

D R A F T
FOR APPROVAL

REVISED UNIFORM LAW ON NOTARIAL ACTS (2018)

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June 15, 2018

REVISED UNIFORM LAW ON NOTARIAL ACTS (2018)

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1 **REVISED UNIFORM LAW ON NOTARIAL ACTS (2018)**

2 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Revised Uniform Law on
3 Notarial Acts (2018).

4 **SECTION 4. AUTHORITY TO PERFORM NOTARIAL ACT.**

5 (a) A notarial officer may perform a notarial act authorized by this [act] or by law of this
6 state other than this [act].

7 (b) A notarial officer may not perform a notarial act with respect to a record to which the
8 officer or the officer’s spouse [or civil partner] is a party, or in which either of them has a direct
9 beneficial interest. A notarial act performed in violation of this subsection is voidable.

10 (c) A notarial officer may certify that a tangible copy of an electronic record is an
11 accurate copy of the electronic record.

12 ~~**[SECTION 14A. INDIVIDUAL LOCATED OUTSIDE UNITED STATES.**~~

13 ~~(a) In this section:~~

14 ~~(1) “Communication technology” means an electronic device or process that~~
15 ~~allows an individual located outside the United States and a notary public located in this state to~~
16 ~~communicate with each other simultaneously by sight and sound.~~

17 ~~(2) “Identity proofing” means a process or service by which a third person~~
18 ~~provides a notary public with a reasonable means to verify the identity of an individual by a~~
19 ~~review of personal information from public or proprietary data sources.~~

20 ~~(3) “Outside the United States” means outside the geographic boundaries of the~~
21 ~~United States, Puerto Rico, the United States Virgin Islands, and any territory or insular~~
22 ~~possession subject to the jurisdiction of the United States.~~

23 ~~(b) A notary public in this state may perform by means of communication technology a~~

1 ~~notarial act relating to a statement made in or signature executed on a record by an individual~~
2 ~~located outside the United States if:~~

3 ~~(1) the notary public has:~~

4 ~~(A) personal knowledge under Section 7(a) of the identity of the~~
5 ~~individual; or~~

6 ~~(B) satisfactory evidence under subsection (d) of the identity of the~~
7 ~~individual;~~

8 ~~(2) the record:~~

9 ~~(A) is to be filed with or relates to a matter before a court, governmental~~
10 ~~entity, public official, or other entity located in the territorial jurisdiction of the United States; or~~

11 ~~(B) involves property located in the territorial jurisdiction of, or a~~
12 ~~transaction substantially connected with, the United States;~~

13 ~~(3) the notary public is able, by use of tamper evident technology or personal~~
14 ~~acknowledgement of the individual, reasonably to identify the record before the notary public as~~
15 ~~the same record in which the individual made the statement or on which the individual executed~~
16 ~~the signature; and~~

17 ~~(4) the act of making the statement or signing the record is not prohibited by the~~
18 ~~foreign state, as defined in Section 14(a), in which the individual is located.~~

19 ~~(e) If a notarial act relates to a statement made in or a signature executed on a record by~~
20 ~~an individual located outside the United States, the individual may comply with Section 6 by~~
21 ~~appearing before the notary public by means of communication technology.~~

22 ~~(d) In addition to the methods permitted by Section 7(a) for identification of an~~
23 ~~individual, a notary public has satisfactory evidence of the identity of an individual appearing~~

1 before the notary public by means of communication technology if the notary public reasonably
2 can identify the individual by means of identity proofing.

3 (e) ~~In addition to the authority of a notary public under Section 8 to refuse to perform a~~
4 ~~notarial act, a notary public may refuse to perform a notarial act under this section if the notary~~
5 ~~public is not satisfied that the individual is located outside the United States.~~

6 (f) ~~If a notarial act involves a statement made in or a signature executed on a record by an~~
7 ~~individual by means of communication technology, the certificate of notarial act required by~~
8 ~~Section 15 must indicate that the individual making the statement or signing the record declared~~
9 ~~to the notary public that the individual was located outside the United States at the time the~~
10 ~~notarial act was performed.~~

11 (g) ~~If a notarial act involves the use of communication technology, the notary public shall~~
12 ~~retain a video and audio copy of the performance of the notarial act.~~

13 (h) ~~The following short form certificates of notarial acts performed with regard to an~~
14 ~~individual located outside the United States are sufficient for the purposes indicated, if~~
15 ~~completed with the information required by subsection (f) and Section 15(a) and (b):~~

16 (1) ~~For a verification on oath or affirmation by an individual located outside the~~
17 ~~United States:~~

18 State of _____

19 [County] of _____

20 Signed and sworn to (or affirmed) before me by use of communication technology on

21 _____ by _____, who declared that (he)(she)(they) (is)(are) located

22 Date Name(s) of individual(s)

23 in _____ and that this record is to be filed with or relates to a matter before a

1 court, governmental entity, public official, or other entity located in the territorial jurisdiction of
2 the United States, or involves property located in the territorial jurisdiction of, or a transaction
3 substantially connected with, the United States.

