, officers, and employees as notary public

### **IC 33-42-6-1 Federal land bank association managers, officers, and employees as notary public**

Sec. 1. The manager, officers, and employees of a federal land bank association located in Indiana may become and act as a notary public in the business of the association to take acknowledgments of deeds and real estate mortgages and to take and certify affidavits.

[Pre-2004 Recodification Citation: 33-16-5-1.]

*As added by P.L. 98-2004, SEC. 21. Amended by P.L. 2-2005, SEC. 112.*

## **CHAPTER 7. ACKNOWLEDGMENT OF LOT SALES BY A NOTARY WHO IS A MEMBER OF CEMETERY ASSOCIATION**

33-42-7-1 Stockholder or officer of a cemetery association as notary

### **IC 33-42-7-1 Stockholder or officer of a cemetery association as notary**

Sec. 1. A notary public who is a stockholder or an officer of a cemetery association whose rules or constitution prohibit an officer or a stockholder from becoming a beneficiary from the sale of lots by the cemetery association may take acknowledgments of sales of lots.

[Pre-2004 Recodification Citation: 33-16-6-1.]

*As added by P.L. 98-2004, SEC. 21.*

## **CHAPTER 8. REPEALED**

[Pre-2004 Recodification Citation: 33-16-7-1.]

*Repealed by P.L. 128-2017, SEC. 17.*

## **CHAPTER 9. NOTARIAL ACTS**

- 33-42-9-1 Notary public appointments; notarial acts
- 33-42-9-2 Determination of identity of signatory; authenticity of copy
- 33-42-9-3 Personal appearance
- 33-42-9-4 Authentication of individual's identity
- 33-42-9-5 Refusal to perform notarial act
- 33-42-9-6 Appointed or designated signatory
- 33-42-9-7 Performance of notarial act; evidence of authenticity
- 33-42-9-8 Notarial acts in another state
- 33-42-9-9 Notarial acts in federally recognized Indian tribe jurisdiction
- 33-42-9-10 Notarial acts under federal law
- 33-42-9-11 Notarial acts in foreign jurisdiction
- 33-42-9-12 Authentication by certificate; requirements; changes
- 33-42-9-12 Authentication by certificate; requirements; changes

### **IC 33-42-9-1 Notary public appointments; notarial acts**

Sec. 1. (a) The governor may appoint a notary public if the public interest would be promoted by the appointment.

(b) A notarial officer may perform notarial acts.

*As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 43.*

### **IC 33-42-9-2 Determination of identity of signatory; authenticity of copy**

Sec. 2. (a) A notarial officer who:

- (1) takes an acknowledgment of a record;
- (2) takes a verification of statement on an oath or affirmation; or
- (3) attests or witnesses to a signature;

shall determine, from personal knowledge or satisfactory evidence, that the individual appearing before the notarial officer has the identity claimed and that the signature on the record is the signature of the individual.

(b) A notarial officer who attests to or certifies a copy of a record or item shall verify that the copy is an accurate, full, and true reproduction or transcription of the record or item.

*As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 44.*

### **IC 33-42-9-3 Personal appearance**

Sec. 3. If a notarial act relates to a statement made in or a signature executed on a record, the declarant or signatory shall appear personally before the notarial officer.

*As added by P.L. 128-2017, SEC. 18.*

### **IC 33-42-9-4 Authentication of individual's identity**

Sec. 4. (a) A notarial officer has personal knowledge of an individual's identity if the:

- (1) individual is personally known to the notarial officer; or
- (2) notarial officer has transacted sufficient, prior business with the individual to know the individual's identity.

(b) If a notarial officer does not have personal knowledge of an individual's identity, the notarial officer may authenticate the identity of the individual through one (1) of the following means:

- (1) An inspection of any of the following that, if expired, has not been expired for more than three (3) years:

- (A) The individual's passport.
- (B) The individual's driver's license.
- (C) The individual's government issued identification card.
- (D) A credential that:
  - (i) is not described in clauses (A) through (C);
  - (ii) is government issued; and
  - (iii) contains a photograph of the individual.

- (2) A verification on an oath or affirmation by a credible witness who:

- (A) personally:
  - (i) appears before the notarial officer; and
  - (ii) is personally known by the notarial officer; or
- (B) is identified to the notarial officer by a credential described in subdivision (1).

(c) A notarial officer may require an individual to provide additional identification or information before performing a notarial act.

*As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 45.*

### **IC 33-42-9-5 Refusal to perform notarial act**

Sec. 5. (a) A notarial officer may refuse to perform a notarial act if the notarial officer is not satisfied that:

- (1) the individual executing the record is competent; or
- (2) the individual's execution of the record is being done knowingly or voluntarily.

(b) A notarial officer may refuse to perform a notarial act unless the refusal is prohibited by law.  
*As added by P.L. 128-2017, SEC. 18.*

### **IC 33-42-9-6 Appointed or designated signatory**

Sec. 6. (a) A principal may appoint or direct another individual to sign a record if the principal is physically unable to sign the record personally.

(b) A notarial officer shall note the principal's use of an appointed or designated signatory on any record executed in the manner described in subsection (a) by:

- (1) clearly labeling the appointee or designee's signature;
- (2) clearly labeling the name of the principal; and
- (3) including or using language that conveys the principal's intent to use an appointed or designated signatory.

*As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 46.*

### **IC 33-42-9-7 Performance of notarial act; evidence of authenticity**

Sec. 7. (a) A notarial act may be performed by the following individuals:

- (1) Notaries public.
- (2) An official court reporter acting under IC 33-41-1-6.
- (3) Judges and justices of Indiana courts.
- (4) The secretary of state.
- (5) The clerk of the supreme court.
- (6) Mayors, clerks, clerk-treasurers of towns and cities, township trustees, in their respective towns, cities, and townships.
- (7) Clerks of circuit courts and master commissioners in their respective counties.
- (8) Judges of United States district courts of Indiana, in their respective jurisdictions.
- (9) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.
- (10) A precinct election officer (as defined in IC 3-5-2-40.1) and an absentee voter board member appointed under IC 3-11-10 or IC 3-11.5-4, for any purpose authorized under IC 3.
- (11) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division as defined under IC 3-6-4.2.
- (12) County auditors in their respective counties.
- (13) County recorders in their respective counties.
- (14) Any member of the Indiana general assembly anywhere in Indiana.
- (15) The adjutant general of the Indiana National Guard, specific active duty members, reserve duty members, or civilian employees of the Indiana National Guard designated by the adjutant general of the Indiana National Guard for any purpose related to the service of an active duty or reserve member of the Indiana National Guard.

(b) The signature and title of an individual performing a notarial act in Indiana is prima facie evidence of the fact that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

*As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 47; P.L. 185-2021, SEC. 59.*

### **IC 33-42-9-8 Notarial acts in another state**

Sec. 8. (a) A notarial act performed in another state is presumed valid and has the same effect as a notarial act performed by a notarial officer of Indiana if the notarial act performed in the other state is performed by:



- (1) a notary public of the other state;
  - (2) a judge, clerk, or deputy clerk of the other state; or
  - (3) any other individual authorized by the law of the other state to perform notarial acts.
- (b) The signature and title of an individual performing a notarial act in another state is prima facie evidence of the fact that:
- (1) the signature is genuine; and
  - (2) the individual holds the designated title.
- (c) The signature of a notarial officer described in subsection (a)(1) or (a)(2) conclusively establishes the authority of the notarial officer to perform the notarial act.
- As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 48.*

### **IC 33-42-9-9 Notarial acts in federally recognized Indian tribe jurisdiction**

Sec. 9. (a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe is presumed valid and has the same effect as a notarial act performed by a notarial officer of Indiana if the notarial act is:

- (1) performed within the territory of the Indian tribe; and
  - (2) performed by:
    - (A) a notary public of the Indian tribe;
    - (B) a judge, clerk, or deputy clerk of the Indian tribe; or
    - (C) any other individual authorized by the laws of the Indian tribe to perform the notarial act.
- (b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence of the fact that:
- (1) the signature is genuine; and
  - (2) the individual holds the designated title.
- (c) The signature and title of a notarial officer described in subsection (a)(1) or (a)(2) conclusively establish the authority of the notarial officer to perform the notarial act.
- As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 49.*

### **IC 33-42-9-10 Notarial acts under federal law**

Sec. 10. (a) A notarial act performed under federal law shall be presumed valid and has the same effect as a notarial act performed by a notarial officer of Indiana if the notarial act performed under federal law is performed by:

- (1) a judge, clerk, or deputy clerk of a court;
- (2) an individual who is authorized to perform the notarial act under federal law and is:
  - (A) presently serving in the armed forces of the United States; or
  - (B) performing duties under the authority of the armed forces of the United States;
- (3) an individual designated as a notarial officer by the United States Department of State for the purpose of performing notarial acts overseas;
- (4) a commissioned officer with the rank of:
  - (A) second lieutenant or higher in the active service of the:
    - (i) United States Army;
    - (ii) United States Marine Corps; or
    - (iii) United States Air Force; or
  - (B) ensign or higher in the active service of the:
    - (i) United States Coast Guard; or
    - (ii) United States Navy; or
- (5) any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority while performing a notarial act are prima facie evidence of the fact that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

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

*As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 50; P.L. 215-2018 (ss), SEC. 14.*

### **IC 33-42-9-11 Notarial acts in foreign jurisdiction**

Sec. 11. (a) As used in this section, “foreign” means a government other than the United States, a state, or a federally recognized Indian tribe.

