

MAINE REVISED STATUTES ANNOTATED

TITLE 4. JUDICIARY CHAPTER 5. DISTRICT COURT

§ 158. Ex officio, notary public; may administer oaths

Judges and clerks of the District Court are, ex officio, notaries public, and all their official acts, arrested by them in either capacity, except those pertaining to the exclusive jurisdiction of judges and clerks of District Courts, are of equal effect. Judges and clerks of the District Court may administer all oaths required by law, unless another officer is specifically required to do it. [1981, c. 456, § 3 (AMD).]

Section History: 1981, Ch. 456, §A3 (AMD).

§ 169. Administration of oaths

Judges of the District Court and notaries public may administer all oaths required by law, unless another officer is specially required to do it. [1981, c. 456, Pt. A, § 4 (AMD).]

Section History: 1981, Ch. 456, §A4 (AMD).

CHAPTER 7. PROBATE COURT

§ 202. Oaths and acknowledgments

All oaths required to be taken by personal representatives, trustees, guardians, conservators, or of any other persons in relation to any proceeding in the probate court, or to perpetuate the evidence of the publication of any order of notice, may be administered by the judge or register of probate or any notary public. A certificate thereof, when taken out of court, shall be returned into the registry of probate and there filed. When any person of whom such oath is required, including any parent acknowledging consent to an adoption, resides temporarily or permanently without the State, the oath or acknowledgment may be taken before and be certified by a notary public without the State, a commissioner for the State of Maine or a United States Consul. [1981, c. 456, Pt. A, § 5 (AMD).]

Section History: 1979, Ch. 540, §6 (AMD), 1981, Ch. 456, §A5 (AMD).

CHAPTER 13. CLERKS OF JUDICIAL COURTS

§ 568. Duties of clerks as to records; fees

All clerks of courts shall receive and safely keep all such records and papers lodged in their offices and give attested copies thereof, for which they shall receive the same fees as a notary. Such copies shall be as valid as if certified by notaries. R.S. 1954, C. 110, § 31.

CHAPTER 7. ATTORNEYS AT LAW

§ 807-B. Authorized immigration and nationality law assistance

1. Short title. This section may be known and cited as “the Immigration and Nationality Law Assistance Act.” [2005, c. 629, §1 (NEW).]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. “Compensation” means money, property, the reciprocal exchange of services or anything

else of value. [2005, c. 629, §1 (NEW).]

B. “Federally authorized immigration representative” means an attorney who is admitted to and in good standing before the bar of a state of the United States other than Maine, or other person who is authorized to represent another in immigration and nationality law matters to the extent allowed under federal law or regulations, including 8 Code of Federal Regulations, Sections 292.1 and 1292.1 (1996), with such representation specifically limited to federal immigration and nationality law matters. [RR 2005, c. 2, §2 (COR).]

C. “Immigration and nationality law assistance” means assistance on an immigration and nationality law matter. [2005, c. 629, §1 (NEW).]

D. “Immigration form” means a form created by the United States Department of Homeland Security, the United States Department of Justice, the United States Department of Labor, the United States Department of State or other federal agency charged with implementing federal immigration and nationality laws for use in an immigration and nationality law matter. [2005, c. 629, §1 (NEW).]

E. “Immigration and nationality law matter” means any application, proceeding, filing or other action before an agency of the United States Department of Homeland Security, the United States Department of Justice, the United States Department of Labor or the United States Department of State or other federal agency charged with implementing federal immigration and nationality laws regarding the nonimmigrant, immigrant or citizenship status of or the admission to or removal from the United States of a person that arises from the application of a federal immigration and nationality law, executive order or presidential proclamation. [2005, c. 629, §1 (NEW).]

F. “Nonlegal immigration and nationality law assistance” is limited to:

(1) Translating from English into a customer’s primary language questions on an immigration form selected by the customer so that the customer can understand the questions and does not include advising the customer as to the appropriateness of the immigration form selected by the customer or suggesting which immigration form to use;

(2) Translating from a customer’s primary language into English and otherwise transcribing to an immigration form the customer’s answers to questions on that form and does not include advising the customer as to the appropriateness of the immigration form selected by the customer or suggesting which immigration form to use or as to the customer’s answers on that immigration form;

(3) Securing or assisting the customer to secure supporting documents currently in existence, such as birth and marriage certificates, that may be needed for submission with immigration forms and does not include drafting of affidavits or other documents that may need to accompany immigration forms; and

(4) Making referrals for legal representation with respect to an immigration and nationality law matter to an attorney admitted to and in good standing before the bar of the State or to a federally authorized immigration representative duly authorized by federal law and regulations to undertake such representation. [2005, c. 629, §1 (NEW).]

[RR 2005, c. 2, §2 (COR).]

3. Nonlegal immigration and nationality law assistance authorized. A person offering immigration and nationality law assistance may offer or provide only nonlegal immigration and nationality law assistance, except, however, that an attorney admitted to and in good standing before the bar of the State or a federally authorized immigration representative may provide immigration and nationality law assistance in the form of representation to the extent authorized by federal laws and regulations in immigration proceedings before agencies of the United States

Department of Homeland Security, the United States Department of Justice, the United States Department of Labor or the United States Department of State or other federal agency charged with carrying out the implementation of federal immigration and nationality laws.

Nothing in this section is intended to nor does it authorize either an attorney who is not admitted to and in good standing before the bar of the State or a federally authorized immigration representative to offer legal opinions or general legal advice regarding state laws or to represent another before any state court, administrative agency or other forum charged with interpreting or implementing state laws. [2005, c. 629, §1 (NEW).]

4. Prohibited activities. In the course of dealing with customers or prospective customers, a provider of immigration and nationality law assistance may not:

A. Make a statement that the provider of immigration and nationality law assistance can or will obtain special favors from or has special influence with an agency or a tribunal of the United States Government or of any state government; [2005, c. 629, §1 (NEW).]

B. Retain compensation for services not performed; [2005, c. 629, §1 (NEW).]

C. Refuse to return documents supplied by, prepared by, paid for by or obtained on behalf of the customer and requested by the customer, regardless of whether there is outstanding compensation owed to the provider of immigration and nationality law assistance by the customer or a fee dispute between the provider of immigration and nationality law assistance and the customer; [2005, c. 629, §1 (NEW).]

D. Fail to complete and sign, in the space provided, an immigration form that requests the preparer's name, address, telephone number or signature, even if the provider of immigration and nationality law assistance has only provided nonlegal immigration and nationality law assistance in the preparation of the immigration form; [2005, c. 629, §1 (NEW).]

E. Provide legal advice regarding immigration and nationality law matters, including selecting immigration forms for a customer or advising a customer as to the appropriateness of the forms the customer has selected or as to the customer's answers to the questions on the forms, unless the provider of immigration and nationality law assistance is an attorney admitted to and in good standing before the bar of the State or is a federally authorized immigration representative; or [2005, c. 629, §1 (NEW).]

F. Represent or advertise or provide notice in any way or manner, including, but not limited to, the assertion of a title or credential such as "notario," "immigration consultant," "immigration agent," "immigration assistant" or "attorney," that could cause a customer to believe that the provider of immigration and nationality law assistance is authorized to practice law in the State or possesses special skill or expertise in immigration and nationality law matters unless the provider is an attorney admitted to and in good standing before the bar of the State or is a federally authorized immigration representative. A federally authorized immigration representative whose principal place of business is in the State shall give verbal notice to customers that the federally authorized immigration representative is not an attorney admitted to the bar of the State and may not give general legal advice or representation under state law and shall also include language in any written advertisement, notice or contract for services that clearly conveys that the federally authorized immigration representative is not an attorney admitted to practice law in the State and may not give general legal advice or assistance under state law. [2005, c. 629, §1 (NEW).]

5. Unfair method of competition or unfair and deceptive act or practice. A violation of this section substantially affects the public interest and constitutes an unfair method of competition and a deceptive act or practice in the conduct of trade or commerce for purposes of the Maine

Unfair Trade Practices Act. [2005, c. 629, §1 (NEW).]

6. Civil violation. A violation of this section constitutes a civil violation for which a fine of not more than \$5,000 may be adjudged. [2005, c. 629, §1 (NEW).]

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

A. An amount equal to actual damages sustained by the customer as a result of the violation; [2005, c. 629, §1 (NEW).]

B. An amount equal to 3 times the actual damages; and [2005, c. 629, §1 (NEW).]

C. The costs of the action together with reasonable attorney's fees as determined by the court. [2005, c. 629, §1 (NEW).]
[2005, c. 629, §1 (NEW).]

8. Attorney General action; report. Whenever the Attorney General has reason to believe that a person within the State has engaged in or is engaging in activities that violate this section, the Attorney General may initiate an action in the Superior Court to enforce this section. The Attorney General, by January 1, 2007, and every January 1st thereafter, shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the number and circumstances of all investigations that the Department of the Attorney General has initiated in the preceding year relating to violations of this section. [2005, c. 629, §1 (NEW).]
Section History: 2005, c. 629, §1 (NEW). RR 2005, c. 2, §2 (COR).

§ 860. Management of causes by parties or counsel

Parties may plead and manage their own causes in court or do so by the aid of such counsel as they see fit to employ. No person whose name has been struck from the roll of attorneys for misconduct shall plead or manage causes in court under a power of attorney for any other party or be eligible for appointment as a notary public.

[1981, c. 456, Pt. A, § 6 (AMD).]

Section History: 1981, Ch. 456, §A6 (AMD).

CHAPTER 19. NOTARIES PUBLIC. REPEALED 2021, CH 651 § A-6.

CHAPTER 19. UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT. REPEALED 2021, CH 651 § A-6.

CHAPTER 23. MISCELLANEOUS PROVISIONS

§ 1056. Powers of attorneys

Attorneys at law duly admitted and eligible to practice in the courts of the State shall have all of the powers of notaries public and be authorized to do all acts which may be done by notaries public with the same effect thereof and have the same territorial jurisdiction. [1981, c. 456, Pt. A, § 12 (AMD).]
Section History: 1967, Ch. 206, § (NEW), 1981, Ch. 456, §A12 (AMD).

CHAPTER 39. REVISED UNIFORM LAW ON NOTARIAL ACTS

§ 1901. Short title

This chapter may be known and cited as the Revised Uniform Law on Notarial Acts.

§ 1902. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Acknowledgement. “Acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

2. Electronic. “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

3. Electronic signature. “Electronic signature” means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

4. In a representative capacity. “In a representative capacity” means acting as:

A. An authorized officer, agent, partner, trustee or other representative of a person other than an individual;

B. A public officer, personal representative, guardian or other representative, in the capacity stated in a record;

C. An agent or attorney-in-fact for a principal; or

D. An authorized representative of another in any other capacity.

5. Notarial act. “Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of this State. “Notarial act” includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument or loss in mercantile usage.

6. Notarial officer. “Notarial officer” means a notary public or other individual authorized to perform a notarial act.

7. Notary public. “Notary public” means an individual commissioned to perform a notarial act by the Secretary of State.

8. Official stamp. “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record and includes an official notary seal.

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

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

11. Sign. “Sign” means, with present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or

B. To attach to or logically associate with the record an electronic symbol, sound or process.

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

13. Stamping device. “Stamping device” means:

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

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

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

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1903. Applicability

This chapter applies to a notarial act performed on or after July 1, 2023.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1904. Authority to perform notarial act

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

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

3. Conflict of interest. A notarial officer may not perform a notarial act with regard to which the notarial officer has a conflict of interest as set forth in this subsection.

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

B. A notarial officer may not perform any notarial act with respect to a record to which the notarial officer or the officer’s spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative of the officer is a party or in which any of them has a direct beneficial interest.

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

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

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

6. Voidable notarial acts. A notarial act performed in violation of subsection 3, 4 or 5 is voidable.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1905. Requirements for certain notarial acts

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

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

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

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

5. Protest of negotiable instrument. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in Title 11, section 3-1505, subsection (1), paragraph (b).

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1906. Personal appearance required

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1907. Identification of individual

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

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

A. By means of:

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

(2) Another form of government identification issued to an individual that contains the signature or a photograph of the individual and is satisfactory to the notarial officer; or

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

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1908. Authority to refuse to perform notarial act

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

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

or

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

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1909. Signature if individual unable to sign

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1910. Notarial act in this State

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

A. A notary public of this State;

B. A justice, judge, clerk or deputy clerk of a court of this State;

C. An attorney-at-law duly admitted and eligible to practice in the courts of this State; or

D. Any other individual authorized to perform the specific act by the laws of this State.

2. Prima facie evidence. The signature and title of an individual performing a notarial act in

this State are prima facie evidence that the signature is genuine and that the individual holds the designated title.

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

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1911. Notarial act in another state

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

A. A notary public of that state;

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

C. Any other individual authorized by the laws of that state to perform the notarial act.

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

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1912. Notarial act under authority of federally recognized Indian tribe

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

A. A notary public of the tribe;

B. A judge, clerk or deputy clerk of a court of the tribe; or

C. Any other individual authorized by the laws of the tribe to perform the notarial act.

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

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1913. Notarial act under federal authority

1. Notarial act under federal authority recognized. A notarial act performed under federal law

has the same effect under the laws of this State as if performed by a notarial officer of this State, if the act performed under federal law is performed by:

- A. A judge, clerk or deputy clerk of a federal court;
 - B. An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
 - C. An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
 - D. Any other individual authorized by federal law to perform the notarial act.
2. Prima facie evidence. The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.
 3. Signature and title conclusive. The signature and title of an officer described in subsection 1, paragraph A, B or C conclusively establish the authority of the officer to perform the notarial act.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1914. Foreign notarial act

1. Foreign state. As used in this section, “foreign state” means a government other than the United States, a state or a federally recognized Indian tribe.
2. Foreign notarial acts recognized. If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of a foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the laws of this State as if performed by a notarial officer of this State.
3. Digest or list conclusive. If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.
4. Prima facie evidence. The signature and official stamp of an individual holding an office described in subsection 3 are prima facie evidence that the signature is genuine and the individual holds the designated title.
5. Hague Convention. An apostille in the form prescribed by the Hague Convention of October 5, 1961 and issued by a foreign state party to the Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.
6. Consular authentication. A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1915. Notarial act performed for remotely located individual

1. Definitions. As used in this section, the following terms have the following meanings.
 - A. “Communication technology” means an electronic device or process that allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound. When necessary and consistent with other applicable laws, “communication technology” includes an electronic device or process that facilitates communication with a

remotely located individual who has a vision, hearing or speech impairment.

