

D R A F T

SUMMARY

Enacts Revised Uniform Law on Notarial Acts.
Becomes operative September 1, 2013.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to notaries public; creating new provisions; amending ORS 73.0505,
3 132.320, 177.065, 194.980, 194.985, 194.990 and 205.320; repealing ORS
4 194.005, 194.010, 194.012, 194.014, 194.020, 194.022, 194.024, 194.028, 194.031,
5 194.040, 194.043, 194.047, 194.052, 194.063, 194.070, 194.090, 194.100, 194.130,
6 194.150, 194.152, 194.154, 194.156, 194.158, 194.162, 194.164, 194.166, 194.168,
7 194.200, 194.330, 194.335, 194.505, 194.515, 194.525, 194.535, 194.545, 194.555,
8 194.558, 194.565, 194.575, 194.578, 194.582, 194.585, 194.595 and 194.700; and
9 declaring an emergency.

10 **Be It Enacted by the People of the State of Oregon:**

REVISED UNIFORM LAW ON NOTARIAL ACTS

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14 **SECTION 1. Short title. Sections 1 to 50 of this 2013 Act may be**
15 **cited as the Revised Uniform Law on Notarial Acts.**

16 **SECTION 2. Definitions. As used in sections 1 to 50 of this 2013 Act:**

17 **(1) “Acknowledgment” means a declaration by an individual before**
18 **a notarial officer that the individual has signed a record for the pur-**
19 **pose stated in the record and, if the record is signed in a represen-**
20 **tative capacity, that the individual signed the record with proper**

1 authority and signed it as the act of the person identified in the re-
2 cord.

3 (2) "Clerk of a court of this state" means:

4 (a) The clerk, deputy clerk or court administrator of the Supreme
5 Court, the Court of Appeals or the Oregon Tax Court;

6 (b) The trial court administrator or any other nonjudicial officer
7 or employee of the circuit court for a county who is authorized by the
8 presiding judge for the judicial district; or

9 (c) A nonjudicial officer or employee of a municipal court who is
10 authorized by a judge of the municipal court.

11 (3) "Commercial paper" means instruments that are within the
12 scope of ORS chapter 73, including drafts, checks, certificates of de-
13 posit and notes.

14 (4) "Electronic" means relating to technology having electrical,
15 digital, magnetic, wireless, optical, electromagnetic or similar capa-
16 bilities.

17 (5) "Electronic signature" means an electronic symbol, sound or
18 process attached to or logically associated with a record and executed
19 or adopted by an individual with the intent to sign the record.

20 (6) "In a representative capacity" means acting as:

21 (a) An authorized officer, agent, partner, trustee or other repre-
22 sentative of a person other than an individual;

23 (b) A public officer, personal representative, guardian, conservator,
24 trustee or other representative, in the capacity stated in a record;

25 (c) An agent of or attorney-in-fact for a principal; or

26 (d) An authorized representative of another in any other capacity.

27 (7) "Judge" means:

28 (a) Any judge of the circuit court, the Oregon Tax Court, the Court
29 of Appeals or the Supreme Court, any Oregon Tax Court magistrate,
30 any justice of the peace or municipal judge or any county judge who
31 exercises judicial functions; or

1 (b) Any judge or justice of the peace pro tempore.

2 (8) “Notarial act” means:

3 (a) Taking an acknowledgment;

4 (b) Administering an oath or affirmation;

5 (c) Taking a verification on oath or affirmation;

6 (d) Witnessing or attesting a signature;

7 (e) Certifying or attesting a copy;

8 (f) Making, noting or recording a protest of a negotiable instru-
9 ment; or

10 (g) Any other act, whether performed with respect to a tangible or
11 electronic record, that a notarial officer may perform under the law
12 of this state.

13 (9) “Notarial officer” means a notary public or other individual au-
14 thorized to perform a notarial act.

15 (10) “Notary public” means an individual commissioned to perform
16 a notarial act by the Secretary of State.

17 (11) “Oath” and “affirmation” mean a notarial act or part of a
18 notarial act in which a notary public certifies that a person made a
19 vow in the presence of the notary public on penalty of perjury.

20 (12) “Official stamp” means a physical image affixed to a tangible
21 record or an electronic image attached to or logically associated with
22 an electronic record.

23 (13) “Person” means an individual, corporation, business trust,
24 statutory trust, estate, trust, partnership, limited liability company,
25 association, joint venture, public corporation, government or govern-
26 mental subdivision, agency or instrumentality or any other legal or
27 commercial entity.

28 (14) “Record” means information that is inscribed on a tangible
29 medium or that is stored in an electronic or other medium and is re-
30 trievable in perceivable form.

31 (15) “Sign” means, with present intent to authenticate or adopt a

1 **record:**

2 (a) To execute or adopt a tangible symbol; or

3 (b) To attach to or logically associate with the record an electronic
4 symbol, sound or process.

5 (16) "Signature" means a tangible symbol or an electronic signature
6 that evidences the signing of a record.

7 (17) "Stamping device" means:

8 (a) A physical device capable of affixing to a tangible record an of-
9 ficial stamp; or

10 (b) An electronic device or process capable of attaching to or log-
11 ically associating with an electronic record an official stamp.

12 (18) "State" means a state of the United States, the District of
13 Columbia, Puerto Rico, the United States Virgin Islands, or any ter-
14 ritory or insular possession subject to the jurisdiction of the United
15 States.

16 (19) "Verification on oath or affirmation" means a declaration,
17 made by an individual on oath or affirmation before a notarial officer,
18 that a statement in a record is true.

19 **SECTION 3. Authority to perform notarial act.** (1) A notarial officer
20 may perform a notarial act authorized by sections 1 to 50 of this 2013
21 Act or by law of this state other than sections 1 to 50 of this 2013 Act.

22 (2) A notarial officer may not perform a notarial act with respect
23 to a record to which the officer or the officer's spouse is a party, or
24 in which either the officer or the officer's spouse has a direct benefi-
25 cial interest. A notarial act performed in violation of this subsection
26 is voidable.

27 **SECTION 4. Requirements for certain notarial acts.** (1) A notarial
28 officer who takes an acknowledgment of a record shall determine,
29 from personal knowledge or satisfactory evidence of the identity of the
30 individual, that the individual appearing before the officer and making
31 the acknowledgment has the identity claimed and that the signature

1 on the record is the signature of the individual.

2 (2) A notarial officer who takes a verification on oath or affirma-
3 tion shall determine, from personal knowledge or satisfactory evidence
4 of the identity of the individual, that the individual appearing before
5 the officer and making the declaration has the identity claimed and
6 that the signature on the record containing the statement verified is
7 the signature of the individual.

8 (3) A notarial officer who witnesses or attests a signature shall de-
9 termine, from personal knowledge or satisfactory evidence of the
10 identity of the individual, that the individual appearing before the of-
11 ficer and signing the record has the identity claimed.

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

15 (5) A notarial officer who makes or notes a protest of a negotiable
16 instrument shall determine the matters set forth in ORS 73.0505.

17 SECTION 5. Personal appearance required. If a notarial act relates
18 to a statement made in or a signature executed on a record, the indi-
19 vidual making the statement or executing the signature shall appear
20 personally before the notarial officer.

21 SECTION 6. Identification of individual. (1) A notarial officer has
22 personal knowledge of the identity of an individual appearing before
23 the officer if the individual is personally known to the officer through
24 dealings sufficient to provide reasonable certainty that the individual
25 has the identity claimed.

