

1 AN ACT relating to official documents.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 31 of this Act:*

6 *(1) "Acknowledgment" means a declaration by an individual before a notarial*  
7 *officer that the individual has signed a record for the purpose stated in the record*  
8 *and, if the record is signed in a representative capacity, that the individual signed*  
9 *the record with proper authority and signed it as the act of the individual or entity*  
10 *identified in the record;*

11 *(2) "Acknowledged before me" or "appears before me" means being in:*

12 *(a) The same physical location as another individual person and close enough*  
13 *to see, hear, communicate with, and exchange credentials with that person;*  
14 *or*

15 *(b) A different physical location from another person but able to see, hear, and*  
16 *communicate with that person by means of communication technology;*

17 *(3) "Communication technology" means an electronic device or process that allows*  
18 *an individual and an online notary public to communicate with each other*  
19 *simultaneously by sight and sound;*

20 *(4) "Credential" means a non-expired record issued by a government which bears*  
21 *an individual's photo and which evidences an individual's identity;*

22 *(5) "Credential analysis" means a process or service that meets the standards*  
23 *adopted under subsection (7) of Section 12 and Section 24 of this Act by which a*  
24 *third person provides confidence as to the validity of a government-issued*  
25 *identification credential through review of public and proprietary data sources;*

26 *(6) "Dynamic knowledge-based authentication assessment" means an identity*  
27 *assessment that is based on a set of questions formulated from public or private*

1 data sources for which the signer of an electronic record has not provided a prior  
2 answer;

3 (7) "Electronic" means relating to technology having electrical, digital, magnetic,  
4 wireless, optical, electromagnetic, or similar capabilities;

5 (8) "Electronic signature" means an electronic symbol, sound, or process attached to  
6 or logically associated with a record and executed or adopted by an individual  
7 with the intent to sign the record;

8 (9) "Identity proofing" means, in the use of communications technology, a process  
9 or service that meets standards adopted under subsection (7) of Section 12 and  
10 Section 24 of this Act by which a third person provides confidence as to the  
11 identity of an individual through review of personal information from public or  
12 proprietary data sources;

13 (10) "In a representative capacity" means acting as:

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

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

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

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

20 (11) "Notarial act" means an act, whether performed with respect to a tangible or  
21 electronic record, that a notarial officer may perform under Section 3 of this Act  
22 and any other law of the Commonwealth;

23 (12) "Notarial officer" means a notary public or other individual authorized to  
24 perform a notarial act;

25 (13) "Notary public" means an individual commissioned to perform a notarial act by  
26 the Secretary of State. This term does not include other notarial officers who may  
27 perform a notarial act in this state;

- 1 (14) "Official stamp" means a physical image affixed to or embossed on a tangible  
2 record or an electronic image attached to or logically associated with an  
3 electronic record, including an official notary seal;
- 4 (15) "Online notarization" means a notarial act performed with respect to an  
5 electronic record by means of communication technology that meets the  
6 standards adopted under subsection (7) of Section 12 and Section 24 of this Act;
- 7 (16) "Online notary public" means a notary public who has registered with the  
8 Secretary of State, pursuant to any standards and rules adopted under Sections  
9 19 and 24 of this Act, to perform online notarizations under Sections 1 to 31 of  
10 this Act;
- 11 (17) "Outside the United States" means a location outside of the geographic  
12 boundaries of the United States, Puerto Rico, the United States Virgin Islands,  
13 and any territory, insular possession, or other location subject to the jurisdiction  
14 of the United States;
- 15 (18) "Person" means an individual, corporation, business trust, statutory trust, estate,  
16 trust, partnership, limited liability company, association, joint venture, public  
17 corporation, government or governmental subdivision, agency, or  
18 instrumentality, or any other legal or commercial entity;
- 19 (19) "Record" means information that is inscribed on a tangible medium or that is  
20 stored in an electronic or other medium and is retrievable in perceivable form;
- 21 (20) "Remote presentation" means transmission to an online notary public through  
22 communication technology of an image of a government-issued identification  
23 credential that is of sufficient quality to enable the online notary public to  
24 identify the individual seeking the online notary public's services and to perform  
25 credential analysis;
- 26 (21) "Sign" means, with present intent to authenticate or adopt a record, to:  
27 (a) Execute or adopt a tangible symbol; or

1       **(b) Attach to or logically associate with the record an electronic symbol, sound,**  
2               **or process;**

3       **(22) "Signature" means a tangible symbol or an electronic signature that evidences**  
4               **the signing of a record;**

5       **(23) "Stamping device" means:**

6               **(a) A physical device capable of affixing to or embossing on a tangible record**  
7               **an official stamp; or**

8               **(b) An electronic device or process capable of attaching to or logically**  
9               **associating with an electronic record an official stamp;**

10       **(24) "State" means a state of the United States, the District of Columbia, Puerto Rico,**  
11               **the United States Virgin Islands, or any territory or insular possession subject to**  
12               **the jurisdiction of the United States; and**

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

16       ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
17 READ AS FOLLOWS:

18       **Sections 1 to 31 of this Act apply to a notarial act performed on or after the effective**  
19       **date of this Act.**

20       ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
21 READ AS FOLLOWS:

22       **(1) A notarial officer may perform the following notarial acts:**

23               **(a) Take acknowledgements;**

24               **(b) Administer oaths and affirmations;**

25               **(c) Take verifications of statements on oath or affirmation;**

26               **(d) Certify that a copy of any document, other than a document is recorded or**  
27               **in the custody of any federal, state, or local governmental agency, office, or**

- 1           *court, is a true copy;*
- 2           *(e) Certify depositions of witnesses;*
- 3           *(f) Make or note a protest of a negotiable instrument;*
- 4           *(g) Witness or attest signatures; and*
- 5           *(h) Perform any notarial act authorized by a law of the Commonwealth other*
- 6           *than Sections 1 to 31 of this Act.*
- 7           *(2) A notary public may perform any of the notarial acts listed in subsection (1) of*
- 8           *this section with respect to tangible records and electronic records.*
- 9           *(3) Upon registration with the Secretary of State, an online notary may perform any*
- 10           *of the notarial acts listed in subsection (1) of this section as an online*
- 11           *notarization.*
- 12           *(4) A notarial officer may not perform a notarial act with respect to a record to*
- 13           *which the notarial officer or the notarial officer's spouse or other member of the*
- 14           *notarial officer's immediate family is a party, or in which any of those individuals*
- 15           *has a direct beneficial interest. A notarial act performed in violation of this*
- 16           *subsection is voidable.*

17           ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

18 READ AS FOLLOWS:

19           *A notarial officer who takes an acknowledgment of a record, takes a verification of a*

20           *statement on oath or affirmation, or witnesses or attests to a signature, shall determine,*

21           *from personal knowledge or satisfactory evidence of the identity of the individual, that*

22           *the individual appearing before the notarial officer has the identity claimed and that*

23           *the signature on the record is the signature of the individual.*

24           ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

25 READ AS FOLLOWS:

26           *If a notarial act relates to a statement made in or a signature executed on a record, the*

27           *individual making the statement or executing the signature shall appear personally*

1 before the notarial officer.