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

C. “Identity proofing” means a process or service by which a 3rd person provides a notarial officer with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

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

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

2. Personal appearance by communication technology authorized. Except as provided in subsection 16, a remotely located individual may comply with section 1906 by using communication technology to appear before a notarial officer.

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

A. The notarial officer:

(1) Has personal knowledge under section 1907, subsection 1 of the identity of the remotely located individual;

(2) Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notarial officer under section 1907, subsection 2 or this section; or

(3) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least 2 different types of identity proofing;

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

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

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

(1) The record:

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

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

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

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

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

A. The remotely located individual:

(1) During the audiovisual recording under subsection 3, paragraph C, signs:

(a) The record; and

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

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

.....

(Signature of remotely located individual)

.....

(Printed name of remotely located individual); and

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

B. The notarial officer:

(1) In the audiovisual recording under subsection 3, paragraph C, records the individual signing the record and declaration; and

(2) After receipt of the record and declaration from the individual, executes a certificate of notarial act under section 1916, which must include a statement in substantially the following form:

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

6. Notarial act deemed contemporaneous. A notarial act performed in compliance with subsection 5 complies with section 1916, subsection 1, paragraph A and is effective on the date the remotely located individual signed the declaration under subsection 5, paragraph A, subparagraph (1), division (b).

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

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

A. Identifies the individual under subsection 3, paragraph A;

B. Creates or causes the creation under subsection 3, paragraph C of an audiovisual recording of the individual taking the oath or affirmation; and

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

9. Certificate must indicate use of communication technology. If a notarial act is performed under this section, the certificate of notarial act under section 1916 and the short form certificate under section 1917 must indicate that the notarial act was performed using communication technology.

10. Form of short form certificate. A short form certificate under section 1917 for a notarial act subject to this section is sufficient if it:

A. Complies with rules adopted under subsection 13, paragraph A; or

B. Complies with section 1917 and contains a statement in substantially the following form:

This notarial act involved the use of communication technology.

11. Retention of recording. A notarial officer, a guardian, conservator or agent of a notarial officer or a personal representative of a deceased notarial officer shall retain the audiovisual recording created under subsection 3, paragraph C or cause the recording to be retained by a

repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection 13, paragraph D, the recording must be retained for at least 10 years.

12. Notice to Secretary of State. Before a notarial officer performs the notarial officer's initial notarial act under this section, the notarial officer shall notify the Secretary of State that the notarial officer will be performing notarial acts with respect to remotely located individuals and identify the technologies the notarial officer intends to use. If the Secretary of State has established by rule standards under subsection 13 and section 1928 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

13. Rules. In addition to adopting rules under section 1928, the Secretary of State may adopt rules regarding performance of a notarial act under this section. The rules may:

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

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

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

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

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

- A. Witnessing the marking and sealing of an absentee ballot pursuant to Title 21-A, section 754-A;
- B. Administering an oath or affirmation to a candidate for office under Title 21-A, section 336 or 355;
- C. Administering an oath or affirmation to the circulator of a candidate petition under Title

21-A, section 335 or 354;

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

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

17. Solemnization of marriage remotely prohibited. A notarial officer may not solemnize a marriage pursuant to Title 19-A, section 655 for a remotely located individual.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1916. Certificate of notarial act

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

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

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

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

D. Contain the title of office of the notarial officer;

E. If the notarial officer is a notary public, indicate the date of expiration of the officer's commission; and

F. Contain the legibly printed or typed name of the notarial officer.

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

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

A. Is in a short form set forth in section 1917;

B. Is in a form otherwise permitted by the laws of this State;

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

D. Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 1905, 1906 and 1907 or a law of this State other than this chapter.

4. Execution of certificate certifies compliance. By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 1904, 1905 and 1906.

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

6. Certificate to be attached. If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards by rule pursuant to section 1928 for attaching, affixing or logically associating the certificate, the process must conform to the standards.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1917. Short form certificates

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 1916, subsections 1 and 2.

1. Individual capacity. For an acknowledgment in an individual capacity:

State of

County of

This record was acknowledged before me on by
Date Name(s) of individual(s)

.....

Signature of notarial officer

Stamp or printed name

[.....]

Title of office

[My commission expires:]

2. Representative capacity. For an acknowledgment in a representative capacity:

State of

County of

This record was acknowledged before me on by
Date Name(s) of individual(s)

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

.....

Signature of notarial officer

Stamp or printed name

[.....]

Title of office

[My commission expires:]

3. Oath or affirmation. For a verification on oath or affirmation:

State of

County of

Signed and sworn to (or affirmed) before me on by
Date

.....

Name(s) of individual(s) making statement

.....

Signature of notarial officer

Stamp or printed name

[.....]

Title of office

[My commission expires:]

4. Signature. For witnessing or attesting a signature:

State of

County of

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

.....

Signature of notarial officer
Stamp or printed name
[.....]
Title of office
[My commission expires:]

5. Copy of a record. For certifying a copy of a record:
State of
County of

I certify that this is a true and correct copy of a record in the possession
of.....
Dated.....

.....
Signature of notarial officer
Stamp or printed name
[.....]
Title of office
[My commission expires:]

History
2021 ch. 651, § A-4, effective July 1, 2023.

§ 1918. Official stamp

A notary public may keep an official stamp, which must:

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

History
2021 ch. 651, § A-4, effective July 1, 2023.

§ 1919. Stamping device

1. Notary public’s responsibility. A notary public is responsible for the security of the notary public’s stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public’s commission or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public’s personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

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

History
2021 ch. 651, § A-4, effective July 1, 2023.

§ 1920. Journal

1. Journal required. A notarial officer shall maintain a journal for all electronic and remote

notarizations. A notarial officer may maintain a journal for all tangible notarizations. The notarial officer shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

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

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

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

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

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

6. Alternative to retention. Instead of retaining a journal as provided in subsection 5, a former notary public may transmit the journal to the Secretary of State or a repository approved by the Secretary of State.

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1921. Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record

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

2. Notification to Secretary of State. Before a notarial officer performs the notarial officer's initial notarial act with respect to an electronic record, the notarial officer shall notify the Secretary of State that the notarial officer will be performing notarial acts with respect to electronic records and identify the technology the notarial officer intends to use. If the Secretary of State has established by rule standards for approval of technology pursuant to section 1928,

the technology must conform to the rules. The Secretary of State shall determine whether the technology proposed by the notarial officer is approved for use in this State.

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1922. Notary public commission; qualifications; no immunity or benefit

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

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

A. Be at least 18 years of age;

B. Be a resident of or have a place of employment or practice in this State;

C. Be able to read and write English;

D. Not be disqualified to receive a commission under section 1924; and

E. Have passed the examination required under section 1923, subsection 1.

3. Oath required. Before issuance of a notary public commission, an applicant for the commission shall take and subscribe the following oath or affirmation before a dedimus justice: “I, (name), do swear that I will support the United States Constitution and the Constitution of Maine, so help me God. I, (name), do swear that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as a notary public according to the Constitution of Maine and the laws of this State, so help me God.”

When a person is conscientiously scrupulous of taking an oath, the word “affirm” may be substituted for the word “swear” and the words “this I do under penalty of perjury” may be substituted for the words “so help me God.”

4. Commission issued. The Secretary of State shall issue to an applicant who has complied with this section a notary public commission valid for a term of 7 years.

5. No immunity or benefit. A commission issued under subsection 4 authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by the laws of this State on public officials or employees.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1923. Examination of notary public

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

2. Course of study. The Secretary of State or an entity approved by the Secretary of State shall offer regularly a course of study to applicants for notary public commissions in this State. The course must cover the laws, rules, procedures and ethics relevant to notarial acts.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1924. Grounds to deny, refuse to renew, revoke, suspend or condition commission of notary public

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

A. Failure to comply with this chapter;

B. A fraudulent, dishonest or deceitful statement or omission in the application for a notary public commission submitted to the Secretary of State;

C. A conviction of the applicant or notary public of any crime punishable by one year or more imprisonment or a crime involving fraud, dishonesty or deceit;

D. A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;

E. Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the Secretary of State or any federal or state law;

F. Use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right or privilege that the notary public does not have;

G. Violation by the notary public of a rule of the Secretary of State regarding a notary public;

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

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

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

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1925. Database of notaries public

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

1. Verification. Through which a person may verify the authority of a notary public to perform notarial acts; and

2. Electronic records; remote notarization. That indicates whether a notary public has notified the Secretary of State that the notary public will be performing notarial acts on electronic records or remotely.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1926. Prohibited acts

1. Acts not authorized. A notary public commission does not authorize an individual to:

A. Assist persons in drafting legal records, give legal advice or otherwise practice law;

B. Act as an immigration consultant or an expert on immigration matters;

C. Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or

D. Receive compensation for performing any of the activities listed in this subsection.

2. False or deceptive advertising prohibited. A notary public may not engage in false or deceptive advertising.

3. Restricted titles. A notary public who is not an attorney licensed to practice law in this State may not use the title “notario” or “notario publico.”

4. Advertising requirements. A notary public who is not an attorney licensed to practice law in this State may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this State in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the Internet, the notary public shall include the following statement, or an alternate statement authorized or required by the Secretary of State, in the advertisement or representation, prominently and in each language used in the advertisement or representation: “I am not an attorney licensed to practice law in this State. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.” If the form of advertisement or representation is not broadcast media, print media or the Internet and does not permit inclusion of the statement required by this subsection because of size, the statement must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

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

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

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

- A. An amount equal to actual damages sustained by the person as a result of the violation;
- B. An amount equal to 3 times the actual damages; and
- C. The costs of the action together with reasonable attorney’s fees as determined by the court.

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1927. Validity of notarial acts

Except as otherwise provided in section 1904, subsection 6, the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the laws of this State other than this chapter or the laws of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts. This section does not limit the authority of the Secretary of State to reject candidate or initiative or referendum petitions under Title 21-A on the basis of improper notarizations.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1928. Rules

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

- A. Prescribe the manner of performing notarial acts regarding tangible and electronic records;
- B. Include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- C. Include provisions to ensure integrity in the creation, transmittal, storage and authentication of electronic records or signatures;
- D. Prescribe the process of granting, renewing, conditioning, denying, suspending or revoking a notary public commission and assuring the trustworthiness of an individual holding a notary public commission;
- E. Include provisions to prevent fraud or mistake in the performance of notarial acts; and
- F. Provide for the administration of the examination under section 1923, subsection 1 and the course of study under section 1923, subsection 2.

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

- A. The most recent standards regarding electronic records promulgated by national bodies, such as a national association of secretaries of state;
- B. Standards, practices and customs of other jurisdictions that enact provisions substantially similar to this chapter; and
- C. The views of governmental officials and entities and other interested persons.

3. Routine technical rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1929. Notary public commission in effect

A notary public commission in effect on July 1, 2023 continues until its date of expiration. A notary public who applies to renew a notary public commission on or after July 1, 2023 is subject to and shall comply with this chapter. A notary public, in performing notarial acts after July 1, 2023, shall comply with this chapter.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1930. Savings clause

This chapter does not affect the validity or effect of a notarial act performed before July 1, 2023.

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1931. Uniformity of application and construction

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1932. Relation to federal Electronic Signatures in Global and National Commerce Act

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

History

2021 ch. 651, § A-4, effective July 1, 2023.

§ 1933. Effective date

This chapter takes effect July 1, 2023.

History

2021 ch. 651, § A-4, effective July 1, 2023.

TITLE 5. ADMINISTRATIVE PROCEDURES AND SERVICES

CHAPTER 1. STATE OFFICERS AND EMPLOYEES

§ 5 Oath of office; before whom taken

The Justices of the Supreme Judicial Court and of the Superior Court, the Judges of the District Court and all state officials elected by the Legislature shall take and subscribe the oath or affirmation required by the Constitution, before the Governor. Every other person elected or appointed to any civil office shall take and subscribe the oath before any dedimus justice commissioned by the Governor for that purpose, except when the Constitution otherwise provides. A newly appointed notary public shall take and subscribe the oath or affirmation before a dedimus justice as required by Title 4, section 1922, subsection 3. [2001, c. 667, Pt. C, §1 (AMD).] Section History: 1975, c. 771, §27 (RPR). 1987, c. 736, §4 (AMD). 2001, c. 667, §C1 (AMD), 2009, ch. 74 §2 (AMD); 2021 ch. 651, § A-5, effective July 1, 2023.).

§ 6. Officials have 30 days to qualify

All public officers appointed or renewed in accordance with law shall, within 30 days after being commissioned, qualify to perform the duties of their office and the certificate of qualification must be filed in the office of the Secretary of State. Any officer who fails to qualify within 30 days and file a certificate of qualification in the office of the Secretary of State within 45 days must be suspended by the Secretary of State until the defect is corrected. During this suspension, the officer may be deemed to have forfeited the appointment and the office may be declared vacant by the appointing authority and a new appointment made. [1991, c. 837, Pt. A, §7 (AMD).] Section History: 1975, Ch. 87, §1 (AMD), 1975, Ch. 771, §28 (AMD), 1981, Ch. 456, §A14 (AMD), 1991, Ch. 837, §A7 (AMD).

CHAPTER 5. SECRETARY OF STATE

§ 82. Repealed 2021, c. 651 §A-6.

