

1 AN ACT relating to official documents.

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

3 ➔Section 1. KRS 423.300 is amended to read as follows:

4 As used in KRS 423.300 to 423.455:

- 5 (1) "Acknowledgment" means a declaration by an individual before a notarial officer
6 that the individual has signed a record for the purpose stated in the record and, if the
7 record is signed in a representative capacity, that the individual signed the record
8 with proper authority and signed it as the act of the individual or entity identified in
9 the record;
- 10 (2) "Acknowledged before me" or "appears before me" means being in:
11 (a) The same physical location as another individual person and close enough to
12 see, hear, communicate with, and exchange credentials with that person; or
13 (b) A different physical location from another person but able to see, hear, and
14 communicate with that person by means of communication technology;
- 15 (3) "Communication technology" means an electronic device or process that:
16 (a) Allows a notary public and a remotely located individual to ***securely***
17 communicate with each other simultaneously by sight and sound; and
18 (b) When necessary and consistent with other applicable law, facilitates
19 communication with a remotely located individual with a vision, hearing, or
20 speech impairment;
- 21 (4) "Credential" means a non-expired record issued by a government which bears an
22 individual's photo and which evidences an individual's identity;
- 23 (5) "Credential analysis" means a process or service that meets the standards adopted
24 under KRS 423.355(7) and 423.415 by which a third person provides confidence as
25 to the validity of a government-issued identification credential through review of
26 public and proprietary data sources;
- 27 (6) ***"Digital certificate" means an electronic record issued by a third-party certificate***

1 authority which certifies the ownership of a public key rendering a document
2 tamper-evident;

3 (7) "Dynamic knowledge-based authentication assessment" means an identity
4 assessment that is based on a set of questions formulated from public or private data
5 sources for which the signer of an electronic record has not provided a prior answer;

6 (8)~~(7)~~ "Electronic" means relating to technology having electrical, digital, magnetic,
7 wireless, optical, electromagnetic, or similar capabilities;

8 (9)~~(8)~~ "Electronic notarization" means a notarial act involving~~performed with~~
9 ~~respect to~~ an electronic record where a party appears before a notary in the
10 notary's physical presence~~by means of communication technology that meets the~~
11 ~~standards adopted under KRS 423.355(7) and 423.415~~;

12 (10) "Electronic notary public" means a notary public who has registered with the
13 Secretary of State, pursuant to any standards and rules adopted under Sections
14 12 and 15 of this Act, to perform electronic notarizations under KRS 423.300 to
15 423.455;

16 (11)~~(9)~~ "Electronic signature" means an electronic symbol, sound, or process attached
17 to or logically associated with a record and executed or adopted by an individual
18 with the intent to sign the record;

19 (12)~~(10)~~ "Foreign state" means a jurisdiction other than the United States, a state, or a
20 federally recognized Indian tribe;

21 (13)~~(11)~~ "Identity proofing" means, in the use of communication technology, a process
22 or service that meets standards adopted under KRS 423.355(8)~~(7)~~ and 423.415 by
23 which a third person provides confidence as to the identity of an individual through
24 review of personal information from public or proprietary data sources;

25 (14)~~(12)~~ "Immediate family" means a current or former spouse, grandparent,
26 grandchild, parent, child, stepchild, sibling, or any other person living in the
27 same household as a notarial officer;

1 **(15)** "In a representative capacity" means acting as:

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

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

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

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

8 **(16)**~~[(13)]~~ "Notarial act" means an act, whether performed with respect to a tangible or
9 electronic record, that a notarial officer may perform under KRS 423.310 and any
10 other law of the Commonwealth;

11 **(17)**~~[(14)]~~ "Notarial officer" means a notary public or other individual authorized to
12 perform a notarial act;

13 **(18)**~~[(15)]~~ "Notary public" means an individual commissioned to perform a notarial act
14 by the Secretary of State. This term does not include other notarial officers who may
15 perform a notarial act in this state;

16 **(19)**~~[(16)]~~ "Official stamp" means a physical image affixed to~~[-or-embossed-on]~~ a
17 tangible record or an electronic image attached to or logically associated with an
18 electronic record~~[-, including an official notary seal]~~;

19 **(20)** ***"Online notarization" means a notarial act performed with respect to an***
20 ***electronic record by means of communication technology that meets the***
21 ***standards adopted under subsection (7) of Section 6 and Section 15 of this Act;***

22 **(21)**~~[(17)]~~ "Online notary public" means a notary public who has registered with the
23 Secretary of State, pursuant to any standards and rules adopted under KRS 423.390
24 and 423.415, to perform electronic **and online** notarizations under KRS 423.300 to
25 423.455;

26 **(22)**~~[(18)]~~ "Outside the United States" means a location outside the geographic
27 boundaries of the United States, Puerto Rico, the United States Virgin Islands, and

1 any territory, insular possession, or other location subject to the jurisdiction of the
2 United States;

3 **(23) "Party" means a person whose acknowledgement, affirmation, oath, signature,**
4 **or statement on oath or affirmation is the subject of a notarial act;**