2       ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
3 READ AS FOLLOWS:

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

8 (2) A notarial officer has satisfactory evidence of the identity of an individual  
9 appearing before the officer if the officer can identify the individual by means of  
10 one (1) of the following credentials:

11 (a) A non-expired passport, driver's license, or government-issued  
12 identification card;

13 (b) Another current form of government identification issued to an individual,  
14 which contains the signature and a photograph of the individual, and is  
15 satisfactory to the notarial officer; or

16 (b) Verification on oath or affirmation of a credible witness personally  
17 appearing before the notarial officer and known to the notarial officer or  
18 whom the notarial officer can identify on the basis of a current passport,  
19 driver's license, or government-issued identification card.

20 (3) Notwithstanding subsection (2) of this section, in performing an online  
21 notarization, an online notary public has satisfactory evidence of the identity of  
22 an individual appearing before the online notary public if the online notary  
23 public can identify the individual through the use of communication technology  
24 that meets the requirements of this section and the administrative regulations  
25 promulgated by the Secretary of State under subsection (7) of Section 12 and  
26 Section 24 of this Act, and by the following:

27 (a) The online notary public's personal knowledge of the individual; or

1 (b) Each of the following:

- 2 1. Remote presentation by the individual of a government-issued  
 3 identification credential specified in this section that contains the  
 4 signature and photograph of the individual;  
 5 2. Credential analysis of the identification credential described by  
 6 subparagraph 1. of this paragraph; and  
 7 3. Identity proofing of the individual, which may include a dynamic  
 8 knowledge-based authentication assessment; or

9 (c) A valid public key certificate that complies with the administrative  
 10 regulations promulgated by the Secretary of State pursuant to Section 24 of  
 11 this Act.

12 (4) A notarial officer may require an individual to provide additional information or  
 13 identification credentials necessary to assure the notarial officer of the identity of  
 14 the individual.

15 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 16 READ AS FOLLOWS:

17 (1) A notarial officer may refuse to perform a notarial act if the officer is not  
 18 satisfied that:

- 19 (a) The individual executing the record is competent or has the capacity to  
 20 execute the record; or  
 21 (b) The individual's signature is knowingly and voluntarily made.

22 (2) A notarial officer may refuse to perform a notarial act unless refusal is  
 23 prohibited by law other than Sections 1 to 31 of this Act.

24 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 25 READ AS FOLLOWS:

26 If an individual is physically unable to sign a record, the individual may direct another  
 27 individual, other than the notarial officer, to sign the individual's name on the record

1 by proxy, in the presence of two (2) witnesses unaffected by the record, one (1) of  
 2 whom may be the individual who signs, by proxy, on behalf of the individual physically  
 3 unable to sign. Both witnesses shall sign their own names beside the proxy signature,  
 4 and the notarial officer shall insert "Signature affixed by (name of proxy signer) at the  
 5 direction of (name of individual) and in the presence of (names and addresses of the  
 6 two witnesses)" or words of similar import.

7       ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 8 READ AS FOLLOWS:

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

10       (a) A notary public of this state;

11       (b) A county clerk of this state; or

12       (c) Any other individual authorized to perform the specific act by the Kentucky  
 13               Revised Statutes.

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

17 (3) The signature and title of a notarial officer described in this section conclusively  
 18 establishes the authority of the notarial officer to perform the notarial act.

19 (4) A county clerk shall have the powers of a notarial officer in the exercise of the  
 20 official functions of the office of clerk within his or her county, and the official  
 21 actions of the county clerk shall not require the witness or signature of a notary  
 22 public.

23       ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 24 READ AS FOLLOWS:

25 (1) (a) A notarial act performed in another state has the same effect under the law  
 26 of this state as if performed by a notarial officer of this state, if the act  
 27 performed in that state is performed by:

- 1           1. A notary public of that state;  
2           2. A judge, clerk, or deputy clerk of a court of that state; or  
3           3. Any other individual authorized by the law of that state to perform the  
4           notarial act.

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

8           (c) The signature and title of a notarial officer described in paragraph (a) or  
9           (b) of this subsection conclusively establish the authority of the officer to  
10          perform the notarial act.

11       (2) (a) A notarial act performed under the authority and in the jurisdiction of a  
12       federal recognized Indian tribe has the same effect as if performed by a  
13       notarial officer of this state, if the act performed in the jurisdiction of the  
14       tribe is performed by:

- 15           1. A notary public of the tribe;  
16           2. A judge, clerk, or deputy clerk of a court of the tribe; or  
17           3. Any other individual authorized by the law of the tribe to perform the  
18           notarial act.

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

23       (c) The signature and title of a notarial officer described in paragraph (a) or  
24       (b) of this subsection conclusively establish the authority of the notarial  
25       officer to perform the notarial act.

26       (3) (a) A notarial act performed under the authority of federal law has the same  
27       effect under the law of this state as if performed by a notarial officer of this

1 state, if the act performed under federal law is performed by:

2 1. A judge, clerk, or deputy clerk of a court;

3 2. An individual in military service or performing duties under the  
4 authority of military service who is authorized to perform notarial acts  
5 under federal law;

6 3. An individual designated a notarizing officer by the United States  
7 Department of State for performing notarial acts overseas; or

8 4. Any other individual authorized by federal law to perform the notarial  
9 act.

10 (b) The signature and title of an individual acting under federal authority and  
11 performing a notarial act are prima facie evidence that the signature is  
12 genuine and that the individual holds the designated title.

13 (c) The signature and title of an officer described in paragraph (a) or (b) of this  
14 subsection conclusively establish the authority of the officer to perform the  
15 notarial act.

16 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
17 READ AS FOLLOWS:

18 (1) In this section, "foreign state" means a government other than the United States,  
19 a state, or a federally recognized Indian tribe.

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

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

1       notarial acts is conclusively established.

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

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

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

14       ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 15 READ AS FOLLOWS:

16       (1) An online notary public:

17       (a) Shall be commissioned as a notary public pursuant to Sections 1 to 31 of  
 18       this Act and has the powers and duties of a traditional notary public as  
 19       provided by Sections 1 to 31 of this Act;

20       (b) May perform notarial acts as provided by Sections 1 to 31 of this Act in  
 21       addition to performing online notarizations; and

22       (c) May, upon registration with the Secretary of State as an online notary  
 23       public pursuant to Section 19 of this Act, perform online notarizations  
 24       authorized under this section.