26 (2) A notarial officer has satisfactory evidence of the identity of an
27 individual appearing before the officer if the officer can identify the
28 individual:

29 (a) By means of:

30 (A) A United States passport or an officially recognized passport of
31 a foreign country, or a driver license or identification card issued un-

1 **der ORS 807.400 or a comparable provision in another state, that is**
2 **current or that expired not more than three years before performance**
3 **of the notarial act; or**

4 **(B) A military identification card, an identity card issued by a**
5 **federally recognized Indian tribe or other document issued by the fed-**
6 **eral government or a state, county or local government that is current**
7 **or that expired not more than three years before performance of the**
8 **notarial act and that contains the signature and a photograph of the**
9 **individual;**

10 **(b) By a verification on oath or affirmation of a credible witness**
11 **personally appearing before the officer and known to the officer or**
12 **whom the officer can identify on the basis of:**

13 **(A) A United States passport or an officially recognized passport of**
14 **a foreign country, or a driver license or identification card issued un-**
15 **der ORS 807.400 or a comparable provision in another state, that is**
16 **current or that expired not more than three years before performance**
17 **of the notarial act; or**

18 **(B) A military identification card, an identity card issued by a**
19 **federally recognized Indian tribe or other document issued by the fed-**
20 **eral government or a state, county or local government that is current**
21 **or that expired not more than three years before performance of the**
22 **notarial act and that contains the signature and a photograph of the**
23 **individual; or**

24 **(c) Positively by examination or comparison of official government**
25 **documents or records if the individual is confined in a correctional**
26 **facility.**

27 **(3) A notarial officer may require an individual to provide additional**
28 **information or identification credentials necessary to confirm the**
29 **identity of the individual.**

30 **SECTION 7. Authority to refuse to perform notarial act. (1) A**
31 **notarial officer may refuse to perform a notarial act if the officer is**

1 **not satisfied that:**

2 (a) **The individual executing the record is competent or has the**
3 **capacity to execute the record;**

4 (b) **The individual's signature is knowingly and voluntarily made;**
5 **or**

6 (c) **The individual has provided sufficient information or identifica-**
7 **tion credentials necessary to confirm the identity of the individual.**

8 (2) **A notarial officer may refuse to perform a notarial act unless**
9 **refusal is prohibited by law other than sections 1 to 50 of this 2013 Act.**

10 **SECTION 8. Signature if individual unable to sign. If an individual**
11 **is physically unable to sign a record, the individual may direct an in-**
12 **dividual other than the notarial officer to sign the individual's name**
13 **on the record. The notarial officer shall insert "Signature affixed by**
14 **(name of other individual) at the direction of (name of individual)" or**
15 **words of similar import.**

16 **SECTION 9. Notarial act in this state. (1) A notarial act may be**
17 **performed in this state by:**

18 (a) **A notary public;**

19 (b) **A judge of this state or a clerk of a court of this state;**

20 (c) **A county clerk or county employee with recording responsibil-**
21 **ities designated by the county; or**

22 (d) **Any other individual authorized by the law of this state to per-**
23 **form the notarial act.**

24 (2) **Notarial acts performed under section 10, 11, 12 or 13 of this 2013**
25 **Act have the same effect as if performed by a notarial officer of this**
26 **state.**

27 (3) **The signature and title of an individual performing a notarial**
28 **act in this state are prima facie evidence that the signature is genuine**
29 **and that the individual holds the designated title.**

30 (4) **The signature and title of a notarial officer described in sub-**
31 **section (1) of this section conclusively establish the authority of the**

1 **officer to perform the notarial act.**

2 **SECTION 10. Notarial act in another state. (1) A notarial act per-**
3 **formed in another state has the same effect under the law of this state**
4 **as if performed by a notarial officer of this state, if the act performed**
5 **in the other state is performed by:**

6 **(a) A notary public of the other state;**

7 **(b) A judge of the other state or a clerk of a court of the other**
8 **state; or**

9 **(c) Any other individual authorized by the law of the other state to**
10 **perform the notarial act.**

11 **(2) The signature and title of an individual performing a notarial**
12 **act in another state are prima facie evidence that the signature is**
13 **genuine and that the individual holds the designated title.**

14 **(3) The signature and title of a notarial officer described in sub-**
15 **section (1) of this section conclusively establish the authority of the**
16 **officer to perform the notarial act.**

17 **SECTION 11. Notarial act under authority of federally recognized**
18 **Indian tribe. (1) A notarial act performed under the authority of and**
19 **in the jurisdiction of a federally recognized Indian tribe has the same**
20 **effect as if performed by a notarial officer of this state, if the act**
21 **performed in the jurisdiction of the tribe is performed by:**

22 **(a) A notarial officer of the tribe;**

23 **(b) A judge of the tribe or a clerk of a court of the tribe; or**

24 **(c) Any other individual authorized by the law of the tribe to per-**
25 **form the notarial act.**

26 **(2) The signature and title of an individual performing a notarial**
27 **act under the authority of and in the jurisdiction of a federally re-**
28 **cognized Indian tribe are prima facie evidence that the signature is**
29 **genuine and that the individual holds the designated title.**

30 **(3) The signature and title of a notarial officer described in sub-**
31 **section (1) of this section conclusively establish the authority of the**

1 **officer to perform the notarial act.**

2 **SECTION 12. Notarial act under federal authority. (1) A notarial**
3 **act performed under federal law has the same effect under the law of**
4 **this state as if performed by a notarial officer of this state, if the act**
5 **performed under federal law is performed by:**

6 **(a) A judge or a clerk of a court;**

7 **(b) An individual in military service, or performing duties under the**
8 **authority of the military service, who is authorized to perform notarial**
9 **acts under federal law;**

10 **(c) An individual designated a notarizing officer by the United**
11 **States Department of State for performing notarial acts overseas; or**

12 **(d) Any other individual authorized by federal law to perform the**
13 **notarial act.**

14 **(2) The signature and title of an individual performing a notarial**
15 **act under federal authority are prima facie evidence that the signature**
16 **is genuine and that the individual holds the designated title.**

17 **(3) The signature and title of an individual described in subsection**
18 **(1) of this section conclusively establish the authority of the individual**
19 **to perform the notarial act.**

20 **SECTION 13. Foreign notarial act. (1) As used in this section,**
21 **“foreign state” means a government other than the United States, a**
22 **state or a federally recognized Indian tribe.**

23 **(2) If a notarial act is performed under the authority of and in the**
24 **jurisdiction of a foreign state or a constituent unit of the foreign state**
25 **or is performed under the authority of a multinational or international**
26 **governmental organization, the act has the same effect under the law**
27 **of this state as if performed by a notarial officer of this state.**

28 **(3) If the title of office and indication of authority to perform**
29 **notarial acts in a foreign state appears in a digest of foreign law or in**
30 **a list customarily used as a source for that information, the authority**
31 **of an officer with that title to perform notarial acts is conclusively**

1 established.

2 (4) The signature and official stamp of an individual holding an of-
3 fice described in subsection (3) of this section are prima facie evidence
4 that the signature is genuine and the individual holds the designated
5 title.

6 (5) An apostille in the form prescribed by the Hague Convention of
7 October 5, 1961, and issued by a foreign state party to the convention
8 conclusively establishes that the signature of the notarial officer is
9 genuine and that the officer holds the indicated office.

10 (6) A consular authentication issued by an individual designated by
11 the United States Department of State as a notarizing officer for per-
12 forming notarial acts overseas and attached to the record with respect
13 to which the notarial act is performed conclusively establishes that the
14 signature of the notarial officer is genuine and that the officer holds
15 the indicated office.

16 SECTION 14. Certificate of notarial act. (1) A notarial act must be
17 evidenced by a certificate. The certificate must:

18 (a) Be signed and dated by the notarial officer and, if the notarial
19 officer is a notary public, be signed in the same manner as on file with
20 the Secretary of State;

21 (b) Identify the jurisdiction in which the notarial act is performed;

22 (c) Contain the title of office of the notarial officer;

23 (d) Contain the name of the person for whom the notarial act is
24 performed; and

25 (e) If the notarial officer is a notary public, indicate the date of
26 expiration, if any, of the officer's commission.

27 (2) The notarial officer may subsequently correct any information
28 included on or omitted from the certificate.

29 (3) Except as provided in subsection (8) of this section, if a notarial
30 act regarding a tangible record is performed by a notary public, an
31 official stamp must be affixed to the certificate. If a notarial act re-

1 **garding a tangible record is performed by a notarial officer other than**
2 **a notary public and the certificate contains the information specified**
3 **in subsection (1)(a) to (d) of this section, an official stamp may be af-**
4 **fixed to the certificate. If a notarial act regarding an electronic record**
5 **is performed by a notarial officer and the certificate contains the in-**
6 **formation specified in subsection (1)(a) to (d) of this section, an official**
7 **stamp may be attached to or logically associated with the certificate.**

8 **(4) A certificate of a notarial act is sufficient if it meets the re-**
9 **quirements of subsections (1) to (3) of this section and:**

10 **(a) Is in a short form set forth in section 15 of this 2013 Act;**

11 **(b) Is in a form otherwise permitted by the law of this state;**

12 **(c) Is in a form permitted by the law applicable in the jurisdiction**
13 **in which the notarial act was performed; or**

14 **(d) Sets forth the actions of the notarial officer and the actions are**
15 **sufficient to meet the requirements of the notarial act as provided in**
16 **sections 4, 5 and 6 of this 2013 Act or law of this state other than**
17 **sections 1 to 50 of this 2013 Act.**

18 **(5) By executing a certificate of a notarial act, a notarial officer**
19 **certifies that the officer has complied with the requirements and made**
20 **the determinations specified in sections 3, 4, 5 and 6 of this 2013 Act.**