5 **(24)**~~(19)~~ "Person" means an individual, corporation, business trust, statutory trust,
6 estate, trust, partnership, limited liability company, association, joint venture, public
7 corporation, government or governmental subdivision, agency, or instrumentality,
8 or any other legal or commercial entity;

9 **(25)**~~(20)~~ "Record" means information that is inscribed on a tangible medium or that is
10 stored in an electronic or other medium and is retrievable in perceivable form;

11 **(26)**~~(21)~~ "Remotely located individual" means an individual who is not in the physical
12 presence of the notary public who performs a notarial act or is appearing remotely
13 before the notary;

14 **(27)**~~(22)~~ "Remote presentation" means transmission to an online notary public through
15 communication technology of an image of a government-issued identification
16 credential that is of sufficient quality to enable the online notary public to identify
17 the individual seeking the online notary public's services and to perform credential
18 analysis;

19 **(28)**~~(23)~~ "Sign" means, with~~present~~ intent to authenticate or adopt a record, to:

20 (a) **Affix one's name to a document or record;**

21 **(b)** Execute or adopt a tangible symbol; or

22 **(c)**~~(b)~~ Attach to or logically associate with the record an electronic symbol,
23 sound, or process;

24 **(29)**~~(24)~~ "Signature" means a tangible symbol or an electronic signature that evidences
25 the signing of a record;

26 **(30)**~~(25)~~ "Stamping device" means:

27 (a) A physical device capable of affixing to~~or embossing on~~ a tangible record

1 an official stamp; or

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

4 ~~(31)~~~~(26)~~ "State" means a state of the United States, the District of Columbia, Puerto
5 Rico, the United States Virgin Islands, or any territory or insular possession subject
6 to the jurisdiction of the United States;

7 **(32) "State agency means every state office, cabinet, department, board, commission,**
8 **public corporation, or authority in the executive branch of state government;** and

9 ~~(33)~~~~(27)~~ "Verification on oath or affirmation" means a declaration, made by an
10 individual on oath or affirmation before a notarial officer, that a statement in a
11 record is true.

12 ➔Section 2. KRS 423.310 is amended to read as follows:

13 (1) A notarial officer **commissioned in the Commonwealth** may perform the following
14 notarial acts **within the Commonwealth**:

15 (a) Take acknowledgments;

16 (b) Administer oaths and affirmations;

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

18 (d) Certify that a copy of any document, other than a document that is recorded or
19 in the custody of any federal, state, or local governmental agency, office, or
20 court, is a true copy;

21 (e) Certify depositions of witnesses;

22 (f) Make or note a protest of a negotiable instrument;

23 (g) Witness or attest signatures; and

24 (h) Perform any notarial act authorized by a law of the Commonwealth other than
25 KRS 423.300 to 423.455.

26 (2) A notary public may perform any of the notarial acts listed in subsection (1) of this
27 section with respect to tangible records ~~and electronic records~~.

1 (3) Upon registration with the Secretary of State pursuant to Section 12 of this Act,
 2 an electronic notary may perform any of the notarial acts listed in subsection (1)
 3 of this section as an electronic notarization.

4 (4) Upon registration with the Secretary of State pursuant to Section 12 of this Act, an
 5 online notary may perform any of the notarial acts listed in subsection (1) of this
 6 section as an electronic or online notarization.

7 (5)~~(4)~~ A notarial officer shall not perform a notarial act with respect to a record to
 8 which the notarial officer or ~~a~~~~[the notarial officer's spouse or other]~~ member of the
 9 notarial officer's immediate family is a party, or in which any of those individuals
 10 has a direct beneficial interest. A notarial act performed in violation of this
 11 subsection is voidable.

12 (6)~~(5)~~ A notary public~~[notarial officer]~~ who has registered pursuant to Section 12
 13 of this Act may certify that a tangible copy of an electronic record is an accurate
 14 copy of the electronic record.

15 ➔Section 3. KRS 423.330 is amended to read as follows:

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

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

20 (2)~~(b)~~ The individual's signature is knowingly and voluntarily made.

21 ~~[(2)]~~A notarial officer may refuse to perform a notarial act unless refusal is prohibited by
 22 law other than KRS 423.300 to 423.455.]

23 ➔Section 4. KRS 423.325 is amended to read as follows:

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

- 1 (2) A notarial officer has satisfactory evidence of the identity of an individual appearing
2 before the officer if the officer can identify the individual by means of one (1) of the
3 following credentials:
- 4 (a) A non-expired passport, driver's license, or government-issued identification
5 card;
- 6 (b) Another current form of government identification issued to an individual,
7 which contains the signature and a photograph of the individual, and is
8 satisfactory to the notarial officer; or
- 9 (c) If the means presented in paragraphs (a) and (b) of this subsection are
10 unavailable, verification on oath or affirmation of a credible witness
11 personally appearing before the notarial officer and known to the notarial
12 officer or whom the notarial officer can identify on the basis of a current
13 passport, driver's license, or government-issued identification card.
- 14 (3) ~~[Notwithstanding subsection (2) of this section,]~~ In performing an
15 online~~[electronic]~~ notarization, an online notary public has satisfactory evidence of
16 the identity of an individual appearing before the online notary public if the online
17 notary public can identify the individual through the use of communication
18 technology that meets the requirements of this section and the administrative
19 regulations promulgated by the Secretary of State under KRS 423.355~~[(7)]~~⁽⁸⁾ and
20 423.415, and by the following:
- 21 (a) The online notary public's personal knowledge of the individual; or
- 22 (b) Each of the following:
- 23 1. Remote presentation by the individual of a government-issued
24 identification credential specified in this section that contains the
25 signature and photograph of the individual;
- 26 2. Credential analysis of the identification credential described by
27 subparagraph 1. of this paragraph; and

1 3. Identity proofing of the individual, which may include a dynamic
2 knowledge-based authentication assessment; or

3 (c) A valid digital~~[public key]~~ certificate that complies with the administrative
4 regulations promulgated by the Secretary of State pursuant to KRS 423.415.