25       (2) An online notary public may perform an online notarization provided the online  
 26       notary public is physically located in this state while performing the notarial act  
 27       and if:

- 1        (a) The online notary public has:
- 2            1. Personal knowledge of the identity of the individual pursuant to
- 3            Section 6 of this Act; or
- 4            2. Satisfactory evidence of the identity of the individual pursuant to
- 5            subsection (3) of Section 6 of this Act; and
- 6        (b) At the time of online notarization:
- 7            1. The individual appearing before the online notary public is located
- 8            within this state, or elsewhere within the geographic boundaries of a
- 9            state of the United States; or
- 10          2. The individual is located outside the United States and:
- 11            a. The individual confirms to the online notary public that the
- 12            record is to be filed with or relates to a matter before a court,
- 13            governmental entity, public official, or other entity located in the
- 14            territorial jurisdiction of the United States, or relates to property
- 15            located in the United States, or relates to a transaction
- 16            substantially connected to the United States; and
- 17            b. To the online notary public's actual knowledge, the act of
- 18            making the statement or signing the record is not prohibited by
- 19            the jurisdiction in which the individual is located.
- 20        (3) In addition to the authority of a notary public to refuse to perform a notarial act
- 21        pursuant to Section 7 of this Act, a notary public may refuse to perform a
- 22        notarial act under this section if the notary public is not satisfied that a notarial
- 23        act performed would conform with subsection (2)(b)2. of this section.
- 24        (4) If a notarial act involves a statement made in or a signature executed on an
- 25        electronic record by an individual by means of communication technology, the
- 26        certificate of notarial act required by Section 13 of this Act shall indicate that the
- 27        individual making the statement or signing the record appeared before the online

1 notary public by means of communication technology.

2 (5) For each online notarization, the online notary public shall:

3 (a) Include, in addition to the journal entries required under Section 17 of this  
4 Act, an indication of whether an individual making a statement or  
5 executing a signature which is the subject of the notarial act appeared  
6 before the online notary public in the notary's physical presence or by  
7 means of communication technology;

8 (b) Create a complete recording of the conference session containing the audio-  
9 video communication between the online notary public and individual  
10 appearing before the online notary public, in accordance with the standards  
11 adopted under subsection (7) of Section 12 and Section 24 of this Act; and

12 (c) Maintain the recording described by paragraph (b) of this subsection for at  
13 least ten (10) years after the date of the applicable transaction or proceeding  
14 or for the period of retention of a notary public's journal pursuant to  
15 Section 17 of this Act, whichever is longer.

16 (6) Before an online notary public performs any online notarizations under this  
17 section, the online notary public shall register with the Secretary of State  
18 pursuant to Section 19 of this Act.

19 (7) The Secretary of State may promulgate administrative regulations regarding the  
20 performance of online notarizations. The administrative regulations may:

21 (a) Prescribe the means of performing a notarial act involving communication  
22 technology;

23 (b) Establish standards for communication technology and the process of  
24 credential analysis and identity proofing;

25 (c) Establish procedures for the approval of providers of communication  
26 technology; and

27 (d) Establish standards and requirements for the retention of a video and audio

1 copy of the performance of a notarial act.

2 (8) Regardless of the physical location of the individual at the time of the notarial  
3 act, the validity of an online notarization performed by an online notary public  
4 commissioned in this state shall be determined by applying the laws of this state.

5 (9) An online notary public shall take reasonable steps to ensure that:

6 (a) Any registered device or credential used to create an electronic signature is  
7 current and has not been revoked or terminated by the device's or  
8 credential's issuing or registering authority;

9 (b) The audio-video communication used in an online notarization is secure  
10 from unauthorized interception or use;

11 (c) A backup exists for all information pertaining to an online notarization  
12 required to be kept by administrative regulations promulgated pursuant to  
13 subsection (7) of this section and Section 24 of this Act; and

14 (d) The backup described by paragraph (c) of this subsection is secure from  
15 unauthorized use.

16 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
17 READ AS FOLLOWS:

18 (1) A notarial act shall be evidenced by a certificate. The certificate shall:

19 (a) Be executed contemporaneously with the performance of the notarial act;

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

23 (c) Identify the jurisdiction in which the notarial act is performed;

24 (d) Contain the title of office of the notarial officer; and

25 (e) If the notarial officer is a notary public, indicate the commission number  
26 and date of expiration, if there is an expiration date, of the officer's  
27 commission.

- 1 (2) If a notarial act is performed regarding a tangible record by a notarial officer,  
2 including a notary public, the certificate shall contain the information specified  
3 in paragraphs (b), (c), and (d) of subsection (1) of this section, along with the  
4 additional information in paragraph (e) of subsection (1) of this section, if the  
5 certificate is completed by a notary public. An official stamp may be affixed to or  
6 embossed on the certificate. If a notarial act regarding an electronic record is  
7 performed by a notarial officer, the certificate shall contain the information  
8 specified in paragraphs (b), (c), and (d) of subsection (1) of this section, along  
9 with the additional information in paragraph (e) of subsection (1) of this section  
10 if the certificate is completed by a notary public. An official stamp may be  
11 attached to or logically associated with the certificate.
- 12 (3) A certificate of a notarial act is sufficient if it meets the requirements of  
13 subsections (1) and (2) of this section and:
- 14 (a) Is in a short form set forth in Section 14 of this Act;  
15 (b) Is in a form otherwise permitted by the laws of this state;  
16 (c) Is in a form permitted by the law applicable in the jurisdiction in which the  
17 notarial act was performed; or  
18 (d) Sets forth the actions of the notarial officer and the actions are sufficient to  
19 meet the requirements of the notarial act as provided in Sections 1 to 31 of  
20 this Act or other law of this state other than Sections 1 to 31 of this Act.
- 21 (4) By executing a certificate of a notarial act, a notarial officer certifies that the  
22 officer has complied with the requirements and made the determinations  
23 specified in Sections 1 to 31 of this Act.
- 24 (5) A notarial officer may not affix the officer's signature to, or logically associate it  
25 with, a certificate until the notarial act has been performed.
- 26 (6) If a notarial act is performed regarding a tangible record, a certificate must be  
27 part of, or securely attached to, the record. If a notarial act is performed

1 regarding an electronic record, the certificate must be affixed to, or logically  
 2 associated with, the electronic record. If the Secretary of State has established  
 3 standards pursuant to Section 24 of this Act for attaching, affixing, or logically  
 4 associating the certificate, the process must conform to the standards.

5 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 6 READ AS FOLLOWS:

7 The following short form certificates of notarial acts are sufficient for the purposes  
 8 indicated, if completed with the information required by subsections (1) and (2) of  
 9 Section 13 of this Act:

10 (1) For an acknowledgement in an individual capacity:

11 State of \_\_\_\_\_

12 [County] of \_\_\_\_\_

13 This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

14 \_\_\_\_\_ Date Name(s) of individual(s)

15 \_\_\_\_\_

16 Signature of notarial officer

17 Stamp

18 [ \_\_\_\_\_ ]

19 Title of office

20 [My commission expires: \_\_\_\_\_];

21 (2) For an acknowledgment in a representative capacity:

22 State of \_\_\_\_\_

23 [County] of \_\_\_\_\_

24 This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

25 \_\_\_\_\_ Date Name(s) of individual(s)

26 as (type of authority, such as officer or trustee) of (name of party on behalf of whom  
 27 record was executed).

