

House Study Bill 596 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act providing for notarial acts and including effective date
2 provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

REVISED UNIFORM LAW ON NOTARIAL ACTS

Section 1. NEW SECTION. 9B.1 Short title.

This chapter may be cited as the *“Revised Uniform Law on Notarial Acts”*.

Sec. 2. NEW SECTION. 9B.2 Definitions.

In this chapter:

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

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

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

4. *“In a representative capacity”* means acting as any of the following:

a. An authorized officer, agent, partner, trustee, or other representative for a person other than an individual.

b. A public officer, personal representative, guardian, or other representative, in the capacity stated in a record.

c. An agent or attorney-in-fact for a principal.

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

5. *“Notarial act”* means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a

1 copy, and noting a protest of a negotiable instrument.

2 6. "*Notarial officer*" means a notary public or other
3 individual authorized to perform a notarial act.

4 7. "*Notary public*" means an individual commissioned to
5 perform a notarial act by the secretary of state.

6 8. "*Official stamp*" means a physical image affixed to or
7 embossed on a tangible record or an electronic image attached
8 to or logically associated with an electronic record.

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

14 10. a. "*Personal appearance*" means an act of a party to
15 physically appear within the presence of a notary public at the
16 time the notarization occurs.

17 b. "*Personal appearance*" does not include appearances
18 which require video, optical, or technology with similar
19 capabilities.

20 11. "*Record*" means information that is inscribed on a
21 tangible medium or that is stored in an electronic or other
22 medium and is retrievable in perceivable form.

23 12. "*Sign*" means, with present intent to authenticate or
24 adopt a record, to do any of the following:

25 a. Execute or adopt a tangible symbol.

26 b. Attach to or logically associate with the record an
27 electronic symbol, sound, or process.

28 13. "*Signature*" means a tangible symbol or an electronic
29 signature that evidences the signing of a record.

30 14. "*Stamping device*" means any of the following:

31 a. A physical device capable of affixing to or embossing on
32 a tangible record an official stamp.

33 b. An electronic device or process capable of attaching to
34 or logically associating with an electronic record an official
35 stamp.

1 15. "State" means a state of the United States, the District
2 of Columbia, Puerto Rico, the United States Virgin Islands, or
3 any territory or insular possession subject to the jurisdiction
4 of the United States.

5 16. "Verification on oath or affirmation" means a
6 declaration, made by an individual on oath or affirmation
7 before a notarial officer, that a statement in a record is
8 true.

9 Sec. 3. NEW SECTION. **9B.4 Authority to perform notarial**
10 **act.**

11 1. A notarial officer may perform a notarial act authorized
12 by this chapter or by law of this state other than this
13 chapter.

14 2. A notarial officer shall not perform a notarial act
15 with respect to a record to which the notarial officer or
16 the notarial officer's spouse is a party, or in which either
17 of them has a direct beneficial interest. A notarial act
18 performed in violation of this subsection is voidable.

19 Sec. 4. NEW SECTION. **9B.5 Requirements for certain notarial**
20 **acts.**

21 1. A notarial officer who takes an acknowledgment of a
22 record shall determine, from personal knowledge or satisfactory
23 evidence of the identity of the individual, that the
24 individual appearing before the notarial officer and making the
25 acknowledgment has the identity claimed and that the signature
26 on the record is the signature of the individual.

27 2. A notarial officer who takes a verification of a
28 statement on oath or affirmation shall determine, from personal
29 knowledge or satisfactory evidence of the identity of the
30 individual, that the individual appearing before the notarial
31 officer and making the verification has the identity claimed
32 and that the signature on the statement verified is the
33 signature of the individual.

34 3. A notarial officer who witnesses or attests to a
35 signature shall determine, from personal knowledge or

1 satisfactory evidence of the identity of the individual, that
2 the individual appearing before the notarial officer and
3 signing the record has the identity claimed.

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

8 5. A notarial officer who makes or notes a protest of a
9 negotiable instrument shall determine the matters set forth in
10 section 554.3505, subsection 2.

11 Sec. 5. NEW SECTION. **9B.6 Personal appearance required.**

12 If a notarial act relates to a statement made in or a
13 signature executed on a record, the individual making the
14 statement or executing the signature shall appear personally
15 before the notarial officer.

16 Sec. 6. NEW SECTION. **9B.7 Identification of individual.**

17 1. A notarial officer has personal knowledge of the identity
18 of an individual appearing before the notarial officer if the
19 individual is personally known to the officer through dealings
20 sufficient to provide reasonable certainty that the individual
21 has the identity claimed.

22 2. A notarial officer has satisfactory evidence of the
23 identity of an individual appearing before the notarial officer
24 if the notarial officer can identify the individual pursuant
25 to any of the following:

26 a. By means of any of the following:

27 (1) A passport, driver's license, or government-issued
28 nondriver identification card, which is current or expired not
29 more than three years before performance of the notarial act.