5 (4) A notarial officer may require an individual to provide additional information or
6 identification credentials necessary to assure the notarial officer of the identity of
7 the individual.

8 ➔Section 5. KRS 423.335 is amended to read as follows:

9 If an individual is physically unable to sign a record, the individual may direct another
10 individual, other than the notarial officer, to sign the individual's name on the record by
11 proxy, in the presence of two (2) disinterested witnesses~~[unaffected by the record]~~, one
12 (1) of whom may be the individual who signs, by proxy, on behalf of the individual
13 physically unable to sign. Both witnesses shall sign their own names beside the proxy
14 signature, and the notarial officer shall insert "Signature affixed by (name of proxy
15 signer) at the direction of (name of individual) and in the presence of (names and
16 addresses of the two witnesses)" or words of similar import.

17 ➔Section 6. KRS 423.355 is amended to read as follows:

18 (1) An electronic or online notary public:

19 (a) Shall be commissioned as a notary public pursuant to KRS 423.300 to
20 423.455 and have~~[has]~~ the powers and duties of a traditional notary public as
21 provided by KRS 423.300 to 423.455; and

22 (b) May perform notarial acts as provided by KRS 423.300 to 423.455 in addition
23 to performing electronic or online notarizations.~~[; and]~~

24 ~~(2)(e)~~ An electronic notary may, upon registration with the Secretary of State as an
25 electronic~~[online]~~ notary public pursuant to KRS 423.390, perform electronic
26 notarizations authorized under this section.

27 (3) An online notary public may, upon registration with the Secretary of State as an

1 online notary public pursuant to Section 12 of this Act, perform online
2 notarizations authorized under this section.

3 ~~(4)~~~~(2)~~ An online notary public may perform an online~~electronic~~ notarization
4 provided the online notary public is physically located in this state while performing
5 the notarial act and if:

- 6 (a) The online notary public has:
 - 7 1. Personal knowledge of the identity of the individual pursuant to KRS
 - 8 423.325; or
 - 9 2. Satisfactory evidence of the identity of the individual pursuant to KRS
 - 10 423.325(3); and

- 11 (b) At the time of online~~electronic~~ notarization:
 - 12 1. The individual appearing before the online notary public is located
 - 13 within this state, or elsewhere within the geographic boundaries of a
 - 14 state of the United States; or
 - 15 2. The individual is located outside the United States and:
 - 16 a. The individual confirms to the online notary public that the record
 - 17 is to be filed with or relates to a matter before a court,
 - 18 governmental entity, public official, or other entity located in the
 - 19 territorial jurisdiction of the United States, or relates to property
 - 20 located in the United States, or relates to a transaction substantially
 - 21 connected to the United States; and
 - 22 b. To the online notary public's actual knowledge, the act of making
 - 23 the statement or signing the record is not prohibited by the
 - 24 jurisdiction in which the individual is located.

25 ~~(5)~~~~(3)~~ In addition to the authority of a notary public to refuse to perform a notarial
26 act pursuant to KRS 423.330, a notary public may refuse to perform a notarial act
27 under this section if the notary public is not satisfied that a notarial act performed

1 would conform with subsection ~~(4)~~⁽²⁾(b)2. of this section.

2 ~~(6)~~⁽⁴⁾ If a notarial act involves a statement made in or a signature executed on an
3 electronic record by an individual by means of communication technology, the
4 certificate of notarial act required by KRS 423.360 shall indicate that the individual
5 making the statement or signing the record appeared before the online notary public
6 by means of communication technology.

7 ~~(7)~~⁽⁵⁾ For each electronic ***or online*** notarization, the ~~online~~ notary public shall:

8 (a) Include, in addition to the journal entries required under KRS 423.380, an
9 indication of whether an individual making a statement or executing a
10 signature which is the subject of the notarial act appeared before the ~~online~~
11 notary public in the notary's physical presence or by means of communication
12 technology;

13 (b) Create a complete recording of ~~a~~^{the} conference session containing ~~an~~^{the}
14 audio-video communication between the online notary public and ~~an~~
15 individual appearing before the online notary public ***by means of***
16 ***communication technology***, in accordance with the standards adopted under
17 subsection ~~(8)~~⁽⁷⁾ of this section and KRS 423.415; and

18 (c) Maintain the recording ***required***~~described~~ by paragraph (b) of this
19 subsection for at least ten (10) years after the date of the applicable transaction
20 or proceeding or for the period of retention of a notary public's journal
21 pursuant to KRS 423.380, whichever is longer.}