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Signature of notarial officer

Stamp

[ \_\_\_\_\_ ]

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 \_\_\_\_\_ by \_\_\_\_\_

Date                      Name(s) of individual(s)

making statement

\_\_\_\_\_

Signature of notarial officer

Stamp

[ \_\_\_\_\_ ]

Title of office

[My commission expires: \_\_\_\_\_];

(4) For witnessing or attesting a signature:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

Signed [or attested] before me on \_\_\_\_\_ by \_\_\_\_\_

Date                      Name(s) of individual(s)

\_\_\_\_\_

Signature of notarial officer

Stamp

[ \_\_\_\_\_ ]

1           Title of office

2   [My commission expires: \_\_\_\_\_]; and

3   (5) For notarial acts performed with regard to an individual who appeared before an  
4   online notary public by means of communication technology, the foregoing  
5   certificate forms may be used, with the addition of a notation that the individual  
6   appeared before the notary public by means of communication technology.

7           ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
8 READ AS FOLLOWS:

9   A notary public is not required to use a stamp. If a notary public chooses to use a  
10 stamp, the notary public shall have a single official stamp which shall:

11 (1) Include the notary public’s name, title, jurisdiction, commission number, and  
12 expiration date; and

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

15           ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
16 READ AS FOLLOWS:

17 (1) A notary public is responsible for the security of the notary public’s stamping  
18 device and may not allow another individual to use the device to perform a  
19 notarial act. On resignation from, or the revocation or expiration of, the notary  
20 public’s commission, or on the expiration of the date set forth in the stamping  
21 device, if any, the notary public shall disable the stamping device by destroying,  
22 defacing, damaging, erasing, or securing it against use in a manner that renders  
23 it unusable. On the death or adjudication of incompetency of a notary public, the  
24 notary public’s personal representative or guardian or any other person  
25 knowingly in possession of the stamping device shall render it unusable by  
26 destroying, defacing, damaging, erasing, or securing it against use in a manner  
27 that renders it unusable.

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

4 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
5 READ AS FOLLOWS:

6 (1) A notary public shall maintain a journal in which the notary public chronicles all  
7 notarial acts that the notary public performs. The notary public shall retain the  
8 journal for ten (10) years after the performance of the last notarial act chronicled  
9 in the journal.

10 (2) A journal may be created on a tangible medium or in an electronic format. A  
11 notary public may maintain more than one (1) journal to chronicle notarial acts,  
12 whether those notarial acts are performed regarding tangible or electronic  
13 records. If the journal is maintained on a tangible medium, it shall be a  
14 permanent, bound register with numbered pages. If the journal is maintained in  
15 an electronic format, it shall be in a permanent, tamper-evident electronic format  
16 complying with administrative regulations promulgated pursuant to Section 24 of  
17 this Act.

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

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

21 (b) A brief description of the record, if any, and type of notarial act as  
22 authorized in Section 3 of this Act;

23 (c) The full name and address of each individual for whom the notarial act is  
24 performed;

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

27 (e) If identity of the individual is based on satisfactory evidence, a brief

1 description of the method of identification and the identification and the  
 2 means used as well as the date of issuance and expiration of any  
 3 identification credential presented; and

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

5 (4) If a notarial act involves the use of communication technology, the notary public  
 6 shall retain the audio-visual recording of the performance of the notarial act in  
 7 compliance with both subsection (7) of Section 12 of this Act and the  
 8 administrative regulations promulgated pursuant to Section 24 of this Act.

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

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

14 (7) On the death or adjudication of incompetency of a current or former notary  
 15 public, the notary public's personal representative or guardian or any other  
 16 person knowingly in possession of the journal shall transmit it to the Secretary of  
 17 State or otherwise as directed in administrative regulations promulgated by the  
 18 Secretary of State pursuant to Section 24 of this Act.

19 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 20 READ AS FOLLOWS:

21 (1) A notary public shall register with the Secretary of State pursuant to Section 19  
 22 of this Act if the notary public intends to perform notarial acts:

23 (a) With respect to electronic records where the individual will appear before  
 24 the notary in the notary's physical presence; or

25 (b) As an online notary public to perform online notarizations by means of  
 26 communication technology.

27 (2) A notary public may select one (1) or more tamper-evident technologies to

1 perform notarial acts in the physical presence of the individual signer with  
 2 respect to electronic records, or to perform online notarizations. A person may  
 3 not require a notary public to perform any notarial act with a technology that the  
 4 notary public has not selected.

5 (3) If the Secretary of State has established standards respecting technology to  
 6 perform notarial acts in the physical presence of the individual signer with  
 7 respect to electronic records, or to perform online notarizations, the technology  
 8 chosen by the notary public shall conform to those standards.

9 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 10 READ AS FOLLOWS:

11 (1) An individual qualified under subsection (2) of this section may apply to the  
 12 Secretary of State for a commission as a notary public. The applicant shall  
 13 comply with and provide the information required by administrative regulations  
 14 promulgated by the Secretary of State and be accompanied by payment of the  
 15 specified fee.

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

17 (a) Be at least eighteen (18) years of age;

18 (b) Be a citizen or permanent legal resident of the United States;

19 (c) Be a resident of or have a place of employment or practice in the county  
 20 within this Commonwealth where the application is made;

21 (d) Be able to read and write English;

22 (e) Not be disqualified to receive a commission under Section 20 of this Act;

23 (f) Submit to the Secretary of State any application forms, information,  
 24 disclosures, and verifications as are required by administrative regulations  
 25 promulgated by the Secretary of State;

26 (g) Submit to the Secretary of State proof of having obtained the requisite  
 27 surety bond required under subsection (4) of this section;

- 1        (h) Take an oath of office as set forth in in subsection (4) of this section; and  
2        (i) Submit a fee payment, as specified in Section 27 of this Act, made payable  
3                to the State Treasurer.
- 4        (3) On compliance with this section, the Secretary of State shall issue a commission  
5                as a notary public to an applicant for a term of four (4) years. The Secretary of  
6                State shall assign a unique commission number to each notary public, which  
7                same commission number shall continue to be assigned to the notary public in  
8                the event of the renewal or later issuance of another commission to the same  
9                individual notary public.
- 10        (4) Within thirty (30) days of receiving a notary public commission from the  
11                Secretary of State, the applicant shall appear in person before the county clerk  
12                listed in the commission application to take an oath of office, submit an  
13                assurance in the form of a surety bond, and file the commission, only after filing  
14                the commission and assurance and taking an oath of office before the county  
15                clerk. The applicant shall pay fees to the county clerk for filing the assurance and  
16                administering the oath as set forth in KRS 64.012.
- 17        (5) The assurance required by this section shall be in the amount of one thousand  
18                dollars (\$1,000) and shall be issued by a surety or other entity licensed or  
19                authorized to do business in this state. The assurance shall cover acts performed  
20                during the term of the notary public's commission and shall be in the form  
21                prescribed by the Secretary of State. If a notary public violates the law with  
22                respect to notaries public in this state, the surety or issuing entity is liable under  
23                the assurance. The surety or issuing entity shall give thirty (30) days' notice to the  
24                Secretary of State before canceling the assurance or of the assurance's expiration  
25                if such expiration is prior to the date of expiration of the notary's commission. A  
26                notary public may perform notarial acts in this state only during the period that a  
27                valid assurance is on file with the county clerk.

