

Enrolled House Bill 2834

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Law Commission)

CHAPTER

AN ACT

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

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

REVISED UNIFORM LAW ON NOTARIAL ACTS

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

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

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

(2) **“Clerk of a court of this state”** means:

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

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

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

(3) **“Commercial paper”** means instruments that are within the scope of ORS chapter 73, including drafts, checks, certificates of deposit and notes.

(4) **“Electronic”** means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

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

(6) **“In a representative capacity”** means acting as:

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

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

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

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

(7) "Judge" means:

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

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

(8) "Notarial act" means:

(a) Taking an acknowledgment;

(b) Administering an oath or affirmation;

(c) Taking a verification on oath or affirmation;

(d) Witnessing or attesting a signature;

(e) Certifying or attesting a copy;

(f) Making, noting or recording a protest of a negotiable instrument; or

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

(9) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

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

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

(12) "Official stamp" means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.

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

(14) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) "Sign" means, with present intent to authenticate or adopt a record:

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

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

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

(17) "Stamping device" means:

(a) A physical device capable of affixing to a tangible record an official stamp; or

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

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

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

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

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

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

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

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

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

SECTION 5. Personal appearance required. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

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

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

(a) By means of:

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

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

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

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

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

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

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

SECTION 7. Authority to refuse to perform notarial act. (1) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

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

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

(c) The individual has provided sufficient information or identification credentials necessary to confirm the identity of the individual.

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

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

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

(a) A notary public;

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

(c) A county clerk or county employee with recording responsibilities designated by the county; or

(d) Any other individual authorized by the law of this state to perform the notarial act.

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

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

(4) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act.

SECTION 10. Notarial act in another state. (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in the other state is performed by:

(a) A notary public of the other state;

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

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

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

(3) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act.

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

(a) A notarial officer of the tribe;

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

(c) Any other individual authorized by the law of the tribe to perform the notarial act.

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

(3) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act.

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

- (a) A judge or a clerk of a court;
 - (b) An individual in military service, or performing duties under the authority of the military service, who is authorized to perform notarial acts under federal law;
 - (c) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
 - (d) Any other individual authorized by federal law to perform the notarial act.
- (2) The signature and title of an individual performing a notarial act under federal authority are prima facie evidence that the signature is genuine and that the individual holds the designated title.

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

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

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

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

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

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

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

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

- (a) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State;
- (b) Identify the jurisdiction in which the notarial act is performed;
- (c) Contain the title of office of the notarial officer;
- (d) Contain the name of the person for whom the notarial act is performed; and
- (e) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

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

(3) Except as provided in subsection (8) of this section, if a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to the certificate. If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection

(1)(a) to (d) of this section, an official stamp may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection (1)(a) to (d) of this section, an official stamp may be attached to or logically associated with the certificate.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) to (3) of this section and:

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

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

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

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

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

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

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

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

(a) The printed name of the notary public;

(b) The words "NOTARY PUBLIC - OREGON";

(c) The words "COMMISSION NO." immediately followed by the notary public's commission number; and

(d) The words "MY COMMISSION EXPIRES" immediately followed by the date the notary public's commission expires, expressed in terms of the month, by name not abbreviated, two-digit date and four-digit year.

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

(1) For an acknowledgment in an individual capacity:

State of _____

County of _____

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

Signature of notarial officer: _____

Stamp (if required):

Title of office: _____

My commission expires: _____

(2) For an acknowledgment in a representative capacity:

State of _____
County of _____

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

Signature of notarial officer: _____

Stamp (if required):

Title of office: _____

My commission expires: _____

(3) For a verification on oath or affirmation:

State of _____

County of _____

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

Signature of notarial officer:

Stamp (if required):

Title of office: _____

My commission expires: _____

(4) For witnessing or attesting a signature:

State of _____

County of _____

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

Signature of notarial officer: _____

Stamp (if required):

Title of office: _____

My commission expires: _____

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

State of _____

County of _____

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

Dated _____

Signature of notarial officer: _____

Stamp (if required):

Title of office: _____

My commission expires: _____

SECTION 16. Official stamp. The official stamp of a notary public must:

(1) Include the notary public's name, jurisdiction, commission expiration date and other information required by the Secretary of State by rule; and

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

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

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

(3) On the death or adjudication of incompetency of a notary public, the notary public's personal representative, guardian, conservator or trustee or any other person knowingly in possession of the notary public's stamping device shall render the device unusable by destroying, defacing, damaging, erasing or securing the device against use.

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

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

(2) A journal may be created on a tangible medium or in an electronic format to chronicle all notarial acts, regardless of whether those notarial acts are performed for tangible or electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the Secretary of State.