22 ~~(6) Before an online notary public performs any electronic notarizations under this~~
23 ~~section, the online notary public shall register with the Secretary of State pursuant to~~
24 ~~KRS 423.390.]~~

25 ~~(8)~~⁽⁷⁾ The Secretary of State may promulgate administrative regulations regarding
26 the performance of electronic ***and online*** notarizations. The administrative
27 regulations may:

- 1 (a) Prescribe the means of performing a notarial act involving communication
2 technology;
- 3 (b) Establish standards for communication technology and the process of
4 credential analysis and identity proofing;
- 5 (c) Establish procedures for the requirements of providers of communication
6 technology;~~and~~
- 7 (d) Establish standards and requirements for the retention of a video and audio
8 copy of the performance of a notarial act; ***and***
- 9 ***(e) Establish standards for rendering an electronic document tamper-evident.***
- 10 (8) Regardless of the physical location of ***a party***~~[the individual]~~ at the time of the
11 notarial act, the validity of an ***online***~~[electronic]~~ notarization performed by an
12 online notary public commissioned in this state shall be determined by applying the
13 laws of this state.
- 14 (9) An online notary public shall take reasonable steps to ensure that:
- 15 (a) Any registered device or credential used to create an electronic signature is
16 current and has not been revoked or terminated by the device's or credential's
17 issuing or registering authority;
- 18 (b) The audio-video communication used in an ***online***~~[electronic]~~ notarization is
19 secure from unauthorized interception or use;
- 20 (c) A backup exists for all information pertaining to an electronic ***or online***
21 notarization required to be kept by administrative regulations promulgated
22 pursuant to subsection ***(8)***~~[(7)]~~ of this section and KRS 423.415; and
- 23 (d) The backup described by paragraph (c) of this subsection is secure from
24 unauthorized use.

25 ➔Section 7. KRS 423.360 is amended to read as follows:

- 26 (1) A notarial act shall be evidenced by a certificate. The certificate shall:
- 27 (a) Be executed contemporaneously with the performance of the notarial act;

- 1 (b) Be signed and dated by the notarial officer and, if the notarial officer is a
 2 notary public, be signed in the same manner as on file with the Secretary of
 3 State;
- 4 (c) Identify the state and county~~[jurisdiction]~~ in which the notarial act is
 5 performed;
- 6 (d) Contain the title of office and name of the notarial officer; and
- 7 (e) If the notarial officer is a notary public, indicate the commission number and
 8 date of expiration, if there is an expiration date, of the officer's commission.
- 9 ~~(2) [If a notarial act is performed regarding a tangible record by a notarial officer,
 10 including a notary public, the certificate shall contain the information specified in
 11 paragraphs (b), (c), and (d) of subsection (1) of this section, along with the
 12 additional information in paragraph (e) of subsection (1) of this section, if the
 13 certificate is completed by a notary public. An official stamp may be affixed to [or
 14 embossed on] the certificate. If a notarial act regarding an electronic record is
 15 performed by a notarial officer, the certificate shall contain the information
 16 specified in paragraphs (b), (c), and (d) of subsection (1) of this section, along with
 17 the additional information in paragraph (e) of subsection (1) of this section if the
 18 certificate is completed by a notary public. An official stamp may be attached to or
 19 logically associated with the certificate.~~
- 20 ~~(3)]~~A certificate of a notarial act is sufficient if it meets the requirements~~[of~~
 21 ~~subsections (1) and (2)]~~ of this section and:
- 22 (a) Is in a short form promulgated pursuant to~~[short form set forth in]~~ KRS
 23 423.365;
- 24 (b) Is in a form otherwise permitted by the laws of this state;
- 25 (c) Is in a form permitted by the law applicable in the venue~~[jurisdiction]~~ in
 26 which the notarial act was performed; or
- 27 (d) Sets forth the actions of the notarial officer and the actions are sufficient to

1 meet the requirements of the notarial act as provided in KRS 423.300 to
2 423.455 or other law of this state other than KRS 423.300 to 423.455.

3 ~~(3)~~~~(4)~~ By executing a certificate of a notarial act, a notarial officer certifies that the
4 officer has complied with the requirements and made the determinations specified
5 in KRS 423.300 to 423.455.

6 ~~(4)~~~~(5)~~ A notarial officer may not affix the officer's signature to, or logically associate
7 it with, a certificate until the notarial act has been performed.

8 ~~(5)~~~~(6)~~ If a notarial act is performed regarding a tangible record, a certificate shall be
9 part of, or securely attached to, the record. If a notarial act is performed regarding an
10 electronic record, the certificate shall be affixed to, or logically associated with, the
11 electronic record. If the Secretary of State has established standards pursuant to
12 KRS 423.415 for attaching, affixing, or logically associating the certificate, the
13 process shall conform to the standards.

14 ➔Section 8. KRS 423.365 is amended to read as follows:

15 The Secretary of State shall promulgate by administrative regulation short-form
16 certificates for notarial acts which shall contain space for the information required by
17 KRS 423.360~~(1) and (2)~~, and include a space to indicate the manner of notarization of
18 the document.