- 1 (6) A notarial officer may perform a notarial act in any county of the  
2 Commonwealth after filing the commission and assurance and taking the oath  
3 required by this section, and for so long as the notary public's commission and  
4 surety bond are valid and in effect.
- 5 (7) If, at any time during his or her period of commission under this section, or  
6 period of registration under subsection (10) of this section, a notary public  
7 changes his or her mail or electronic mail address, county of residence, name,  
8 signature, electronic signature, or the technology or device used to perform  
9 notarial acts or to maintain his or her journal or to render electronic documents  
10 tamper-evident, the notary public shall, within ten (10) days after making the  
11 change, submit to the Secretary of State the changed information upon the form  
12 and containing all information required by the Secretary of State, along with a  
13 fee payment, as specified in Section 27 of this Act, payable to the State Treasurer.
- 14 (8) (a) Prior to the expiration of his or her commission period, a notary public may  
15 apply to the Secretary of State to renew his or her commission, and shall  
16 comply with the qualifications, renewal application filings, and other  
17 requirements then applicable to obtaining an original commission from the  
18 Secretary of State. The application for commission renewal shall be  
19 accompanied by a fee payment, as specified in Section 27 of this Act, made  
20 payable to the State Treasurer.
- 21 (b) If approved, the Secretary of State shall issue a renewed commission to the  
22 notary public for an additional four (4) year term, using the same  
23 commission number as the notary public's original commission and  
24 indicating the new commission expiration date.
- 25 (c) Pursuant to the procedures set forth in subsections (4) and (5) of this  
26 section, the commission along with the required assurance must be filed  
27 with the county clerk listed in the renewal application, and a new oath of

1           office administered by the county clerk and new fees paid by the notary  
2           public to the county clerk, as determined by KRS 64.012.

3           (d) A renewed commission shall be valid and effective only upon compliance  
4           with this subsection. A notary public shall have no authority to perform  
5           notarial acts during any period between the expiration of his or her current  
6           commission and the effective date of any renewal commission.

7           (9) A commission to act as a notary public shall authorize the notary public to  
8           perform notarial acts. The commission shall not provide the notary public with  
9           any immunity or benefit conferred by the law of this state on public officials or  
10           employees.

11           (10) Before performing an initial notarial act with respect to electronic records, or  
12           before performing an initial online notarial act, a notary public shall first register  
13           with the Secretary of State. The notary of public shall:

14           (a) At the time of registration, be a commissioned notary public in this  
15           Commonwealth who has complied with the requirements set forth in  
16           subsections (1) to (8) of this section, and who has complied with all  
17           applicable notarial requirements set forth in this chapter;

18           (b) Register with the Secretary of State by submitting an electronic registration  
19           pursuant to this subsection;

20           (c) Pay to the Secretary of State a registration fee payment, as specified in  
21           Section 27 of this Act, which is in addition to the commission application  
22           fee required to be a notarial officer in this state and any fees required to be  
23           paid to the county clerk to file a commission and assurance and to take an  
24           oath pursuant to KRS 62.010;

25           (d) Submit to the Secretary of State any registration forms, information,  
26           disclosures, and verifications required by administrative regulations  
27           promulgated by the Secretary of State; and

- 1        (e) Submit to the Secretary of State with the registration proof satisfactory to  
2        the Secretary of State that the registrant has satisfied the requirement to  
3        post an assurance as a notary public, as set forth in subsections (4) and (5)  
4        of this section.
- 5        (11) The Secretary of State shall promulgate administrative regulations to establish  
6        forms and procedures applicable to the registrations governed by subsection (10)  
7        of this section, and shall obtain at least the following information in connection  
8        with each registration:
- 9        (a) The registrant's commission number and full legal name as it appears on  
10       the registrant's commission, and the name to be used for registration, if  
11       different;
- 12       (b) The county in this state in which the registrant resides or has his or her  
13       place of employment or practice;
- 14       (c) The electronic mail address of the registrant;
- 15       (d) Whether the registrant is registering to perform one (1) or both of the  
16       following:
- 17       1. Notarial acts with respect to electronic records in which the individual  
18       will appear before the notary in the notary's physical presence; or  
19       2. As an online notary public to perform online notarizations;
- 20       (e) A description of the technology or device that the registrant intends to use to  
21       perform notarial acts with respect to electronic records or online  
22       notarizations, to maintain the journal required by Section 17 of this Act,  
23       and to render electronic records tamper-evident after a notarial act is  
24       completed, each of which technologies or devices must comply with any  
25       standards established by the Secretary of State;
- 26       (f) The electronic signature of the registrant; and
- 27       (g) Any other information, evidence, disclosures, or declarations required or

1 deemed beneficial by the Secretary of State pursuant to any administrative  
2 regulations promulgated by the Secretary of State.

3 (12) The Secretary of State may reject a registration if the applicant fails to comply  
4 with any provision of Sections 1 to 31 of this Act.

5 (13) Thirty (30) days after compliance with all registration requirements and payment  
6 of the required registration fee, a notary public will be registered with the  
7 Secretary of State to perform notarial acts in the physical presence of an  
8 individual signer with respect to electronic records, or to perform online  
9 notarizations as an online notary public, or as both.

10 (14) The Secretary of State may at any time cancel the registration of a notary public  
11 to perform notarial acts with respect to electronic records, or as an online notary  
12 public to perform online notarizations, if the notary public fails to comply with  
13 any of the requirements of Sections 1 to 31 of this Act or based upon any of the  
14 grounds for revocation or suspension of a notary public's commission.

15 (15) Registration of a notary public under this section is suspended by operation of  
16 law when the notary public is no longer commissioned as a notary public in this  
17 state. If the commission of a notary public has expired or been revoked or  
18 suspended, the Secretary of State shall immediately notify the notary public in  
19 writing that his or her registration under this section will be suspended by  
20 operation of law until he or she is appointed as a notary public in this  
21 Commonwealth.