21 **(6) A notarial officer may not affix or attach the officer's signature**
22 **to, or logically associate it with, a certificate until the notarial act has**
23 **been performed.**

24 **(7) If a notarial act is performed regarding a tangible record, a**
25 **certificate of a notarial act must be part of or securely affixed to the**
26 **record. If a notarial act is performed regarding an electronic record,**
27 **the certificate must be attached to or logically associated with the**
28 **electronic record. If the Secretary of State by rule has established**
29 **standards pursuant to section 26 of this 2013 Act for affixing, attaching**
30 **or logically associating the certificate, the process must conform to**
31 **the standards.**

1 (8) The imprint of the official stamp of a notary public is not re-
2 quired to effectuate a notarization of a subdivision or partition plat
3 required under ORS 92.010 to 92.192 or a condominium plat required
4 under ORS 100.115, or any replat, supplement or amendment thereto,
5 if the following appear below the notary public’s signature:

6 (a) The printed name of the notary public;

7 (b) The words “NOTARY PUBLIC - OREGON”;

8 (c) The words “COMMISSION NO.” immediately followed by the
9 notary public’s commission number; and

10 (d) The words “MY COMMISSION EXPIRES” immediately followed
11 by the date the notary public’s commission expires, expressed in terms
12 of the month, by name not abbreviated, two-digit date and four-digit
13 year.

14 SECTION 15. Short form certificates. The following short form
15 certificates of notarial acts are sufficient for the purposes indicated,
16 if completed with the information required by section 14 (1) to (3) of
17 this 2013 Act:

18 _____
19 (1) For an acknowledgment in an individual capacity:

20 State of _____

21 County of _____

22
23 This record was acknowledged before me on (date) _____ by
24 (name(s) of individual(s)) _____.

25 Signature of notarial officer: _____

26 Stamp (if required):

27 Title of office: _____

28 My commission expires: _____

29
30 (2) For an acknowledgment in a representative capacity:

31 State of _____

1 County of _____

2

3 This record was acknowledged before me on (date) _____ by
4 (name(s) of individual(s)) _____ as (type of authority, such as
5 officer or trustee) _____ of (name of party on behalf of whom
6 record was executed) _____.

7 Signature of notarial officer: _____

8 Stamp (if required):

9 Title of office: _____

10 My commission expires: _____

11

12 (3) For a verification on oath or affirmation:

13 State of _____

14 County of _____

15

16 Signed and sworn to (or affirmed) before me on (date) _____ by
17 (name(s) of individual(s)) making statement _____.

18 Signature of notarial officer:

19 Stamp (if required):

20 Title of office: _____

21 My commission expires: _____

22

23 (4) For witnessing or attesting a signature:

24 State of _____

25 County of _____

26 Signed (or attested) before me on (date) _____ by (name(s) of
27 individual(s)) _____.

28 Signature of notarial officer: _____

29 Stamp (if required):

30 Title of office: _____

31 My commission expires: _____

1 (5) For certifying or attesting a copy of a record:

2 State of _____

3 County of _____

4 I certify (or attest) that this is a true and correct copy of a record
5 in the possession of _____.

6 Dated _____

7 Signature of notarial officer: _____

8 Stamp (if required):

9 Title of office: _____

10 My commission expires: _____

11 _____
12 **SECTION 16. Official stamp.** The official stamp of a notary public
13 must:

14 (1) Include the notary public's name, jurisdiction, commission ex-
15 piration date and other information required by the Secretary of State
16 by rule; and

17 (2) Be a legible imprint capable of being copied together with the
18 record to which it is affixed or attached or with which it is logically
19 associated.

20 **SECTION 17. Stamping device.** (1) A notary public is responsible for
21 the security of the notary public's stamping device and may not allow
22 another individual to use the device in performing a notarial act.

23 (2) On resignation from, or the revocation or expiration of, the
24 notary public's commission, or on the expiration date set forth in the
25 notary public's official stamp, the notary public shall disable the
26 notary public's stamping device by destroying, defacing, damaging,
27 erasing or securing the device against use.

28 (3) On the death or adjudication of incompetency of a notary public,
29 the notary public's personal representative, guardian, conservator or
30 trustee or any other person knowingly in possession of the notary
31 public's stamping device shall render the device unusable by destroy-

1 **ing, defacing, damaging, erasing or securing the device against use.**

2 **(4) If a notary public's stamping device is lost or stolen, the notary**
3 **public or the notary public's personal representative, guardian,**
4 **conservator or trustee shall notify promptly the Secretary of State on**
5 **discovering that the device is lost or stolen.**

6 **SECTION 18. Journal. (1) Except as provided in subsection (11) of**
7 **this section, a notary public shall maintain one or more journals in**
8 **which the notary public chronicles all notarial acts that the notary**
9 **public performs. The notary public shall retain the journal for 10 years**
10 **after the performance of the last notarial act chronicled in the jour-**
11 **nal.**

12 **(2) A journal may be created on a tangible medium or in an elec-**
13 **tronic format to chronicle all notarial acts, regardless of whether**
14 **those notarial acts are performed for tangible or electronic records.**
15 **If the journal is maintained on a tangible medium, it must be a per-**
16 **manent, bound register with numbered pages. If the journal is main-**
17 **tained in an electronic format, it must be in a permanent,**
18 **tamper-evident electronic format complying with the rules of the**
19 **Secretary of State.**

20 **(3) An entry in a journal must be made contemporaneously with**
21 **performance of each notarial act and must contain the following in-**
22 **formation:**

23 **(a) The date and time of the notarial act;**

24 **(b) A description of the record, if any, and type of notarial act;**

25 **(c) The full name and contact address of each individual for whom**
26 **the notarial act is performed;**

27 **(d) If identity of the individual is based on personal knowledge, a**
28 **statement to that effect;**

29 **(e) If identity of the individual is based on satisfactory evidence, a**
30 **brief description of the method of identification and the identification**
31 **credential presented, if any, including the date of expiration of any**

1 **identification credential;**

2 **(f) The signature of each individual for whom the notarial act is**
3 **performed; and**

4 **(g) The fee, if any, charged by the notary public.**

5 **(4)(a) If a notary public performs notarial acts involving duplicate**
6 **originals of a single statement or document for the same individual**
7 **on the same date, the notary public may, in lieu of recording individ-**
8 **ually in the journal the information required by subsection (3) of this**
9 **section for each duplicate original, record a single entry in the journal**
10 **for all notarial acts involving the statement or document. The entry**
11 **shall set forth all the information required by subsection (3) of this**
12 **section and the total number of duplicates of the statement or docu-**
13 **ment notarized.**

14 **(b) If a notary public performs notarial acts involving different**
15 **statements or documents for the same individual on the same date,**
16 **the notary public may, in lieu of recording individually in the journal**
17 **the information required by subsection (3) of this section for each**
18 **statement or document, record a single entry in the journal for all**
19 **notarial acts involving the statements or documents. The entry shall**
20 **set forth the number of statements or documents and the information**
21 **required by subsection (3)(c) to (g) of this section and for each state-**
22 **ment or document the information required by subsection (3)(a) and**
23 **(b) of this section. If there are duplicate originals of any statement**
24 **or document, the entry shall set forth the total number of duplicates**
25 **of the statement or document notarized.**

26 **(c) If a notary public performs notarial acts involving more than**
27 **one statement, signature or document for the same individual but not**
28 **on the same date, the notary public may, in lieu of recording individ-**
29 **ually in the journal the information required by subsection (3)(c) to**
30 **(e) of this section for each notarial act performed for that individual,**
31 **record a reference to a prior entry in the notarial journal for that**

1 person. The reference shall identify the page and line numbers of the
2 prior entry. The prior entry shall set forth the information required
3 by subsection (3)(c) to (e) of this section.

4 (5) If a notary public's journal is lost or stolen, the notary public
5 shall notify promptly the Secretary of State on discovering that the
6 journal is lost or stolen.

7 (6) On expiration of, resignation from, or suspension of, a notary
8 public's commission, the notary public shall retain the notary public's
9 journal in accordance with subsection (1) of this section.

10 (7) On revocation of a notary public's commission, the notary public
11 shall transmit the journal to the Secretary of State not later than 30
12 days after the date of revocation.

13 (8) On the death or adjudication of incompetency of a current or
14 former notary public, the notary public's personal representative,
15 guardian, conservator or trustee or any other person knowingly in
16 possession of the notary public's journal shall transmit the journal to
17 the Secretary of State.