§ 82-A. Publications

1. Informational publications. The Secretary of State shall make available such informational publications as may be necessary to ensure that notaries public are knowledgeable in the performance of their duties. One copy of these publications must be made available with

each appointment or renewal of a notary public commission. The printing and distribution costs of the first copy of publications sent to commissioned notaries public must be paid from the fees paid by the notaries public pursuant to section 87. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act the procedures for the sale of these publications and a fee schedule to cover the cost of printing and distribution for:

A. Additional copies of publications requested by commissioned notaries public; and [1991, c. 465, §8 (NEW).]

B. Copies of publications requested by noncommissioned individuals, corporations, agencies or other entities. [1991, c. 465, §8 (NEW).]

2. Fund; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for replacing and updating publications offered in accordance with this chapter and for funding new publications. [1991, c. 465, §8 (NEW).]

Section History: 1991, Ch. 465, §8 (NEW).

§ 82-B. Repealed 2011, c. 344 §1.

§ 87. Fees payable by public officers

A fee of \$50 must be paid to the Secretary of State by any person appointed to the office of notary public, commissioner to take depositions and disclosures, disclosure commissioner or commissioner appointed under Title 33, section 251, before the person enters upon the discharge of official duties.

[1989, c. 501, Pt. L, Â§3 (AMD).]

Section History:

1969, c. 225, §2 (AMD). 1981, c. 456, §A16 (AMD). 1989, c. 501, §L3 (AMD). 2005, c. 12, §FF1 (AMD).

TITLE 10. COMMERCE AND TRADE CHAPTER 623. SAFE DEPOSIT BOXES

§ 3751. Right to open box; lien on contents

Whenever the amount due for the use of any safe or box in the vaults of any bank or safe deposit company shall not have been paid for one year, such bank or company may, at the expiration of such period, notify the person in whose name such safe or box stands on its books, by a notice in writing in a securely closed, postpaid, registered letter directed to such person at his post-office address as recorded upon the books of said bank or company, that if the amount then due for the use of such safe or box is not paid within 60 days from the date of such notice, said bank or company will then cause such safe or box to be opened in the manner provided. At the expiration of 60 days after the mailing of said notice, said bank or company may then cause such safe or box to be opened in the presence of any officer or branch manager of said bank or company, and of a notary public not an officer or in the employ of said bank or company, and the contents of said safe or box shall then be sealed up by such notary public in a package and a certificate of such sealing shall be indorsed thereon, signed by such notary and attested by his seal, and said package shall be distinctly marked with the name and address of the person in whose name such safe or box stands upon the books of said bank or company, and the estimated value thereof. Said package shall then be placed in one of the general safes or boxes of said bank or company, and shall be held subject to redemption by the owner thereof, who shall be required to pay the rent due for said safe or box and all costs and damages attending the opening thereof, together with

reasonable charges for the custody of said package by said bank or company, and said bank or company shall have a lien upon said package to secure the payment of such rent, damages and charges. The contents of an opened safe or box, if unclaimed, must be disposed of according to Title 33, chapter 41.

[2003, c. 20, Pt. T, §4 (AMD).]

PART 13. ELECTRONIC COMMERCE
CHAPTER 1051. UNIFORM ELECTRONIC TRANSACTIONS ACT

§ 9411. Notarization and acknowledgment

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

[1999, c. 762, § 2 (new).]

TITLE 11. UNIFORM COMMERCIAL CODE
ARTICLE 3. COMMERCIAL PAPER
ARTICLE 3-A. NEGOTIABLE INSTRUMENTS
PART 5. DISHONOR

§ 1505. Evidence of dishonor

(1) The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor stated:

(a) A document regular in form as provided in subsection (2) which purports to be a protest;
[1993, c. 293, Pt. A, §2 (NEW).]

(b) A purported stamp or writing of the drawee, payor bank or presenting bank on or accompanying the instrument stating that acceptance or payment has been refused unless reasons for the refusal are stated and the reasons are not consistent with dishonor; or
[1993, c. 293, Pt. A, §2 (NEW).]

(c) A book or record of the drawee, payor bank or collecting bank, kept in the usual course of business which shows dishonor, even if there is no evidence of who made the entry.
[1993, c. 293, Pt. A, §2 (NEW).]

(2) A protest is a certificate of dishonor made by a United States consul or vice-consul, or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties. [1993, c. 293, Pt. A, §2 (NEW).]

Section History: 1993, Ch. 293, §A2 (NEW).

TITLE 16. COURT PROCEDURE; EVIDENCE
CHAPTER 1. WITNESSES
SUBCHAPTER 3. ATTENDANCE

§ 101. Subpoenas for witnesses

The clerks of the several courts and notaries public may issue subpoenas for witnesses to attend before any court or before persons authorized to examine witnesses, to give evidence concerning any pending matter. [1981, c. 456, Pt. A, § 58 (AMD).]
Section History: 1981, Ch. 456, §A58 (AMD).

TITLE 17-A. MAINE CRIMINAL CODE
CHAPTER 19. FALSIFICATION IN OFFICIAL MATTERS

§ 451. Perjury

1. A person is guilty of perjury if he makes:

A. In any official proceeding, a false material statement under oath or affirmation, or swears or affirms the truth of a material statement previously made, and he does not believe the statement to be true; or [1975, c. 740, §61 (AMD).]

B. Inconsistent material statements, in the same official proceeding, under oath or affirmation, both within the period of limitations, one of which statements is false and not believed by him to be true. [1975, c. 499, §1 (NEW).]
[1975, c. 740, §61 (AMD).]

2. In a prosecution under subsection 1, paragraph B, it need not be alleged or proved which of the statements is false but only that one or the other was false and not believed by the person to be true. [1999, c. 13, §1 (AMD).]

3. It is an affirmative defense to prosecution under this section that the defendant retracted the falsification in the course of the official proceeding in which it was made, and before it became manifest that the falsification was or would have been exposed. [1981, c. 317, §12 (AMD).]

3-A. In a prosecution under subsection 1, paragraph A, evidence that the allegedly false testimony in the prior official proceeding was contradicted by evidence in that proceeding may not be a sufficient basis by itself to sustain a conviction for perjury. [1981, c. 317, §13 (NEW).]

4. It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not a competent witness in making the statement or was disqualified from doing so. A document purporting to be made upon oath or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed. [1975, c. 740, §62 (AMD).]

5. As used in this section:

A. “Official proceeding” means any proceeding before a legislative, judicial, administrative or other governmental body or official authorized by law to take evidence under oath or affirmation including a notary or other person taking evidence in connection with any such proceeding; [1975, c. 499, §1 (NEW).]

B. “Material” means capable of affecting the course or outcome of the proceeding. [1975, c. 499, §1 (NEW).]

6. Perjury is a Class C crime. [1975, c. 499, §1 (NEW).]

Section History: 1975, Ch. 499, §1 (NEW), 1975, Ch. 740, §61,62 (AMD), 1979, Ch. 512, §27 (AMD), 1981, Ch. 317, §12,13 (AMD), 1999, Ch. 13, §1 (AMD).

§ 452. False swearing

1. A person is guilty of false swearing if:

A. He makes a false statement under oath or affirmation or swears or affirms the truth of such a statement previously made and he does not believe the statement to be true, provided

(1) the falsification occurs in an official proceeding as defined in section 451, subsection 5, paragraph A, or is made with the intention to mislead a public servant performing his official duties; or

(2) the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or [1975, c. 499, § 1 (NEW).]

B. He makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true. In a prosecution under this subsection, it need not be alleged or proved which of the statements is false, but only that one or the other was false and not believed by the defendant to be true. [1975, c. 499, § 1 (NEW).] [1975, c. 499, § 1 (NEW).]

2. It is an affirmative defense to prosecution under this section that, when made in an official proceeding, the defendant retracted the falsification in the course of such proceeding before it became manifest that the falsification was or would have been exposed. [1981, c. 317, § 14 (AMD).]

2-A. In a prosecution under subsection 1, paragraph A, evidence that the allegedly false testimony or statement in the prior official proceeding or before a notary or other person authorized to administer oaths was contradicted by evidence in that proceeding may not be a sufficient basis by itself to sustain a conviction for false swearing. [1983, c. 450, § 3 (AMD).]

3. It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not a competent witness in making the statement or was disqualified from doing so. A document purporting to be made upon oaths or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed. [1975, c. 740, § 63 (AMD).]

4. False swearing is a Class D crime. [1975, c. 499, § 1 (NEW).]

Section History: 1975, Ch. 499, §1 (NEW), 1975, Ch. 740, §63 (AMD), 1979, Ch. 512, §28 (AMD), 1981, Ch. 317, §14,15 (AMD), 1983, Ch. 450, §3 (AMD).

TITLE 19-A. DOMESTIC RELATIONS
PART 2. MARRIED PERSONS
CHAPTER 23. MARRIAGE
SUBCHAPTER I. GENERAL PROVISIONS

§ 656. License

1. Contents of license. A marriage license must have conspicuously printed on it the following words: “The laws of Maine provide that only authorized persons may solemnize marriages in this State.” [1995, c. 694, Pt. B, §2 (NEW); Pt. E, §2 (AFF).]

2. Completed license; ceremony performed. Each marriage license issued must be completed and the certification statement signed by both parties to the intended marriage. The completed license or licenses must be delivered by the parties to the person solemnizing the marriage. Upon completion of the solemnization, which must be performed in the presence of at least 2 witnesses other than the person officiating, the person officiating and the 2 witnesses shall sign the license or licenses, which are then known as the marriage certificate or certificates. [1995, c. 694, Pt. B, §2 (NEW); Pt. E, §2 (AFF).]

Section History: 1995, Ch. 694, §B2 (NEW).

§ 657. Lack of jurisdiction or authority

A marriage, solemnized before any known inhabitant of the State professing to be a justice, judge, notary public or an ordained or licensed minister of the gospel, is not void, nor is its

validity affected by any want of jurisdiction or authority in the justice, judge, notary or minister or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful and consummated with a full belief, on the part of either of the persons married, that they are lawfully married. [2001, c. 574, §7 (AMD).]

Section History: 1995, Ch. 694, §B2 (NEW), 1995, Ch. 694, §E2 (AFF), PL 2001, Ch. 574, §7 (AMD).

TITLE 21-A. ELECTIONS

CHAPTER 11. BALLOT QUESTIONS

§ 901. Petitions

To initiate proceedings for a people's veto referendum or the direct initiative of legislation, provided in the Constitution of Maine, Article IV, Part Third, Sections 17 and 18, a voter shall submit a written application to the Department of the Secretary of State on a form designed by the Secretary of State. The application must contain the names, addresses and signatures of 5 voters, in addition to the applicant, who are designated to receive any notices in proceedings under this chapter. For a direct initiative, the application must contain the full text of the proposed law and a summary that explains the purpose and intent of the direct initiative. The voter submitting the application shall sign the application in the presence of the Secretary of State, the Secretary of State's designee or a notary public. [2009, c. 253, §57 (AMD).]

§ 902. Verification and certification

The verification and certification of the petition as required by the Constitution of Maine, Article IV, Part Third, Section 20, must be worded so that a single verification or certification may cover one or more pages fastened together as a single petition. [1985, c. 161, §6 (NEW).]

The petitions must be signed in the same manner as are nonparty nomination petitions under section 354, subsections 3 and 4. The circulator of a petition must sign the petition and verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the circulator personally witnessed all of the signatures to the petition and that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be and that each signature authorized under section 153-A was made by the authorized signer in the presence and at the direction of the voter. After administering the oath to the circulator, the notary public or other authorized person must sign the notarial certificate on the petition while in the presence of the circulator. After the petition is signed and verified in this manner, the petition must be submitted to the registrar for certification in accordance with the Constitution of Maine, Article IV, Part Third, Section 20. If the petitions submitted to the registrar are not signed and verified in accordance with this paragraph, the registrar may not certify the petitions and is required only to return the petitions. The clerk or registrar shall keep a log of petitions submitted to the municipal office for verification. The log must contain the title of the petition, the name of the person submitting the petition, the date of submission, the number of petition forms submitted and the date and manner by which the petitions were returned. The notary public or other authorized person who administered the oath to the circulator must keep a log of petitions for which that person administered the circulator's oath, listing the title of the petition, the name of the circulator taking the oath, the date of the oath and the number of petition forms signed and verified by the circulator that day. [2011, c. 342, §31 (AMD), 2017, c. 277. §4 (AMD).]

§ 903-D. Repealed

§ 903-e. Persons not authorized to administer an oath or affirmation to a petition circulator

1. **Certain notaries public and others.** A notary public or other person authorized by law to administer oaths or affirmations generally is not authorized to administer an oath or affirmation to the circulator of a petition under section 902 if the notary public or other generally authorized person is:

A. Providing any other services, regardless of compensation, to initiate the direct initiative or people's veto referendum for which the petition is being circulated. For the purposes of this paragraph, "initiate" has the same meaning as section 1052, subsection 4-b; or

B. Providing services other than notarial acts, regardless of compensation, to promote the direct initiative or people's veto referendum for which the petition is being circulated. [2018, C. 418, §3 (NEW).]

TITLE 23: TRANSPORTATION PART 3: LOCAL HIGHWAY LAW CHAPTER 305: CONSTRUCTION, MAINTENANCE AND REPAIR SUBCHAPTER 2: PRIVATE WAYS

§ 3101. Call of meetings; maintenance; repairs

2. **Call of meeting.** When 4 or more parcels of land are benefited by a private road, private way or bridge as an easement or by fee ownership of the private road, private way or bridge, the owners of any 3 or more of the parcels, as long as at least 3 of the parcels are owned by different persons, may make written application to a notary public to call a meeting. The notary may issue a warrant or similar written notice setting forth the time, place and purpose of the meeting. Copies of the warrant or similar written notice must be mailed by means of the United States Postal Service to the owners of all the parcels benefited by the private road, private way or bridge at the addresses set forth in the municipal tax records at least 30 days before the date of the meeting. The notice must inform the owners of the planned meeting's agenda and specify all items to be voted on, including, but not limited to, all proposed budget items or amendments that will determine the amount of money to be paid by each owner pursuant to subsection 5. Subsequent meetings may be called in the same manner or by a commissioner or board appointed at a previous meeting pursuant to subsection 5. [2013, c. 198, §2 (AMD) .]