22 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
23 READ AS FOLLOWS:

24 (1) The Secretary of State may deny, refuse to renew, revoke, suspend, or impose a  
25 condition on a commission as notary public for any act or omission that  
26 demonstrates the individual lacks the honesty, integrity, competence, or reliability  
27 to act as a notary public, including:

- 1        (a) Failure to comply with Sections 1 to 31 of this Act;
- 2        (b) A fraudulent, dishonest, or deceitful misstatement or omission in the
- 3                application for a commission as a notary public submitted to the Secretary
- 4                of State;
- 5        (c) A conviction of the applicant or notary public of any felony or a crime
- 6                involving fraud, dishonesty, or deceit;
- 7        (d) A finding against, or admission of liability by, the applicant or notary public
- 8                in any legal proceeding or disciplinary action based on the applicant's or
- 9                notary public's fraud, dishonesty, or deceit;
- 10        (e) Failure by the notary public to discharge any duty required of a notary
- 11                public, whether by Sections 1 to 31 of this Act, administrative regulations
- 12                promulgated by the Secretary of State, or any federal or state law;
- 13        (f) Use of false or misleading advertising or representation by the notary public
- 14                representing that the notary has a duty, right, or privilege that the notary
- 15                does not have;
- 16        (g) Violation by the notary public of an administrative regulation of the
- 17                Secretary of State regarding a notary public;
- 18        (h) Denial, refusal to renew, revocation, or suspension of a notary public
- 19                commission in another state; or
- 20        (i) Failure of the notary public to maintain an assurance.
- 21        (2) The authority of the Secretary of State to deny, refuse to renew, suspend, revoke,
- 22                or impose conditions on a commission as a notary public does not prevent a
- 23                person from seeking and obtaining other criminal or civil remedies provided by
- 24                law.

25        ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

26        READ AS FOLLOWS:

- 27        (1) The Secretary of State shall maintain an electronic database of notaries public:

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

3 (b) Which indicates whether a notary public has registered with the Secretary  
 4 of State in order to perform notarial acts on electronic records or to act as  
 5 an online notary public.

6 (2) Each county clerk who files a notary public's assurance and administers the oath  
 7 of office to a notary public shall promptly record the fact and date in the database  
 8 described in subsection (1) of this section.

9 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 10 READ AS FOLLOWS:

11 (1) A commission as a notary public does not authorize an individual to engage in  
 12 the practice of law.

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

14 (3) A notary public, other than an attorney licensed to practice law in this state, may  
 15 not advertise or represent that the notary public may assist persons in drafting  
 16 legal records, give legal advice, or otherwise practice law.

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

20 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 21 READ AS FOLLOWS:

22 Except as otherwise provided in subsection (4) of Section 3 of this Act, the failure of a  
 23 notarial officer to perform a duty or meet a requirement specified in Sections 1 to 31 of  
 24 this Act does not invalidate a notarial act performed by the notarial officer. The validity  
 25 of a notarial act does not prevent an aggrieved person from seeking to invalidate the  
 26 record or transaction that is the subject of the notarial act or from seeking other  
 27 remedies based on other law of this state. This section does not validate a purported

1 notarial act performed by an individual who does not have the authority to perform  
2 notarial acts.

3       ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
4 READ AS FOLLOWS:

5 The Secretary of State may promulgate administrative regulations to implement  
6 Sections 1 to 31 of this Act. Promulgated administrative regulations regarding the  
7 performance of notarial acts with respect to electronic records or online notarizations  
8 may not require, or accord greater legal status or effect to, the implementation or  
9 application of a specific technology or technical specification. The administrative  
10 regulations may:

11 (1) Prescribe the manner of performing notarial acts regarding tangible and  
12 electronic records;

13 (2) Establish requirements for notarial training or education as a condition of  
14 obtaining or renewing a commission or before registering to perform notarial  
15 acts with respect to electronic records or to perform online notarizations;

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

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

20 (5) Prescribe the process of granting, renewing, conditioning, denying, suspending,  
21 or revoking a notary public commission and assuring the trustworthiness of an  
22 individual holding a commission as notary public;

23 (6) Include provisions to prevent fraud or mistake in the performance of notarial  
24 acts; and

25 (7) Establish the process for approving and accepting surety bonds and other forms  
26 of assurance under Section 19 of this Act.

27       ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) A commission as a notary public in effect on the effective date of this Act shall  
3 continue until its date of expiration. A notary public who applies to renew a  
4 commission as a notary public on or after the effective date of this Act shall be  
5 subject to and comply with Sections 1 to 31 of this Act. A notary public, in  
6 performing notarial acts after the effective date of this Act, shall comply with  
7 Sections 1 to 31 of this Act.

8 (2) An existing commission as a notary public does not constitute authority to act as  
9 an online notary public. Registration pursuant to Section 19 of this Act, and  
10 compliance with Sections 1 to 31 of this Act, is required before a notary public  
11 with an existing commission may act as an online notary public.

12 ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

13 READ AS FOLLOWS:

14 Sections 1 to 31 of this Act do not affect the validity or effect of a notarial act  
15 performed before the effective date of this Act.

16 ➔SECTION 27. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

17 READ AS FOLLOWS:

18 (1) For a notarial act relating to a tangible or electronic record, or for an online  
19 notarization, a notary public may charge a fee:

20 (a) In compliance with KRS 64.300; and

21 (b) Which has been clearly disclosed to the person requesting the service in  
22 advance.

23 (2) Compensation for services provided by a notary public which do not constitute  
24 notarial acts is not governed by this section.

25 (3) The Secretary of State may charge the following fees in relation to notaries  
26 public:

27 (a) Application for a commission or renewal as a notary public.....\$10

1 (b) Issuance of a replacement commission upon loss or destruction of the  
2 original.....\$10

3 (c) Update to commission or registration information upon a change of name  
4 or address or other specified information.....\$10

5 (d) Issuance of an electronic certificate of authority or  
6 Apostille.....\$5 per document.

7 (4) In accordance with KRS 64.012, county clerks may assess fees for services  
8 required to fulfill obligations set forth in Sections 1 to 31 of this Act.

9 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
10 READ AS FOLLOWS:

11 (1) If an electronic record or paper printout of an electronic record relating to real  
12 property located in this state contains an acknowledgement performed by  
13 electronic means, notwithstanding any omission or error in the certificate of  
14 acknowledgement or failure of the record to show an acknowledgement in  
15 compliance with applicable law, upon the record being recorded with the county  
16 clerk of the county in which the real property is located or filed with the Secretary  
17 of State:

18 (a) The electronic record or paper printout of an electronic record shall be  
19 deemed to be lawfully recorded or filed; and

20 (b) All persons, including without limitation any creditor, encumbrancer,  
21 mortgagee, subsequent purchaser for valuable consideration, or any other  
22 subsequent transferee thereof or of any interest therein, are deemed to have  
23 notice of its contents.

24 (2) For the purposes of this section, a record is deemed to comply with all applicable  
25 requirements upon the acceptance for recording by the county clerk of the county  
26 in which the real property is located or the filing of the record with the Secretary  
27 of State, as required by law.