(b) If a notarial act is performed under the authority of and in the jurisdiction of:

- (1) a foreign state;
- (2) a constituent component of a foreign state; or
- (3) an international or multinational governmental organization;

the notarial act is presumed valid and has the same effect as a notarial act performed by a notarial officer of Indiana.

(c) If evidence of authority and title of office appear in a digest of law or comparable listing, the authority of an officer with that title to perform notarial acts is conclusively established.

(d) The signature and official seal of an individual holding an office described in subsection (c) are prima facie evidence of the authenticity of:

- (1) the signature; and
- (2) the title of the office holder.

(e) An apostille in the form:

- (1) prescribed by the Hague Convention of October 5, 1961; and
- (2) issued by a foreign state that is a party to the convention described in subdivision (1);

establishes that the signature of the officer is genuine and that the officer holds the indicated office.

(f) A consular authentication:

- (1) issued by an individual designated as a notarizing officer:
  - (A) by the United States Department of State; and
  - (B) for notarial acts performed overseas; and
- (2) affixed or attached to the record associated with the execution of a notarial act;

conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

*As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 51.*

### **IC 33-42-9-12 Authentication by certificate; requirements; changes**

Sec. 12. (a) A notarial act must be authenticated by a certificate bearing the date of the notarial act and the signature of the notarial officer. A properly completed certificate must conform to the following conditions:

- (1) The certificate must be completed contemporaneously with the performance of the notarial act.
- (2) The certificate must be signed and dated by the notarial officer. If the notarial officer is a notary public, the certificate must be signed in the manner on file with the secretary of state for the specific notary public.
- (3) The certificate must identify the jurisdiction in which the notarial act is performed as

follows:

- (A) For a notarial act that is not a remote notarial act, the county and state in which the principal or witness appears before the notarial officer.
- (B) For a remote notarial act, the information required by IC 33-42-17-7(a)(3).
- (4) The certificate must display the title of the notarial officer.
- (5) If the notarial officer is a notary public, the certificate must display:
  - (A) the expiration date of the notary public's commission; and
  - (B) either of the following:
    - (i) The Indiana county of the notary public's commission.
    - (ii) If the notary public is not a resident of Indiana but is primarily employed in Indiana, the Indiana county where the notary public is primarily employed.
- (b) A notary public who performs a notarial act on a tangible record shall:
  - (1) affix, display, or emboss the notary public's official seal; and
  - (2) print or type the notary public's name underneath the notary public's signature on a certificate of acknowledgment, proof (as defined in and permitted under IC 32-21-2), or other official record unless the name of the notary public:
    - (A) appears in printed form on the record; or
    - (B) appears as part of the notary public's official seal; andis legible when the record is photocopied.
- (c) If a notarial act is performed on a public record by a notarial officer other than a notary public, the information described in subsection (a)(2) through (a)(4) must be affixed, displayed, or embossed upon the certificate and accompanied by the notarial officer's official seal.
- (d) If a notarial act is performed on an electronic record by a notary public:
  - (1) the electronic notarial certificate must contain the information described in subsection (a)(2) through (a)(5); and
  - (2) the notary public's electronic seal must be attached to or associated with the electronic notarial certificate.
- (e) If a notarial act is performed on an electronic record by a notarial officer other than a notary public:
  - (1) the electronic notarial certificate must contain the information described in subsection (a)(2) through (a)(4); and
  - (2) the notarial officer's official seal must be attached to or associated with the electronic notarial certificate.
- (f) A certificate of a notarial act or an electronic notarial certificate is sufficient if it meets the requirements described in subsections (a) and (b) and:
  - (1) is in a form permitted by the laws of this state;
  - (2) is in a form permitted by the laws of the jurisdiction in which the notarial act was performed; or
  - (3) sets forth the actions of the notarial officer.
- (g) By executing a certificate of a notarial act or an electronic notarial certificate, a notarial officer certifies that the notarial officer has complied with this chapter.
- (h) A notarial officer may not affix a signature to or associate a certificate of a notarial act or an electronic notarial certificate with a record until a notarial act has been performed.
- (i) A certificate of a notarial act or an electronic notarial certificate must be attached to or associated with each tangible record or electronic record in a manner consistent with the applicable requirements of subsections (a) through (f).
- (j) An official:

(1) certificate of a notarial act bearing a notarial officer's official seal; or  
(2) electronic notarial certificate bearing a notarial officer's electronic seal;  
constitutes presumptive evidence of the facts stated in cases, where, by law, the notarial officer is authorized to certify facts.

(k) A notarial officer may subsequently correct any information included or omitted from a certificate of a notarial act or an electronic notarial certificate executed by the notarial officer.

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

*As added by P.L. 128-2017, SEC. 18. Amended by P.L. 59-2018, SEC. 52; P.L. 177-2019, SEC. 18; P.L. 177-2019, SEC. 19; P.L. 185-2021, SEC. 60.*

## **CHAPTER 10. OFFICIAL SEALS AND STAMPING DEVICES**

33-42-10-1 Repealed

33-42-10-2 Official seal

33-42-10-3 Security of stamping device

33-42-10-4 Effect of official seal

### **IC 33-42-10-1 Repealed**

*As added by P.L. 128-2017, SEC. 19. Repealed by P.L. 59-2018, SEC. 53.*

### **IC 33-42-10-2 Official seal**

Sec. 2. (a) The official seal of a notary public must include the following:

- (1) The words "notary public".
- (2) The words "state of Indiana".
- (3) The name of the notary public exactly as it appears on the notary public's commission certificate.
- (4) The words "commission number" followed by the commission number of the notary public.
- (5) The words "my commission expires" followed by the expiration date of the notary public's commission.

(b) The seal described in subsection (a) must be capable of being copied together with the record to which it is affixed, attached, or associated.

(c) The seal described in subsection (a) may include any other information chosen by the notary public to be included on the seal.

*As added by P.L. 128-2017, SEC. 19; P.L.130-2024, § 8, effective July 1, 2024.*

### **IC 33-42-10-3 Security of stamping device**

Sec. 3. (a) A notary public is responsible for the security of any stamping device used for notarial acts by the notary public.

(b) A notary public shall not allow any other person to make use of the stamping device used by the notary public.

(c) Upon the:

- (1) expiration;
- (2) resignation; or
- (3) revocation;

of the notary public's commission, the notary public shall damage, deface, destroy, erase, or secure the stamping device in a manner that precludes any further use of the stamping device.

(d) Upon the:

- (1) adjudication of incompetency; or

(2) death;  
of a notary public, the notary public's guardian or personal representative shall preclude any further use of the stamping device by disabling the stamping device as described in subsection (c).

(e) If a stamping device is lost or stolen, the notary public or notary public's guardian or personal representative shall promptly notify the secretary of state's office upon learning of the loss or theft.

*As added by P.L. 128-2017, SEC. 19. Amended by P.L. 59-2018, SEC. 54.*

#### **IC 33-42-10-4 Effect of official seal**

Sec. 4. A notary public's official seal, when properly:

- (1) executed; and
- (2) affixed, associated, or attached to a record;

shall make the record self-authenticating for the purpose of a court proceeding.

*As added by P.L. 128-2017, SEC. 19.*

### **CHAPTER 12. COMMISSION REQUIREMENTS AND QUALIFICATIONS**

33-42-12-1 Notary public commission

33-42-12-2 Notary public; application for commission

33-42-12-3 Change to notary public information; notice

#### **IC 33-42-12-1 Notary public commission**

Sec. 1. (a) An individual qualified under subsection (b) may apply to the secretary of state for a commission as a notary public. The applicant shall provide the information required by the rules established by the secretary of state, if any.

(b) An applicant for a commission as a notary public must:

- (1) be at least eighteen (18) years of age;
- (2) be a citizen or permanent legal resident of the United States;
- (3) be a resident of or primarily employed in Indiana;
- (4) not be disqualified to receive a commission under IC 33-42-13;
- (5) satisfy all educational requirements; and
- (6) have passed the examination described in section 2 of this chapter.