18 (9) A journal in the possession of a notary public who is not a public
19 official or public employee is exempt from disclosure under ORS
20 192.410 to 192.505. A journal in the possession of the Secretary of State,
21 or in the possession of a notary public who is a public official or public
22 employee, is not exempt from disclosure under ORS 192.410 to 192.505
23 unless the secretary or other custodian determines that the public in-
24 terest in disclosure is outweighed by the interests of the parties to a
25 notarial act in keeping the journal record of the notarial act confi-
26 dential. A determination by the secretary or other custodian under
27 this subsection is subject to review under ORS 192.410 to 192.505.

28 (10) A notary public who is an employee may enter into an agree-
29 ment with the employer under which the journal or journals of the
30 notary public are retained by the employer upon termination of em-
31 ployment.

1 (11) A notary public may, but is not required to, record in a journal
2 any information about the following notarial acts performed by, or
3 documents notarized by, the notary public:

4 (a) Recording a protest of commercial paper required under section
5 34 of this 2013 Act;

6 (b) Administering an oath or affirmation;

7 (c) Certifying or attesting a copy of a document;

8 (d) Taking an affidavit;

9 (e) Verifying a billing statement for media advertising; and

10 (f) Taking a verification upon oath or affirmation.

11 SECTION 19. Notification regarding performance of notarial act
12 with respect to electronic records; selection of technology. (1) A notary
13 public may select one or more tamper-evident technologies to perform
14 notarial acts with respect to electronic records. A person may not re-
15 quire a notary public to perform a notarial act with respect to an
16 electronic record with a technology that the notary public has not se-
17 lected.

18 (2) Before a notary public performs the notary public's initial
19 notarial act with respect to an electronic record, a notary public shall
20 notify the Secretary of State that the notary public will be performing
21 notarial acts with respect to electronic records and identify the tech-
22 nology the notary public intends to use. If the Secretary of State, by
23 rule, has established standards pursuant to section 26 of this 2013 Act
24 for approval of technology, the technology must conform to the stan-
25 dards. If the technology conforms to the standards, the Secretary of
26 State shall approve the use of the technology.

27 SECTION 20. Commission as notary public; qualifications; no im-
28 munity or benefit. (1) An individual qualified under subsection (2) of
29 this section may apply to the Secretary of State for a commission as
30 a notary public. The applicant shall comply with and provide the in-
31 formation required under rules adopted by the secretary and pay the

1 application fee described in section 28 of this 2013 Act.

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

3 (a) Be at least 18 years of age;

4 (b) Be a resident of this state or have a place of employment or
5 practice in this state;

6 (c) Be able to read and write English;

7 (d) Not have been convicted of a felony or any crime involving
8 fraud, dishonesty or deceit during the 10-year period preceding the
9 date of application;

10 (e) Not have had a commission as a notary public revoked during
11 the 10-year period preceding the date of application;

12 (f) Not be disqualified under section 22 of this 2013 Act to receive a
13 commission;

14 (g) Complete the course of study described in section 21 of this 2013
15 Act; and

16 (h) Have passed the examination required under section 21 of this
17 2013 Act.

18 (3) Before the Secretary of State may issue a commission as a
19 notary public, the applicant shall execute an oath of office and submit
20 it to the secretary.

21 (4) Upon the applicant's compliance with this section, the Secretary
22 of State shall issue a commission as a notary public to the applicant
23 for a term of four years.

24 (5) A commission as a notary public authorizes the notary public
25 to perform notarial acts. The commission does not provide the notary
26 public any immunity or benefit conferred by law of this state on public
27 officials or employees of this state.

28 (6) Each notary public may file with the Secretary of State a
29 statement waiving the fees specified under section 42 of this 2013 Act.
30 If a notary public files the statement waiving the fees, the office of
31 that notary public is not considered a lucrative office.

1 (7) The functions of a notary public are not considered official du-
2 ties under Article III, section 1, of the Oregon Constitution.

3 (8) A commission as a notary public is not considered a commission
4 under Article V, section 18, of the Oregon Constitution.

5 **SECTION 21. Examination of notary public.** (1) An applicant for a
6 commission as a notary public must pass an examination administered
7 by the Secretary of State or an entity approved by the secretary. The
8 examination must be based on the course of study described in sub-
9 section (3) of this section.

10 (2) Before taking the examination required under subsection (1) of
11 this section, an applicant for a commission as a notary public who
12 does not hold a commission in this state must complete a course of
13 study offered by the Secretary of State or an entity approved by the
14 secretary.

15 (3) The Secretary of State or an entity approved by the secretary
16 shall offer regularly a course of study to applicants who do not hold
17 commissions as notaries public in this state. The course must cover
18 the laws, rules, procedures and ethics relevant to notarial acts.

19 **SECTION 22. Grounds to deny, revoke, suspend or condition com-**
20 **mission of notary public.** (1) The Secretary of State may deny, revoke,
21 suspend or impose a condition on a commission as a notary public for:

22 (a) Failure of the applicant or notary public to comply with any
23 provision of sections 1 to 50 of this 2013 Act, any rule adopted by the
24 Secretary of State under sections 1 to 50 of this 2013 Act or any other
25 state or federal law relating to any duty required of a notary public;

26 (b) A fraudulent, dishonest or deceitful misstatement or omission
27 in the application for a commission as a notary public submitted to
28 the secretary;

29 (c) A conviction of the applicant or notary public for any felony or
30 for a crime involving fraud, dishonesty or deceit;

31 (d) A finding against, or admission of liability by, the applicant or

1 notary public in any legal proceeding or disciplinary action based on
2 the applicant's or notary public's fraud, dishonesty or deceit;

3 (e) Use of false or misleading advertising or representation by the
4 notary public representing that the notary public has powers, quali-
5 fications, rights or privileges that the notary public does not have,
6 including the power to counsel on immigration matters;

7 (f) Denial, revocation, suspension or conditioning of a commission
8 as a notary public in another state; or

9 (g) Execution of any certificate as a notary public containing a
10 statement known to the notary public to be false.

11 (2) If the Secretary of State denies, revokes, suspends or imposes a
12 condition on a commission as a notary public, opportunity for hearing
13 shall be accorded as provided in ORS chapter 183 for a contested case.

14 (3) The authority of the Secretary of State to deny, revoke, suspend
15 or impose a condition on a commission as a notary public does not
16 prevent a person from seeking and obtaining other criminal or civil
17 remedies provided by law.

18 SECTION 23. Database of notaries public. The Secretary of State
19 shall maintain an electronic database of notaries public:

20 (1) Through which a person may verify the authority of a notary
21 public to perform notarial acts; and

22 (2) That indicates whether a notary public has notified the secretary
23 that the notary public will be performing notarial acts with respect to
24 electronic records.

25 SECTION 24. Prohibited acts. (1) A commission as a notary public
26 does not authorize an individual to:

27 (a) Assist persons in drafting legal records, give advice on legal
28 matters or otherwise practice law;

29 (b) Act as an immigration consultant as defined in ORS 9.280 or an
30 expert on immigration matters;

31 (c) Represent an individual in a judicial or administrative proceed-

1 **ing relating to immigration to the United States, United States citi-**
2 **zenship or related matters; or**

3 **(d) Receive compensation for performing any of the activities listed**
4 **in this subsection.**

5 **(2) A notary public may not engage in false or deceptive advertising.**

6 **(3) A notary public, other than an attorney licensed to practice law,**
7 **may not use the term “notario” or “notario publico.”**

8 **(4)(a) A notary public, other than an attorney licensed to practice**
9 **law, may not advertise or represent that the notary public may assist**
10 **persons in drafting legal records, give advice on legal matters or oth-**
11 **erwise practice law.**

12 **(b) If a notary public who is not an attorney licensed to practice law**
13 **advertises or represents that the notary public offers notarial services,**
14 **whether orally or in a record, including broadcast media, print media**
15 **and the Internet, the notary public shall include in the advertisement**
16 **or representation, the following:**

17 **(A) A statement, or an alternate statement authorized or required**
18 **by the Secretary of State, prominently and in each language used in**
19 **the advertisement or representation: “I am not an attorney licensed**
20 **to practice law. I am not allowed to draft legal records, give advice**
21 **on legal matters, including immigration, or charge a fee for those ac-**
22 **tivities.”;**

23 **(B) The fees for notarial acts specified under section 42 of this 2013**
24 **Act.**

25 **(c) If the advertisement or representation is not in the form of**
26 **broadcast media, print media or the Internet and does not permit**
27 **inclusion of the statement required by this subsection because of size,**
28 **the statement must be displayed prominently or provided at the place**
29 **of performance of the notarial act before the notarial act is performed.**

30 **(5) A notary public may not engage in the unauthorized practice**
31 **of law.**

1 (6) A notary public may not commit any act involving dishonesty,
2 fraud or deceit with the intent to substantially benefit the notary
3 public or another or substantially injure another.