1           ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
2 READ AS FOLLOWS:

3       *(1) A writing or record that appears on its face to have been properly notarized in*  
4       *accordance with Sections 1 to 31 of this Act shall be presumed to have been*  
5       *notarized properly and may be recorded by the clerk.*

6       *(2) A writing or record notarized outside this state by a notary public or other person*  
7       *referenced in Section 10 or 11 of this Act that appears on its face to be properly*  
8       *notarized shall be presumed to have been notarized properly in accordance with*  
9       *the laws and regulations of the jurisdiction in which the document was notarized.*

10       *(3) The county clerk shall be immune from suit arising from any acts or omissions*  
11       *relating to recording records that have been notarized by electronic means as set*  
12       *forth in Sections 1 to 31 of this Act unless the clerk was grossly negligent or*  
13       *engaged in willful misconduct.*

14           ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
15 READ AS FOLLOWS:

16       *(1) Sections 1 to 31 of this Act are to be construed and applied in a manner*  
17       *consistent with KRS 369.101 to 369.120. In accordance with KRS 369.105,*  
18       *nothing in Sections 1 to 31 of this Act shall affirmatively require any person to*  
19       *create, generate, send, communicate, receive, store, or otherwise process or use*  
20       *electronic records or complete a transaction using electronic means, and in*  
21       *accordance with KRS 369.118, nothing shall require any governmental agency to*  
22       *send and accept electronic records and electronic signatures to and from other*  
23       *persons, or to otherwise create, generate, communicate, store, process, use, and*  
24       *rely upon electronic records and electronic signatures, except as may be*  
25       *otherwise required by law.*

26       *(2) A requirement that a record or a signature associated with a record be notarized,*  
27       *acknowledged, verified, witnessed, or made under oath is satisfied by a paper*

1 printout of an electronic record bearing an electronic signature of the person  
2 authorized to perform that act and all other information required to be included  
3 pursuant to KRS 369.111.

4 (3) In accordance with KRS 369.118, a governmental agency that accepts paper  
5 printouts of electronic records may establish rules, procedures, or requirements  
6 governing this acceptance.

7 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
8 READ AS FOLLOWS:

9 (1) With respect only to notarial acts performed in relation to tangible records, the  
10 county clerk of a county in whose office any notary public has so filed his  
11 signature and surety bond shall when requested subjoin to any certificate of proof  
12 or acknowledgement signed by the notary a certificate under his or her hand and  
13 seal stating that such notary public's written signature is on file in the clerk's  
14 office, and was at the time of taking such proof or acknowledgement duly  
15 authorized to take the same, that the clerk is well acquainted with the  
16 handwriting of the notary public, and believes that the signature to the proof or  
17 acknowledgement is genuine.

18 (2) For all notarial acts performed in relation to electronic records that are  
19 transmitted to another state or nation, electronic evidence of the authenticity of  
20 the official signature and seal of a notary public of this state, if required, shall be  
21 attached to, or logically associated with, the record and shall be in the form of an  
22 electronic certificate of authority signed by the Office of the Secretary of State in  
23 conformance with any current and pertinent international treaties, agreements,  
24 and conventions subscribed to by the United States.

25 (3) An electronic certificate of authority evidences the authenticity of the official  
26 signature and seal of an online notary public of this state shall contain  
27 substantially the following:

1 *"Certificate of Authority for a Notarial Act*

2 *I, (name), Secretary of State of the Commonwealth of Kentucky, certify that*  
 3 *(name of electronic notary), the person named as a Notary Public in the attached or*  
 4 *associated electronic document, was indeed commissioned as a Notary Public for the*  
 5 *Commonwealth of Kentucky and authorized to act as such at the time of the*  
 6 *document's electronic notarization.*

7 *To verify this Certificate of Authority for a Notarial Act, I have included herewith*  
 8 *my electronic signature this \_\_\_\_\_ day of \_\_\_\_\_, (year).*

9 *(Electronic signature and seal of the Kentucky Secretary of State)"*

10 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO  
 11 READ AS FOLLOWS:

12 *(1) If a law requires, as a condition for recording by the county clerk upon the*  
 13 *records relating to real property, that a document be an original, be on paper or*  
 14 *another tangible medium, or be in writing, the requirement shall be satisfied by*  
 15 *an electronic document that complies with the requirements of Sections 1 to 31 of*  
 16 *this Act or this section.*

17 *(2) If a law requires, as a condition for recording, that a document be signed, the*  
 18 *requirement is satisfied by an electronic signature.*

19 *(3) A requirement that a document or a signature associated with a document be*  
 20 *notarized, acknowledged, verified, witnessed, or made under oath is satisfied if*  
 21 *the electronic signature of the person authorized to perform that act, and all*  
 22 *other information required to be included, is attached to or logically associated*  
 23 *with the document or signature. A physical or electronic image of a stamp,*  
 24 *impression, or seal need not accompany an electronic signature.*

25 *(4) As used in this section, "paper document" means a document that is received by*  
 26 *the clerk in a form that is not electronic. A clerk:*

27 *(a) May receive, index, store, archive, and transmit electronic documents;*

1 (b) May provide for access to, and search and retrieval of, documents and  
2 information by electronic means;

3 (c) Who accepts electronic documents for recording shall continue to accept  
4 paper documents as authorized by state law and shall place entries for both  
5 types of documents in the same index;

6 (d) May convert paper documents accepted for recording into electronic form;

7 (e) May convert into electronic form information recorded before the clerk  
8 began to record electronic documents;

9 (f) May accept electronically any fee, levy, or tax that the clerk is authorized to  
10 collect; and

11 (g) May agree with other officials of a state or a political subdivision of that  
12 state, or of the United States, on procedures or processes to facilitate the  
13 electronic satisfaction of prior approvals and conditions precedent to  
14 recording and the electronic payment of fees, levies, and taxes that the clerk  
15 is authorized to accept.

16 (5) This section shall be known and may be cited as the "Uniform Real Property  
17 Electronic Recording Act." In applying and construing this section,  
18 consideration shall be given to the need to promote uniformity of the law with  
19 respect to its subject matter among the states that enact it.

20 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO  
21 READ AS FOLLOWS:

22 (1) If a law requires that an instrument relating to real property within the  
23 Commonwealth to be admitted to the public record and recorded, to be an  
24 original, to be on paper or another tangible medium, to be in writing, or to be  
25 signed, the requirement shall be satisfied by a paper copy of an electronic record,  
26 including an electronic record bearing an electronic signature, that a notary  
27 public has certified, pursuant to subsection (3) of this section, to be a true and

1 correct copy of the record that was originally in electronic form and bearing an  
2 electronic signature.

3 (2) A requirement that a document or a signature associated with a document be  
4 notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a  
5 paper copy of an electronic document bearing an electronic signature of the  
6 person authorized to perform that act, and all other information required to be  
7 included, that a notary public has certified, pursuant to subsection (3) of this  
8 section, to be a true and correct copy of a document that was originally in  
9 electronic form and bearing an electronic signature of the person. A physical or  
10 electronic image of a stamp, impression, or seal need not accompany an  
11 electronic signature.