(c) An applicant applying for a commission as a notary public or reapplying for a subsequent commission shall:

- (1) complete an electronic application and provide all necessary information required by the secretary of state;
- (2) pay a nonrefundable processing fee of five dollars (\$5);
- (3) execute an oath of office and comply with any associated requirements imposed by the secretary of state;
- (4) obtain an assurance in the amount of twenty-five thousand dollars (\$25,000);
- (5) submit, or have submitted by the surety on the applicant's behalf, an electronic copy of the assurance not later than thirty (30) days after the effective date of the assurance; and
- (6) submit an electronic signature sample to the secretary of state.

(d) A notary public may perform notarial acts only during a period covered by a valid assurance on file with the secretary of state.

(e) A surety must notify the secretary of state of a payment made under a notary public's assurance not later than thirty (30) days after issuing the payment to a claimant.

(f) The secretary of state shall grant a commission as a notary public to an applicant who

fully complies with this section. The term of a commission granted under this subsection is eight (8) years.

(g) A commission granted under this section authorizes the notary public to perform notarial acts within the state of Indiana. The commission does not provide the notary public with any immunity or benefit.

(h) An individual may not have more than one (1) active Indiana commission as a notary public at a time.

(i) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, a commission as a notary public is not a lucrative office.

*As added by P.L. 128-2017, SEC. 20. Amended by P.L. 59-2018, SEC. 55.*

### **IC 33-42-12-2 Notary public; application for commission**

Sec. 2. (a) An applicant seeking a commission as a notary public, including an applicant reapplying for a subsequent commission, must complete:

- (1) a course of education; and
- (2) an examination.

(b) A notary public must fulfill a continuing education requirement not to exceed two (2) hours of continuing education every two (2) years.

*As added by P.L. 128-2017, SEC. 20. Amended by P.L. 177-2019, SEC. 20.*

### **IC 33-42-12-3 Change to notary public information; notice**

Sec. 3. (a) A notary public shall notify the secretary of state not later than thirty (30) days after any change to the following information associated with the notary public:

- (1) Name.
- (2) Mailing address.
- (3) Personal electronic mail address.
- (4) Personal telephone number.
- (5) Employer's:
  - (A) address;
  - (B) name; and
  - (C) telephone number.

(b) A notary public shall file the following documents with the secretary of state upon any change to the notary public's name on file with the secretary of state's office:

- (1) A rider or other record issued by the notary public's surety reflecting the change of name.
- (2) An example of the notary public's new, official signature.

(c) A notary public shall notify the secretary of state of the following occurrences not later than fourteen (14) days after they occur:

- (1) The notary public is convicted of a felony offense involving deceit, dishonesty, or fraud.
- (2) The notary public is found to have acted deceitfully, dishonestly, or fraudulently in any disciplinary action or legal proceeding.
- (3) The notary public has a commission as a notary public denied, restricted, or revoked in a state other than Indiana.

(d) The commission of a notary public who is no longer:

- (1) a citizen or resident of Indiana; or
- (2) primarily employed by the state of Indiana;

shall be treated as resigned.

*As added by P.L. 128-2017, SEC. 20. Amended by P.L. 59-2018, SEC. 56.*

## CHAPTER 13. NOTARY DISCIPLINE

- 33-42-13-1 Disciplinary actions
- 33-42-13-2 Notary public data base
- 33-42-13-3 Prohibitions; violations
- 33-42-13-3 Prohibitions; violations
- 33-42-13-4 Notario publico deception

### IC 33-42-13-1 Disciplinary actions

Sec. 1. (a) The secretary of state may do any of the following with respect to a commission under IC 33-42-12:

- (1) Deny the commission.
  - (2) Refuse a subsequent commission.
  - (3) Revoke the commission.
  - (4) Suspend the commission.
  - (5) Impose a condition on the commission.
- (b) The secretary of state may investigate any violation of this chapter by a notary public.

(c) An action described in subsection (a) may be taken against any notary public for any act or omission that demonstrates a deficiency in competence, honesty, integrity, or reliability, including the following:

- (1) Any failure to comply with this article or rules adopted under this article.
- (2) Any deceitful, dishonest, or fraudulent statement or omission made during the application for a commission as a notary public.
- (3) Any conviction for a felony offense or a crime involving deceit, dishonesty, or fraud.
- (4) An adverse ruling or admission of liability in any legal proceeding pertaining to deceit, dishonesty, or fraud.
- (5) Any failure to discharge any duty required of a notary public.
- (6) Any use of false or misleading advertisements.
- (7) Use of any false or misleading statement claiming a right or privilege that the notary public does not have.
- (8) Any of the following with respect to a commission as a notary public in another state:
  - (A) Denial of the commission.
  - (B) Refusal of a subsequent commission.
  - (C) Revocation of the commission.
  - (D) Suspension of the commission.
  - (E) Imposition of a condition on the commission.
- (9) Any violation of a rule or requirement that:
  - (A) pertains to a notary public; and
  - (B) is required by the secretary of state.
- (10) Any failure to maintain an assurance as described in IC 33-42-12.

(d) If the secretary of state acts under subsection (a) on an applicant or notary public's commission, the affected party is entitled to timely notice and a hearing as described in IC 4-21.5.

(e) The secretary of state's decision to discipline an applicant or notary public as described in this section does not prevent a person from pursuing any civil or criminal cause of action against the offending applicant or notary public.

*As added by P.L. 128-2017, SEC. 21. Amended by P.L. 59-2018, SEC. 57; P.L. 182-2018, SEC. 4.*

### IC 33-42-13-2 Notary public data base

Sec. 2. The secretary of state shall maintain an electronic data base of active notaries public.  
*As added by P.L. 128-2017, SEC. 21.*

### **IC 33-42-13-3 Prohibitions; violations**

Sec. 3. (a) A commission as a notary public does not allow a person to do the following:

- (1) Provide legal advice or otherwise practice law.
- (2) Act as an immigration consultant or provide advice on immigration matters.
- (3) Represent a person in an administrative or judicial proceeding related to citizenship or immigration.
- (4) Use an initial or name, other than the initial or name under which the notary public has been commissioned, to sign an acknowledgment.
- (5) Take an acknowledgment or administer an oath to any person the notary public knows at the time to be:
  - (A) adjudicated mentally incompetent; or
  - (B) under a guardianship described in IC 29-3.
- (6) Take an acknowledgment from any person who is blind without first reading the record to the person who is blind.
- (7) Take the acknowledgment of any person who does not speak or understand the English language unless the nature and effect of the record is translated into a language the person speaks or understands.
- (8) Take the acknowledgment of a record without witnessing a signature or receiving an acknowledgment from the principal that the signature is authentic.
- (9) Take a verification of an affidavit or oath in the absence of an affirmation of truth by the affiant.
- (10) Perform a notarial act for:
  - (A) oneself;
  - (B) one's spouse; or
  - (C) any party;

that may directly benefit a person described in clause (A) or (B).

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

(c) A notary public, other than an attorney licensed to practice law in Indiana, may not use the term "notario" or "notario publico".

(d) Except as provided in subsection (g), a notary public may not advertise or represent that the notary public can draft legal documents, provide legal advice, or otherwise practice law. Any notary public who advertises notarial services shall include the following statement in each advertisement:

"I am not an attorney licensed to practice law in Indiana. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."

(e) The statement described in subsection (d) shall be translated into every language used in an advertisement.

(f) If size or space restrictions make it impossible for the statement to be incorporated into an advertisement, the statement described in subsection (d) shall be prominently displayed at the site where the notarial act is performed. A display described in this subsection must be shown before the performance of a notarial act.

(g) Subsections (c) through (f) do not apply to a notary public who is licensed to practice law in Indiana.

(h) Unless otherwise permitted by law, a notary public may not withhold access to or



possession of an original record provided by a person seeking the performance of a notarial act by a notary public.

(i) A notary public who violates this chapter may have the notary public's commission revoked by a judge with jurisdiction in the county in which the notary public resides or is primarily employed.

(j) A notary public whose commission has been revoked may not reapply for a new commission until five (5) years after the revocation.

(k) A notary public who has been convicted of notario publico deception under section 4 of this chapter may not reapply for a new commission.

(l) If the secretary of state revokes the commission of a notary public, the notary public may not reapply for a new commission for five (5) years.

(m) A notary public may not perform a notarial act when the notary public's commission is suspended or revoked.

*As added by P.L. 128-2017, SEC. 21. Amended by P.L. 59-2018, SEC. 58; P.L. 177-2019, SEC. 21; P.L. 177-2019, SEC. 22.*

### **IC 33-42-13-4 Notario publico deception**

Sec. 4. (a) A person who knowingly or intentionally:

(1) advertises notarial services without using the statement described in section 3(d) of this chapter;

(2) advertises notarial services while claiming to be an expert on immigration matters without being a designated entity as described in 8 CFR 245 a.11; or

(3) accepts payment in exchange for providing legal advice or any other assistance that requires legal analysis, judgment, or interpretation of the law;

commits notario publico deception, a Class A misdemeanor.