TITLE 30. MUNICIPAL AFFAIRS PART 2. MUNIICIPALITIES SUBPART 3. MUNICIPAL AFFAIRS CHAPTER 121. MEETINGS AND ELECTIONS SUBCHAPTER I. GENERAL PROVISIONS

§ 2521. Call of town meeting

Each town meeting shall be called by a warrant. The warrant must be signed by a majority of the selectmen, except as follows. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW); 1989, c. 6 (AMD); c. 9, §2 (AMD); c. 104, Pt. C, §§8, 10 (AMD).]

1. **First town meeting.** The first town meeting shall be called in the manner provided in

the act of incorporation. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW); 1989, c. 6 (AMD); c. 9, §2 (AMD); c. 104, Pt. C, §§8, 10 (AMD).]

2. Majority of selectmen. If, for any reason, a majority of the selectmen do not remain in office, a majority of those remaining may call a town meeting. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW); 1989, c. 6 (AMD); c. 9, §2 (AMD); c. 104, Pt. C, §§8, 10 (AMD).]

3. Petition of 3 voters, if no selectmen. When a town, once organized, is without selectmen, a notary public may call a meeting on the written petition of any 3 voters. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW); 1989, c. 6 (AMD); c. 9, §2 (AMD); c. 104, Pt. C, §§8, 10 (AMD).]

4. Petition by voters, if selectmen refuse. If the selectmen unreasonably refuse to call a town meeting, a notary public may call the meeting on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW); 1989, c. 6 (AMD); c. 9, §2 (AMD); c. 104, Pt. C, §§8, 10 (AMD).]

Section History: 1987, Ch. 737, §A2,C106 (NEW), 1989, Ch. 6, § (AMD), 1989, Ch. 9, §2 (AMD), 1989, Ch. 104, §C8,C10 (AMD).

TITLE 33. PROPERTY

CHAPTER 7. CONVEYANCE OF REAL ESTATE

§ 201-B. Notice; construction of provisions

1. Preservation of claims by filing of notice. Section 201-A shall apply to an exception, reservation or recital in a conveyance, mortgage, devise or other transfer of real property or of any interest therein made prior to the effective date of this section as well as to those made thereon or thereafter; provided that, if and to the extent constitutionally necessary to preserve rights, if any, existing at the effective date of section 201-A, that section shall not apply to such an exception, reservation or recital made previous to the effective date of that section, provided that within 2 years of the effective date of this section a person claiming such existing right, if any, shall have recorded in the registry of deeds for the county or district thereof in which the land is located the following:

A. The notice provided in subsection 2, and the deed or other instrument evidencing the previous conveyance, mortgage, devise or other transfer under which he claims, if such deed or instrument was not recorded previous to the effective date of this section;

B. The notice provided in subsection 2, if such deed or other instrument under which he claims is lost or if such deed or instrument although recorded previous to the effective date of this section was not recorded previous to the deed or other instrument containing such exception, reservation or recital.

2. Filing of notice; recording fee indexing. In order for the notice specified in subsection 1 to be effective, it shall contain an adequate description of the property in which the right, title or interest is claimed; a reference to the deed or other instrument on which the claim is based; the name of the current record owner of the property; a specific reference by date of recording and by volume and page numbers to the recorded deed or other instrument containing the exception, reservation or recital; and shall be duly verified by oath taken by any person authorized to perform notarial acts. The register of deeds for the county or district thereof in which the land is located shall accept all such notices presented that describe property located in such county or district and shall enter and record them in the same manner that deeds and other instruments are recorded and shall be entitled to charge the same fee for the recording thereof as is charged for recording deeds. In indexing such notice, the register of deeds shall enter it in the grantee index

of deeds under the name of the claimant appearing in the notice and in the grantor index of deeds under the name of the record owner appearing in the notice. Within a reasonable time after recording such notice, the register of deeds shall enter upon the margin of the record of the previous instruments referred to by volume and page numbers in such notice the volume and page in which the record of such notice may be found. The person filing the notice shall deliver or mail a copy thereof to the current record owner of the property at the last known address of such owner.

3. Persons under disability; 2-year period not suspended. The notice provided in subsection 1 may be filed for record by the claimant or my other person acting on behalf of any claimant who is under a disability or unable to assert a claim on his own behalf, but no disability or lack of knowledge of any kind shall suspend or extend the period provided for such filing.

4. Statutes of limitations not extended. Nothing contained in section 201-A and in this section shall be construed to extend the period limited for the bringing of any action or for the doing of any other required act or to otherwise extend any statute of limitations; nor shall it be construed as legislative recognition of the existence of any claims that it may bar.

5. Liberal construction. Section 201-A and this section shall be liberally construed to effect the legislative purpose of enhancing the marketability of the title to real property by eliminating the possibility of interests under certain unrecorded or late recorded deeds.

§ 203. Need for acknowledgment

Deeds and all other written instruments before recording in the registries of deeds, except those issued by a court of competent jurisdiction and duly attested by the proper officer thereof, and excepting plans and notices of foreclosure of mortgages and certain financing statements as provided in Title 11, section 9-1501, subsection (1), paragraph (a), and excepting notices of liens for internal revenue taxes and certificates discharging such liens and excepting notices of liens for taxes assessed pursuant to Title 36, Part 1 and Parts 3 to 8 and Title 26, chapter 13, and releases discharging such liens, must be acknowledged by the grantors, or by the persons executing any such written instruments, or by one of them, or by their attorney executing the same, or by the lessor in a lease or one of the lessors or lessor's attorney executing the same, before a notary public in the State, or before an attorney-at-law duly admitted and eligible to practice in the courts of the State, if within the State; or before any clerk of a court of record having a seal, notary public or commissioner appointed by the Governor of this State for the purpose, or a commissioner authorized in the State where the acknowledgment is taken, within the United States; or before a minister, vice-consul or consul of the United States or notary public in any foreign country. [1999, c. 699, Pt. D, §20 (AMD); §30 (AFF).]

Any person who is in the Armed Forces of the United States, and who executes a general or special power of attorney, deed, lease, contract or any instrument that is required to be recorded, may acknowledge the same as that person's true act and deed before any lieutenant or officer of senior grade thereto in the Army, U. S. Marine Corps or Air Force or before any ensign or officer of senior grade thereto in the Navy or Coast Guard and the record of such acknowledgment by said officers must be received and have the same force and effect as acknowledgments under the other provisions of this section, and all such instruments heretofore executed are hereby validated as to acknowledgment and authenticity. Powers of attorney and other instruments requiring seals executed by such members of the armed forces may be accepted for recordation in registries of deeds and other offices of record in cases where no seal is affixed after the name of the person or persons executing the instrument with like force and effect as though seals were affixed thereto.

[1999, c. 699, Pt. D, §20 (AMD); §30 (AFF).]

Any notary public who is a stockholder, director, officer or employee of a bank or other corporation may take the acknowledgment of any party to any written instrument executed to or by such corporation, provided such notary public is not a party to such instrument either individually or as a representative of such bank or other corporation. [1987, c. 736, §48 (AMD).]

This section may not be construed as invalidating any instrument duly executed in accordance with the statutes heretofore in effect or made valid by any such statute. All such instruments may be admitted to record which at the time of their execution or subsequent validation could be so recorded. [1999, c. 699, Pt. D, §20 (AMD); §30 (AFF).]

Notwithstanding any of the requirements in this section, an instrument with an acknowledgment conforming to the requirements of the Uniform Recognition of Acknowledgments Act, Title 4, section 1011 et seq., must be accepted for recording purposes. [1999, c. 699, Pt. D, §20 (AMD); §30 (AFF).]

Section History: 1969, Ch. 260, § (AMD), 1979, Ch. 20, § (AMD), 1981, Ch. 456, §A114,A115 (AMD), 1983, Ch. 635, § (AMD), 1987, Ch. 736, §48 (AMD), 1993, Ch. 395, §1 (AMD), 1999, Ch. 699, §D20 (AMD), 1999, Ch. 699, §D30 (AFF).

§ 253. Administration of oaths and depositions

Every commissioner appointed under section 251 may administer any oath lawfully required in this State to any person willing to take it; and take and duly certify all depositions to be used in any of the courts in this State, in conformity to the laws thereof, on interrogatories proposed under commission from a court of this State, by consent of parties or on legal notice given to the opposite party. All such acts shall be as valid as if done and certified according to law by a judicial officer or notary public in this State. [1987, c. 736, §49 (AMD).]
Section History: 1987, Ch. 736, §49 (AMD).

SUBCHAPTER 4. VALIDATION OF DEFECTS

§ 352. Defective acknowledgments

A record of a deed or other instrument, including a power of attorney, made prior to January 1, 2000 for the conveyance of real property, or of any interest in the property, and recorded in the registry of deeds of the county in which the real property is located is valid and enforceable even if: [2001, c. 275, Pt. B, §1 (AMD).]

1. Acknowledgment. The acknowledgment:

A. Was not completed; [1995, c. 304, §1 (NEW).]

B. Was erroneously taken; [1995, c. 304, §1 (NEW).]

C. Was taken by a person not having authority to take the acknowledgment or the authority of the person taking the acknowledgment was not completely stated or was erroneously stated; [1995, c. 304, §1 (NEW).]

D. Does not reveal whether the authority taking the acknowledgment acted as a notary public, a justice of the peace or other duly authorized authority for the taking of the acknowledgment; [1995, c. 304, §1 (NEW).]

E. Was not taken; [1995, c. 304, §1 (NEW).]

F. Had not been signed by the authority taking the acknowledgment but the authority had attached, affixed or stamped the deed or instrument with a seal of authority; [1995, c. 304, §1 (NEW).]

G. Was taken by the grantor or grantee or by the husband or wife of the grantor or

grantee; [1995, c. 304, §1 (NEW).]

H. Was taken by a magistrate who was a minor or an interested party or whose term of office had expired at the time of the acknowledgment; [1995, c. 304, §1 (NEW).]

I. Was taken by an officer authorized to take an acknowledgment but outside the territory in which the officer was authorized to act; [1995, c. 304, §1 (NEW).]

J. Was taken by a person who, at the time of the acknowledgment, had received an appointment, election or permission authorizing that person to take the acknowledgment, but had not qualified and who has since qualified to take an acknowledgment; [1995, c. 304, §1 (NEW).]

K. Was authorized by the grantor who was acting as a duly authorized agent or officer of a corporation or in a fiduciary or representative capacity for a corporation; [1995, c. 304, §1 (NEW).]

L. Was taken in another state or country before a person authorized to take acknowledgments and was made on the form of acknowledgment prescribed by the laws of the state or country in which the deed or instrument was executed or the person taking the acknowledgment failed to affix a proper certificate to the deed or instrument, showing that person's authority to act as a magistrate; [1995, c. 304, §1 (NEW).]

M. Was not signed by a magistrate of this State or any other state or territory of the United States, or any foreign country, authorized to take an acknowledgment but was complete in every other respect and was signed by an ambassador, minister, charge d'affaires, consul, vice-consul, deputy consul, consul general, vice-consul general, consular agent, vice-consular agent, commercial agent or vice-commercial agent of the United States who was not qualified to take an acknowledgment, but has since become qualified by law to do so; [1995, c. 304, §1 (NEW).]

N. Was signed by a magistrate authorized to take an acknowledgment but the magistrate's official seal, the names of the grantors, the date and place of acknowledgment, the words "personally appeared before me" or a statement that it was acknowledged as the grantor's "free act and deed" had been omitted; or [1995, c. 304, §1 (NEW).]

O. Is in the form of an oath or states merely that the deed or instrument was subscribed in the magistrate's presence, or is otherwise informal or incomplete, but was signed by a magistrate authorized to take an acknowledgment; or [1995, c. 304, §1 (NEW).]

2. Records relating to title to real property. The records in relating to the title to real property fail to disclose the date when received for record or the records have not been signed by the register of deeds or other duly authorized recording officer for the county. [1995, c. 304, §1 (NEW).]

Section History: 1971, Ch. 469, §1 (AMD), 1981, Ch. 181, §1 (AMD), 1995, Ch. 304, §1 (RPR), 2001, Ch. 275, §B1 (AMD).

SUBCHAPTER 8. OMITTED MARITAL RELEASE

§ 472. Filing of notice; recording fee; indexing

In order for the notice specified in section 471 to be effective, it shall contain an intelligible description of the land in which the right and interest by descent is claimed; the name of the person on whose behalf such right and interest is claimed; the name of the current record owner of the land; a specific reference by date of recording and by volume and page numbers to the recorded conveyance, if any, that omitted the release of such right and interest; and shall be duly verified by oath taken by any person authorized to perform notarial acts. The register of deeds for the county in which the land is located shall accept all such notices presented that describe land located in said county and shall enter and record them in the same manner that deeds and other

instruments are recorded and shall be entitled to charge the same fee for the recording thereof as is charged for recording deeds. In indexing such notice, the register of deeds shall enter it in the grantee index of deeds under the name of the claimant appearing in the notice, and in the grantor index of deeds under the name of the record owner appearing in the notice. Within a reasonable time after recording such notice, the register of deeds shall enter upon the margin of the record of the prior conveyance, if any, referred to in said notice the volume and page in which the record of said notice may be found. The person filing the notice shall deliver or mail a copy thereof to the current record owner of the and at the last known address of such owner. [1975, c. 511 (NEW).]
Section History: 1975, Ch. 511, § (NEW).

CHAPTER 12. SHORT FORM DEEDS ACT

§ 775. Appendix

Statutory short forms of instruments relating to real estate are as follows: [1967, c. 377 (NEW).]

Forms:

[1967, c. 377 (NEW).]