12 (3) A clerk shall record a paper copy of a document that was originally in electronic  
13 form and that is otherwise entitled to be recorded under the laws of this state, if  
14 the paper copy has been certified to be a true and correct copy of the electronic  
15 record by a notary public as evidenced by a certificate attached to or made a part  
16 of the record. The certificate shall:

17 (a) Be signed and dated by the notary public;

18 (b) Identify the jurisdiction in which the certification is performed;

19 (c) Contain the title of the notary public;

20 (d) Indicate the number and date of expiration, if any, of the notary public's  
21 commission; and

22 (e) Include an official stamp of the notary public affixed to or embossed on the  
23 certificate.

24 (4) The following form of certificate is sufficient for the purposes of this section, if  
25 completed with the information required by subsection (3) of this section:

26 State of \_\_\_\_\_

27 [County] of \_\_\_\_\_

1 I certify that the foregoing and annexed document [entitled  
 2 [document title], [dated \_\_\_\_\_ [document date, if applicable],  
 3 and containing \_\_\_\_\_ pages is a true and correct copy of an electronic  
 4 document bearing one (1) or more electronic signatures.

5 Executed this \_\_\_\_\_ [date].

6 \_\_\_\_\_

7 [Signature of notary public]

8 Stamp

9 [\_\_\_\_\_]

10 Notary Public

11 [My commission expires: \_\_\_\_\_]

12 [My notary registration number is: \_\_\_\_\_]

13 (5) A notary public duly commissioned under the laws of this Commonwealth or of  
 14 another state within the United States has the authority to make the certification  
 15 provided in this section.

16 (6) A notary public making the certification provided in this section shall:

17 (a) Personally print or supervise the printing of the electronic document onto  
 18 paper; and

19 (b) Not make any changes or modifications to the electronic document other  
 20 than the certification described in subsection (3) of this section.

21 (7) If a certificate is completed with the information required by subsection (3) of  
 22 this section and is attached to or made a part of a paper record, the certificate  
 23 shall be considered conclusive evidence that the requirements of this section have  
 24 been satisfied with respect to the record.

25 (8) A record purporting to convey or encumber real property or any interest therein  
 26 that has been recorded by a clerk for the jurisdiction in which the real property is  
 27 located, although the record may not have been certified in accordance with the

1 provisions of this section, shall import the same notice to third persons and be  
2 effective, from the time of recording, as if the record had been certified in  
3 accordance with the provisions of this section.

4 (9) This section shall not apply to a plat, map, or survey of real property if under  
5 another law of this state, or under a rule, regulation, or ordinance applicable to a  
6 clerk if:

7 (a) There are requirements of format or medium for the execution, creation, or  
8 recording of the plat, map, or survey beyond the requirements applicable to  
9 a deed to real property; or

10 (b) The plat, map, or survey must be recorded in a different location than a  
11 deed to real property.

12 ➔SECTION 34. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
13 READ AS FOLLOWS:

14 Sections 1 to 31 and Sections 32 and 33 of this Act modifies, limits, and supersedes the  
15 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et  
16 seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec.  
17 7001(c), or authorize electronic delivery of any of the notices described in Section  
18 103(b) of that act, 15 U.S.C. sec. 7003(b).

19 ➔SECTION 35. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
20 READ AS FOLLOWS:

21 In the event of a conflict between the provisions of this chapter and any other law in  
22 this state, the provisions of this chapter shall control.

23 ➔SECTION 36. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO  
24 READ AS FOLLOWS:

25 The Kentucky Notarization and Recording Standards Commission is hereby created,  
26 consisting of the Secretary of State and ten (10) members appointed by the Governor. A  
27 majority of the members shall be county clerks. The commission shall make

1 *recommendations in a report delivered to the Legislative Research Commission no*  
 2 *later than December 15, 2018, with respect to:*

3 *(1) The implementation of electronic recording;*

4 *(2) Fees for functions performed by county clerks; and*

5 *(3) Any further legislation relating to this Act.*

6 ➔Section 37. KRS 423.200 is amended to read as follows:

7 Notwithstanding any other provision of law, any certificate of an acknowledgment given  
 8 and certified as provided by *Sections 1 to 31 of this Act*~~[KRS 423.110 to 423.190]~~ or as  
 9 provided by those sections and other provisions of law, together with the instrument  
 10 acknowledged, may be admitted to the public record provided for the type of instrument  
 11 so acknowledged, and any instrument required to be sworn to or affirmed in order to be  
 12 recorded may be admitted to record upon a jurat recognized under the provisions of  
 13 *Sections 1 to 31 of this Act*~~[KRS 423.110 to 423.190]~~.

14 ➔Section 38. KRS 369.103 is amended to read as follows:

15 (1) Except as otherwise provided in subsection (2) of this section, KRS 369.101 to  
 16 369.120 applies to electronic records and electronic signatures relating to a  
 17 transaction.

18 (2) KRS 369.101 to 369.120 does not apply to a transaction to the extent it is governed  
 19 by:

20 (a) A law governing the creation and execution of wills, codicils, or testamentary  
 21 trusts; *and*

22 (b) KRS Chapter 355 other than KRS 355.1-107 and 355.1-206, and Articles 2  
 23 and 2A of KRS Chapter 355~~;~~

24 ~~(c) A law governing the conveyance of any interest in real property; and~~

25 ~~(d) A law governing the creation or transfer of any negotiable instrument or any~~  
 26 ~~instrument establishing title or an interest in title].~~

27 (3) KRS 369.101 to 369.120 applies to an electronic record or electronic signature

1 otherwise excluded from the application of KRS 369.101 to 369.120 under  
2 subsection (2) of this section to the extent it is governed by a law other than those  
3 specified in subsection (2) of this section.

4 (4) A transaction subject to KRS 369.101 to 369.120 is also subject to other applicable  
5 substantive law.

6 ➔Section 39. KRS 62.065 is amended to read as follows:

7 Individual sureties on bonds required by law to be executed and given by an officer of any  
8 city or county as provided in subsection (1) of KRS 62.060, may~~[shall not]~~ become surety  
9 on more than one (1) bond of any such officer at the same time.~~[The limitations on~~  
10 ~~individuals making bonds shall not apply to corporate sureties.]~~

11 ➔Section 40. The following KRS sections are repealed:

12 423.010 Appointment, term, and qualifications of notaries -- County clerk has powers of  
13 notary when acting in capacity as clerk.

14 423.020 Notary may act in any county -- Certification of notary's authority.

15 423.030 Protests to be recorded -- Copies as evidence.

16 423.040 Notice of dishonor -- To whom sent.

17 423.050 Records of notary to be delivered to county clerk, when.

18 423.060 Foreign notary -- When protest by is evidence.

19 423.070 Commissioners of foreign deeds -- Appointment, term.

20 423.080 Powers of commissioners.

21 423.990 Penalties.

22 ➔Section 41. This Act shall take effect August 1, 2019.