(b) It is a defense to a prosecution under this section that a notary public is also licensed to practice law in Indiana.

*As added by P.L. 128-2017, SEC. 21. Amended by P.L. 59-2018, SEC. 59.*

## **CHAPTER 14. NOTARY FEES**

33-42-14-1 Notary public fees

### **IC 33-42-14-1 Notary public fees**

Sec. 1. (a) A notary public may charge a fee of not more than ten dollars (\$10) per signature for each of the following notarial acts:

(1) Taking an acknowledgment.

(2) Administering an affirmation or oath.

(3) Attesting to or witnessing a signature.

(4) Taking a verification on an oath or affirmation.

(5) Attesting to or certifying a copy.

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

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

(d) Notarial acts that:

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

(2) do not require record keeping;

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

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

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

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

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

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

*As added by P.L. 128-2017, SEC. 22. Amended by P.L. 59-2018, SEC. 60; P.L. 177-2019, SEC. 23; P.L. 177-2019, SEC. 24.*

## **CHAPTER 15. APOSTILLES**

33-42-15-1 Secretary of state authentication

33-42-15-2 Secretary of state attestation fee

### **IC 33-42-15-1 Secretary of state authentication**

Sec. 1. (a) The secretary of state may attest to the authenticity of the signature of a public official in Indiana.

(b) Except as provided in subsection (c), the secretary of state may attest to the authenticity of a signature or certify a signature of a notary public.

(c) The secretary of state may not certify or attest to the signature of a notary public on a document regarding:

- (1) allegiance to a government or jurisdiction;
- (2) the relinquishment or renunciation of citizenship, military status, sovereignty, or world service authority; or
- (3) a claim of immunity from the jurisdiction of the United States, the laws of any state of the United States, or federal law.

*As added by P.L. 128-2017, SEC. 23.*

### **IC 33-42-15-2 Secretary of state attestation fee**

Sec. 2. (a) The secretary of state shall collect two dollars (\$2) for each attestation provided under this chapter. However, no fee may be collected for an attestation pertaining to the following:

- (1) An adoption.
- (2) A birth certificate issued by the state of Indiana.
- (3) A death certificate issued by the state of Indiana.
- (4) A student:
  - (A) transcript; or
  - (B) diploma;

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

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

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

*As added by P.L. 128-2017, SEC. 23. Amended by P.L. 177-2019, SEC. 25.*

## CHAPTER 16. MISCELLANEOUS PROVISIONS

- 33-42-16-1 Validity of notarial act
- 33-42-16-2 Rulemaking
- 33-42-16-3 Effect of law on notary public commission
- 33-42-16-4 Repealed
- 33-42-16-5 Certificate of fact

### **IC 33-42-16-1 Validity of notarial act**

Sec. 1. (a) The failure of a notarial officer to perform a duty or meet a requirement specified in this article does not invalidate a notarial act performed by the notarial officer.

(b) The presumed validity of a notarial act under this section does not prevent an injured party from seeking:

- (1) the invalidation of a record or transaction reliant upon an incomplete notarial act; or
- (2) any other remedy provided by the laws of Indiana or the laws of the United States.

(c) The presumed validity of a notarial act described in subsection (a) does not apply to notarial acts:

- (1) performed by unauthorized persons; or
- (2) described in IC 33-42-13-3(a)(10).

*As added by P.L. 128-2017, SEC. 24.*

### **IC 33-42-16-2 Rulemaking**

Sec. 2. (a) The secretary of state shall adopt rules under IC 4-22-2 to implement this article, including rules to do the following:

- (1) Prescribe the process for conditioning, denying, granting, renewing, revoking, or suspending the following:
  - (A) A commission as a notary public.
  - (B) A remote notary public registration.
- (2) Prescribe standards to ensure the trustworthiness of individuals applying for or in possession of the following:
  - (A) A commission as a notary public.
  - (B) A remote notary public registration.
- (3) Establish processes for accepting and approving assurances.
- (4) Prescribe the manner by which notarial acts are performed with respect to tangible records and electronic records.
- (5) Ensure that a change to or tampering with a record bearing an electronic notarial certificate is self-evident.
- (6) Specify requirements to ensure the secure creation, storage, transmission, and authentication of electronic records, electronic seals, and electronic signatures.
- (7) Establish standards for approval of the following for use in Indiana:
  - (A) Audio visual communication technology.
  - (B) Identity proofing.
  - (C) Credential analysis.
  - (D) Dynamic knowledge based authentication.
  - (E) Biometrics.
  - (F) Other methods of identification.
- (8) Establish standards related to electronic notarial certificates.

(b) When adopting, amending, or repealing rules governing electronic records or remote

notarial acts, the secretary of state shall consider the following:

- (1) Recent standards regarding electronic records issued by national bodies, including the National Association of Secretaries of State.
- (2) The customs, practices, and standards of other jurisdictions.
- (3) Actions of other governmental entities and officials.

(c) The administrative rules for remote notarial acts must be in effect before the secretary of state approves vendors of technology under IC 33-42-17-6.

(d) Remote notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the secretary of state.

(e) The secretary of state may amend rules adopted under this section as determined necessary as a result of changes in electronic and remote notarial act technology.

*As added by P.L. 128-2017, SEC. 24. Amended by P.L. 59-2018, SEC. 61; P.L. 177-2019, SEC. 26.*

### **IC 33-42-16-3 Effect of law on notary public commission**

Sec. 3. A commission as a notary public in effect on July 1, 2018, continues until its date of expiration. A notary public who applies or reapplies for a commission on or after July 1, 2018, is subject to this article.

*As added by P.L. 128-2017, SEC. 24. Amended by P.L. 59-2018, SEC. 62.*

### **IC 33-42-16-4 Repealed**

*As added by P.L. 128-2017, SEC. 24. Repealed by P.L. 59-2018, SEC. 63.*

### **IC 33-42-16-5 Certificate of fact**

Sec. 5. (a) On the request of any person, the secretary of state shall issue a certificate of fact for a notary public.

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

- (1) The notary public's name.
- (2) The notary public's commission expiration date.
- (3) The notary public's county of commission.
- (4) That the records of the secretary of state indicate that the notary public's commission is active.

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

*As added by P.L. 177-2019, SEC. 27.*

## **CHAPTER 17. REMOTE NOTARIAL ACTS**

33-42-17-1 Application of chapter

33-42-17-2 Registration; fee; term

33-42-17-3 Remote notary public functions; requirements; use of equipment

33-42-17-4 Principal appearance

33-42-17-5 Verification of principal's identity

33-42-17-6 Approval of remote notarial act equipment

33-42-17-7 Electronic notarial certificate; form

33-42-17-8 Electronic journal

33-42-17-9 Remote notary public fees

33-42-17-10 Presumption of validity of remote notarial act

33-42-17-11 Electronic data base of remote notaries public and technology vendors

33-42-17-12 Requirements for certain remote notarial acts

### **IC 33-42-17-1 Application of chapter**

Sec. 1. (a) This chapter applies only to a remote notarial act performed after the earlier of:  
(1) the effective date of rules adopted under IC 33-42-16-2; or  
(2) July 1, 2020.

(b) To the extent that this chapter conflicts with another provision of this article concerning remote notarial acts, this chapter is controlling.

*As added by P.L. 59-2018, SEC. 64. Amended by P.L. 177-2019, SEC. 28.*

### **IC 33-42-17-2 Registration; fee; term**

Sec. 2. (a) A notary public may perform a remote notarial act only after registering as a remote notary public with the secretary of state.

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

- (1) holds a current commission as a notary public in Indiana;
- (2) complies with the continuing education requirements described in IC 33-42-12-2, and prescribed under IC 33-42-16-2;
- (3) is able to competently:
  - (A) operate audiovisual communication technology; and
  - (B) use identity proofing and credential analysis technology;
- (4) pays a registration fee in the amount of five dollars (\$5); and
- (5) passes a remote notarial act examination administered by the secretary of state.

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

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

- (1) begins on the registration starting date set by the secretary of state; and
- (2) expires on the date on which the remote notary public's current commission ends.

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

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

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

*As added by P.L. 59-2018, SEC. 64. Amended by P.L. 177-2019, SEC. 29.*

### **IC 33-42-17-3 Remote notary public functions; requirements; use of equipment**

Sec. 3. (a) A remote notary public:

- (1) is a notary public subject to IC 33-42-12 to the same extent as a notary public who is not registered under this chapter;
- (2) may perform notarial acts under IC 33-42-9 in addition to performing remote notarial acts; and
- (3) may perform remote notarial acts in accordance with this chapter.