- 1 Warranty Deed [1967, c. 377 (NEW).]
- 2 Quitclaim Deed with Covenant [1967, c. 377 (NEW).]
- 3 Deed of Executor, Administrator, Trustee, Guardian, Conservator, Receiver or Commissioner [1967, c. 377 (NEW).]
- 3-A Deed of Distribution by Personal Representative (Intestate) [1981, c. 367, § 3 (NEW).]
- 3-B Deed of Distribution by Personal Representative (Testate) [1981, c. 367, § 3 (NEW).]
- 3-C Deed of Sale by Personal Representative (Intestate) [1981, c. 367, § 3 (NEW).]
- 3-D Deed of Sale by Personal Representative (Testate) [1981, c. 367, § 3 (NEW).]
- 4 Quitclaim Deed Without Covenant or Release Deed [1967, c. 377 (NEW).]
- 5 Mortgage Deed [1967, c. 377 (NEW).]
- 6 Partial Release of Mortgage [1967, c. 377 (NEW).]
- 7 Assignment of Mortgage [1967, c. 377 (NEW).]
- 8 Discharge of Mortgage [1967, c. 377 (NEW).]
- 9 Deed from Individual to Himself and Another as Joint Tenants [1967, c. 377 (NEW).]
- 10 Deed from Multiple Grantors to Joint Tenants [1975, c. 623, § 51-E (AMD).]
- 11 Municipal Quitclaim Deed [1967, c. 377 (NEW).]

Forms of Acknowledgments:

1 Warranty Deed

A. B. of, County,, (being unmarried), for consideration paid, grant to C.D. of, County,, with Warranty Covenants, the land in, County, Maine.

(description and encumbrances, if any)

E. F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment)

[1981, c. 367, § 4 (AMD).]

2 Quitclaim Deed With Covenant

A. B. of, County,, (being unmarried) for consideration paid, grant to C.D. of, County,, with quitclaim covenant the land in, County,

(description and encumbrances, if any)

E. F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment)
[1981, c. 367, § 5 (AMD).]

3 Deed of Personal Representative, Trustee, Conservator, Receiver, Commissioner, Executor, Administrator, Guardian or Other Specified Authorized Representative.

A. B., personal representative of the estate of C.D., (“trustee of”, “conservator of”, “receiver of the estate of”, “commissioner”, “executor of the will of”, “administrator of the estate of”, “guardian of”, or “other specified authorized representative of”) by the power conferred by law, and every other power, for dollars paid, grant to E.F. of County,, the land in, County,

(description) (with appropriate release of spouse)

Witness hand and seal this day of (here add acknowledgment)
[1981, c. 367, § 6 (rpr).]

3-A Deed of Distribution by Personal Representative (Intestate)

A. B., of, County,, duly appointed and acting personal representative of the estate of C.D., deceased, as shown by the probate records of County, Maine, by the powers conferred by law, and every other power, (in distribution of the estate) grants to E.F. of, County,, whose mailing address is, being the person(s) entitled to distribution, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment)
[1981, c. 367, § 7 (NEW).]

3-B Deed of Distribution by Personal Representative (Testate)

A. B., of, County,, duly appointed and acting personal representative of the estate of C.D., deceased, whose will was duly admitted to probate in the Probate Court for County, Maine, by the power conferred by law, and every other power, (in distribution of the estate) grants to E.F. of, County,, whose mailing address is, being the person(s) entitled to distribution, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment)
[1981, c. 367, § 7 (NEW).]

3-C Deed of Sale by Personal Representative (Intestate)

A. B., of, County,, duly appointed and acting personal representative of the estate of C.D., deceased (intestate), as shown by the probate records of County, Maine, and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale, by the power conferred by the Probate Code, and every other power, for consideration paid grants to E.F. of, County,, whose mailing address is, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment)
[1981, c. 367, § 7 (NEW).]

3-D Deed of Sale by Personal Representative (Testate)

A. B., of, County,, duly appointed and acting personal representative of the estate of C.D., deceased (testate), as shown by the probate records of County, Maine, (and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale) (and not having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale, such notice not being required under the terms of the decedent's will), by the power conferred by the Probate Code, and every other power, for consideration paid grants to E.F. of, County,, whose mailing address is, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment)
[1981, c. 367, § 7 (NEW).]

4 Quitclaim Deed Without Covenant or Release Deed

A. B. of,, County,, (being unmarried) for consideration paid, release to C.D. of,, County,, the land in,, County,

(description)

E. F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment)
[1981, c. 367, § 8 (AMD).]

5 Mortgage Deed

A. B. of,, County,, (being unmarried) for consideration paid, grant to C.D. of,, County,, with mortgage covenants, to secure the payment of dollars

in years with per cent interest per annum, payable in installments, as provided in note of even date, the land in, County,

(description and encumbrances, if any)

This mortgage is upon the statutory condition, for any breach of which the mortgagee shall have the remedies provided by law.

E. F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment)

[1981, c. 367, § 9 (AMD).]

6 Partial Release of Mortgage

C. D., the holder of a mortgage by A.B. to C.D., dated, recorded in the County Registry of Deeds, Book, Page, for consideration paid, release to A.B., all interest acquired under said mortgage in the following described portion of the mortgaged premises:

(description)

Witness hand and seal this day of (here add acknowledgment)

[1969, c. 344, § 3 (AMD).]

7 Assignment of Mortgage

C. D., holder of a mortgage from A.B. to C.D., dated, recorded in the County Registry of Deeds, Book, Page, assign said mortgage and the note and claim secured thereby to E.F.

Witness hand and seal this ... day of (here add acknowledgment)

[1969, c. 344, § 3 (AMD).]

8 Discharge of Mortgage

C. D., holder of a mortgage from A.B. to C.D., dated, recorded in the County Registry of Deeds, Book, Page, acknowledge satisfaction of the same.

Witness hand and seal this ... day of (here add acknowledgment)

[1969, c. 344, § 3 (AMD).]

9 Deed from Individual to Himself and Another as Joint Tenants

A. B. of, County,, (being unmarried) for consideration paid, grant to said A.B. and C.D. of, County,, with warranty covenants (or “quitclaim covenant”) as joint tenants, the land in, County,

(description and encumbrances, if any)

E. F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment)
[1981, c. 367, § 10 (AMD).]

10 Deed from Multiple Grantors to Joint Tenants

A. B. and C.D. (and E.F.), of, County,, for consideration paid, grant to W.X. of, County, and Y.Z. of, County,, with warranty covenants (or with “quitclaim covenant”) as joint tenants, the land in, County

(description and encumbrances, if any)

A. B. and C.D., husband and wife, (and E.F., and M.N., spouse of E.F.) (both) release all rights in the premises being conveyed (or I.J., spouse of A.B. and K.L., spouse of C.D., both release all rights in the premises being conveyed).

Witness our hands and seals this day of (here add acknowledgment)
[1981, c. 367, § 11 (AMD).]

11 Municipal Quitclaim Deed

The Inhabitants of the Municipality of, a body corporate, located at, County,, for consideration paid, release to of, County,, the land in, County,

(description and encumbrances, if any)

The said Inhabitants of the municipality of have caused this instrument to be signed in its corporate name by, its, duly authorized, this day of (here add acknowledgment)
[1967, c. 377 (NEW).]

12 Acknowledgment of Individual Acting in His Own Right

State of

County of, ss (Date)

Then personally appeared the above named A. (and B.) and (severally) acknowledged the foregoing instrument to be his (or their) free act and deed.

Before me,

.....

Notary Public

[1987, c. 736, §52 (AMD).]

13 Acknowledgment of an Attorney

State of

County of, ss (Date)

Then the above named, who signed the foregoing instrument as the attorney of the above named (grantor), personally appeared and acknowledged the same to be his free act and deed.
Before me,

.....
Notary Public
[1987, c. 736, §52 (AMD).]

14 Acknowledgment of an Officer of a Corporation

State of
County of, ss (Date)

Then personally appeared the above named (name of the officer who signed the deed, with his title), and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,
.....
Notary Public
[1987, c. 736, §52 (AMD).]

15 Acknowledgment of an Executor, Administrator, Trustee, Guardian, Conservator, Receiver or Commissioner.

State of
County of, ss (Date)

Then personally appeared the above named A. (and B.) in his (their) said capacity and (severally) acknowledged the foregoing instrument to be his (their) free act and deed.

Before me,
.....
Notary Public
[1987, c. 736, §52 (AMD).]
Section History: 1967, Ch. 377, § (NEW), 1969, Ch. 344, §3 (AMD), 1975, Ch. 104, §1,2 (AMD), 1975, Ch. 623, §51E,51F (AMD), 1981, Ch. 367, §3-11 (AMD), 1987, Ch. 736, §52 (AMD).

**TITLE 37-B. DEFENSE, VETERANS AND EMERGENCY MANAGEMENT
CHAPTER 5. MAINE CODE OF MILITARY JUSTICE**

§ 427. Witnesses

1. Oaths. A military judge detailed under this Code may administer oaths. [1983, c. 460, §3 (NEW).]
2. Subpoena. A military judge, notary public or clerk of any District Court or Superior Court may issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books, papers and photographs relating to any questions in dispute before the court-martial or to

any matters involved in a trial by court-martial. [1983, c. 594, §29 (AMD).]

3. Fees and mileage. Fees and mileage payments shall be paid to witnesses at the rate allowed to witnesses attending the District Courts. The fees and mileage payments shall be paid out of the Military Fund. [1983, c. 460, §3 (NEW).]

4. Violation. It is a Class E crime for a person not subject to this Code intentionally to fail to appear as a witness, refuse to qualify as a witness or refuse to produce evidence if that person:

A. Has been subpoenaed to give testimony or produce evidence; or [1983, c. 460, §3 (NEW).]

B. Has been paid fees and mileage as a witness. [1983, c. 460, §3 (NEW).]

5. Prosecution. The Attorney General may prosecute persons who violate this section. [1983, c. 460, §3 (NEW) .]

TITLE 38. WATERS AND NAVIGATION
CHAPTER 5. GENERAL PROVISIONS RELATING TO RIVERS AND STREAMS
SUBCHAPTER 1. MILLS AND DAMS
ARTICLE 4. MILLS AND THEIR REPAIR

§ 851. Meeting of mill owners; call; object

When an owner of a mill or of the dam necessary for working the mill thinks it necessary to rebuild or repair it in whole or in part, the owner may apply in writing to a notary public in the county where the mill is situated, or if partly in 2 counties, to a notary public in either, to call a meeting of the owners, stating the object, time and place of the meeting. The notary may issue a warrant for the purpose, directed to the owner, which must be published in some newspaper printed in the county, if any, 3 weeks successively, the last publication to be not less than 10 nor more than 30 days before the meeting; or a true copy of the warrant may be delivered to each of said owners or left at the owner's last known address; and either notice is binding on all the owners. [1995, c. 227, §4 (AMD).]

CODE OF MAINE RULES

29 SECRETARY OF STATE

250 BUREAU OF CORPORATIONS, ELECTIONS AND COMMISSIONS
DIVISION OF CORPORATIONS, UCC AND COMMISSIONS

Chapter 700: RULES GOVERNING NOTARIES PUBLIC, NOTARIAL OFFICERS, NOTARIAL ACTS AND THE PROCEDURES FOR ELECTRONIC AND REMOTE NOTARIZATION

SUMMARY: This rule replaces Chapter 700 and governs the appointment and commissioning of notaries public and establishes the standards and procedures for electronic and remote notarization by notarial officers.

SECTION 1: DEFINITIONS

1. **Credible witness.** "Credible witness" means an honest, reliable, and impartial

person who personally knows an individual appearing before a notarial officer and takes an oath or affirmation before the notarial officer to vouch for that individual's identity.

2. **Direct beneficial interest.** “Direct beneficial interest” for purposes of defining a conflict of interest under 4 M.R.S. § 1904(3)(B), means a fee other than the customary fee for performance of the notarial act, or any advantage, right, title, interest, cash, property or other consideration received in connection with the record.
3. **Electronic notarization.** “Electronic notarization” means a Maine notarial officer’s performance of a notarial act with respect to an electronic record, using an electronic signature and an electronic official stamp.
4. **Electronic record.** “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.
5. **Notarial officer.** “Notarial officer” means a notary public commissioned by the Secretary of State; a judge, justice, clerk or deputy clerk of a court of this State; or an attorney-at-law duly admitted and eligible to practice in the courts of this State; and any other individual authorized by the laws of this State to perform a specific notarial act.
6. **Principal.** “Principal” means a person whose signature is notarized, or a person other than a credible witness taking an oath or affirmation before a notarial officer.
7. **Remotely located individual.** “Remotely located individual” means an individual who is not in the physical presence of the notarial officer who is performing a notarial act and appears before the notarial officer using communication technology.
8. **Remote notarization.** “Remote notarization” means a notarial act performed in compliance with 4 M.R.S. Chapter 29, by a notarial officer for a remotely located individual using communication technology approved by the Secretary of State.
9. **Residence and resident.** “Residence” for purposes of this rule means the place where the individual has established a fixed and principal home to which the individual, whenever absent, intends to return. “Resident” means having a place where the individual has established a fixed and principal home to which the individual, whenever absent, intends to return.

Secretary of State. “Secretary of State” as used in this rule includes the Secretary of State, Deputy Secretary of State for Corporations, Elections and Commissions, and the Division Director and staff of the Division of Corporations, UCC & Commissions within the Department of the Secretary of State.
11. **Tamper-evident.** “Tamper-evident” means that any change to a record displays evidence of the change.

12. **Tamper-evident technology.** “Tamper-evident technology” means a set of applications, programs, hardware, software, or other technologies designed to enable a notarial officer to perform notarial acts with respect to electronic records or for remotely located individuals which display evidence of any changes made to an electronic record.

SECTION 2: APPOINTMENT OF NOTARY PUBLIC

1. **Criteria for appointment as a notary public**

To qualify for appointment as a notary public, the applicant must meet the following criteria:

- A. **Age eligibility.** An applicant must be at least 18 years of age at the time of submitting the application;
- B. **Residency or place of employment or business in Maine.** An applicant must demonstrate:
- (1) Is a Maine resident; or
 - (2) Has a place of employment located in Maine; or
 - (3) Has a business located in Maine;
- C. **Language proficiency.** An applicant must demonstrate an ability to read and write the English language;
- D. **Trustworthiness.** An applicant must be worthy of the public trust. This means, at a minimum, that the applicant must:
- (1) Not have been convicted of any crime punishable by one year or more of imprisonment;
 - (2) Not have been convicted of any crime involving fraud, dishonesty or deceit;
 - (3) Not have received a finding or have made any admission of liability in any legal proceeding or disciplinary action against the applicant based on the applicant’s fraud, dishonesty or deceit;
 - (4) Not have made any false, fraudulent, dishonest or deceitful statements in the application for a notary commission; and
 - (5) Not have had a notary public commission in another state revoked, suspended, conditioned, or not renewed for cause.