4 (7) Except as otherwise allowed by law, a notary public may not
5 withhold access to or possession of an original record provided by a
6 person that seeks performance of a notarial act by the notary public.

7 **SECTION 25. Validity of notarial acts.** (1) Except as otherwise pro-
8 vided in section 3 (2) of this 2013 Act, the failure of a notarial officer
9 to perform a duty or meet a requirement specified in sections 1 to 50
10 of this 2013 Act does not invalidate a notarial act performed by the
11 notarial officer.

12 (2) The validity of a notarial act under sections 1 to 50 of this 2013
13 Act does not prevent an aggrieved person from seeking to invalidate
14 the record or transaction that is the subject of the notarial act or from
15 seeking other remedies based on the law of this state other than
16 sections 1 to 50 of this 2013 Act or federal law.

17 (3) This section does not validate a purported notarial act performed
18 by an individual who does not have the authority to perform notarial
19 acts.

20 **SECTION 26. Rules.** (1) Subject to ORS chapter 183, the Secretary
21 of State may adopt rules to implement sections 1 to 50 of this 2013 Act.
22 Rules regarding the performance of notarial acts with respect to elec-
23 tronic records may not require, or accord greater legal status or effect
24 to, the implementation or application of a specific technology or
25 technical specification.

26 (2) The rules may:

27 (a) Prescribe the manner of performing notarial acts regarding
28 tangible and electronic records;

29 (b) Include provisions to ensure that any change to or tampering
30 with a record bearing a certificate of a notarial act is self-evident;

31 (c) Include provisions to ensure integrity in the creation, trans-

1 **mittal, storage or authentication of electronic records or electronic**
2 **signatures;**

3 **(d) Prescribe the process of granting, conditioning, denying, sus-**
4 **pending or revoking a commission as a notary public and ensuring the**
5 **trustworthiness of an individual holding a commission as a notary**
6 **public;**

7 **(e) Include provisions to prevent fraud or mistake in the perform-**
8 **ance of notarial acts;**

9 **(f) Provide for the administration of the examination and the**
10 **course of study under section 21 of this 2013 Act; and**

11 **(g) Otherwise carry out the purposes of sections 1 to 50 of this 2013**
12 **Act.**

13 **(3) In adopting, amending or repealing rules regarding the per-**
14 **formance of notarial acts with respect to electronic records, the Sec-**
15 **retary of State shall consider, so far as is consistent with sections 1**
16 **to 50 of this 2013 Act:**

17 **(a) The most recent standards regarding electronic records**
18 **promulgated by national bodies, such as the National Association of**
19 **Secretaries of State;**

20 **(b) Standards, practices and customs of other jurisdictions that**
21 **substantially enact the Revised Uniform Law on Notarial Acts; and**

22 **(c) The views of governmental officials and entities and other in-**
23 **terested persons.**

24

25 **APPLICATION FEE, INVESTIGATION, CHANGE OF ADDRESS**

26

27 **SECTION 27. ORS 194.020 is repealed and section 28 of this 2013 Act**
28 **is enacted in lieu thereof.**

29 **SECTION 28. Application fee. (1) To defray costs incurred by the**
30 **Secretary of State to process the application made under section 20**
31 **of this 2013 Act, each applicant for a commission as a notary public**

1 shall pay in advance to the secretary a nonrefundable application fee
2 not to exceed \$40.

3 (2) Any fee received by the Secretary of State under subsection (1)
4 of this section shall be deposited in the State Treasury and credited
5 to the Operating Account under ORS 56.041, and is in lieu of any fee
6 charged under ORS 177.130.

7 SECTION 29. ORS 194.024 is repealed and section 30 of this 2013 Act
8 is enacted in lieu thereof.

9 SECTION 30. Investigation of applicant; consent. (1) For purposes
10 described in subsection (2) of this section, upon consent of the appli-
11 cant for a commission as a notary public and upon request of the
12 Secretary of State, the Department of State Police shall furnish to the
13 secretary any information regarding the applicant that the department
14 may have in its possession and any information to which the depart-
15 ment may have access, including but not limited to the Law Enforce-
16 ment Data System established in ORS 181.730.

17 (2) The department shall provide the information described in sub-
18 section (1) of this section to assist in:

19 (a) Verifying the identity of an applicant for a commission as a
20 notary public; or

21 (b) Determining whether the applicant has been convicted of a fel-
22 ony or of a lesser offense incompatible with the duties of a notary
23 public.

24 (3) For purposes of receiving the information described in this sec-
25 tion, the Secretary of State is a criminal justice agency under ORS
26 181.010 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS
27 181.555.

28 (4) An individual applying for a commission as a notary public is
29 considered, upon signing the application filed under section 20 of this
30 2013 Act, to have given the consent necessary for purposes of sub-
31 section (1) of this section.

COMMERCIAL PAPER

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SECTION 31. ORS 194.070 is repealed and section 32 of this 2013 Act is enacted in lieu thereof.

SECTION 32. Protest of commercial paper. (1) A notary public may protest commercial paper if the notary public is:

- (a) An officer or employee of a financial institution or trust company;
- (b) An officer or employee of an investment company;
- (c) An individual serving under the direct supervision of an officer or employee of a financial institution, trust company or investment company; or
- (d) An active member of the Oregon State Bar, or an individual serving under the direct supervision of an active member of the Oregon State Bar.

(2) Each notary public who protests commercial paper shall take the actions required by ORS 73.0505.

(3) A notary public may not protest commercial paper owned or held for collection by a financial institution, trust company or investment company if the notary public is individually a party to the commercial paper.

(4) As used in this section:

- (a) “Financial institution” has the meaning given that term in ORS 706.008.
- (b) “Investment company” means an entity that is registered as an investment company under the federal investment company laws.
- (c) “Trust company” has the meaning given that term in ORS 706.008.

SECTION 33. ORS 194.090 is repealed and section 34 of this 2013 Act is enacted in lieu thereof.

SECTION 34. Record of protest; effect as evidence. Each notary

1 public described in section 32 of this 2013 Act shall keep a record of
2 all protests of commercial paper made by the notary public under ORS
3 73.0505. The record is competent evidence to prove notice of dishonor
4 for purposes of ORS 73.0505.

5 SECTION 35. ORS 194.100 is repealed and section 36 of this 2013 Act
6 is enacted in lieu thereof.

7 SECTION 36. Powers of notary public connected with corporation;
8 limitations. (1) A notary public who is a shareholder, director, officer,
9 employee, member or partner of a business entity may:

10 (a) Take the acknowledgment of any party to any written instru-
11 ment executed to or by the business entity; or

12 (b) Administer an oath to any other shareholder, director, officer,
13 employee, member or partner of the business entity or to any agent
14 of the business entity.

15 (2) A notary public may not take the acknowledgment of an in-
16 strument executed to or by a business entity of which the notary
17 public is a shareholder, director, officer, employee, member or partner,
18 if the notary public is a party to the instrument, either individually
19 or as a representative of the business entity.

20 (3) As used in this section:

21 (a) "Business entity" means a financial institution, trust company,
22 corporation, professional corporation, cooperative, limited liability
23 company, nonprofit corporation, partnership, limited liability part-
24 nership or limited partnership.

25 (b) "Financial institution" has the meaning given that term in ORS
26 706.008.

27 (c) "Trust company" has the meaning given that term in ORS
28 706.008.

29 SECTION 37. ORS 194.130 is repealed and section 38 of this 2013 Act
30 is enacted in lieu thereof.

31 SECTION 38. Disposition of records on vacancy in office; penalty for

1 failure to properly dispose of records or for destroying or altering re-
2 ords. (1) Whenever the office of a notary public becomes vacant, the
3 record referred to in section 34 of this 2013 Act kept by the notary
4 public, together with all the papers relating to such record, shall be
5 delivered to the Secretary of State.

6 (2) A former notary public, or an individual designated personal
7 representative or administrator for a deceased notary public, shall
8 deliver the record and papers described in subsection (1) of this section
9 to the Secretary of State not later than three months after the date
10 the office becomes vacant or after the individual is designated personal
11 representative or administrator.

12 (3) Violation of subsection (2) of this section is subject to a fine of
13 not more than \$500 for each violation.