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

- (1) Taking an acknowledgment.
- (2) Administering an affirmation or oath.
- (3) Taking a verification on an oath or affirmation.
- (4) Attesting to or witnessing a signature.
- (5) Attesting to or certifying a copy of a document or record.

(c) A remote notary public may use audiovisual communication technology in performance

of a remote notarial act described in subsection (b) if the remote notary public has first:

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

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

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

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

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

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

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

(1) in Indiana;

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

(3) outside the United States if:

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

(B) the remote notarial act concerns a matter that:

(i) is before a court, a governmental entity, or another entity in;

(ii) concerns a property located in; or

(iii) relates to a transaction substantially connected to a territory or jurisdiction of; the United States.

(f) A remote notarial act that is performed using audiovisual communication technology described in subsection (c) must be captured by an audiovisual recording, regardless of whether the requested remote notarial act is completed.

(g) Before performing a remote notarial act described in subsections (b) and (c), a remote notary public shall inform the participating parties that the remote notarial act will be captured by an audiovisual recording.

(h) An audiovisual recording of a remote notarial act must include the following:

(1) A recitation of the following by the remote notary public:

(A) Identifying information sufficient to identify the specific remote notarial act performed.

(B) A statement explaining one (1) of the following:

(i) That the principal's identity is authenticated through the remote notary public's personal knowledge of the principal's identity.

(ii) That the identity of the principal is authenticated by a credible witness.

(2) A confirmation by the principal that the principal's electronic signature is freely and voluntarily issued.

(i) Regardless of the physical location of the principal at the time of the notarial act, the validity of a remote notarial act performed by a remote notary public commissioned in Indiana must be determined under the laws of this state.

*As added by P.L. 59-2018, SEC. 64. Amended by P.L. 177-2019, SEC. 30.*

### **IC 33-42-17-4 Principal appearance**

Sec. 4. (a) If a remote notarial act relates to a statement made in or a signature executed on a record, the principal shall appear before the remote notary public:

(1) physically; or

(2) by means of audiovisual communication described in section 6 of this chapter.

(b) Any appearance described in subsection (a)(2) is considered to be an in person appearance for purposes of this chapter.

*As added by P.L. 59-2018, SEC. 64.*

### **IC 33-42-17-5 Verification of principal's identity**

Sec. 5. The identity of the principal in a remote notarial act may be verified by any of the following:

- (1) The remote notary public's personal knowledge of the principal's identity.
- (2) A credible witness's knowledge of the principal's identity.
- (3) All of the following:
  - (A) Remote presentation by the principal of a credential identifying the principal.
  - (B) Credential analysis and visual inspection by the remote notary public of the credential described in clause (A).
  - (C) Identity proofing of the principal, which may include a dynamic knowledge based authentication assessment or use of a public key infrastructure.
- (4) Another method that uses technology that meets or exceeds the standards for approval established by the secretary of state under IC 33-42-16-2.

*As added by P.L. 59-2018, SEC. 64. Amended by P.L. 10-2019, SEC. 128.*

### **IC 33-42-17-6 Approval of remote notarial act equipment**

Sec. 6. (a) Technology used by a remote notary public for use in performing remote notarial acts must first be approved by the secretary of state.

(b) The secretary of state may approve technology described in subsection (a) only if the:

- (1) technology:
  - (A) is tamper evident;
  - (B) allows a remote notarial act to be completed in accordance with this article;
  - (C) conforms to rules adopted by the secretary of state under IC 4-22-2; and
  - (D) if the technology is to be used for a remote notarial act described in section 4(a) of this chapter, allows for audiovisual communication between the parties; and
- (2) vendor of the technology described in subdivision (1):
  - (A) uses a backup strategy that is acceptable to the secretary of state for use as a record keeper for any record that is related to a remote notarial act; and
  - (B) signs an agreement with the owner of the backup strategy described in clause (A) that, in the event that the vendor ceases business operations, the owner is required to release to the secretary of state any record described in clause (A).
- (c) A remote notary public:
  - (1) may select one (1) or more technologies approved by the secretary of state under this section to perform remote notarial acts; and
  - (2) may not be required to use a particular technology not previously selected by the remote notary public.
- (d) A remote notary public shall do the following:
  - (1) Take reasonable steps to ensure that audiovisual technology used in a remote notarial act is secure from unauthorized interception.
  - (2) Not later than thirty (30) days after the change occurs, notify the secretary of state of any change in technology used by the remote notary public to perform remote notarial acts.

*As added by P.L. 59-2018, SEC. 64. Amended by P.L. 177-2019, SEC. 31.*

### **IC 33-42-17-7 Electronic notarial certificate; form**

Sec. 7. (a) An electronic notarial certificate of a remote notarial act must:

- (1) specify that the notarial act is a remote notarial act;
- (2) include a space in which a remote notary public may indicate whether the principal in the remote notarial act appeared before the remote notary public under section 4(a)(1) or 4(a)(2) of this chapter; and
- (3) specify the:
  - (A) city and county in Indiana in which the remote notary public is physically located when the remote notary public performs the remote notarial act; and
  - (B) city, county, state or province, and country in which the principal is physically located when the principal signs the document.

(b) Completion of either of the following forms satisfies the requirements of this section where a principal appears before a remote notary public:

“State of Indiana

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

City of \_\_\_\_\_

I certify that the attached or associated electronic record entitled \_\_\_\_\_ and dated \_\_\_\_\_ was signed by the principal \_\_\_\_\_ who was located in this city \_\_\_\_\_, county \_\_\_\_\_, state or province \_\_\_\_\_, and country \_\_\_\_\_ and notarized by me, the remote notary public, on this date \_\_\_\_\_ in this city and county \_\_\_\_\_, Indiana.

Signed \_\_\_\_\_, remote notary public.

Printed name of remote notary public \_\_\_\_\_

Date notary public commission expires \_\_\_\_\_”.

“State of Indiana

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

City of \_\_\_\_\_

I certify that the attached or associated electronic record entitled \_\_\_\_\_ and dated \_\_\_\_\_ was acknowledged and signed by the principal \_\_\_\_\_ who was located in this city \_\_\_\_\_, county \_\_\_\_\_, state or province \_\_\_\_\_, and country \_\_\_\_\_ and who appeared by audio visual communication on this date, was notarized by me, the remote notary public, on this date \_\_\_\_\_ in this city and county \_\_\_\_\_, Indiana.

Signed \_\_\_\_\_, remote notary public.

Printed name of remote notary public \_\_\_\_\_

Date notary public commission expires \_\_\_\_\_”.

*As added by P.L. 59-2018, SEC. 64; Amended by P.L. 185-2021, SEC. 61.*

### **IC 33-42-17-8 Electronic journal**

Sec. 8. (a) A remote notary public who performs a remote notarial act shall personally do the following:

- (1) Enter each remote notarial act in an electronic journal.
- (2) Maintain the electronic journal.
- (3) Keep the electronic journal in the exclusive control of the remote notary public.
- (4) Use commercially reasonable means to prevent unauthorized access to the electronic journal.



- (5) Provide for the lawful copying and inspection of the electronic journal.
- (b) An employer may not perform the responsibilities described in subsection (a) on behalf of a remote notary public.
- (c) A remote notary public may maintain more than one (1) electronic journal.
- (d) The following apply to an electronic journal:
  - (1) Access to the information contained in the electronic journal must be contingent upon the use of a password or other secure means of authentication.
  - (2) It must be possible to print or produce a tangible record of any entry logged in the electronic journal.
- (e) A journal entry for each remote notarial act must consist of the following:
  - (1) The date and time of the remote notarial act.
  - (2) The type of remote notarial act.
  - (3) A title or description of the electronic record for each remote notarial act.
  - (4) The full name of the principal.
  - (5) A description of the manner by which the identity of the principal was authenticated or verified.
  - (6) A description of any credential and the credential's corresponding date of expiration used to authenticate or verify the identity of the principal.
  - (7) A listing of:
    - (A) every type of fee; and
    - (B) every fee amount;charged by the remote notary public for each remote notarial act.
  - (8) Any other information required by the secretary of state.
- (f) A remote notary public shall not delete, destroy, overwrite, or render inaccessible an electronic journal unless the remote notary public is ordered to do so by the secretary of state or judicial order.
- (g) Upon a remote notary public's learning that an electronic journal is lost, stolen, or compromised, the remote notary public shall notify the secretary of state.
- (h) A remote notary public who resigns or whose commission expires shall maintain the contents of an electronic journal for at least ten (10) years after the performance of the last recorded remote notarial act.