19 ➔Section 9. KRS 423.370 is amended to read as follows:

20 (1) A notary public~~commissioned pursuant to KRS 423.300 to 423.455~~ is not
21 required to use a stamp. If a notary public chooses to use a stamp, the notary public
22 shall have an official stamp which shall:

23 ~~(a)~~~~(1)~~ Include the notary public's name, title, venue~~jurisdiction~~, commission
24 number, and expiration date; and

25 ~~(b)~~~~(2)~~ Be capable of being copied together with the record to which it is
26 affixed or attached or with which it is logically associated.

27 (2) An official stamp may be affixed, attached to, or logically associated with a

1 **certificate of a notarial act.**

2 ➔Section 10. KRS 423.380 is amended to read as follows:

- 3 (1) An **electronic or** online notary public shall maintain a journal in which the~~[online]~~
4 notary public chronicles all electronic **and online** notarizations that the~~[online]~~
5 notary public performs. The~~[online]~~ notary public shall retain the journal for ten
6 (10) years after the performance of the last electronic **or online** notarization
7 chronicled in the journal.
- 8 (2) The journal shall be created in an electronic format. ~~A[An online]~~ notary public may
9 maintain more than one (1) journal to chronicle electronic **and online** notarizations.
10 The journal shall be maintained~~[in an electronic format]~~ in a permanent, tamper-
11 evident electronic format complying with administrative regulations promulgated
12 pursuant to KRS 423.415.
- 13 (3) An entry in a journal shall be made contemporaneously with performance of the
14 notarial act and contain the following information:
- 15 (a) The date and time of the notarial act;
- 16 (b) A brief description of the record, if any, and type of notarial act as authorized
17 in KRS 423.310;
- 18 (c) The full name and address of each individual for whom the notarial act is
19 performed;
- 20 (d) If **the** identity of the **party**~~[individual]~~ is based on personal knowledge, a
21 statement to that effect;
- 22 (e) If **the** identity of the **party**~~[individual]~~ is based on satisfactory evidence, a
23 brief description of the method of identification~~[and the identification]~~ and
24 the means **of credential analysis and identity proofing** used as well as the
25 date of issuance and expiration of any identification credential presented; and
- 26 (f) The fee, if any, charged by the online notary public.
- 27 (4) If a notarial act involves the use of communication technology, the notary public

1 shall retain the audio-visual recording of the performance of the notarial act in
 2 compliance with both KRS 423.355~~(7)~~⁽⁸⁾ and the administrative regulations
 3 promulgated pursuant to KRS 423.415.

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

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

9 (7) On the death or adjudication of incompetency of a current or former notary public,
 10 the notary public's personal representative or guardian or any other person
 11 knowingly in possession of the journal shall transmit it to the Secretary of State or
 12 otherwise as directed in administrative regulations promulgated by the Secretary of
 13 State pursuant to KRS 423.415.

14 (8) A notary public may designate a custodian to do any of the following:

15 (a) Maintain the journal required under subsection (1) of this section; or

16 (b) Retain an audio or visual recording of a notarial act required under subsection
 17 (4) of this section.

18 ➔Section 11. KRS 423.385 is amended to read as follows:

19 (1) A notary public shall register with the Secretary of State pursuant to KRS 423.390 if
 20 the notary public intends to perform~~notarial acts~~:

21 (a) **Electronic notarizations**~~[With respect to electronic records where the~~
 22 ~~individual will appear before the notary in the notary's physical presence]; or~~

23 (b) **Online notarizations**~~[As an online notary public to perform electronic~~
 24 ~~notarizations by means of communication technology].~~

25 (2) A notary public may select one (1) or more~~tamper-evident~~ technologies to
 26 perform~~notarial acts in the physical presence of the individual signer with respect~~
 27 ~~to electronic records, or to perform~~ electronic **or online** notarizations **and to render**

1 documents tamper-evident. A person may not require a notary public to perform
2 any notarial act with a technology that the notary public has not selected.

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

7 (4) A tangible copy of an electronic record containing a notarial certificate may be
8 accepted as satisfying any requirement that a record accepted for recording be an
9 original, if the notarial officer:

10 (a) Executing the notarial certificate certifies that the tangible copy is an accurate
11 copy of the electronic record; and

12 (b) Has registered pursuant to Section 12 of this Act.

13 ➔Section 12. KRS 423.390 is amended to read as follows:

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

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

- 20 (a) Be at least eighteen (18) years of age;
- 21 (b) Be a citizen or permanent legal resident of the United States;
- 22 (c) Be a resident of or have a place of employment or practice in the county
23 within this Commonwealth where the application is made;
- 24 (d) Be able to read and write English;
- 25 (e) Not be disqualified to receive a commission under KRS 423.395;
- 26 (f) Submit to the Secretary of State any application forms, information,
27 disclosures, and verifications as are required~~[by administrative regulations]~~