14 (4) If any individual knowingly destroys, defaces, materially alters
15 or conceals any record or paper of a notary public, the individual is
16 subject to a fine of not more than \$500 and shall be liable to an action
17 for damages by the party injured.

18 SECTION 39. ORS 194.150 is repealed and section 40 of this 2013 Act
19 is enacted in lieu thereof.

20 SECTION 40. Recovery and disposition of fines. All fines imposed
21 under section 38 of this 2013 Act shall be recovered in a civil action in
22 any court having jurisdiction of the action in the county where the
23 notary public resides, is employed or is carrying on business. One-half
24 of the amount of the fine shall be paid to the person bringing the
25 action and one-half shall be paid to the State Treasurer to be deposited
26 in the General Fund.

27
28 **SPECIFIC OREGON PROVISIONS**
29

30 SECTION 41. ORS 194.164 is repealed and section 42 of this 2013 Act
31 is enacted in lieu thereof.

1 **SECTION 42. Fees for notarial acts; rules; collection of fees.** (1) The
2 fee that a notary public may charge for performing a notarial act may
3 not exceed \$10 per notarial act.

4 (2) A notary public may charge an additional fee for traveling to
5 perform a notarial act if:

6 (a) The notary public explains to the person requesting the notarial
7 act that the fee is in addition to a fee specified in subsection (1) of this
8 section and is in an amount not determined by law; and

9 (b) The person requesting the notarial act agrees in advance upon
10 the amount of the additional fee.

11 (3) If a notary public charges fees under this section for performing
12 notarial acts, the notary public shall display, in English, a list of the
13 fees the notary public will charge.

14 (4) A notary public who is employed by a private entity may enter
15 into an agreement with the entity under which fees collected by the
16 notary public under this section are collected by and accrue to the
17 entity.

18 (5) A public body as defined in ORS 174.109 may collect the fees de-
19 scribed in this section for notarial acts performed in the course of
20 employment by notaries public who are employed by the public body.

21 **SECTION 43.** ORS 194.200 is repealed and section 44 of this 2013 Act
22 is enacted in lieu thereof.

23 **SECTION 44. Action for damages or injunction; attorney fees and**
24 **costs; employer's liability.** In addition to other remedies provided by
25 law:

26 (1) A person injured by a violation of section 24 of this 2013 Act may
27 bring an individual action in an appropriate court to enjoin the vio-
28 lation and may also recover actual damages or \$200, whichever is
29 greater. The court or the jury, as the case may be, may award punitive
30 damages and the court may provide such equitable relief as it deems
31 necessary or proper. In addition to any other remedies awarded by the

1 court, the prevailing party may be awarded attorney fees and costs and
2 disbursements, at trial and on appeal.

3 (2) If the person has not brought a civil action under subsection (1)
4 of this section, the Secretary of State or Attorney General may bring
5 a civil action on behalf of a person injured by a violation of section
6 24 of this 2013 Act to enjoin the violation and may also recover actual
7 damages or \$200, whichever is greater. The court may provide such
8 equitable relief as it deems necessary or proper. In addition to any
9 other remedies awarded by the court, the prevailing party may be
10 awarded attorney fees and costs and disbursements, at trial and on
11 appeal.

12 (3) An employer of a notary public is liable to the notary public for
13 all damages recovered from the notary public as a result of a violation
14 of any provision of sections 1 to 50 of this 2013 Act or any rule adopted
15 by the Secretary of State under sections 1 to 50 of this 2013 Act that
16 was coerced by threat of the employer, if the threat, such as that of
17 demotion or dismissal, was made in reference to the particular nota-
18 rial act that was the subject of the action.

19 (4) An action under this section must be commenced within six
20 years after the cause of action has accrued.

21 SECTION 45. ORS 194.330 is repealed and section 46 of this 2013 Act
22 is enacted in lieu thereof.

23 SECTION 46. Attorney General to investigate or prosecute vio-
24 lation; payment of expenses. (1) If the Secretary of State believes that
25 an alleged violation of any provision of sections 1 to 50 of this 2013 Act
26 is not being investigated or prosecuted, the secretary may direct the
27 Attorney General to take full charge of the investigation or prose-
28 cution.

29 (2) If directed under subsection (1) of this section, the Attorney
30 General shall take full charge of the investigation or prosecution and
31 the provisions of ORS 180.070, 180.080 and 180.090 shall apply.

1 (3) Notwithstanding ORS 180.070 (3), expenses associated with the
2 Attorney General's investigation or prosecution shall be paid from the
3 Operating Account under ORS 56.041.

4 SECTION 47. ORS 194.700 is repealed and section 48 of this 2013 Act
5 is enacted in lieu thereof.

6 SECTION 48. Disposition of moneys. All moneys received by the
7 Secretary of State under sections 1 to 50 of this 2013 Act shall be paid
8 into the State Treasury and credited to the Operating Account under
9 ORS 56.041.

10
11 **APPLICATION OF UNIFORM LAW**

12
13 SECTION 49. Uniformity of application and construction. In apply-
14 ing and construing sections 1 to 50 of this 2013 Act, consideration must
15 be given to the need to promote uniformity of the law with respect to
16 the subject matter of sections 1 to 50 of this 2013 Act among states
17 that enact the Revised Uniform Law on Notarial Acts.

18 SECTION 50. Relation to Electronic Signatures in Global and Na-
19 tional Commerce Act. (1) Except as provided in subsection (2) of this
20 section, sections 1 to 50 of this 2013 Act modify, limit and supersede
21 the Electronic Signatures in Global and National Commerce Act, 15
22 U.S.C. 7001 et seq.

23 (2) Sections 1 to 50 of this 2013 Act do not:

24 (a) Modify, limit or supersede section 101(c) of the Electronic Sig-
25 natures in Global and National Commerce Act, 15 U.S.C. 7001(c); or

26 (b) Authorize electronic delivery of any of the notices described in
27 section 103(b) of the Electronic Signatures in Global and National
28 Commerce Act, 15 U.S.C. 7003(b).

29
30 **PENALTIES**

1 **SECTION 51.** ORS 194.980 is amended to read:

2 194.980. (1) In addition to any other penalty provided by law, [*any notary*
3 *public who is found to have performed an act of official misconduct may incur*
4 a] **the Secretary of State may impose a civil penalty for each violation**
5 **of any provision of sections 1 to 50 of this 2013 Act or any rule adopted**
6 **by the secretary under sections 1 to 50 of this 2013 Act. The** civil penalty
7 **shall be** in the amount adopted under subsection (2) of this section, plus any
8 costs of service or recording costs.

9 (2)(a) The Secretary of State [*shall*] by rule **shall** establish the amount
10 of civil penalty that may be imposed for a particular [*act of official miscon-*
11 *duct*] **violation**. A civil penalty [*shall*] **may** not exceed \$1,500 per [*act of of-*
12 *ficial misconduct*] **violation**.

13 (b) In imposing a penalty authorized by this section, the secretary [*of*
14 *State*] may consider the following factors:

15 (A) The past history of the [*person*] **individual** incurring a penalty in
16 taking all feasible steps or procedures necessary or appropriate to correct
17 any [*official misconduct*] **violation**.

18 (B) Any prior [*acts of official misconduct*] **violations**.

19 (C) The gravity and magnitude of the [*official misconduct*] **violation**.

20 (D) Whether the [*official misconduct*] **violation** was repeated or contin-
21 uous.

22 (E) Whether the cause of the [*official misconduct*] **violation** was an una-
23 voidable accident, negligence or an intentional act.

24 (F) Any relevant rule of the secretary [*of State*].

25 (G) The [*notary's*] **notary public's** cooperativeness and efforts to correct
26 the [*act of official misconduct*] **violation**.

27 (c) The penalty imposed under this section may be paid upon those terms
28 and conditions as the secretary [*of State*] determines to be proper and con-
29 sistent with the public benefit. Upon request of the notary **public** incurring
30 the penalty, the secretary [*of State*] shall consider evidence of the economic
31 and financial condition of the notary **public** in determining whether a pen-

1 alty shall be paid.

2 (3) Imposition or payment of a civil penalty under this section [*shall not*
3 *be*] **is not** a bar to any action [*or suit*] described in [*ORS 194.200*] **section**
4 **44 of this 2013 Act**, to a criminal proceeding or to a proceeding under [*ORS*
5 *194.168*] **section 22 of this 2013 Act**.

6 (4) A civil penalty [*shall*] **may** not be imposed under this section until the
7 notary public incurring the penalty has been given notice in writing from
8 the Secretary of State specifying the violation. The notice is in addition to
9 the notice required under ORS 183.745 and shall be served in the same
10 manner as the notice required under ORS 183.745.