*As added by P.L. 59-2018, SEC. 64. Amended by P.L. 177-2019, SEC. 32.*

### **IC 33-42-17-9 Remote notary public fees**

Sec. 9. (a) A remote notary public may charge a fee of not more than twenty-five dollars (\$25) for each remote notarial act.

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

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

*As added by P.L. 59-2018, SEC. 64. Amended by P.L. 177-2019, SEC. 33.*

### **IC 33-42-17-10 Presumption of validity of remote notarial act**

Sec. 10. (a) A remote notarial act performed by a remote notary public is presumed valid, regardless of the failure of the remote notary public to perform a duty or meet a requirement of this chapter.

(b) The presumed validity under subsection (a) of a remote notarial act does not do the following:

- (1) Apply to a remote notarial act that is:
  - (A) performed by an unauthorized individual; or
  - (B) described in IC 33-42-13-3(a)(10).
- (2) Prevent an injured party from seeking:
  - (A) the invalidation of a record or transaction reliant upon an incomplete remote notarial act; or
  - (B) another remedy under state or federal law.

*As added by P.L. 59-2018, SEC. 64.*

### **IC 33-42-17-11 Electronic data base of remote notaries public and technology vendors**

Sec. 11. The secretary of state shall maintain on the secretary of state's Internet web site an electronic data base of active:

- (1) remote notaries public; and
- (2) vendors of technology that are approved by the secretary of state under section 6 of this chapter.

*As added by P.L. 59-2018, SEC. 64.*

### **IC 33-42-17-12 Requirements for certain remote notarial acts**

Sec. 12. A remote notarial act performed in accordance with this chapter is considered to have been performed in Indiana, regardless of the physical location of the principal at the time the remote notarial act is performed.

*As added by P.L. 59-2018, SEC. 64; Amended by Amended by P.L. 185-2021, SEC. 62.*

## **INDIANA ADMINISTRATIVE CODE**

### **TITLE 75. SECRETARY OF STATE**

### **ARTICLE 7. NOTARY PUBLIC GOVERNANCE**

#### **Rule 1. Definitions**

#### **75 IAC 7-1-1 Applicability**

Authority: IC 33-42-16-2

Affected: IC 33-42-0.5

Sec. 1. The definitions in this rule and IC 33-42 apply throughout this article, unless the context clearly indicates otherwise.

(Secretary of State; 75 IAC 7-1-1; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

#### **75 IAC 7-1-2 "Applicant" defined**

Authority: IC 33-42-16-2

Affected: IC 33-42-0.5; IC 33-42-12; IC 33-42-17

Sec. 2. "Applicant" means any person applying for a notary public commission under IC 33-42-12 or a notary public registering to be authorized to perform remote notarial acts under IC 33-42-17.

(Secretary of State; 75 IAC 7-1-2; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

#### **75 IAC 7-1-3 "Designated alternative signer" defined**

Authority: IC 33-42-16-2

Affected: IC 33-42-0.5

Sec. 3. “Designated alternative signer” means any person:

- (1) signing in place of a disabled person;
- (2) signing in the presence of the disabled person;
- (3) establishing proof that the designated alternative signer has the authority to sign on behalf of the disabled person in question; and
- (4) witnessed by another party who has no interest in the document being notarized.

However, a designated alternative signer cannot swear an oath of affirmation in the name of the disabled person.

(Secretary of State; 75 IAC 7-1-3; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-1-4 “Disqualifying offense” defined**

Authority: IC 33-42-16-2

Affected: IC 5-8-3-1; IC 33-42-0.5; IC 33-42-12-1; IC 33-42-13-1; IC 33-42-13-3

Sec. 4. “Disqualifying offense” means any of the following:

- (1) Failure to meet the eligibility requirements under IC 33-42-12-1(b).
- (2) Failure to meet the moral character provision under IC 33-42-13-1(c).
- (3) To engage in any prohibited act under IC 33-42-13-3.
- (4) A conviction under IC 5-8-3-1.

(Secretary of State; 75 IAC 7-1-4; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-1-5 “Real time” defined**

Authority: IC 33-42-16-2

Affected: IC 33-42-0.5

Sec. 5. “Real time” means the actual span of uninterrupted, simultaneous communication during which all parts of an online notarial act using audio visual communication occur excluding issues or buffering that does not materially affect the substantive communication between the notary public and the signer.

(Secretary of State; 75 IAC 7-1-5; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-1-6 “Remote technology vendor” defined**

Authority: IC 33-42-16-2

Affected: IC 33-42-0.5

Sec. 6. “Remote technology vendor” means a person that provides audio visual communication technology and related processes, services, software, data storage, or other services to remote notaries public for the purpose of directly facilitating their performance of remote notarial acts.

(Secretary of State; 75 IAC 7-1-6; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

## **Rule 2. Notaries Public**

### **75 IAC 7-2-1 Notary public application**

Authority: IC 33-42-16-2

Affected: IC 4-21.5; IC 33-42-12

Sec. 1. (a) The secretary of state commissions notaries public under the provisions of IC 33-42-12-1. Each applicant applying for a notary commission must electronically submit an application using the notary application prescribed by the secretary of state.

(b) The application for a notary public commission must include the following:

(1) The applicant's name to be used in acting as a notary public.

(2) The applicant's mailing address.

(3) The applicant's county of residence.

(4) The applicant's date of birth.

(5) The applicant's driver's license number or state-issued identification number.

(6) The applicant's Social Security number.

(7) An image of the applicant's signature sample.

(8) An image of the applicant's twenty-five thousand dollar (\$25,000) surety bond.

(9) A passing score on the notary examination.

(10) Payment of the nonrefundable application fee to the secretary of state.

(11) A criminal background check that is not more than six (6) months old that may be required by the secretary of state.

(12) A disclosure of any and all disciplinary actions or commission revocations taken against the applicant.

(c) A non-Indiana resident, primarily employed in Indiana, must also submit the following:

(1) The mailing address of the applicant's place of employment.

(2) The county where the applicant is employed.

(3) A written statement documenting employment on company letterhead.

(d) Once an applicant successfully complies with all the requirements of subsection (b), and when applicable subsection (c), the secretary of state shall issue a notary commission with a unique commission number and expiration date and indicate this on the public database.

(e) If an applicant fails to comply with the requirements of subsection (b)(1) through (b)(10), and subsection (c) when applicable, the secretary of state shall inform the applicant that the application has been rejected.

(f) If an applicant fails to comply with the requirements of subsection (b)(11) or has a disqualifying offense, the secretary of state shall inform the applicant that the application has been denied.

(g) If an applicant is rejected three (3) times within thirty (30) days, the applicant must wait thirty (30) days before submitting another application.

(h) If an application is denied, the applicant is entitled to timely notice and a hearing, as described in IC 4-21.5.

(Secretary of State; 75 IAC 7-2-1; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

## **75 IAC 7-2-2 Amendments to notary public commission**

Authority: IC 33-42-16-2

Affected: IC 33-42-12

Sec. 2. (a) A notary public must notify the secretary of state not later than thirty (30) days after any change to the following information associated with the notary public:

(1) Name.

(2) Mailing address.

(3) Personal electronic mail address.

(4) Personal telephone number.

(5) Employer's:

(A) address;

(B) name; and

(C) telephone number.

(b) A notary public must file the following documents with the secretary of state after any change to the notary public's name on file with the secretary of state's office:

(1) A rider or other record issued by the notary public's surety reflecting the change of name.

(2) A sample of the notary public's new signature.

(c) A notary public must notify the secretary of state of the following occurrences not later than fourteen (14) days after occurrence:

(1) The notary public is convicted of a felony offense involving deceit, dishonesty, or fraud.

(2) The notary public is found to have acted deceitfully, dishonestly, or fraudulently in any disciplinary action or legal proceeding.

(3) The notary public has a commission as a notary public denied, restricted, or revoked in a state other than Indiana.

(d) A notary public must notify the secretary of state after the notary public is no longer:

(1) an Indiana resident; or

(2) primarily employed in the state of Indiana;

and notice must be treated as a resignation.

(Secretary of State; 75 IAC 7-2-2; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-2-3 Continuing education for notaries public**

Authority: IC 33-42-16-2

Affected: IC 33-42-12

Sec. 3. (a) Continuing education (CE) administered by the secretary of state must be completed every two (2) years after the issuance of a notary commission.

(b) Three (3) CE courses must be completed throughout the duration of the notary commission. The first CE course is due two (2) years after the notary is commissioned. The second CE course is due four (4) years after the notary is commissioned. The third CE course is due six (6) years after the notary is commissioned. Each CE course is due by the end of the anniversary of the month in which the notary is commissioned.

(c) Failure to complete a CE course requirement will result in the expiration of the notary commission.

(d) The curriculum for notary commission continuing education must include, but is not limited to, all of the following:

(1) The term 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) Requirements for a notary seal.