A crime involving fraud, dishonesty or deceit includes, but is not limited to, any crime involving false swearing, unsworn falsification, perjury, tampering with public records, impersonation, bribery, forgery, identity theft, negotiating a worthless instrument, misuse of information, theft, larceny, robbery, extortion, counterfeiting, unauthorized transfer of property, misappropriation, embezzlement, and deceptive practices; and

- E. **Examination.** An applicant must pass an examination administered by the Secretary of State to demonstrate an understanding of the laws, rules, procedures and ethics relevant to performing notarial acts. The examination will be administered by the Secretary of State and based on a course of study offered regularly by the Secretary of State in accordance with 4 M.R.S. § 1923.

2. **Application process.**

- A. **Application.** The applicant for a notary public commission must file an application using the latest form issued by the Secretary of State, which must require submission of the following information, at a minimum:
- (1) The applicant's legal name;
 - (2) The applicant's date of birth;
 - (3) The applicant's residence address;
 - (4) The applicant's mailing address, if different from the physical residence address;
 - (5) The applicant's email address and contact telephone number;
 - (6) A list of any crimes punishable by one year or more of imprisonment for which the applicant has been convicted in Maine or in any other jurisdiction;
 - (7) A list of any crimes involving fraud, dishonesty or deceit for which the applicant has been convicted in Maine or in any other jurisdiction;
 - (8) Disclosure of any legal proceedings in any jurisdiction that resulted in findings against the applicant or admissions of liability by the applicant;
 - (9) If the applicant is not a resident of Maine but is eligible to apply based on having a place of employment in Maine, the application must include the address of the applicant's place of employment

and a signed statement by the applicant's employer verifying the applicant's employment status;

- (10) If the applicant is not a resident of Maine but is eligible to apply based on having a business in Maine, the application must include the legal name, and the physical and mailing addresses of that business; and
- (11) A declaration signed by the applicant that all information provided in the application is true and correct.

B. Additional information required for electronic or remote notarization.

- (1) **Notice of intent to perform electronic notarization.** If the applicant intends to perform notarial acts with respect to electronic records using an electronic signature, the applicant must submit the notice form prescribed by the Secretary of State that contains the information required by section 5, subsection 6 of this rule pertaining to electronic notarization.
- (2) **Notice of intent to perform remote notarization.** If the applicant intends to perform notarial acts for remotely located individuals, the applicant must submit the notice form prescribed by the Secretary of State that contains the information required by section 6, subsection 8 of this rule pertaining to remote notarization.

- C. **Application Fee.** Every application for a notary public commission must be accompanied by payment of a fee prescribed by 5 M.R.S. § 87, submitted to the Secretary of State and made payable to the Treasurer, State of Maine.

3. Term of appointment

If the Secretary of State determines that the applicant has satisfied all the criteria for appointment, the Secretary shall issue a notary public commission to the applicant for a term of 7 years from the date of issuance.

4. Issuance of certificate and qualifications

- A. **Process of Qualifying.** Upon approval of an application, a certificate of commission will be mailed to the applicant who then has 30 calendar days to appear before a Dedimus Justice to take the oath prescribed by 4 M.R.S. § 1922(3), and 45 calendar days from the date of appointment to return the completed certificate of qualification to the Secretary of State. If the Secretary of State does not receive the certificate within the 45 calendar days or the certificate demonstrates that the applicant was not sworn into office within 30 calendar days of appointment, the Secretary will notify

the applicant of the failure to qualify. From the date of that notice, the applicant has 90 calendar days to request a reappointment by the Secretary of State. From the date of reappointment, the applicant has 30 calendar days to be sworn into office by a Dedimus Justice. If the applicant does not request reappointment within 90 calendar days from the date of notification of a failure to qualify, the applicant must reapply in order to be appointed as a notary public.

- B. **Authority to perform electronic or remote notarial acts.** A notary public who has been issued a commission is not authorized to perform electronic or remote notarizations unless and until a notice meeting all the requirements described in section 5, subsection 6, and section 6, subsection 8 of this rule has been submitted to the Secretary of State and accepted in accordance with 4 M.R.S. Chapter 39 and this rule.
- C. **Authority to solemnize marriages.** A notary public who has been issued a commission by the Secretary of State is not authorized to solemnize marriages in Maine unless the notary has also been issued a marriage officiant license by the Secretary of State pursuant to 5 M.R.S. § 90-G and Chapter 720, Rules Governing the Licensing of Marriage Officiants Who Are Authorized to Solemnize Marriages in Maine.

5. **Change of information or status of commissioned notary public**

- A. Within 30 calendar days of the occurrence of any of the following changes to the notary's status or information previously submitted, a notary public must submit written notice to the Secretary of State regarding the change(s) in a manner prescribed by the Secretary:
 - (1) A change of the notary's name by court order or marriage;
 - (2) A change of the notary's residence or mailing address;
 - (3) A change of the notary's email address or telephone number;
 - (4) A change in the notary's place of employment if the notary's eligibility for a commission was based on having a place of employment in Maine;
 - (5) A change in the location of the notary's business if the notary's eligibility for a commission was based on having a business in Maine;
 - (6) A change to the information previously submitted in writing notifying the Secretary of State that the notary public will be performing notarial acts with respect to electronic records or

remotely located individuals;

- (7) A conviction of a crime punishable by one year or more of imprisonment or of a crime involving fraud, dishonesty or deceit, as described in section 2, subsection 1, paragraph D of this rule; or
- (8) A finding against, or admission of liability by, the notary in any legal proceeding or disciplinary action based on the applicant's or notary's fraud, dishonesty or deceit.

B. Effect of name change. A notary public who notifies the Secretary of State of a name change as required by section 2, subsection 5, paragraph A of this rule shall use the new name in performing notarial acts only after:

- (1) The notary has delivered the notice required by section 2, subsection 5, paragraph A of this rule;
- (2) The new name has been updated in the Secretary of State's notary public database; and
- (3) The notary, if using a stamping device or official stamp, has made the change to their device bearing the new name.

C. Issuance of amended commission. An amended certificate of commission will be issued by the Secretary of State upon receipt of notice of a name change or change of residence to a new municipality by the notary.

D. Resignation. A notary public may resign their commission at any time by submitting written notice to the Secretary of State of the intent to resign. The resignation shall be deemed effective as of the date of the written notice. Upon resignation, a notary public shall return their certificate of commission to the Secretary of State.

Fees for notarial services. Any fee to be charged by a commissioned notary public for performing a notarial act must be disclosed in writing to the individual requesting the services of the notary public before the notarial act is performed. The notary public must obtain the individual's consent to any fee to be charged prior to performing the notarial act.

SECTION 3: RENEWAL OF NOTARY PUBLIC COMMISSION

1. **Notice of expiration.** The Secretary of State shall send written notification to a notary public, no less than 30 calendar days prior to the expiration of the notary's commission. Notice will be sent to the email address recorded on the Secretary of State's database. If the notary public does not have an email address, the notice will be sent by U.S. Postal Service, regular first-class mail. Failure to receive the

notice does not delay or suspend the expiration of the commission.

2. **Application for renewal.** An application for renewal of a notary public commission must include the following information:
 - A. The name under which the current notary public commission was issued;
 - B. The legal name of the notary public seeking renewal of the commission (if changed since issuance of the commission that is expiring);
 - C. The date of expiration of the commission;
 - D. The physical address of the applicant's residence and the applicant's mailing address;
 - E. The applicant's email address and contact telephone number;
 - F. The physical address of a place of employment or location of the notary public's business in Maine if the notary is not a resident of Maine;
 - G. A list of any crimes for which the notary public has been convicted since the date of issuance of the commission that is expiring;
 - H. Disclosure of any legal proceedings in any jurisdiction that resulted in findings against the applicant or admissions of liability by the applicant; and
 - I. A declaration signed by the notary that all information provided in the application is true and correct.
3. **Deadline for filing.** If the notary fails to file a renewal application before the expiration date of the current commission, the notary public is not authorized to perform any notarial acts until the commission has been renewed or a new commission has been issued and the applicant has taken the oath of office before a Dedimus Justice. If the application for renewal is not received by the Secretary of State within 90 calendar days after the expiration date of the commission, the notary public must apply for a new commission.
4. **Examination.** An applicant for renewal must pass an examination administered by the Secretary of State to demonstrate an understanding of the laws, rules, procedures and ethics relevant to performing notarial acts.
5. **Application Fee.** Every application for renewal of a notary public commission, or a new commission, must be accompanied by payment of a fee prescribed by 5 M.R.S. § 87, submitted to the Secretary of State and made payable to the Treasurer, State of Maine.

SECTION 4: DENIAL, NON-RENEWAL, SUSPENSION OR REVOCATION OF A NOTARY PUBLIC COMMISSION; COMPLAINTS

1. **Complaints.** A person may file a complaint with the Secretary of State regarding the performance of a notary public. The complaint should include the complainant's contact information and a detailed statement describing the basis for the complaint and attaching any relevant records.
2. **Investigation.** The Secretary of State may, on its own initiative or in response to a complaint, make such investigation as it determines to be reasonable and necessary to determine whether a person has violated, is violating or is about to violate any provision of 4 M.R.S chapter 39 or this rule. The Secretary of State may require the filing of statements by the alleged violator or others with knowledge of the allegations and require production of records that the Secretary of State deems relevant to the investigation.
3. **Denial, non-renewal, suspension, revocation or imposition of conditions on a notary public commission.**
 - A. **Grounds.** The Secretary of State may deny, refuse to renew, suspend, revoke or impose a condition on the commission of a notary public for any act or omission that demonstrates the individual lacks the competence, reliability, or integrity to act as a notary public, including any of the following:
 - (1) **Conflicts of interest.** Performance of a notarial act with regard to which the notary has a conflict of interest as defined in 4 M.R.S. § 1904 (3), or performing an acknowledgment prohibited pursuant to 4 M.R.S. § 1904(4);
 - (2) **Prohibited acts.** Performance of a notarial act prohibited by 4 M.R.S. § 1904, subsection 5, or section 1915, subsection 16 or 17, or any acts prohibited by 4 M.R.S. § 1926;
 - (3) **Change of name without notice.** Performance of a notarial act using a different name than the name on the notary commission without having notified the Secretary of State of the name change.
 - (4) **Fraud, deceit or dishonesty.** Committing an act of fraud, deceit or dishonesty;
 - (5) **Criminal convictions.** Conviction of a crime punishable by one year or more of imprisonment or a crime involving fraud, dishonesty or deceit;
 - (6) **False or misleading advertising.** Use of false or misleading

advertising or otherwise engaging in a method, act, or practice that is unfair or deceptive, including any untrue or misleading statement or omission of a material fact relating to a duty or responsibility of a notary public;

- (7) **False or misleading statements in notary application.** An untrue or misleading statement or omission of a material fact in any application or filing with the Secretary of State required by law;
- (8) **Noncompliance with information requests.** Failure to comply with any reasonable information request made by the Secretary of State for the purpose of evaluating the notary's status or application for a commission or renewal of a commission or any request by the Secretary of State for production of records under section 4, subsection 2; or
- (9) **Failure to comply with notary statute and rules.** Failure to comply with any other provision of 4 M.R.S. chapter 39 or this rule.

B. Right to a hearing. If the Secretary of State denies an application for a notary public commission, imposes a condition on a commission, refuses to renew, suspends, or revokes a notary public commission, the applicant or notary public has a right to a hearing in accordance with the Maine Administrative Procedure Act, 5 M.R.S. chapter 375, subchapter 4. The applicant or notary public must be notified in writing of the action taken by the Secretary and of their right to a hearing.

C. Decision by Secretary of State. After hearing, the Secretary shall issue a written decision which may be appealed to Superior Court pursuant to 5 M.R.S. chapter 375, subchapter 7.

SECTION 5: ELECTRONIC NOTARIZATION

- 1. **Provider application for approval of technology for electronic notarization**
A provider of technology to be used for electronic notarization may request approval from the Secretary of State by submitting an application that contains the following information:
 - A. A certification that the provider's technology is designed to ensure that notarial acts performed by notarial officers with respect to electronic records using electronic signatures will comply with the requirements of 4 M.R.S. chapter 39 and this rule;
 - B. A certification that the provider is currently registered to do business in Maine and is in good standing with the Secretary of State;

- C. A list of all jurisdictions in which the provider’s technology has been approved for the performance of electronic notarization, and the month and year in which the provider received the most recent approval from each jurisdiction;
- D. Disclosure of any complaints, official warnings, or disciplinary actions taken against the provider in any jurisdiction;
- E. Any pending, threatened or adjudicated legal actions against the provider relating in any way to the performance of electronic notarial acts using the provider’s technology in any jurisdiction;
- F. The name and contact information of a representative of the applicant with knowledge of the provider’s technology and with authority to make binding representations; and
- G. Any other information sufficient to demonstrate that the provider’s technology meets or exceeds the standards set forth in subsection 2 below.
- H. The provider must submit the application fee to the Secretary of State, made payable to Treasurer, State of Maine, prescribed by 5 M.R.S. § 86.