11 (5)(a) After initial notice as provided in subsection (4) of this section, a
12 civil penalty may be imposed in the manner provided in ORS 183.745.

13 (b) The Secretary of State may delegate to a hearings officer appointed
14 by the secretary [*of State*], upon such conditions as deemed necessary, all or
15 part of the authority to conduct hearings required under ORS 183.745.

16 (6) Notwithstanding ORS 180.070 (3), expenses incurred by the Secretary
17 of State or Attorney General under subsections (1) to (5) of this section or
18 under [*ORS 194.200 (2)*] **section 44 (2) of this 2013 Act** shall be paid from
19 the Operating Account under ORS 56.041.

20 (7) All civil penalties and costs recovered under this section shall be paid
21 into the Operating Account under ORS 56.041.

22 **SECTION 52.** ORS 194.985 is amended to read:

23 194.985. In lieu of a civil penalty imposed under ORS 194.980, the Secre-
24 tary of State may deliver a written Official Warning to Cease [*Official Mis-*
25 *conduct*] **Violation** to any notary **public** whose actions are judged by the
26 secretary [*of State*] to be [*official misconduct*] **a violation of any provision**
27 **of sections 1 to 50 of this 2013 Act or any rule adopted by the secretary**
28 **under sections 1 to 50 of this 2013 Act**.

29 **SECTION 53.** ORS 194.990 is amended to read:

30 194.990. [(1) *If punishment therefor is not otherwise provided for:*]

31 (1)(a) A notary **public** who knowingly [*and repeatedly*] performs or fails

1 to perform any act prohibited or mandated respectively by [*ORS 194.005 to*
2 *194.200 or 194.505 to 194.595*] **sections 1 to 50 of this 2013 Act**, or rules
3 adopted [*thereunder*] **by the Secretary of State under sections 1 to 50 of**
4 **this 2013 Act**, is guilty of a Class B misdemeanor.

5 (b) Any [*person*] **individual** not a notary public who knowingly acts as
6 or otherwise impersonates a notary public is guilty of a Class B
7 misdemeanor.

8 (c) Any person who knowingly obtains, conceals, defaces or destroys the
9 official seal, journal or official records of a notary public is guilty of a Class
10 B misdemeanor.

11 (d) Any person who knowingly solicits, coerces or in any way influences
12 a notary public to commit [*official misconduct*] **a violation of any provision**
13 **of sections 1 to 50 of this 2013 Act, or any rule adopted by the secretary**
14 **under sections 1 to 50 of this 2013 Act**, is guilty of a Class B misdemeanor.

15 (2) The [*remedies of*] **penalties described in** subsection (1) of this section
16 [*supplement*] **are in addition to** other remedies provided by law.

17 (3) The clerk of the court in which a conviction under any provision of
18 subsection (1) of this section is had shall [*forthwith*] transmit to the Secre-
19 tary of State a duly certified copy of the judgment, which is sufficient
20 grounds for revocation of the commission of the convicted notary public.

21

22

CONFORMING AMENDMENTS

23

24 **SECTION 54.** ORS 73.0505 is amended to read:

25 73.0505. (1) The following are admissible as evidence and create a
26 presumption of dishonor and of any notice of dishonor stated:

27 (a) A document regular in form as provided in subsection (2) of this sec-
28 tion which purports to be a protest;

29 (b) A purported stamp or writing of the drawee, payor bank or presenting
30 bank on or accompanying the instrument stating that acceptance or payment
31 has been refused unless reasons for the refusal are stated and the reasons

1 are not consistent with dishonor; and

2 (c) A book or record of the drawee, payor bank or collecting bank, kept
3 in the usual course of business which shows dishonor, even if there is no
4 evidence of who made the entry.

5 (2) A protest is a certificate of dishonor made by a United States consul
6 or vice consul, or a notary public described in [ORS 194.070] **section 32 of**
7 **this 2013 Act** or other person authorized to administer oaths by the law of
8 the place where dishonor occurs. The protest may be made upon information
9 satisfactory to that person. The protest must identify the instrument and
10 certify that either presentment has been made or, if not made, the reason
11 why it was not made, and that the instrument has been dishonored by non-
12 acceptance or nonpayment. The protest may also certify that notice of dis-
13 honor has been given to some or all parties.

14 **SECTION 55.** ORS 132.320 is amended to read:

15 132.320. (1) Except as provided in subsections (2) to (11) of this section,
16 in the investigation of a charge for the purpose of indictment, the grand jury
17 shall receive no other evidence than such as might be given on the trial of
18 the person charged with the crime in question.

19 (2) A report or a copy of a report made by a physicist, chemist, medical
20 examiner, physician, firearms identification expert, examiner of questioned
21 documents, fingerprint technician, or an expert or technician in some com-
22 parable scientific or professional field, concerning the results of an exam-
23 ination, comparison or test performed by such person in connection with a
24 case which is the subject of a grand jury proceeding, shall, when certified
25 by such person as a report made by such person or as a true copy thereof,
26 be received in evidence in the grand jury proceeding.

27 (3) An affidavit of a witness who is unable to appear before the grand jury
28 shall be received in evidence in the grand jury proceeding if, upon applica-
29 tion by the district attorney, the presiding judge for the judicial district in
30 which the grand jury is sitting authorizes [*such*] **the** receipt after good cause
31 has been shown for the witness' inability to appear. An affidavit taken in

1 another state or territory of the United States, the District of Columbia or
2 in a foreign country must be authenticated as provided in [*ORS 194.505 to*
3 *194.575*] **sections 1 to 50 of this 2013 Act** before it can be used in this state.

4 (4) A grand jury that is investigating a charge of criminal driving while
5 suspended or revoked under ORS 811.182 may receive in evidence an affidavit
6 of a peace officer with a report or copy of a report of the peace officer con-
7 cerning the peace officer's investigation of the violation of ORS 811.182 by
8 the defendant.

9 (5) A grand jury may receive testimony of a witness by means of simul-
10 taneous television transmission allowing the grand jury and district attorney
11 to observe and communicate with the witness and the witness to observe and
12 communicate with the grand jury and the district attorney.

13 (6) A grand jury that is investigating a charge of failure to appear under
14 ORS 133.076, 153.992, 162.195 or 162.205 may receive in evidence an affidavit
15 of a court employee certifying that the defendant failed to appear as required
16 by law and setting forth facts sufficient to support that conclusion.

17 (7)(a) Except as otherwise provided in this subsection, a grand jury may
18 receive in evidence through the testimony of one peace officer involved in
19 the criminal investigation under grand jury inquiry information from an of-
20 ficial report of another peace officer involved in the same criminal investi-
21 gation concerning the other peace officer's investigation of the matter before
22 the grand jury. The statement of a person suspected of committing an offense
23 or inadmissible hearsay of persons other than the peace officer who compiled
24 the official report may not be presented to a grand jury under this para-
25 graph.

26 (b) If the official report contains evidence other than chain of custody,
27 venue or the name of the person suspected of committing an offense, the
28 grand jurors must be notified that the evidence is being submitted by report
29 and that the peace officer who compiled the report will be made available
30 for testimony at the request of the grand jury. When a grand jury requests
31 the testimony of a peace officer under this paragraph, the peace officer may

1 present sworn testimony by telephone if requiring the peace officer's pres-
2 ence before the grand jury would constitute an undue hardship on the peace
3 officer or the agency that employs or utilizes the peace officer.

4 (8) A grand jury that is investigating a charge of failure to report as a
5 sex offender under ORS 181.599 may receive in evidence certified copies of
6 the form required by ORS 181.603 (2) and sex offender registration forms and
7 an affidavit of a representative of the Oregon State Police, as keepers of the
8 state's sex offender registration records, certifying that the certified copies
9 of the forms constitute the complete record for the defendant.

10 (9) The grand jury is not bound to hear evidence for the defendant, but
11 it shall weigh all the evidence submitted to it; and when it believes that
12 other evidence within its reach will explain away the charge, it should order
13 such evidence to be produced, and for that purpose may require the district
14 attorney to issue process for the witnesses.

15 (10) A grand jury that is investigating a charge of driving while under
16 the influence of intoxicants in violation of ORS 813.010 may receive in evi-
17 dence an affidavit of a peace officer regarding any or all of the following:

18 (a) Whether the defendant was driving.

19 (b) Whether the defendant took or refused to take tests under any pro-
20 vision of ORS chapter 813.

21 (c) The administration of tests under any provision of ORS chapter 813
22 and the results of such tests.

23 (d) The officer's observations of physical or mental impairment of the
24 defendant.