(6) What constitutes a notarial act that complies with applicable Indiana law and administrative rules.

(7) How to perform a complete notarial act, including examples involving commonly notarized documents.

- (8) Verifying the identity of the principal.
  - (9) The administration of a jurat.
  - (10) Method to notarize a document signed by a designated alternative signer.
  - (11) Overview and examples of prohibited acts.
  - (12) Explanation of electronic notarizations.
  - (13) Explanation of remote notarial acts.
  - (14) What constitutes unauthorized immigration consultant acts and the unauthorized practice of law by a notary.
  - (15) The fees a notary public is permitted to charge.
  - (16) The conditions under which a commission may be revoked.
  - (17) Investigation and disciplinary processes.
- (Secretary of State; 75 IAC 7-2-3; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-2-4 Notary public renewal**

Authority: IC 33-42-16-2

Affected: IC 4-21.5; IC 33-42-12

Sec. 4. (a) Under IC 33-42-12-1(f), a notary commission is valid for eight (8) years after its effective date.

(b) A notary public applying for a commission renewal may apply beginning ninety (90) days prior to the expiration date of the notary public's current commission.

(c) In order to renew a notary commission, each applicant must electronically submit an application for renewal using the notary application prescribed by the secretary of state. The application for renewal is the same as the application for notary public in section 1 of this rule.

(d) If the secretary of state determines that the applicant has complied with the requirement of this rule, the secretary of state shall renew the notary public's commission and extend its term for a period of eight (8) years from expiration of the current commission.

(e) If the notary public's commission expires before the commission is renewed, the notary public's commission shall not be renewed, and the person may apply for a new commission under section 1 of this rule.

(f) If an applicant fails to comply with the requirements of section 1(b)(1) through 1(b)(10) of this rule, and section 1(c)(1) through 1(c)(3) of this rule when applicable, the secretary of state must inform the applicant that the application has been rejected.

(g) If an applicant fails to comply with the requirements of section 1(b)(11) of this rule or has a disqualifying offense, the secretary of state must inform the applicant that the application has been denied.

(h) If an applicant is rejected three (3) times within thirty (30) days, the applicant must wait thirty (30) days before submitting another application.

(i) If an applicant is denied, the affected party is entitled to timely notice and a hearing, as described in IC 4-21.5.

(Secretary of State; 75 IAC 7-2-4; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

## **Rule 3. Remote Notaries Public**

### **75 IAC 7-3-1 Eligibility to be authorized as a remote notary public**

Authority: IC 33-42-16-2

Affected: IC 33-42-12-1; IC 33-42-17-2

Sec. 1. (a) An applicant must meet the eligibility requirements in IC 33-42-12-1(b) and be a commissioned notary public to be eligible to register for a remote notary public authorization.

(b) There must be at least ninety (90) days remaining on the applicant's notary public commission to register for a remote notary public authorization.

(Secretary of State; 75 IAC 7-3-1; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-3-2 Submission of remote notary public application**

Authority: IC 33-42-16-2

Affected: IC 4-21.5; IC 33-42-17-2

Sec. 2. (a) An individual applying for a remote notary public authorization must use the remote notary application prescribed by the secretary of state.

(b) The application must include the following:

(1) The name on the applicant's notary public commission.

(2) The applicant's notary public commission number.

(3) The name of the remote technology vendor that the applicant intends to use to perform remote notarial acts.

(4) A disclosure of any and all disciplinary actions or commission revocations taken against the applicant.

(5) A passing score on the remote notary examination.

(6) Payment of the nonrefundable application fee to the secretary of state.

(c) Once an applicant successfully complies with all the requirements of subsection (b), the secretary of state shall issue a remote notary public authorization to the applicant.

(d) If an applicant fails to comply with the requirements of subsection (b), the secretary of state shall inform the applicant that the application has been rejected.

(e) If an applicant fails to comply with the requirements of 75 IAC 7-2-1(b)(11) or has a disqualifying offense, the secretary of state shall inform the applicant that the application has been denied.

(f) If the application is rejected, the secretary of state will issue a notice of the rejection to the applicant electronically. If an applicant is rejected two (2) times within thirty (30), days the applicant must wait an additional thirty (30) days before submitting another application.

(g) If an applicant is denied, the affected party is entitled to timely notice and a hearing, as described in IC 4-21.5.

(Secretary of State; 75 IAC 7-3-2; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-3-3 Consecutive remote notary public authorization**

Authority: IC 33-42-16-2

Affected: IC 33-42-17-2

Sec. 3. (a) A remote notary public authorization is valid from the time the notary public is authorized until the expiration of the notary public commission.

(b) The application must include the following:

(1) The name on the applicant's notary public commission.

(2) The applicant's notary public commission number.

(3) The name of the remote technology vendor that the applicant intends to use to perform remote notarial acts.

(4) A disclosure of any and all disciplinary actions or commission revocations taken against the applicant.

(5) A passing score on the remote notary examination.

(6) Payment of the nonrefundable application fee to the secretary of state.

(c) A notary public cannot apply for a consecutive remote notary public authorization until the secretary of state has renewed its notary public commission.

(d) In order to obtain a consecutive remote notary authorization, each applicant must electronically submit an application for authorization using the application prescribed by the secretary of state. The application for consecutive authorization is the same as the application for a remote notary public authorization registration under section 2 of this rule.

(Secretary of State; 75 IAC 7-3-3; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

## **Rule 4. Complaints**

### **75 IAC 7-4-1 Submitting a complaint**

Authority: IC 33-42-16-2

Affected: IC 5-8-3-1; IC 33-42-13

Sec. 1. (a) Any person may submit a complaint in writing to the secretary of state alleging that:

(1) a notary public has violated one (1) or more of the provisions of this article, IC 33-42-13-3, or IC 5-8-3-1;

(2) a person is performing notarial acts without a notary public commission; or

(3) a person is performing remote notarial acts without a remote notary public authorization.

(b) The complaint must include the name of the notary public or person acting as a notary public and, if applicable:

(1) the notary public's commission number;

(2) the expiration date of the notary public's current commission;

(3) the name, mailing address, and email address of the individual filing the complaint;

(4) whether the notary was performing a remote notarial act;

(5) a recitation of the facts, within the personal knowledge of the complainant, relating to the alleged misconduct by the notary public; and

(6) copies of the notarized documents that are the subject of the complaint.

(c) The complaint must be signed by the person alleging misconduct on the part of the notary public.

(d) The secretary of state may initiate a complaint against a notary public.

(Secretary of State; 75 IAC 7-4-1; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-4-2 Complaint procedures**

Authority: IC 33-42-16-2

Affected: IC 33-42-13

Sec. 2. (a) The secretary of state may determine that the allegations in the complaint are not sufficient to warrant formal disciplinary action. In such case, the secretary of state may:

(1) take no action on the complaint;

(2) informally advise the notary public of the appropriate conduct as well as the applicable statutes and rules governing the conduct; or



(3) request further information from the complainant or the notary public prior to taking action.

(b) If the secretary of state determines that the complaint alleges sufficient facts to result in disciplinary action against the notary public, the secretary of state may send interrogatories or a show cause letter with any attachments the secretary of state deems to be relevant to the notary public.

(c) The notary public must respond to the complaint in writing. The response must:

(1) specify any disputed facts and provide such additional information as the notary public shall desire; and

(2) be received by the secretary of state within thirty (30) days of the date that the secretary of state's mailings were sent to the notary public.

(d) The secretary of state shall review the response and determine whether further administrative action is appropriate. If the secretary determines that no further action is appropriate, the secretary shall notify the notary public and the complainant of the determination in writing.

(e) If the secretary determines that further administrative action is appropriate, the secretary shall take action under IC 33-42-13-1.

(Secretary of State; 75 IAC 7-4-2; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

## **Rule 5. Remote Notarial Acts**

### **75 IAC 7-5-1 Remote notarial act procedures**

Authority: IC 33-42-16-2

Affected: IC 33-42-13-1; IC 33-42-17

Sec. 1. (a) A commissioned notary public does not have the authority to perform remote notarial acts unless authorized by the secretary of state as a remote notary public.

(b) A remote notary public must be physically located within the boundaries of Indiana at the time the notarial act takes place.

(c) A remote notary public shall not perform a remote notarial act if the principal does not appear in real time by audio visual communication before the remote notary public.

(d) The methods by which a remote notary public identifies a principal are any of the following:

(1) Remote notary public personally knows the principal.

(2) Principal is introduced by oath of credible witness who personally knows the principal and either is personally known to the remote notary public or provides qualifying identification in accordance with subdivision (3).

(3) Principal or credible witness is identified using the identity proofing and credential analysis standard in accordance with 75 IAC 7-8-1.

