

D R A F T

FOR APPROVAL

**AMENDMENT TO REVISED UNIFORM LAW
ON NOTARIAL ACTS**

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-TWENTY-FIFTH YEAR
STOWE, VERMONT
JULY 8 - JULY 14, 2016

**AMENDMENT TO REVISED UNIFORM LAW
ON NOTARIAL ACTS**

Copyright ©2016

By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

The ideas and conclusions set forth in this draft, including the proposed statutory language and any comments or reporter's notes, have not been passed upon by the National Conference of Commissioners on Uniform State Laws or the Drafting Committee. They do not necessarily reflect the views of the Conference and its Commissioners and the Drafting Committee and its Members and Reporter. Proposed statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.

May 23, 2016

AMENDMENT TO REVISED UNIFORM LAW ON NOTARIAL ACTS

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in preparing this Act consists of the following individuals:

PATRICIA BRUMFIELD FRY, P.O. Box 3880, Edgewood, NM 87015-3880, *Co-Chair*

RAYMOND P. PEPE, K&L Gates LLP, 17 N. Second St., 18th Floor, Harrisburg, PA, 17101-1507, *Co-Chair*

ARTHUR R. GAUDIO, 1215 Wilbraham Rd., Springfield, MA 01119-2612, *Reporter*

EX OFFICIO

RICHARD T. CASSIDY, 100 Main St., P.O. Box 1124, Burlington, VT 05402, *President*

PAMELA WINSTON BERTANI, 728 Texas St., Suite 4, Fairfield, CA 94533, *Division Chair*

EXECUTIVE DIRECTOR

LIZA KARSAI, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, *Executive Director*

Copies of this act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
111 N. Wabash Ave., Suite 1010
Chicago, Illinois 60602
312/450-6600
www.uniformlaws.org

1 **AMENDMENT TO REVISED UNIFORM LAW ON NOTARIAL ACTS**

2 **[SECTION 14A. INDIVIDUAL LOCATED OUTSIDE UNITED STATES.**

3 (a) In this section:

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

7 (2) “Identity proofing” means a process or service through which a third person
8 provides a notary public with a reasonable means to verify the identity of an individual through a
9 review of personal information from public or proprietary data sources.

10 (3) “Outside the United States” means a location outside the territorial jurisdiction
11 of the United States.

12 (b) A notary public in this state may perform by means of communication technology a
13 notarial act relating to a statement made in or signature executed on a record by an individual
14 located outside the United States if:

15 (1) the notary public has personal knowledge of the identity of the individual
16 under Section 7(a) or has satisfactory evidence of the identity of the individual making the
17 statement or signing the record under subsection (d);

18 (2) the record:

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

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

1 (3) the notary public is reasonably able, by use of tamper-evident technology or
2 personal acknowledgement of the individual, to identify the record before the notary public as
3 the same record on which the individual made the statement or executed the signature; and

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

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

9 (d) In addition to the methods required by Section 7 for the identification of an
10 individual, a notary public has satisfactory evidence of the identity of an individual appearing
11 before the notary public by means of communication technology if the notary public can
12 reasonably identify the individual by means of identity proofing.

13 (e) Without limiting the authority of a notary public under Section 8 to refuse to perform
14 a notarial act, a notary public may refuse to perform a notarial act under this section if the notary
15 public is not satisfied that the individual is located outside the United States.

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

21 (g) If a notarial act involves the use of communication technology, the notary public shall
22 retain a video and audio copy of the session.

23 (h) The following short-form certificates of notarial acts performed with regard to an

1 individual located outside the United States are sufficient for the purposes indicated, if
2 completed with the information required by subsection (f) and Section 15(a) and (b):

3 (1) For a verification on oath or affirmation by a person located outside the United
4 States:

5 State of _____

6 [County] of _____

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

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

9 Date Name(s) of individual(s)

10 in _____ and that this record is part of or pertains to a matter that is to be

11 filed with or is before a court, governmental entity, or other entity located in the United States or

12 involves property located in, or a transaction substantially connected with, the United States.

13 _____

14 Signature of notary public

15 Stamp

16 [_____]

17 Title of office

18 [My commission expires: _____]

19 (2) For an acknowledgment in an individual capacity by a person located outside
20 the United States:

21 State of _____

22 [County] of _____

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

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

25 Date Name(s) of individual(s)

1 in _____ and that this record is part of or pertains to a matter that is to be
2 filed with or is before a court, governmental entity, or other entity located in the United States or
3 involves property located in, or a transaction substantially connected with, the United States.

4 _____
5 Signature of notary public

6 Stamp

7 [_____]
8 Title of office

9 [My commission expires: _____]

10 (3) For an acknowledgment in a representative capacity by a person 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 _____ as (type of authority, such as officer or trustee) of (name
16 Date Name(s) of individual(s)

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

18 located in _____ and that this record is part of or pertains to a matter that is

19 to be filed with or is before a court, governmental entity, or other entity located in the United

20 States, or involves property located in, or a transaction substantially connected with, the United

21 States.

22 _____
23 Signature of notary public

24 Stamp

25 [_____]
26 Title of office

1 [My commission expires: _____]

2 (4) For witnessing or attesting a signature by a person located outside the United

3 States:

4 State of _____

5 [County] of _____

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

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

8 Date Name(s) of individual(s)

9 in _____ and that this record is part of or pertains to a matter that is to be

10 filed with or is before a court, a governmental entity, or other entity located in the United States,

11 or involves property located in, or a transaction substantially connected with, the United States.

12 _____

13 Signature of notary public

14 Stamp

15 [_____]

16 Title of office

17 [My commission expires: _____]

18 (i) Before a notary public performs the notary public’s initial notarial act under this

19 section, a notary public must notify the [commissioning officer or agency] that the notary public

20 will be performing notarial acts by communication technology and identify the communication

21 technology and any third person that the notary public intends to rely on for identity proofing. If

22 the [commissioning officer or agency] has established standards for approval of communication

23 technology under subsection (j) and Section 27, the communication technology must conform to

24 the standards. If the communication technology conforms to the standards, the [commissioning

25 officer or agency] shall approve the use of the communication technology.

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

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

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

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

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