25 (11)(a) A grand jury may receive in evidence an affidavit of a represen-
26 tative of a financial institution for the purpose of authenticating records of
27 the financial institution.

28 (b) As used in this subsection, "financial institution" means a financial
29 institution as defined in ORS 706.008, an entity that regularly issues, pro-
30 cesses or services credit cards or any other comparable entity that regularly
31 produces financial records.

1 **SECTION 56.** ORS 177.065 is amended to read:

2 177.065. (1) The Secretary of State [*shall have the authority to*] **may** attest
3 to the authenticity of the official acts of public officials in the State of
4 Oregon that are described in ORS 7.130, [*194.525 (1)(b),*] 205.110, 205.140
5 [*and*], 205.220 **and 432.115 and section 9 (1)(b) and (c) of this 2013 Act.**

6 **(2) The Secretary of State may not certify a signature of a notary
7 public on a document:**

8 **(a) Regarding allegiance to a government or jurisdiction;**

9 **(b) Relating to the relinquishment or renunciation of citizenship,
10 sovereignty, in itinere status or world service authority; or**

11 **(c) Setting forth or implying for the bearer a claim of immunity
12 from the law of this state or federal law.**

13 **SECTION 57.** ORS 205.320 is amended to read:

14 205.320. In every county there shall be charged and collected in advance
15 by the county clerk, for the benefit of the county, the following fees, and no
16 more, for the following purposes and services:

17 (1) For filing and making entry when required by law of any instrument
18 required or permitted by law to be filed, when it is not recorded, \$5 for each
19 page.

20 (2) For filing and making entry of the assignment or satisfaction of any
21 filed, but not recorded, instrument, \$5 for each page.

22 (3) For each official certificate, \$3.75.

23 (4)(a) For purposes of this subsection, “page” means one side of a sheet
24 14 inches, or less, long and 8-1/2 inches, or less, wide.

25 (b) For recording any instrument required or permitted by law to be re-
26 corded, \$5 for each page, but the minimum fee shall not be less than \$5.

27 (c) For supplying to private parties copies of records or files, not more
28 than \$3.75 for locating a record requested by the party and 25 cents for each
29 page.

30 (d) For each official certificate, \$3.75.

31 (5) For taking an affidavit for and making and issuing a marriage license

1 and registering the return of the license, or for taking an affidavit for and
2 registering a Declaration of Domestic Partnership, \$25.

3 (6) For solemnizing a marriage under ORS 106.120, \$25. This subsection
4 does not require that the county clerk charge a fee for solemnizing a mar-
5 riage after normal working hours or on Saturdays or legal holidays. This
6 subsection does not prohibit a county clerk from charging and accepting a
7 personal payment for solemnizing a marriage if otherwise authorized by ORS
8 106.120.

9 (7) For taking and certifying acknowledgment or proof of execution of any
10 instrument, the fee established in the schedule adopted by the Secretary of
11 State under [*ORS 194.164*] **section 42 of this 2013 Act**.

12 (8) For issuing any license required by law, other than a marriage or li-
13 quor license, and for which no fee is otherwise provided by law, \$5.

14 (9) For any service the clerk may be required or authorized to perform
15 and for which no fee is provided by law, such fees as may favorably compare
16 with those established by this section for similar services and as may be es-
17 tablished by order or rule of the county court or board of county commis-
18 sioners.

19 (10) For recording any instrument under ORS 205.130 (2), as required by
20 ordinance pursuant to ORS 203.148.

21 (11) In addition to and not in lieu of the fees charged under subsection
22 (4) of this section, for each additional municipal assessment lien recorded
23 under ORS 93.643, \$5.

24 (12) In addition to and not in lieu of the fees charged under subsection
25 (4) of this section, for each additional assignment, release or satisfaction of
26 any recorded instrument, \$5.

27 (13) In addition to and not in lieu of the fees charged under subsection
28 (4) of this section, for each additional transaction described under ORS
29 205.236, \$5.

30 (14) In addition to and not in lieu of the fees charged under subsection
31 (4) of this section, for each additional lien recorded under ORS 311.675, \$5.

1 (15) For preparing and recording the certificate under ORS 517.280, \$20
2 or such other fee that is established by the county governing body.

3 (16) In addition to and not in lieu of the fees charged under subsection
4 (4) of this section, for each additional claim listed on an affidavit of annual
5 compliance under ORS 517.210, \$5.

6 (17) In addition to and not in lieu of the fees charged under subsection
7 (4) of this section, for each additional name listed on a cooperative contract
8 under ORS 62.360 (2) or for recording the termination of a cooperative con-
9 tract under ORS 62.360 (4), \$5.

10 (18) Notwithstanding any other law, five percent of any fee or tax that
11 is not collected for the benefit of the county clerk shall be deducted from the
12 fee or tax. The moneys deducted shall be expended for acquiring storage and
13 retrieval systems, payment of expenses incurred in collecting the fee or tax
14 and maintaining and restoring records as authorized by the county clerk.
15 Moneys collected under this subsection shall be deposited in a county clerk
16 records fund established by the county governing body. No moneys shall be
17 deducted under this subsection from:

18 (a) Fees collected for the Domestic Violence Fund under ORS 106.045.

19 (b) Fees collected for conciliation services under ORS 107.615.

20 (c) Real estate transfer taxes enacted prior to January 1, 1998.

21 (d) Fees collected under ORS 205.323 for the Oregon Land Information
22 System Fund.

23 (e) Fees collected under ORS 205.323 (1)(c) for the housing-related pro-
24 grams listed in ORS 294.187 (2)(b).

25

26

TRANSITION PROVISIONS

27

28 **SECTION 58. Notary public commission in effect.** (1) **A commission**
29 **as a notary public in effect on the operative date specified in section**
30 **64 of this 2013 Act continues until the date of expiration of the com-**
31 **mission.**

1 **(2) A notary public who applies for a commission as a notary public**
2 **on or after the operative date specified in section 64 of this 2013 Act**
3 **is subject to and shall comply with this 2013 Act.**

4 **(3) A notary public who holds a commission as a notary public on**
5 **the operative date specified in section 64 of this 2013 Act, in performing**
6 **notarial acts on or after the operative date specified in section 64 of**
7 **this 2013 Act, shall comply with this 2013 Act.**

8 **SECTION 59. Savings clause.** **Nothing in this 2013 Act affects the**
9 **validity or effect of a notarial act performed before the operative date**
10 **specified in section 64 of this 2013 Act.**

11 **SECTION 60. Sections added.** **(1) ORS 194.980, 194.985 and 194.990 are**
12 **added to and made a part of sections 1 to 50 of this 2013 Act.**

13 **(2) Sections 1 to 50 of this 2013 Act are added to and made a part**
14 **of ORS chapter 194.**

15 **SECTION 61. Repeals.** **ORS 194.005, 194.010, 194.012, 194.014, 194.022,**
16 **194.028, 194.031, 194.040, 194.043, 194.047, 194.052, 194.063, 194.152, 194.154,**
17 **194.156, 194.158, 194.162, 194.166, 194.168, 194.335, 194.505, 194.515, 194.525,**
18 **194.535, 194.545, 194.555, 194.558, 194.565, 194.575, 194.578, 194.582, 194.585**
19 **and 194.595 are repealed.**

20 **SECTION 62. Applicability.** **This 2013 Act applies to a notarial act**
21 **performed on or after the operative date specified in section 64 of this**
22 **2013 Act.**

23 **SECTION 63. Captions.** **The unit and section captions used in this**
24 **2013 Act are provided only for the convenience of the reader and do**
25 **not become part of the statutory law of this state or express any leg-**
26 **islative intent in the enactment of this 2013 Act.**

27 **SECTION 64. Operative date.** **Sections 1 to 50 of this 2013 Act, the**
28 **amendments to statutes by sections 51 to 57 of this 2013 Act and the**
29 **repeal of statutes by section 61 of this 2013 Act become operative Sep-**
30 **tember 1, 2013.**

31 **(2) The Secretary of State may take any action prior to the opera-**

1 **tive date specified in subsection (1) of this section that is necessary**
2 **to allow the secretary to carry out sections 1 to 50 of this 2013 Act, the**
3 **amendments to statutes by sections 51 to 57 of this 2013 Act and the**
4 **repeal of statutes by section 61 of this 2013 Act on and after the oper-**
5 **ative date specified in subsection (1) of this section.**

6 **SECTION 65. Effective date. This 2013 Act being necessary for the**
7 **immediate preservation of the public peace, health and safety, an**
8 **emergency is declared to exist, and this 2013 Act takes effect on its**
9 **passage.**

10