(e) For all notarial acts that require a notarial certificate, the remote notary public shall complete an electronic notarial certificate that meets all the requirements in IC 33-42-17-7. The notarial certificate must be signed by affixing the remote notary public's electronic signature and electronic seal. The digital certificate for the remote notarial act must be attached to render the document tamper evident.

(f) The liability, sanctions, and remedies for the improper performance of remote notarial acts are the same as the disciplinary action under IC 33-42-13-1.

(g) A remote notary public must keep a record of all notarial acts that complies with 75 IAC

7-6-1. In addition, the notary public must at a minimum:

(1) confirm that the principal has successfully completed identity proofing and credential analysis;

(2) confirm the identity of the principal through visual inspection of the credential used during credential analysis; and

(3) ensure that an audio visual recording captures the notarial act performed.

(h) If the principal is personally known to the remote notary public, the audio visual conference must include a statement disclosing the personal relationship.

(i) The remote notary public shall not disclose any access information used to affix the notary's electronic signature and seal except when requested by the secretary of state, law enforcement, the courts, and with reasonable precautions, electronic document preparation and remote technology vendors.

(j) A remote notary public must attach the notary's electronic signature and seal to the electronic 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 tamper evident.

(Secretary of State; 75 IAC 7-5-1; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-5-2 Reasons to refuse to perform remote notarial acts**

Authority: IC 33-42-16-2

Affected: IC 33-42-9-5

Sec. 2. In addition to the refusal grounds set forth in IC 33-42-9-5, relating to refusal of requests for notarial services, a remote notary public must refuse to perform a remote notarial act if:

(1) the remote notary public is unable to verify the identity of the principal using an acceptable means of identification;

(2) the remote notary public is unable to verify the security of the audio visual communication;

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

(4) the digital certificate or electronic seal of the remote notary public cannot be attached to the electronic document to render the document tamper evident.

(Secretary of State; 75 IAC 7-5-2; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

## **Rule 6. Electronic Documenting Standards**

### **75 IAC 7-6-1 Prohibition against entering personal information in an electronic journal**

Authority: IC 33-42-16-2

Affected: IC 33-42-17-8

Sec. 1. (a) A notary public (other than a court clerk notarizing instruments for the court) shall not record in the notary's record journal:

(1) an identification number that was assigned by a governmental agency or by the United States to the principal and that is set forth on the identification card or passport presented as identification;

(2) any other number that could be used to identify the principal of the document; or

(3) a biometric identifier, including a fingerprint, voice print, and retina or iris image.

(b) This section does not prohibit a notary public from recording a number related to the

mailing address of the principal of the document or the instrument.

(c) This section does not apply to the audio visual recording required by a remote notary public performing a remote notarial act.

(d) A notary public who inadvertently records information prohibited under subsection (a) must redact such information prior to providing public access to or copies of the notary record book.

(e) Upon a remote notary public's learning that an electronic journal is lost, stolen, or compromised, the remote notary public shall notify the secretary of state within fifteen (15) days. (Secretary of State; 75 IAC 7-6-1; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-6-2 Electronic notary seal**

Authority: IC 33-42-16-2

Affected: IC 33-42-0.5-13; IC 33-42-17-6

Sec. 2. (a) The name on the electronic notary public seal must match the name, as stated on the application, under which the notary public is commissioned and performs all remote notarial acts.

(b) The technology used to attach an electronic signature to a document must allow a notary public's electronic signature to be:

(1) attributed or uniquely linked to the notary public;

(2) capable of independent verification;

(3) retained under the notary public's exclusive control implemented by use of passphrase protection; and

(4) linked to the electronic document to which it relates in such a manner that any subsequent change of the electronic document is detectable.

(c) The official seal of a notary public must include the requirements listed in IC 33-42-0.5-13.

(Secretary of State; 75 IAC 7-6-2; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

## **Rule 7. Remote Technology Continuing Responsibilities**

### **75 IAC 7-7-1 Changes to selected remote technology vendor**

Authority: IC 33-42-16-2

Affected: IC 33-42-17-11

Sec. 1. The notary public must notify the secretary of state within thirty (30) days after the notary public changes the remote technology vendor or contracts with an additional remote technology vendor. A notary public may use more than one (1) remote technology vendor. If the notary public fails to meet these standards, then the secretary of state may suspend or revoke the notary public's commission and the notary public's remote authorization.

(Secretary of State; 75 IAC 7-7-1; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-7-2 Changes to digital certificate and electronic seal**

Authority: IC 33-42-16-2

Affected: IC 33-42-17-6; IC 33-42-17-7

Sec. 2. (a) A notary public must, at all times, maintain a digital certificate and electronic seal

that includes the notary public's electronic signature. The digital certificate must comply with the provisions of IC 33-42-17-7, and the electronic seal must comply with 75 IAC 7-6-2.

(b) A notary public must replace a digital certificate under any of the following circumstances:

(1) The electronic seal or digital certificate has expired.

(2) The electronic seal or digital certificate is for any reason no longer valid or capable of authentication.

(3) The notary public has changed any of the following:

(A) Name.

(B) County of commission or county of primary employment.

(C) Notary public commission number.

(Secretary of State; 75 IAC 7-7-2; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

## **Rule 8. Remote Technology Vendor Requirements**

### **75 IAC 7-8-1 Identity proofing and credential analysis standards**

Authority: IC 33-42-16-2

Affected: IC 33-42-17-5

Sec. 1. (a) Identity proofing and credential analysis must be facilitated by an approved remote technology vendor.

(b) Identity proofing must be performed through dynamic knowledge based authentication or through another process or service approved by the secretary of state.

(c) Dynamic knowledge based authentication must, at a minimum:

(1) contain five (5) questions, drawn from public or private data sources;

(2) generate a minimum of five (5) possible answer choices per question;

(3) maintain a passing score of at least eighty percent (80%); and

(4) require that all five (5) questions answered within two (2) minutes.

(d) Credential analysis must, at a minimum:

(1) verify the identity of a principal or any credible witness;

(2) utilize appropriate technologies to confirm that the credential is not fraudulent or inappropriately modified; and

(3) enable the remote notary public to visually compare for consistency the information and photo presented on the credential itself and the principal as viewed by the remote notary public in real time through audio visual communication.

(e) If the principal exits the authentication workflow or the communication is materially interrupted, the principal must meet the criteria outlined in this section and restart the identity proofing and credential analysis.

(Secretary of State; 75 IAC 7-8-1; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-8-2 Remote notarial act system**

Authority: IC 33-42-16-2

Affected: IC 33-42-17-6

Sec. 2. A remote notary system used to perform remote notarial acts by means of audio visual communication must:

(1) provide for real time audio visual feeds;

(2) provide sufficient video resolution and audio clarity to enable the remote notary public and the principal to see and speak to each other simultaneously through real time transmission;

(3) provide sufficient captured image resolution for credential analysis to be performed;

(4) include a means of authentication that reasonably ensures only the proper parties have access to the audio visual communication;

(5) provide some manner of ensuring that the electronic record that is subject to the remote notarial act is the same record electronically signed by the principal;

(6) securely create, store, and transmit an electronic recording of the audio visual communication, maintaining the confidentiality of any identity proofing responses or analysis; and

(7) provide reasonable security measures to prevent unauthorized access to:

(A) the real time transmission of the audio visual communication;

(B) a recording of the audio visual communication;

(C) the verification methods and credentials used to verify the identity of the principal; and

(D) the electronic documents presented for electronic notarization.

(Secretary of State; 75 IAC 7-8-2; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)

### **75 IAC 7-8-3 Remote technology vendor**

Authority: IC 33-42-16-2

Affected: IC 33-42-17-6

Sec. 3. (a) A remote technology vendor must apply with and be approved by the secretary of state.

(b) The secretary of state must provide the names and contact information of approved remote technology vendors on its official website.

(c) Remote technology vendors must provide notice to the secretary of state within fifteen (15) days if their contact information changes.

(d) Remote technology vendors must provide notice to notaries utilizing their services and the secretary of state's office fifteen (15) days prior to the date that they will no longer provide remote technology services.

(e) If a remote technology vendor intends to make material modifications that affect its compliance with Indiana law or this title, notice must be provided to the secretary at least ten (10) days prior to such modifications, and implementation shall only occur upon receiving the approval from the secretary of state.

(f) A remote technology vendor must electronically report the following:

(1) A monthly listing of all notaries public that have on-boarded to the vendor's software.

(2) A monthly listing of all notaries public that have off-boarded from the vendor's software.

(g) A remote technology vendor application expires two (2) years after the date the application is approved.

(Secretary of State; 75 IAC 7-8-3; filed Mar 26, 2020, 1:09 p.m.: 20200401-IR-075190329FRA, eff Mar 31, 2020, see Executive Order 20-15)