- 1 promulgated] by the Secretary of State;
- 2 (g) [~~Submit to the Secretary of State proof of having obtained the requisite surety~~
- 3 ~~bond required under subsection (4) of this section;~~
- 4 (h) ~~]~~Take an oath of office as set forth in in subsection (4) of this section; and
- 5 (h)~~(i)~~ Submit a fee payment, as specified in KRS 423.430, made payable to the
- 6 State Treasurer.
- 7 (3) On compliance with this section, the Secretary of State shall issue a commission as
- 8 a notary public to an applicant for a term of four (4) years. The Secretary of State
- 9 shall assign a unique commission number to each notary public, which same
- 10 commission number shall continue to be assigned to the notary public in the event
- 11 of the renewal or later issuance of another commission to the same individual notary
- 12 public.
- 13 (4) Within sixty (60)~~thirty (30)~~ days of the effective date of~~receiving~~ a notary public
- 14 commission ~~from the Secretary of State~~, the applicant shall appear in person to
- 15 take the~~an~~ oath of office before the county clerk listed in the commission
- 16 application and~~,~~ submit an assurance in the form of a surety bond or submit proof
- 17 of state agency employment~~, and file the commission, all of which shall take place~~
- 18 ~~before the county clerk listed in the commission application~~. Upon the applicant
- 19 paying the~~shall pay~~ fees to the county clerk for filing the assurance or submitting
- 20 proof of state employment and administering the oath as set forth in KRS 64.012,
- 21 the county clerk shall deliver the commission certificate to the notary public. A
- 22 notary public who is employed by a state agency and will perform notarial acts
- 23 only in the course of the applicant's employment shall not be required to submit
- 24 an assurance.
- 25 (5) The surety bond~~assurance~~ required by this section shall be in the amount of one
- 26 thousand dollars (\$1,000), specify the name of the individual notary public
- 27 covered by the bond, and ~~shall~~ be issued by a licensed surety ~~or other entity~~

1 ~~licensed or authorized to do business in this state~~. The **surety bond**~~[assurance]~~ shall
 2 cover acts performed during the term of the notary public's commission and shall be
 3 in the form prescribed by the Secretary of State. If a notary public violates the law
 4 with respect to notaries public in this state, the surety **shall be**~~[or issuing entity is]~~
 5 liable under the assurance.~~[The surety or issuing entity shall give thirty (30) days'~~
 6 ~~notice to the Secretary of State before canceling the assurance or of the assurance's~~
 7 ~~expiration if such expiration is prior to the date of expiration of the notary's~~
 8 ~~commission.]~~ A notary public may perform notarial acts in this state only during the
 9 period that a valid assurance is on file with the county clerk, **except as provided in**
 10 **subsection (4) of this section.**

11 (6) A **notary public**~~[notarial officer]~~ may perform a notarial act in any county of the
 12 Commonwealth after filing the commission and assurance and taking the oath
 13 required by this section, and for so long as the notary public's commission and
 14 surety bond are valid and in effect. **A notary public appointed without assurance**
 15 **under subsection (4) of this section shall provide surety if the notary public ceases**
 16 **to be employed by a state agency.**

17 (7) If, at any time during his or her period of commission under this section, or period
 18 of registration under subsection (10) of this section, a notary public changes his or
 19 her mail or electronic mail address, county of residence, name, signature, electronic
 20 signature, or the technology or device used to perform notarial acts or to maintain
 21 his or her journal or to render electronic documents tamper-evident, the notary
 22 public shall, within ten (10) days after making the change, submit to the Secretary
 23 of State the changed information upon **a**~~[the]~~ form~~[and]~~ containing all information
 24 required by the Secretary of State, along with a fee payment, as specified in KRS
 25 423.430, payable to the State Treasurer.

26 (8) (a) Prior to the expiration of his or her commission period, a notary public may
 27 apply to the Secretary of State to renew his or her commission, and shall

1 comply with the qualifications, renewal application filings, and other
2 requirements then applicable to obtaining an original commission from the
3 Secretary of State. The application for commission renewal shall be
4 accompanied by a fee payment, as specified in KRS 423.430, made payable to
5 the State Treasurer.

6 (b) If approved, the Secretary of State shall issue a renewed commission to the
7 notary public for an additional four (4) year term, using a permanent~~the~~
8 ~~same~~ commission number~~[as the notary public's original commission]~~ and
9 indicating the new commission expiration date.

10 (c) Pursuant to the procedures set forth in subsections (4) and (5) of this section,
11 the commission along with the required assurance shall be filed with the
12 county clerk listed in the renewal application, and a new oath of office
13 administered by the county clerk and new fees paid by the notary public to the
14 county clerk, as determined by KRS 64.012.

15 (d) A renewed commission shall be valid and effective only upon compliance
16 with this subsection~~[. A notary public shall have no authority to perform~~
17 ~~notarial acts during any period between the expiration of his or her current~~
18 ~~commission and the effective date of any renewal commission].~~

19 (9) A commission to act as a notary public shall authorize the notary public to perform
20 notarial acts during the term of the commission. The commission shall not provide
21 the notary public with any immunity or benefit conferred by the law of this state on
22 public officials or employees.