4 _____

5 Signature of notary public

6 (Place stamp here)

7 { _____ }

8 Title of office

9 [My commission expires: _____]

10 (2) For an acknowledgment in an individual capacity by an individual located
11 outside the United States:

12 State of _____

13 [County] of _____

14 This record was acknowledged before me by use of communication technology on

15 _____ by _____, who declared that (he)(she)(they) (is)(are) located

16 Date Name(s) of individual(s)

17 in _____ and that this record is to be filed with or relates to a matter before a

18 court, governmental entity, public official, or other entity located in the territorial jurisdiction of

19 the United States, or involves property located in the territorial jurisdiction of, or a transaction

20 substantially connected with, the United States.

21 _____

22 Signature of notary public

23 (Place stamp here)

1 [_____]

2 Title of office

3 [My commission expires: _____]

4 ~~(3) For an acknowledgment in a representative capacity by an individual located~~
5 ~~outside the United States:~~

6 State of _____

7 [County] of _____

8 ~~This record was acknowledged before me by use of communication technology on~~

9 _____ by _____ as (type of authority, such as officer or trustee) of (name

10 Date Name(s) of individual(s)

11 of party on behalf of whom record was executed), who declared that (he)(she)(they) (is)(are)

12 located in _____ and that this record is to be filed with or relates to a matter

13 before a court, governmental entity, public official, or other entity located in the territorial

14 jurisdiction of the United States, or involves property located in the territorial jurisdiction of, or a

15 transaction substantially connected with, the United States.

16 _____

17 Signature of notary public

18 (Place stamp here)

19 [_____]

20 Title of office

21 [My commission expires: _____]

22 ~~(4) For witnessing or attesting a signature by an individual located outside the~~
23 ~~United States:~~

1 State of _____

2 [County] of _____

3 Signed [or attested] before me by use of communication technology on

4 _____ by _____, who declared that (he)(she)(they) (is)(are) located

5 Date Name(s) of individual(s)

6 in _____ and that this record is to be filed with or relates to a matter before a
7 court, governmental entity, public official, or other entity located in the territorial jurisdiction of
8 the United States, or involves property located in the territorial jurisdiction of, or a transaction
9 substantially connected with, the United States.

10 _____

11 Signature of notary public

12 (Place stamp here)

13 [_____]

14 Title of office

15 [My commission expires: _____]

16 (i) Before a notary public performs the notary public’s initial notarial act under this
17 section, the notary public must notify the [commissioning officer or agency] that the notary
18 public will be performing notarial acts by communication technology and identify the
19 communication technology and any provider of third-person identity verification on whom the
20 notary public intends to rely on for identity proofing. If the [commissioning officer or agency]
21 has established standards for approval of communication technology under subsection (j) and
22 Section 27, the communication technology must conform to the standards. If the communication
23 technology conforms to the standards, the [commissioning officer or agency] shall approve the

1 use of the communication technology.

2 (j) The [commissioning officer or agency] may adopt rules regarding performance of a
3 notarial act with respect to an individual located outside the United States. The rules may:

4 (1) prescribe the means of performing a notarial act involving communication
5 technology to communicate with an individual located outside the United States;

6 (2) establish standards for the approval of communication technology;

7 (3) approve providers of third person identity verification and the process of
8 identity proofing; and

9 (4) establish standards for the retention of a video and audio copy of the
10 performance of a notarial act under this [act].]

11 *Legislative Note: Section 14A is promulgated by the Uniform Law Commission as an*
12 *amendment to and part of the Revised Uniform Law on Notarial Acts (RULONA). A jurisdiction*
13 *that has already adopted RULONA should adopt Section 14A as an amendment to RULONA. A*
14 *jurisdiction that is newly adopting RULONA should adopt Section 14A as part of its initial*
15 *enactment.*

16 *A jurisdiction that wishes to adopt only Section 14A without the balance of RULONA will*
17 *need to make significant adjustments, and should consider at least the following provisions of*
18 *RULONA to which Section 14A refers or on which Section 14A relies:*

19 *Section 2. Definitions. Various provisions*

20 *Section 6. Personal Appearance Required.*

21 *Section 7. Identification of Individual. Subsection (a) relating to an individual personally known*
22 *to the notarial officer*

23 *Section 8. Authority to Refuse to Perform Notarial Act.*

24 *Section 14. Foreign Notarial Act. Subsection (a) relating to the definition of a “foreign state”*

25 *Section 15. Certificate of Notarial Act.*

26 *Section 27. Rules.*

27
28 **SECTION 14A. NOTARIAL ACT PERFORMED BY REMOTELY LOCATED**

29 **INDIVIDUAL.**

30 (a) In this section:

31 (1) “Communication technology” means an electronic device or process that:

32 (A) allows a notary public and a remotely located individual to

1 communicate with each other simultaneously by sight and sound; and

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

4 (2) “Foreign state” means a jurisdiction other than the United States, a state, or a
5 federally recognized Indian tribe.