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

- (a) The date and time of the notarial act;
- (b) A description of the record, if any, and type of notarial act;
- (c) The full name and contact address of each individual for whom the notarial act is performed;
- (d) If identity of the individual is based on personal knowledge, a statement to that effect;
- (e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of expiration of any identification credential;
- (f) The signature of each individual for whom the notarial act is performed; and
- (g) The fee, if any, charged by the notary public.

(4)(a) If a notary public performs notarial acts involving duplicate originals of a single statement or document for the same individual on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsection (3) of this section for each duplicate original, record a single entry in the journal for all notarial acts involving the statement or document. The entry shall set forth all the information required by subsection (3) of this section and the total number of duplicates of the statement or document notarized.

(b) If a notary public performs notarial acts involving different statements or documents for the same individual on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsection (3) of this section for each statement or document, record a single entry in the journal for all notarial acts involving the statements or documents. The entry shall set forth the number of statements or documents and the information required by subsection (3)(c) to (g) of this section and for each statement or document the information required by subsection (3)(a) and (b) of this section. If there are duplicate originals of any statement or document, the entry shall set forth the total number of duplicates of the statement or document notarized.

(c) If a notary public performs notarial acts involving more than one statement, signature or document for the same individual but not on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsection (3)(c)

to (e) of this section for each notarial act performed for that individual, record a reference to a prior entry in the notarial journal for that person. The reference shall identify the page and line numbers of the prior entry. The prior entry shall set forth the information required by subsection (3)(c) to (e) of this section.

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

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

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

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

(9) A journal in the possession of a notary public who is not a public official or public employee is exempt from disclosure under ORS 192.410 to 192.505. A journal in the possession of the Secretary of State, or in the possession of a notary public who is a public official or public employee, is not exempt from disclosure under ORS 192.410 to 192.505 unless the secretary or other custodian determines that the public interest in disclosure is outweighed by the interests of the parties to a notarial act in keeping the journal record of the notarial act confidential. A determination by the secretary or other custodian under this subsection is subject to review under ORS 192.410 to 192.505.

(10) A notary public who is an employee may enter into an agreement with the employer under which the journal or journals of the notary public are retained by the employer upon termination of employment.

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

- (a) Recording a protest of commercial paper required under section 34 of this 2013 Act;
- (b) Administering an oath or affirmation;
- (c) Certifying or attesting a copy of a document;
- (d) Taking an affidavit;
- (e) Verifying a billing statement for media advertising; and
- (f) Taking a verification upon oath or affirmation.

SECTION 19. Notification regarding performance of notarial act with respect to electronic records; selection of technology. (1) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

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

SECTION 20. Commission as notary public; qualifications; no immunity or benefit. (1) An individual qualified under subsection (2) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required under rules adopted by the secretary and pay the application fee described in section 28 of this 2013 Act.

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

- (a) Be at least 18 years of age;
 - (b) Be a resident of this state or have a place of employment or practice in this state;
 - (c) Be able to read and write English;
 - (d) Not have been convicted of a felony or any crime involving fraud, dishonesty or deceit during the 10-year period preceding the date of application;
 - (e) Not have had a commission as a notary public revoked during the 10-year period preceding the date of application;
 - (f) Not be disqualified under section 22 of this 2013 Act to receive a commission;
 - (g) Complete the course of study described in section 21 of this 2013 Act; and
 - (h) Have passed the examination required under section 21 of this 2013 Act.
- (3) Before the Secretary of State may issue a commission as a notary public, the applicant shall execute an oath of office and submit it to the secretary.
- (4) Upon the applicant's compliance with this section, the Secretary of State shall issue a commission as a notary public to the applicant for a term of four years.
- (5) A commission as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees of this state.
- (6) Each notary public may file with the Secretary of State a statement waiving the fees specified under section 42 of this 2013 Act. If a notary public files the statement waiving the fees, the office of that notary public is not considered a lucrative office.
- (7) The functions of a notary public are not considered official duties under Article III, section 1, of the Oregon Constitution.
- (8) A commission as a notary public is not considered a commission under Article V, section 18, of the Oregon Constitution.

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

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

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

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

- (a) Failure of the applicant or notary public to comply with any provision of sections 1 to 50 of this 2013 Act, any rule adopted by the Secretary of State under sections 1 to 50 of this 2013 Act or any other state or federal law relating to any duty required of a notary public;
- (b) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary;
- (c) A conviction of the applicant or notary public for any felony or for a crime involving fraud, dishonesty or deceit;
- (d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;
- (e) Use of false or misleading advertising or representation by the notary public representing that the notary public has powers, qualifications, rights or privileges that the notary public does not have, including the power to counsel on immigration matters;

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

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

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

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

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

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

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

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

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

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

(c) Represent an individual in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or

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

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

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

(4)(a) A notary public, other than an attorney licensed to practice law, may not advertise or represent that the notary public may assist persons in drafting legal records, give advice on legal matters or otherwise practice law.