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

26 (a) At the time of registration, be a commissioned notary public in this
27 Commonwealth who has complied with the requirements set forth in

- 1 subsections (1) to (8) of this section, and who has complied with all applicable
2 notarial requirements set forth in this chapter;
- 3 (b) Register with the Secretary of State by submitting an electronic registration
4 pursuant to this subsection;
- 5 (c) Pay to the Secretary of State a registration fee payment, as specified in KRS
6 423.430, which is in addition to the commission application fee required to be
7 a notarial officer in this state and any fees required to be paid to the county
8 clerk to file a commission and assurance and to take an oath pursuant to KRS
9 62.010;
- 10 (d) Submit to the Secretary of State any registration forms, information,
11 disclosures, and verifications required~~[by administrative regulations~~
12 ~~promulgated]~~ by the Secretary of State; and
- 13 (e) Submit to the Secretary of State with the registration proof satisfactory to the
14 Secretary of State that the registrant has satisfied the requirement to post an
15 assurance as a notary public, as set forth in subsections (4) and (5) of this
16 section.
- 17 (11) The Secretary of State shall promulgate administrative regulations to establish
18 forms and procedures applicable to the registrations governed by subsection (10) of
19 this section, and shall obtain at least the following information in connection with
20 each registration:
- 21 (a) The registrant's commission number and full legal name as it appears on the
22 registrant's commission~~[, and the name to be used for registration, if~~
23 ~~different];~~
- 24 (b) The county in this state in which the registrant ***took the oath of office and***
25 ***posted assurance***~~[resides or has his or her place of employment or practice];~~
- 26 (c) The electronic mail and resident address of the registrant;
- 27 (d) Whether the registrant is registering to perform one (1) or both of the

1 following:

2 1. **Electronic notarizations**~~[Notarial acts with respect to electronic records~~
 3 ~~in which the individual will appear before the notary in the notary's~~
 4 ~~physical presence]; or~~

5 2. As an online notary public to perform electronic **and online**
 6 notarizations;

7 (e) A description of the technologies or devices that the registrant intends to use
 8 to perform notarial acts with respect to electronic records or electronic **or**
 9 **online** notarizations, to maintain the journal required by KRS 423.380, and to
 10 render electronic records tamper-evident after a notarial act is completed, each
 11 of which technologies or devices shall comply with any standards established
 12 by the Secretary of State;

13 (f) The **digital certificate**~~[digital certification]~~ of the registrant; and

14 (g) Any other information, evidence, disclosures, or declarations required or
 15 deemed beneficial by the Secretary of State pursuant to any administrative
 16 regulations promulgated by the Secretary of State.

17 (12) The Secretary of State may reject a registration if the applicant fails to comply with
 18 any provision of KRS 423.300 to 423.455 **or any administrative regulation**
 19 **promulgated pursuant to KRS 423.300 to 423.465.**

20 (13) **Upon**~~[Thirty (30) days after]~~ compliance with all registration requirements and
 21 payment of the required registration fee, a notary public will be registered with the
 22 Secretary of State to perform~~[notarial acts in the physical presence of an individual~~
 23 ~~signer with respect to electronic records, or to perform]~~ electronic **or online**
 24 notarizations~~[as an online notary public, or as both].~~

25 (14) The Secretary of State may at any time cancel the registration of a notary public to
 26 perform~~[notarial acts with respect to electronic records, or as an online notary~~
 27 ~~public to perform]~~ electronic **or online** notarizations, if the notary public fails to

1 comply with any of the requirements of KRS 423.300 to 423.455 or any
 2 administrative regulation promulgated pursuant to KRS 423.300 to 423.465, or
 3 based upon any of the grounds for revocation or suspension of a notary public's
 4 commission.

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

11 ➔Section 13. KRS 423.395 is amended to read as follows:

12 (1) The Secretary of State may deny, refuse to renew, revoke, suspend, or impose a
 13 condition on a commission as notary public for any act or omission that
 14 demonstrates the individual lacks the honesty, integrity, competence, or reliability
 15 to act as a notary public, including but not limited to:

16 (a) Failure to comply with KRS 423.300 to 423.455;

17 (b) A fraudulent, dishonest, or deceitful misstatement or omission in the
 18 application for a commission as a notary public submitted to the Secretary of
 19 State;

20 (c) A conviction of the applicant or notary public of any felony;~~(c)~~

21 (d) A conviction of a crime involving fraud, dishonesty, or deceit;

22 (e)~~(d)~~ A finding against, or admission of liability by, the applicant or notary
 23 public in any legal proceeding or disciplinary action based on the applicant's
 24 or notary public's fraud, dishonesty, or deceit;

25 (f)~~(e)~~ Failure by the notary public to discharge any duty required of a notary
 26 public, whether by KRS 423.300 to 423.455, administrative regulations
 27 promulgated by the Secretary of State, or any federal or state law;

1 ~~(g)~~~~(f)~~ Use of false or misleading advertising or representation by the notary
 2 public representing that the notary has a duty, right, or privilege that the notary
 3 does not have;

4 ~~(h)~~~~(g)~~ Violation by the notary public of an administrative regulation of the
 5 Secretary of State regarding a notary public;

6 ~~(i)~~~~(h)~~ Denial, refusal to renew, revocation, or suspension of a notary public
 7 commission in another state; or

8 ~~(j)~~~~(i)~~ Failure of the notary public to maintain an assurance.