2. **Criteria and standards for technology used for electronic notarization**

To obtain approval, a technology provider must demonstrate that the technology to be used for electronic notarization in this State:

- A. Restricts access to the provider’s technology only to notarial officers whose written notice to the Secretary of State of their intent to perform electronic notarization has been accepted, in accordance with the requirements of this rule;
- B. Requires a password or other secure means of authentication to access the provider’s technology;
- C. Requires a notarial officer to present a valid Maine notary commission or other evidence of the notarial officer’s qualification to perform notarial acts prior to receiving an authorized digital or electronic stamp and signature;
- D. Includes a method to ensure that a notarial officer enrolled to use the technology has been trained and has the requisite knowledge to use it to perform notarial acts in compliance with 4 M.R.S. chapter 39 and this rule;
- E. Enables a notarial officer to retain their authorized digital or electronic signature under the notarial officer’s sole control and to affix their electronic signature in a manner that attributes the signature to the notarial

officer, is capable of independent verification, and is tamper-evident;

- F. Enables a notarial officer to attach or logically associate a certificate of notarial act to the electronic record in a tamper-evident manner; and
- G. Uses tamper-evident technology sufficient to ensure that the electronic signature on an electronic record is authentic.

3. **Approval process**

Upon review of an application from a technology provider, the Secretary of State may:

- A. Return the application as incomplete with a written notice of the deficiencies;
- B. Require the applicant to supplement the application with additional explanations, information or evidence of its ability to ensure compliance with state law;
- C. Deny the application; or
- D. Approve the application with or without conditions.

If the Secretary determines upon review of a completed application that the provider has met the standards set forth in this rule and in 4 M.R.S. chapter 39, the Secretary shall notify the provider of its approval and add the name of the provider to the list of providers of technology approved for electronic notarizations. The Secretary of State's approval is valid for one year from the date of issuance and may be renewed in accordance with section 5, subsection 4, paragraph D of this rule.

4. **Ongoing obligations of providers of technology for electronic notarization**

- A. **Notice regarding users of the technology.** The provider must notify the Secretary of State within 5 business days when any notary public commissioned by the Secretary of State or other notarial officer in Maine has been accepted or approved to use the provider's technology to perform electronic notarizations in the State.
- B. **Suspension or termination.** The provider must suspend or terminate access to its electronic notarization technology for any notary public whose commission has been suspended or revoked by the Secretary of State or whose commission has expired, within 5 business days of being notified by the Secretary of State or the notary public of such action.

- C. **Binding representations; notification of material changes.** All representations, promises and assurances of performance made by a provider or its authorized representative to the Secretary of State are binding on the provider. If facts or circumstances change such that any material statement, representation or explanation made by the provider in its application for approval is no longer accurate or complete, the provider must inform the Secretary of State of the change, explain the reasons for the change and provide evidence sufficient to demonstrate that the technology for use in electronic notarization remains in compliance with the standards set forth in this rule. If, upon review of the new information, the Secretary determines that the technology no longer meets the standards set forth in this rule, the Secretary may suspend or terminate approval in accordance with section 5, subsection 5 of this rule.
 - D. **Annual renewal.** The technology provider must file a renewal application on or before the expiration of the Secretary's initial approval and each year thereafter on a form prescribed by the Secretary of State. The application must be accompanied by payment of the application fee prescribed by 5 M.R.S. § 86.
 - E. **Notice of security breach.** If a provider of technology for electronic notarizations becomes aware of a possible security breach involving its data, the provider must give written notice to the Secretary of State and to each notarial officer using the provider's services for electronic notarizations. Such notice must be provided as expediently as possible and no later than 15 business days after the date on which the provider has determined that the security breach occurred. The notice must include the steps the provider has taken or will take to mitigate the breach as well as a general description of the data that was or is reasonably believed to have been compromised.
5. **Denial, non-renewal, suspension, termination or revocation of approval for a technology provider; complaints**
- A. **Complaints.** A notarial officer or other person using or relying upon an electronic notarization technology may file a complaint with the Secretary of State if they believe the technology provided does not comply with the standards set forth in 4 M.R.S. chapter 39 or this rule. The complaint must include the complainant's contact information and a detailed statement describing the basis for the complaint and attaching any relevant records.
 - B. **Investigation.** The Secretary of State may, on its own initiative or in response to a complaint, make such investigation as it determines to be reasonable and necessary to determine whether a technology provider has violated, is violating or is about to violate any provision of 4 M.R.S. chapter 39 or this rule. The Secretary of State may require the filing of

statements by the provider or others with knowledge of the allegations and require production of records that the Secretary of State deems relevant to the investigation.

C. **Grounds for denial, non-renewal, suspension, termination or revocation of approval.** The Secretary may deny, refuse to renew, suspend, terminate or revoke approval of a provider of technology used for electronic notarization in the State if the Secretary of State determines that the technology provider:

- (1) has violated 4 M.R.S. chapter 39 or this rule;
- (2) has made a false or misleading statement or omission of material fact to the Secretary of State;
- (3) has failed to carry out its obligations in accordance with section 5, subsection 4 of this rule;
- (4) has been subject to administrative or judicial action involving a violation of laws pertaining to electronic notarization in any other jurisdiction;
- (5) is no longer authorized to do business in the State or is not in good standing with the Secretary of State; or
- (6) is no longer able to meet its obligations and ensure compliance with 4 M.R.S. chapter 39 or this rule;
- (7) Has failed to cooperate with any investigation pursuant section 5, subsection 5, paragraph B of this rule.

D. **Procedure**

Prior to taking any action described in section 5, subsection 5, paragraph C of this rule, the Secretary of State must provide written notice of the proposed action to the provider and offer the provider an opportunity to respond in writing within 30 business days. The Secretary of State shall review the information submitted by the provider and issue a final decision, which shall be appealable to Superior Court pursuant to 5 M.R.S. chapter 375, subchapter 7.

Upon the Secretary of State's denial, non-renewal, suspension, termination or revocation of the technology provider's approval, the provider shall not deny any notarial officer registered with the provider access to the notarial officer's electronic signature, official seal and records stored by the technology provider on behalf of the notarial officer.

6. **Notice by Notarial Officer of intent to perform electronic notarization**

A. **Contents of notice.** Before performing a notarial act with respect to an electronic document or using an electronic signature for the first time, a notarial officer must notify the Secretary of State by providing the following information in a format prescribed by the Secretary of State:

- (1) The name(s) of the provider(s) of technology approved by the Secretary of State that the notarial officer intends to use in attaching or logically associating an electronic notarial signature, stamp and certificate to an electronic record;
- (2) Certification from each provider of technology the notarial officer intends to use, confirming that the notarial officer has received training in the use of that technology for electronic notarization and has been approved as a user of that technology;
- (3) A certification by the notarial officer that the officer has read and understands the requirements of 4 M.R.S. chapter 39 and this rule regarding electronic notarization; and
- (4) An example of the notarial officer's electronic signature and official electronic stamp.

If the notice is deemed insufficient by the Secretary of State, the notarial officer shall be notified of the deficiencies and shall have the opportunity to resubmit it. The notice is not valid until it is accepted as complete by the Secretary of State.

B. **Authority to perform electronic notarization.** In addition to submitting the notice described in section 5, subsection 6, paragraph A of this rule and accepted by the Secretary of State, a notary public who wishes to perform electronic notarizations must have a valid notary public commission, and an attorney-at-law must be duly admitted and eligible to practice law in the courts of this State.

C. **Amending the notice.** After submitting written notice under section 5, subsection 6 of this rule to the Secretary of State, a notarial officer must amend the notice to include any change in the technology providers including but not limited to identifying any new or additional technology providers. Such amended notice must be submitted to the Secretary of State within ten 10 business days of making the change.

D. **Termination of authority.** A notarial officer's authority to perform electronic notarizations automatically expires upon the occurrence of any of the following:

- (1) The notarial officer is a notary public and the notary public's commission expires, is revoked, suspended or terminated by the Secretary of State;
- (2) The notarial officer is a notary public and the notary public resigns their commission;
- (3) The notarial officer is a notary public and the notary public no longer has a place of employment, a business or residence in this State;
- (4) The notarial officer is an attorney, upon suspension or termination of that attorney's authority to practice law in this State; or
- (5) The Secretary of State has revoked or terminated approval of the technology provider whose technology the notarial officer is using to perform electronic notarization unless the notarial officer is approved to use another technology provider.

7. Requirements for performing electronic notarization

A. **Procedure.** When performing a notarial act with respect to electronic records, or affixing an electronic signature, the notarial officer must:

- (1) Require the principal to appear in person before the notarial officer at the time of the electronic notarization if the principal is making a statement or executing a signature on a record, pursuant to 4 M.R.S. § 1906;
- (2) Identify the principal who is physically present in accordance with 4 M.R.S. § 1907;
- (3) Verify that the principal has adopted an electronic signature that complies with 10 M.R.S. chapter 1051, if the record is to be signed electronically;
- (4) Complete an electronic notarial certificate and attach it to or logically associate it with the notarial officer's electronic signature and official stamp in a tamper-evident manner and
- (5) Use an electronic signature in combination with the electronic notary stamp only for the purpose of performing electronic notarizations.

B. **Journal required.** A notarial officer must maintain a journal in which all electronic notarizations are recorded. Entries in the journal must be made

contemporaneously with the notarial act and must comply with all the requirements set forth in 4 M.R.S. § 1920 (2) and (3).

SECTION 6. REMOTE NOTARIZATION

1. Provider application for approval of communication technology and identity proofing to be used in remote notarization

A provider of communication technology to be used for remote notarization may request approval from the Secretary of State by submitting an application on a form provided by the Secretary of State that contains the following information:

- A. A certification that the provider's communication technology is designed to ensure that remote notarizations using the provider's technology will comply with the requirements of 4 M.R.S. chapter 39 and this rule;
- B. A certification that the provider is currently registered to do business in Maine and is in good standing with the Secretary of State;
- C. A list of all jurisdictions in which the provider's communication technology has been approved for the performance of notarial acts remotely, and the month and year in which the provider received its most recent approval;
- D. Disclosure of any complaints, official warnings, or disciplinary actions taken against the provider in any jurisdiction;
- E. Any pending, threatened or adjudicated legal actions against the provider relating in any way to the performance of notarial acts using the provider's communication technology in any jurisdiction;
- F. The name and contact information of a representative of the applicant with knowledge of the provider's communication technology and with authority to make binding representations; and
- G. Any other information sufficient to demonstrate that the provider's communication technology and identity proofing methods meet or exceed the criteria and standards set forth in section 6, subsection 2 of this rule.
- H. The provider must submit the application fee to the Secretary of State, made payable to Treasurer, State of Maine, prescribed by 5 M.R.S. § 86.

2. Criteria and standards for communication technology and identity proofing used for remote notarization

To obtain approval, a provider must demonstrate that the communication

technology to be used for remote notarization in this state:

- A. Restricts access to notarial officers whose written notice to the Secretary of State of intent to perform remote notarization has been accepted, in accordance with the requirements of this rule;
- B. Requires a password or other secure means of authentication to access the provider's technology;
- C. Requires a notarial officer to present a valid Maine notary public commission or other evidence of the notarial officer's qualification to perform notarial acts in order to access or utilize the communication technology to perform remote notarizations;
- D. Includes a method to ensure that a notarial officer enrolled to use the technology has the requisite knowledge to use it to perform notarial acts in compliance with 4 M.R.S. chapter 39 and this rule;
- E. Enables a notarial officer to verify the identity of the principal and any required witness in compliance with 4 M.R.S. chapter 39 and this rule;
- F. For remote notarization of electronic records, enables a notarial officer to affix their electronic signature to an electronic notarial certificate in a manner that attributes the signature to the notarial officer and is tamper-evident;
- G. For remote notarization of electronic records, enables a notarial officer to attach or logically associate a certificate of notarial act to the electronic record in a tamper-evident manner;
- H. Provides continuous, synchronous audio-visual feeds that allow the remotely located individual and the notarial officer to see and speak to one another simultaneously through live, real time transmission;
- I. Captures images with sufficient resolution to enable analysis of the remote individual's credentials;
- J. Includes at least two (2) of the following methods of identity proofing:
 - (1) A credential that is validated by a government or third party;
 - (2) A biometric identifier, including a retina or iris scan, fingerprint, voiceprint, scan of hand or face geometry, or any other physiological, biological or behavioral characteristic used to identify an individual;

- (3) A public key certificate; or
 - (4) An identity assessment based on a set of questions formulated from public or private data sources for which the principal has not provided a prior answer;
- K. For remote notarization of electronic records, provides a secure method of document upload and transfer;
- L. Records the audio-visual communication in real time and associates that recording with the notarial officer's electronic record;
- M. Provides reasonable security measures to prevent unauthorized access to:
- (1) The live communication between the notarial officer and the remotely located individual;
 - (2) The recording of the audio-visual communication;
 - (3) The verification methods and credentials used to verify the identity of the remotely located individual; and
 - (4) Electronic records presented for remote notarization, if applicable;
- N. Is capable of securely creating, storing, accessing and reproducing a copy of an electronic recording of the remote notarial act. and
- O. For remote notarization of electronic records, provides an electronic verification or audit trail of the electronically notarized document that is accessible to all parties involved in a notarial act that is performed remotely.

3. Approval process for communication technology providers

The process for review and approval of applications by communication technology providers is the same as described in section 5, subsection 3 of this rule for providers of electronic notarization technology.

4. Ongoing obligations of communication technology providers

Providers of communication technology for remote notarization have the same ongoing obligations as those specified in section 5, subsection 4 of this rule for providers of technology for electronic notarization.

5. Denial, non-renewal, suspension, termination or revocation of approval for a communication technology provider

The filing of complaints, handling of investigations, and the grounds upon which the Secretary of State may deny, refuse to renew, suspend, terminate, or revoke approval of a provider of communication technology for remote notarization in the State are the same as described in section 5, subsection 5 of this rule for providers of technology for electronic notarization.

After the Secretary of State's denial, non-renewal, suspension, termination or revocation of a technology provider's approval, the provider shall not deny any notarial officer registered with the provider access to the notarial officer's electronic signature, official seal and records stored by the technology provider on behalf of the notarial officer.

6. **Service of process fee**

By making its communication technology or identity proofing available for use in remote notarization in this State, and by providing storage for audio-visual recordings of remote notarizations, a technology provider appoints the Secretary of State as the provider's agent for service of process in any civil action in this State related to a remote notarization pursuant to 4 M.R.S. § 1915(15). The fee for the Secretary of State to accept service of process shall be twenty dollars (\$20).