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

(A) A statement, or an alternate statement authorized or required by the Secretary of State, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.";

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

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

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

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

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

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

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

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

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

(2) The rules may:

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

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

(c) Include provisions to ensure integrity in the creation, transmittal, storage or authentication of electronic records or electronic signatures;

(d) Prescribe the process of granting, conditioning, denying, suspending or revoking a commission as a notary public and ensuring the trustworthiness of an individual holding a commission as a notary public;

(e) Include provisions to prevent fraud or mistake in the performance of notarial acts;

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

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

(3) In adopting, amending or repealing rules regarding the performance of notarial acts with respect to electronic records, the Secretary of State shall consider, so far as is consistent with sections 1 to 50 of this 2013 Act:

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

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

(c) The views of governmental officials and entities and other interested persons.

APPLICATION FEE, INVESTIGATION

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

SECTION 28. Application fee. (1) To defray costs incurred by the Secretary of State to process the application made under section 20 of this 2013 Act, each applicant for a commission as a notary public shall pay in advance to the secretary a nonrefundable application fee not to exceed \$40.

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

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

SECTION 30. Investigation of applicant; consent. (1) For purposes described in subsection (2) of this section, upon consent of the applicant for a commission as a notary public and upon request of the Secretary of State, the Department of State Police shall furnish to the secretary any information regarding the applicant that the department may have in its possession and any information to which the department may have access, including but not limited to the Law Enforcement Data System established in ORS 181.730.

(2) The department shall provide the information described in subsection (1) of this section to assist in:

- (a) Verifying the identity of an applicant for a commission as a notary public; or
- (b) Determining whether the applicant has been convicted of a felony or of a lesser offense incompatible with the duties of a notary public.

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

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

COMMERCIAL PAPER

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

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

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

(a) Take the acknowledgment of any party to any written instrument executed to or by the business entity; or

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

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

(3) As used in this section:

(a) "Business entity" means a financial institution, trust company, corporation, professional corporation, cooperative, limited liability company, nonprofit corporation, partnership, limited liability partnership or limited partnership.

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

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

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

SECTION 38. Disposition of records on vacancy in office; penalty for failure to properly dispose of records or for destroying or altering records. (1) Whenever the office of a notary public becomes vacant, the record referred to in section 34 of this 2013 Act kept by the notary public, together with all the papers relating to such record, shall be delivered to the Secretary of State.

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

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

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

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

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

SPECIFIC OREGON PROVISIONS

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

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

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

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

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

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

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

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

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

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

(1) A person injured by a violation of section 24 of this 2013 Act may bring an individual action in an appropriate court to enjoin the violation and may also recover actual damages or \$200, whichever is greater. The court or the jury, as the case may be, may award punitive damages and the court may provide such equitable relief as it deems necessary or proper. In addition to any other remedies awarded by the court, the prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

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

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

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

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

SECTION 46. Attorney General to investigate or prosecute violation; payment of expenses. (1) If the Secretary of State believes that an alleged violation of any provision of sections 1 to 50 of this 2013 Act is not being investigated or prosecuted, the secretary may direct the Attorney General to take full charge of the investigation or prosecution.

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

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

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

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

APPLICATION OF UNIFORM LAW

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

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

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

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

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

PENALTIES

SECTION 51. ORS 194.980 is amended to read:

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

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

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

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

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

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

(D) Whether the *[official misconduct]* **violation** was repeated or continuous.

(E) Whether the cause of the *[official misconduct]* **violation** was an unavoidable accident, negligence or an intentional act.

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

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

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

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

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

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

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

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

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

SECTION 52. ORS 194.985 is amended to read:

194.985. In lieu of a civil penalty imposed under ORS 194.980, the Secretary of State may deliver a written Official Warning to Cease [Official Misconduct] **Violation** to any notary **public** whose actions are judged by the secretary [of State] to be [official misconduct] **a violation of any provision of sections 1 to 50 of this 2013 Act or any rule adopted by the secretary under sections 1 to 50 of this 2013 Act.**

SECTION 53. ORS 194.990 is amended to read:

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

(1)(a) A notary **public** who knowingly [and repeatedly] performs or fails to perform any act prohibited or mandated respectively by [ORS 194.005 to 194.200 or 194.505 to 194.595] **sections 1 to 50 of this 2013 Act**, or rules adopted [thereunder] **by the Secretary of State under sections 1 to 50 of this 2013 Act**, is guilty of a Class B misdemeanor.

