

**Chapter:** 176

**Session:** 2018 Regular Session

**Topic:** Revised Uniform Law on Notarial Acts

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### Overview

This Revised Uniform Law on Notarial Acts replaces the existing Chapter 358 on Notaries. This act also includes the Remote Online Notarization Act.

#### Section

##### **Article 1: Revised Uniform Law on Notarial Acts**

- 1**      **Short title.** Provides that sections 1 through 28 can be referred to as the Revised Uniform Law on Notarial Acts.
- 2**      **Definitions.** Provides definitions for the Revised Uniform Law on Notarial Acts.
- 3**      **Applicability.** Provides that the Revised Uniform Law on Notarial Acts applies to notarial acts preformed on or after January 1, 2019.
- 4**      **Authority to perform notarial acts.** Provides that notarial officers can perform notarial acts except when the officer or their spouse is a party to the act or has a benefit from the act.
- 5**      **Requirements for certain notarial acts.** Provides that a notarial officer who takes an acknowledgement, verification, or signature, shall determine the identity of the individual, and shall determine copies are true and accurate copies.
- 6**      **Personal appearance required.** Requires the individual executing the signature shall appear personally before the notarial officer.
- 7**      **Identification of individual.** Requires a notary to use specific types of identification to determine if a person is who they say they are in the event the notarial officer does not personally know the individual making the signature.

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- 8 Authority to refuse to perform notarial acts.** Allows notarial officers to refuse to perform a notarial act when they believe the individual signing does not have the capacity, the individual is not signing voluntarily, or does not understand what the signature means. This section also provides that a notarial officer can refuse to perform a notarial act unless another law prohibits it.
- 9 Signature if individual unable to sign.** Provides that when an individual is unable to physically sign for themselves their signature can provided by a mark, by having another person write their name, or use a stamp of their name in their presence when they have a motor disability that prevents them from signing.
- 10 Notarial act in this state.** Allows notarial officers, a judge or clerk of court, or any other individual authorized to perform the specific act to perform a notarial act. This section also provides that the signature and title of an individual performing a notarial act care prima facie evidence that the signature is genuine and that the individual holds the designed title and has the authority to perform the notarial act.
- 11 Notarial acts in another state.** Allows documents notarized in another state to be treated as notarized in this state if it is performed by a notary public of the state where it occurs, a judge, clerk of court, or another individual authorized in that state to perform a notarial act.
- 12 Notarial act under authority of federally recognized tribe.** Allows documents notarized under the authority of a federally recognized Indian tribe to be treated as notarized in this state if it is performed by a notary public authorized by the tribe or a judge, clerk of court, or another individual authorized by the tribe to perform a notarial act.
- 13 Notarial act under federal authority.** Allows documents notarized under the authority of a federal government, including the U.S. Military or the U.S. Department of State acting abroad, to be treated as notarized in this state if it is performed by a notary public.
- 14 Foreign notarial act.** Provides that a notarial act performed by a person with the authority to do so in another county has the same effect under the laws of this state.
- 15 Remote online notary public.** Creates the “Remote Online Notarization Act” and allows a person to apply to be a remote online notary public and to perform remote online notarial acts. This section provides definitions and specific provisions for when and how a remote online notary can perform a remote online notarial act. This section makes it a crime to obtain or damage the hardware or software to create electronic signatures or notary seals without authorization. This section provides that data collected under this section is not subject to chapter 13, the Minnesota Data Practices Act, and requires the remote notarial act audio-video recording and portion of the journal to be made available only to the individual whose signature was notarized or their agent.
- 16 Recording electronic documents in tangible form.** Allows electronic documents with electronic signatures to be used when the law requires paper documents that are signed, including documents made under oath. This section requires a notary official to certify that electronic documents are true and correct copies when they are filed with court or recorded with the county recorders office or the examiner of titles, but provides that if the certification is not completed it does not affect a conveyance or encumbrance on real property.

**Section**

- 17 Certification of notarial act.** Requires notarial acts to be evidenced by a certificate of a notarial act and an official stamp affixed to the certificate for either paper or electronic records.
- 18 Short form certificates.** Provides the certificate and verification forms required in section 17 and in this chapter.
- 19 Official stamp.** Requires a notary public use a stamp consistent with existing law.
- 20 Stamping device security.** Requires the notary public to keep a notary stamp secure to prevent it from being used by another.
- 21 Performance of notarial act on electronic record.** Allows a notary public to select the technology they choose to complete electronic notarial acts and requires the notary public to notify the state before notarizing electronic records.
- 22 Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public.** Provides that the commissioner of commerce can revoke or suspend the license of a notarial official using the administrative process in chapter 14. This section also allows the governor or district court to remove a notary.
- 23 Database of notaries public.** Provides that the secretary of state shall maintain an electronic database of notaries public.
- 24 Prohibited acts.** Prohibits notary publics from providing legal advice or advice on immigration matters, representing a person in a judicial or administrative proceeding, from engaging in deceptive advertising, from using the term “notario” or “notario public,” or from withholding an original record from a person seeking a notarial act.
- 25 Validity of notarial acts.** Provides that the failure to perform a requirement under the statute does not invalidate a notarial act, and that a person seeking to invalidate the object that was notarized can use any remedies under the law other than the Revised Uniform Law on Notarial Acts.
- 26 Notary public commission in effect.** Provides that a notary public commission in effect on the day the Revised Uniform law takes effect will continue until the commission expires and that renewing commissions shall comply with the new Revised Uniform law, but that the notarial acts that occur after the Revised Uniform law is in effect must comply with the Revised Uniform Law.
- 27 Savings clause.** Notarial acts that occur before the effective date of the Revised Uniform law do not need to comply with the Revised Uniform law.
- 28 Relation to electronic signature in global and national commerce act.** Provides that the Revised Uniform Law on Notarial Acts modifies and supersedes portions of E-Sign.
- 29 Repealer.** Repeals the existing chapter on notaries (chapter 358), except for the section related to the effect of an acknowledgment.
- 30 Effective date.** Provides that this Revised Uniform law would be effective January 1, 2019.

## Article 2: Administrative and Conforming Changes

- 31 **Online signatures.** Provides conforming changes, amending citations to the Revised Uniform Law on Notarial Acts.
- 32 **Certificates.** Provides conforming changes, amending citations to the Revised Uniform Law on Notarial Acts.
- 33 **Court documents.** Provides conforming changes, amending citations to the Revised Uniform Law on Notarial Acts.
- 34 **Effect of acknowledgment.** Provides conforming changes, amending citations to the Revised Uniform Law on Notarial Acts.
- 35 **Application.** Requires a notary public application to include an oath of office statement.
- 36 **Registration.** Provides conforming changes, amending citations to the Revised Uniform Law on Notarial Acts.
- 37 **No immunity or benefit.** Clarifies that a notary public can perform notarial acts but is not a public official or employee.
- 38 **Powers.** Provides that notary publics can perform online remote notarial acts.
- 39 **Original signatures required.** Provides conforming changes, amending citations to the Revised Uniform Law on Notarial Acts.
- 40 **Instruments.** Provides conforming changes, amending citations to the Revised Uniform Law on Notarial Acts.
- 41 **Filed instrument affecting title is notice.** Provides conforming changes, amending citations to the Revised Uniform Law on Notarial Acts.