6 (3) “Identity proofing” means a process or service by which a third person
7 provides a notary public with a means to verify the identity of a remotely located individual by a
8 review of personal information from public or private data sources.

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

12 (5) “Remotely located individual” means an individual who is not in the physical
13 presence of the notary public who performs a notarial act under subsection (c).

14 (b) A remotely located individual may comply with Section 6 by appearing before a
15 notary public by means of communication technology.

16 (c) A notary public located in this state may perform a notarial act facilitated by
17 communication technology for a remotely located individual if:

18 (1) the notary public:

19 (A) has personal knowledge under Section 7(a) of the identity of the
20 individual;

21 (B) has satisfactory evidence of the identity of the remotely located
22 individual by oath or affirmation from a credible witness appearing before the notary public
23 under Section 7(b) or under this section; or

1 (C) reasonably can identify the individual by at least two different types of
2 identity-proofing processes or services.

3 (2) the notary public is able reasonably to identify a record before the notary
4 public as the same record in which the remotely located individual made a statement or on which
5 the remotely located individual executed a signature;

6 (3) the notary public, or a person acting on behalf of the notary public, creates an
7 audio-visual recording of the performance of the notarial act; and

8 (4) for a remotely located individual who is located outside the United States,

9 (A) the record:

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

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

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

17 (d) If a notarial act is performed under this section, the certificate of notarial act required
18 by Section 15 and the short-form certificate provided in Section 16 must indicate that the notarial
19 act was performed by means of communication technology.

20 (e) A short-form certificate provided in Section 16 for a notarial act subject to this section
21 is sufficient if it:

22 (1) complies with rules adopted under subsection (h)(1); or

23 (2) is in the form provided by Section 16 and contains a statement substantially as

1 follows: “This notarial act involved the use of communication technology.”

2 (f) A notary public, a guardian, conservator, or agent of a notary public, or a personal
3 representative of a deceased notary public shall retain the audio-visual recording created under
4 subsection (c)(3) or cause the recording to be retained by a repository designated by or on behalf
5 of the person required to retain the recording. The recording must be retained for at least [10]
6 years after the recording is made or as otherwise required by rule adopted under subsection
7 (h)(4).

8 (g) Before a notary public performs the notary public’s initial notarial act under this
9 section, the notary public shall notify the [commissioning officer or agency] that the notary
10 public will be performing notarial acts facilitated by communication technology and identify the
11 technology. If the [commissioning officer or agency] has established standards for approval of
12 communication technology or identity proofing under subsection (h) and Section 27, the
13 communication technology and identity proofing must conform to the standards.

14 (h) In addition to adopting rules under Section 27, the [commissioning officer or agency]
15 may adopt rules under this section regarding performance of a notarial act. The rules may:

16 (1) prescribe the means of performing a notarial act involving a remotely located
17 individual using communication technology;

18 (2) establish standards for communication technology and identity proofing;

19 (3) establish requirements or procedures to approve providers of communication
20 technology and the process of identity proofing; and

21 (4) establish standards and a period for the retention of an audio-visual recording
22 created under subsection (c)(3).

23 (i) Before adopting, amending, or repealing a rule governing performance of a notarial

1 act with respect to a remotely located individual, the [commissioning officer or agency] shall
2 consider:

3 (1) the most recent standards regarding the performance of a notarial act with
4 respect to a remotely located individual promulgated by national standard-setting organizations
5 and the National Association of Secretaries of State;

6 (2) standards, practices, and customs of other jurisdictions that have laws
7 substantially similar to this section; and

8 (3) the views of governmental officials and entities and other interested persons.

9 **SECTION 20. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL**
10 **ACT ON ELECTRONIC RECORD; SELECTION OF TECHNOLOGY; ACCEPTANCE**
11 **OF TANGIBLE COPY OF ELECTRONIC RECORD.**

12 (a) A notary public may select one or more tamper-evident technologies to perform
13 notarial acts with respect to electronic records. A person may not require a notary public to
14 perform a notarial act with respect to an electronic record with a technology that the notary
15 public has not selected.

16 (b) Before a notary public performs the notary public's initial notarial act with respect to
17 an electronic record, a notary public shall notify the [commissioning officer or agency] that the
18 notary public will be performing notarial acts with respect to electronic records and identify the
19 technology the notary public intends to use. If the [commissioning officer or agency] has
20 established standards for approval of technology pursuant to Section 27, the technology must
21 conform to the standards. If the technology conforms to the standards, the [commissioning
22 officer or agency] shall approve the use of the technology.

23 (c) A [recorder] may accept for recording a tangible copy of an electronic record

- 1 containing a notarial certificate as satisfying any requirement that a record accepted for recording
- 2 be an original, if the notarial officer executing the notarial certificate certifies that the tangible
- 3 copy is an accurate copy of the electronic record.