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

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

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

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

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

CONFORMING AMENDMENTS

SECTION 54. ORS 73.0505 is amended to read:

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

(a) A document regular in form as provided in subsection (2) of this section which purports to be a protest;

(b) A purported stamp or writing of the drawee, payor bank or presenting bank on or accompanying the instrument stating that acceptance or payment has been refused unless reasons for the refusal are stated and the reasons are not consistent with dishonor; and

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

(2) A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public described in [ORS 194.070] **section 32 of this 2013 Act** or other person authorized to administer oaths by the law of the place where dishonor occurs. The protest may be made upon information satisfactory to that person. The protest must identify the instrument and certify that either presentment has been made or, if not made, the reason why it was not made, and that the

instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

SECTION 55. ORS 132.320 is amended to read:

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

(2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician, firearms identification expert, examiner of questioned documents, fingerprint technician, or an expert or technician in some comparable scientific or professional field, concerning the results of an examination, comparison or test performed by such person in connection with a case which is the subject of a grand jury proceeding, shall, when certified by such person as a report made by such person or as a true copy thereof, be received in evidence in the grand jury proceeding.

(3) An affidavit of a witness who is unable to appear before the grand jury shall be received in evidence in the grand jury proceeding if, upon application by the district attorney, the presiding judge for the judicial district in which the grand jury is sitting authorizes *[such]* the receipt after good cause has been shown for the witness' inability to appear. An affidavit taken in another state or territory of the United States, the District of Columbia or in a foreign country must be authenticated as provided in *[ORS 194.505 to 194.575]* **sections 1 to 50 of this 2013 Act** before it can be used in this state.

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

(5) A grand jury may receive testimony of a witness by means of simultaneous television transmission allowing the grand jury and district attorney to observe and communicate with the witness and the witness to observe and communicate with the grand jury and the district attorney.

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

(7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence through the testimony of one peace officer involved in the criminal investigation under grand jury inquiry information from an official report of another peace officer involved in the same criminal investigation concerning the other peace officer's investigation of the matter before the grand jury. The statement of a person suspected of committing an offense or inadmissible hearsay of persons other than the peace officer who compiled the official report may not be presented to a grand jury under this paragraph.

(b) If the official report contains evidence other than chain of custody, venue or the name of the person suspected of committing an offense, the grand jurors must be notified that the evidence is being submitted by report and that the peace officer who compiled the report will be made available for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace officer under this paragraph, the peace officer may present sworn testimony by telephone if requiring the peace officer's presence before the grand jury would constitute an undue hardship on the peace officer or the agency that employs or utilizes the peace officer.

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

(9) The grand jury is not bound to hear evidence for the defendant, but it shall weigh all the evidence submitted to it; and when it believes that other evidence within its reach will explain away

the charge, it should order such evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

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

- (a) Whether the defendant was driving.
- (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.
- (c) The administration of tests under any provision of ORS chapter 813 and the results of such tests.
- (d) The officer's observations of physical or mental impairment of the defendant.

(11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial institution for the purpose of authenticating records of the financial institution.

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

SECTION 56. ORS 177.065 is amended to read:

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

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

- (a) Regarding allegiance to a government or jurisdiction;**
- (b) Relating to the relinquishment or renunciation of citizenship, sovereignty, in itinere status or world service authority; or**
- (c) Setting forth or implying for the bearer a claim of immunity from the law of this state or federal law.**

SECTION 57. ORS 205.320 is amended to read:

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

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

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

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

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

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

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

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

(5) For taking an affidavit for and making and issuing a marriage license and registering the return of the license, or for taking an affidavit for and registering a Declaration of Domestic Partnership, \$25.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Fees collected for the Domestic Violence Fund under ORS 106.045.
- (b) Fees collected for conciliation services under ORS 107.615.
- (c) Real estate transfer taxes enacted prior to January 1, 1998.
- (d) Fees collected under ORS 205.323 for the Oregon Land Information System Fund.
- (e) Fees collected under ORS 205.323 (1)(c) for the housing-related programs listed in ORS 294.187 (2)(b).

TRANSITION PROVISIONS

SECTION 58. Notary public commission in effect. (1) A commission as a notary public in effect on the operative date specified in section 64 of this 2013 Act continues until the date of expiration of the commission.

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

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

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

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

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

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

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

SECTION 63. Captions. The unit and section captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

SECTION 64. Operative date. Sections 1 to 50 of this 2013 Act, the amendments to statutes by sections 51 to 57 of this 2013 Act and the repeal of statutes by section 61 of this 2013 Act become operative September 1, 2013.

(2) The Secretary of State may take any action prior to the operative date specified in subsection (1) of this section that is necessary to allow the secretary to carry out sections 1 to 50 of this 2013 Act, the amendments to statutes by sections 51 to 57 of this 2013 Act and the repeal of statutes by section 61 of this 2013 Act on and after the operative date specified in subsection (1) of this section.

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

Passed by House April 17, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 14, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State