7. **Notice by Notarial Officer of intent to perform remote notarization**

A. **Contents of notice.** Before performing a remote notarization for the first time, a notarial officer must submit written notice to the Secretary of State in a format prescribed by the Secretary of State and must include the following information:

- (1) The name of the provider(s) of communication technology approved by the Secretary of State that the notarial officer intends to use for remote notarization;
- (2) Certification from the communication technology provider the notarial officer intends to use, confirming that the notarial officer has received training on the use of that technology for remote notarization and has been approved as a user of that technology; and
- (3) A declaration by the notarial officer that the officer has read and understands the requirements of 4 M.R.S. chapter 39 and this rule regarding remote notarization.

If the notice is deemed incomplete by the Secretary of State, the notarial officer shall be notified of the deficiencies and have the opportunity to resubmit it. The notice is not valid until it is accepted by the Secretary of State.

- B. **Authority to perform remote notarization.** In addition to submitting written notice to the Secretary of State in accordance with section 6, subsection 8, paragraph A of this rule and accepted by the Secretary of State, a notary public applying to perform remote notarizations must have a valid notary public commission, and an attorney-at-law must be duly admitted and eligible to practice law in the courts of this state.
- C. **Amending the notice.** After submitting written notice under section 6, subsection 8, paragraph A to the Secretary of State, a notarial officer must amend the notice to include any change in communication technology providers, including but not limited to identifying any new or additional technology providers. Such amended notice must be submitted to the Secretary of State within 10 business days of making the change.
- D. **Termination of authority.** The notarial officer's authority to perform remote notarizations automatically expires upon the occurrence of any of the following:
- (1) The notarial officer is a notary public and the notary public's commission expires, is revoked, suspended or terminated by the Secretary of State;
 - (2) The notarial officer is a notary public and the notary public resigns their commission;
 - (3) The notarial officer is a notary public and the notary public is no longer a Maine resident and no longer has a place of employment or a business in this State;
 - (4) The notarial officer is no longer authorized to perform notarial acts pursuant to 4 M.R.S. § 1910; or
 - (5) The Secretary of State revokes or terminates approval of the technology provider whose technology the notarial officer is using to perform remote notarization unless the notarial officer is approved to use another technology provider.
- E. The requirements for remote notarization in this rule do not apply to a judge, justice, clerk or deputy clerk of any court in Maine who is performing a notarial act for a remotely located individual in the course of performing exclusively judicial functions pursuant to statute, or rules or administrative orders adopted by the Maine Supreme Judicial Court. The requirements for remote notarization in this rule also do not apply to a court reporter in Maine administering the oath to a witness in a deposition conducted pursuant to the rules of procedure adopted by the Maine Supreme Judicial Court or the federal courts.

8. Requirements for performing remote notarization

A. General procedure. When performing a remote notarization, the notarial officer must:

- (1) Use a device with a camera and microphone and ensure that the remotely located individual is also using a device with a camera and microphone so that real-time audiovisual communication is occurring;
- (2) Use only a communication technology provider and identity proofing method approved by the Secretary of State and identified in the notice provided by the notarial officer to the Secretary of State;
- (3) Proceed with the remote notarization only if the notarial officer determines that they have a reliable internet connection with the remotely located individual to enable the notarial officer to perform the remote notarization in compliance with 4 M.R.S. Chapter 39 and these rules;
- (4) Recite information sufficient to identify the notarial officer, the officer's authority to act, the type of notarial act to be performed, the name of the remotely located individual for whom the notarial act is being performed, and the date, time, and location of the notarial act at the commencement of the notarial proceeding;
- (5) Reasonably identify the remotely located individual by one or more of the following methods:
 - (a) The notarial officer's personal knowledge of the remotely located individual through dealings sufficient to provide reasonable certainty that the individual is the person they claim to be;
 - (b) Satisfactory evidence of the remotely located individual's identity provided by using at least 2 different types of identity proofing as described in this rule; and
 - (c) By verification on oath or affirmation of a credible witness appearing before the notarial officer who is known to the officer or whom the officer can identify using at least 2 different types of identity proofing as described in this rule;
- (6) Cease the remote notarization procedure and restart it from the beginning if:

- (a) the remotely located individual, any required witness or the notarial officer exits or disconnects from the communication technology before completion of the notarial act;
- (b) the audio or visual feed is interrupted or terminated for any reason; or
- (c) the notarial officer believes the process has been compromised and cannot be completed in accordance with applicable legal requirements;

(7) Create an audiovisual recording of the remote notarization, including in the recording the statements required in section 6, subsection 9, paragraph A, subparagraph 4 of this rule, a statement by the notarial officer explaining the methods by which the officer has identified the remotely located individual for whom the notarial act is being performed pursuant to section 6, subsection 9, paragraph A, subparagraph 5 of this rule, and, with respect to a tangible record not physically present before the notarial officer, record the individual signing the record and the written declaration required pursuant to 4 M.R.S. § 1915(5);

B. Acknowledgment of a tangible record. When a notarial act involves taking an acknowledgment of a remotely located individual's signature on a tangible record, the notarial officer must adhere to the following procedures:

- (1) If the tangible record is physically present before the notarial officer, the officer must display the record to the remotely located individual and have the individual identify the record during the audiovisual recording;
- (2) If the tangible record is not physically present before the notarial officer, the remotely located individual must make the declaration described in 4 M.R.S. § 1915(5); and
- (3) If the remotely located individual is located outside the territorial boundaries of the United States, the record may be acknowledged only if it meets the requirements of 4 M.R.S. §1915(3)(D).

Any tangible record signed and notarized remotely must include a statement that the notarial act was performed remotely using communication technology approved by the Secretary of State.

C. Administration of an oath. The notarial officer may administer an oath

or affirmation to a remotely located individual in accordance with 4 M.R.S. § 1915(8).

- D. **Retention of recording.** The audiovisual recording of the remote notarization required under section 6 of this rule must be retained for a period of at least 10 years.
- E. **Notarial certificate for electronic record.** If a remote notarization involves an electronic record, a notarial certificate must be attached to or logically associated with that electronic record in a tamper-evident manner in accordance with 4 M.R.S. § 1916(6).
- F. **Journal required.** The notarial officer must record each remote notarization in the notarial officer’s journal, which must be retained under the notarial officer’s sole control. A journal in an electronic format must be tamper-evident, backed up in a secure manner, and only accessible through the use of passwords or other secure means of authentication under the control of the notarial officer.

SECTION 7: REQUIREMENTS FOR OFFICIAL NOTARY PUBLIC STAMP

When a notary stamp is to be used by a notary public commissioned by the Secretary of State, the stamp must be a rectangular or circular stamp and contain the notary public’s name as it appears on their commission, the words “Notary Public” and “State of Maine” or “Maine” and the commission expiration date. The stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated, pursuant to 4 M.R.S. § 1918(2).

SECTION 8: CERTIFIED COPIES

A notarial officer is not authorized to make any certified or attested copies of public records or vital records. A notarial officer may not certify a copy of any document that states on its face that it is illegal to make copies of the document.

SECTION 9: PROTESTS OF NEGOTIABLE INSTRUMENTS

A notarial officer shall not make or note a protest of a negotiable instrument unless the notarial officer is an employee of a financial institution acting in the course and scope of the notarial officer’s employment with the financial institution.

STATUTORY AUTHORITY:

Title 4 Section 1928; Title 4 Section 1915(13) (Revised Uniform Law on Notarial Acts)

EFFECTIVE DATE:

July 5, 2023 – filing 2023-101 (Emergency)

October 2, 2023 – filing 2023-184

**Chapter 720: RULES GOVERNING THE LICENSING OF MARRIAGE OFFICIANTS
WHO ARE AUTHORIZED TO SOLEMNIZE MARRIAGES IN MAINE**

SUMMARY: This rule implements the provisions of Title 5, section 90-G regarding the licensing of marriage officiants who are thereby authorized to solemnize marriages in Maine pursuant to Title 19-A, chapter 23.

SECTION 1: ELIGIBILITY FOR A MARRIAGE OFFICIANT LICENSE

1. **General eligibility requirements.** To qualify for a marriage officiant license to solemnize marriages in this State, an individual must:
 - A. Be at least 18 years of age;
 - B. Be a resident of this State;
 - C. Demonstrate an ability to read and write the English language; and
 - D. Demonstrate an understanding of the laws and rules governing marriages in this state under Title 19-A chapter 23.

For purposes of this rule, being a “resident of this State” means having established a fixed and principal home in the State of Maine, to which the individual, whenever temporarily absent, intends to return.

2. **Requirements for a commissioned notary public.** An individual who has a valid commission as a notary public issued by the Secretary of State and is a resident of this State is automatically eligible for a marriage officiant license.

SECTION 2: APPLICATION PROCESS

1. **General Application.** A resident of this State who is at least eighteen years of age may apply to the Secretary of State to obtain a license to serve as a marriage officiant authorized to solemnize marriages in the State. The application must be submitted on a form designed by the Secretary of State and must contain the following information:
 - A. Full legal name of the applicant;

- B. Applicant's date of birth;
- C. Applicant's residence address;
- D. Applicant's contact information, including mailing address, telephone and email address; and
- E. Applicant's answers to questions regarding the obligations of a person solemnizing marriages in Maine pursuant to 19-A M.R.S. chapter 23.

The application must be submitted with the application fee prescribed by 5 M.R.S. § 86.

- 2. **Notary public.** A resident of this State who applies for a notary public commission does not need to file a separate application for a marriage officiant license but instead must indicate on the notary application form if the notary declines to have a marriage officiant license issued along with the notary commission. If the applicant for a notary public commission declines and later wishes to become authorized to solemnize marriages, the individual must file a separate application for a marriage officiant license.

SECTION 3: ISSUANCE OF LICENSE AND PUBLIC LISTING OF LICENSEES

- 1. **License.** If the Secretary finds an application to be complete and finds that the applicant satisfies the criteria set forth in section 1 of this rule, the Secretary shall issue a marriage officiant license to the applicant.
- 2. **Notary public.** A notary public with a valid commission issued by the Secretary of State who is a resident of this State shall be issued a marriage officiant license for the remaining term of the notary public commission unless the notary public submits written notice to the Secretary of State on a form prescribed by the Secretary of State declining to be licensed as a marriage officiant. A notary public who declines and later wishes to become authorized to solemnize marriages must file a separate application for a marriage officiant license pursuant to section 2, subsection 1 of this rule.
- 3. **Public list of licensees.** After a license has been issued, the licensee's name, residence address and contact information will be posted on the Secretary of State's publicly accessible web site.

SECTION 4: TERM OF LICENSE

For a licensee who is also commissioned as a notary public, a marriage officiant license is valid for the term of the notary public commission. For all other licensees, a marriage officiant license is issued for a period of 7 years.

SECTION 5: LICENSE AMENDMENTS

1. **Obligation to notify Secretary of State of changes to licensing information.** Within 30 calendar days of the occurrence of any change to the licensee's legal name, physical address, or contact information on file with the Secretary of State, the licensee must notify the Secretary of State of the change by submitting the form prescribed by the Secretary of State and made available on the Secretary's website.
2. **Issuance of amended license.** If the licensee's legal name or municipality of residence has changed, the Secretary of State shall issue an amended license reflecting the change, which shall remain in effect for the term of the license being amended unless there is a further change to the licensee's information before that expiration date. The licensee shall remain authorized to solemnize marriages while awaiting receipt of the amended license.

SECTION 6: LICENSE RENEWAL

1. **Notice of expiration.** The Secretary of State will provide written notification to the licensee at least 30 calendar days prior to the expiration date on the marriage officiant license. Notice will be sent to the email address on the most recent license application or amended information on file with the Secretary of State. If the licensee does not have an email address, the notice will be sent by U.S. Postal Service, regular first-class mail to the address on file for that licensee. Failure of the licensee to receive the notice does not delay or extend the expiration date of the license.
2. **Renewal application.** A licensee who wishes to continue to be licensed as a marriage officiant must submit the renewal application to the Secretary of State on a form prescribed by the Secretary of State before the expiration date on the current marriage officiant license. The application must include the information required in section 2 of this rule.
3. **Renewal of license issued with notary commission.** A marriage officiant license issued to a notary public along with the notary's commission will automatically renew upon renewal of the notary public commission unless the notary public indicates on the application to renew the notary commission that the notary declines to be licensed as a marriage officiant.
4. **Deadline for filing.** If the licensee fails to file a renewal application before the expiration of the current marriage officiant license, then the license expires, and the licensee is no longer authorized to solemnize marriages until a new marriage officiant license is issued.

SECTION 7: DENIAL, REVOCATION, SUSPENSION OR NONRENEWAL OF LICENSE

1. **Grounds.** The Secretary of State may deny, refuse to renew, suspend or revoke a marriage officiant license based on a finding that the applicant or licensee:
 - A. Does not meet one or more of the criteria set forth in section 1 of this rule;
 - B. Has failed to comply with any of the statutory requirements for a person solemnizing a marriage set forth in 19-A M.R.S. chapter 23; or
 - C. Has failed to comply with any provision of the statute or rules governing notaries public if the applicant or licensee is a notary public.
2. **Notice of Hearing.** Before issuing a denial, suspension or revocation of a marriage officiant license, the Secretary of State shall provide written notice to the applicant or licensee with an opportunity to request a hearing pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter 5.
3. **Decision.** After hearing, the Secretary shall issue a final written decision, which may be appealed to Superior Court pursuant to 5 M.R.S. chapter 375, subchapter 7.

SECTION 8: VOLUNTARY SURRENDER OF LICENSE

A licensee may voluntarily surrender their license at any time by submitting written notice to the Secretary of State of the intent to terminate their authority to solemnize marriages. The marriage officiant license shall no longer be valid as of the date of the written notice. Upon submission of the written notice, the licensee must return their license certificate to the Secretary of State.

STATUTORY AUTHORITY:

Title 5 Section 90-G

EFFETIVE DATE:

July 5, 2023 – filing 2023-102 (Emergency)

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