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

12 ➔Section 14. KRS 423.400 is amended to read as follows:

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

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

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

19 (2) Each county clerk who files a notary public's assurance **or proof of state**
 20 **employment** and administers the oath of office to a notary public shall promptly
 21 record the fact and date in the database described in subsection (1) of this section.

22 ➔Section 15. KRS 423.410 is amended to read as follows:

23 Except as otherwise provided in KRS 423.310~~(5)~~~~(4)~~, the failure of a notarial officer to
 24 perform a duty or meet a requirement specified in KRS 423.300 to 423.455 does not
 25 invalidate a notarial act performed by the notarial officer. The validity of a notarial act
 26 does not prevent an aggrieved person from seeking to invalidate the record or transaction
 27 that is the subject of the notarial act or from seeking other remedies based on other laws

1 of this state. This section does not validate a purported notarial act performed by an
2 individual who does not have the authority to perform notarial acts.

3 ➔Section 16. KRS 423.415 is amended to read as follows:

4 The Secretary of State may promulgate administrative regulations to implement KRS
5 423.300 to 423.455. Promulgated administrative regulations regarding the performance
6 of ~~notarial acts with respect to electronic records or~~ electronic **or online** notarizations
7 shall not require, or accord greater legal status or effect to, the implementation or
8 application of a specific technology or technical specification. The administrative
9 regulations may:

- 10 (1) Prescribe the manner of performing notarial acts regarding tangible and electronic
11 records;
- 12 (2) Establish requirements for notarial training or education as a condition of obtaining
13 or renewing a commission or before registering to perform ~~notarial acts with~~
14 ~~respect to electronic records or to perform~~ electronic **or online** notarizations;
- 15 (3) Include provisions to ensure that any change to ~~or tampering with a~~ **an electronic**
16 record bearing a certificate of a notarial act is self-evident;
- 17 (4) Include provisions to ensure integrity in the creation, transmittal, storage, or
18 authentication of electronic records or signatures;
- 19 (5) Prescribe the process of granting, renewing, conditioning, denying, suspending, or
20 revoking a notary public commission and assuring the trustworthiness of an
21 individual holding a commission as notary public;
- 22 (6) Include provisions to prevent fraud or mistake in the performance of notarial acts;
23 and
- 24 (7) Establish the process for approving and accepting surety bonds and other forms of
25 assurance under KRS 423.390.

26 ➔Section 17. KRS 423.430 is amended to read as follows:

- 27 (1) For a notarial act relating to a tangible or electronic record, or for an electronic **or**

1 online notarization, a notary public may charge a fee:

- 2 (a) In compliance with KRS 64.300; and
- 3 (b) Which has been clearly disclosed to the person requesting the service in
- 4 advance.

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

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

- 8 (a) Application for a commission or renewal as a notary public.....\$10
- 9 (b) Issuance of a replacement commission upon loss or destruction of the
- 10 original.....\$10
- 11 (c) Registration as an electronic or online notary public and update to
- 12 commission or registration information upon a change of name or address or
- 13 other specified information.....\$10
- 14 (d) Issuance of an electronic certificate of authentication~~[authority]~~ or
- 15 apostille.....\$5 per document

16 (4) In accordance with KRS 64.012, county clerks may assess fees for services required
17 to fulfill obligations set forth in KRS 423.300 to 423.455.

18 ➔Section 18. KRS 423.435 is amended to read as follows:

19 (1) If an electronic record or paper printout of an electronic record relating to real
20 property located in this state contains a certificate of a notarial act~~[an~~
21 ~~acknowledgment]~~ performed by electronic means, notwithstanding any omission or
22 error in the certificate of the notarial act~~[acknowledgment]~~ or failure of the record
23 to show a notarial act~~[an acknowledgment]~~ in compliance with applicable law,
24 upon the record being recorded with the county clerk of the county in which the real
25 property is located or filed with the Secretary of State:

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

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

5 (2) For the purposes of this section, a record is deemed to comply with all applicable
6 requirements upon the recording by the county clerk of the county in which the real
7 property is located or the filing of the record with the Secretary of State, as required
8 by law.

9 ➔Section 19. KRS 423.450 is amended to read as follows:

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

18 (2) For all notarial acts performed in relation to electronic records that are transmitted
19 to another state or nation, electronic evidence of the authenticity of the official
20 signature and official stamp~~seal~~ of a notary public of this state, if required, shall
21 be 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, and
24 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 and shall contain substantially~~
27 ~~the following:~~

1 ~~—"Certificate of Authority for a Notarial Act~~
 2 ~~— I, (name), Secretary of State of the Commonwealth of Kentucky, certify that (name~~
 3 ~~of electronic notary), the person named as a Notary Public in the attached or associated~~
 4 ~~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 document's~~
 6 ~~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 20. The following KRS sections are repealed:

- 11 423.110 Recognition of notarial acts performed outside this state.
- 12 423.130 Certificate of person taking acknowledgment.
- 13 423.140 Recognition of certificate of acknowledgment.
- 14 423.150 Certificate of acknowledgment.
- 15 423.160 Short forms of acknowledgment.
- 16 423.170 Acknowledgments not affected by KRS 423.110 to 423.190.
- 17 423.180 Uniformity of interpretation.
- 18 423.190 Short title.