30 (2) Another form of government identification issued to
31 an individual, which is current or expired not more than
32 three years before performance of the notarial act, contains
33 the signature or a photograph of the individual, and is
34 satisfactory to the notarial officer.

35 b. By a verification on oath or affirmation of a credible

1 witness personally appearing before the officer and known
2 to the notarial officer or whom the notarial officer can
3 identify on the basis of a passport, driver's license, or
4 government-issued nondriver identification card, which is
5 current or expired not more than three years before performance
6 of the notarial act.

7 3. A notarial officer may require an individual to provide
8 additional information or identification credentials necessary
9 to assure the officer of the identity of the individual.

10 Sec. 7. NEW SECTION. **9B.8 Authority to refuse to perform**
11 **notarial act.**

12 1. A notarial officer may refuse to perform a notarial
13 act if the notarial officer is not satisfied that any of the
14 following apply:

15 a. The individual executing the record is competent or has
16 the capacity to execute the record.

17 b. The individual's signature is knowingly and voluntarily
18 made.

19 2. A notarial officer may refuse to perform a notarial act
20 unless refusal is prohibited by law other than this chapter.

21 3. A notarial officer shall not condition the performing of
22 notarial services upon the requirement that the person served
23 be a customer or client of the establishment by which the
24 notarial officer is employed. The employer of a notary public
25 shall not condition the performing of a notarial service upon
26 the requirement that the person served be a customer or client
27 of the establishment by which the notary public is employed.

28 Sec. 8. NEW SECTION. **9B.9 Signature if individual unable**
29 **to sign.**

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

1 Sec. 9. NEW SECTION. **9B.10 Notarial act in this state.**

2 1. A notarial act may be performed in this state by any of
3 the following:

4 *a.* A notary public of this state.

5 *b.* A judge, clerk, or deputy clerk of a court of this state.

6 *c.* A person authorized by the law of this state to
7 administer oaths.

8 *d.* Any other individual authorized to perform the specific
9 act by the law of this state.

10 *e.* A registrar of vital statistics or a designee of a
11 registrar of vital statistics.

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

16 3. The signature and title of a notarial officer described
17 in subsection 1, paragraph "a", "b", or "c", conclusively
18 establish the authority of the notarial officer to perform a
19 notarial act.

20 Sec. 10. NEW SECTION. **9B.11 Notarial act in another state.**

21 1. A notarial act performed in another state has the
22 same effect under the law of this state as if performed by a
23 notarial officer of this state, if the act performed in that
24 state is performed by any of the following:

25 *a.* A notary public of that state.

26 *b.* A judge, clerk, or deputy clerk of a court of that state.

27 *c.* Any other individual authorized by the law of that state
28 to perform the notarial act.

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

33 3. The signature and title of a notarial officer described
34 in subsection 1, paragraph "a" or "b", conclusively establish
35 the authority of the notarial officer to perform the notarial

1 act.

2 4. The notarial act performed in another state must be
3 performed in accordance with section 9B.6.

4 Sec. 11. NEW SECTION. **9B.12 Notarial act under authority of**
5 **federally recognized Indian tribe.**

6 1. A notarial act performed under the authority and in
7 the jurisdiction of a federally recognized Indian tribe has
8 the same effect as if performed by a notarial officer of this
9 state, if the act performed in the jurisdiction of the tribe is
10 performed by any of the following:

11 a. A notary public of the tribe.

12 b. A judge, clerk, or deputy clerk of a court of the tribe.

13 c. Any other individual authorized by the law of the tribe
14 to perform the notarial act.

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

20 3. The signature and title of a notarial officer described
21 in subsection 1, paragraph "a" or "b", conclusively establish
22 the authority of the notarial officer to perform the notarial
23 act.

24 Sec. 12. NEW SECTION. **9B.13 Notarial act under federal**
25 **authority.**

26 1. A notarial act performed under federal law has the
27 same effect under the law of this state as if performed by
28 a notarial officer of this state, if the act performed under
29 federal law is performed by any of the following:

30 a. A judge, clerk, or deputy clerk of a court.

31 b. An individual in military service or performing duties
32 under the authority of military service who is authorized to
33 perform notarial acts under federal law.

34 c. An individual designated a notarial officer by the
35 United States department of state for performing notarial acts

1 overseas.

2 *d.* Any other individual authorized by federal law to perform
3 the notarial act.

4 2. The signature and title of an individual acting under
5 federal authority and performing a notarial act are prima facie
6 evidence that the signature is genuine and that the individual
7 holds the designated title.

8 3. The signature and title of a notarial officer described
9 in subsection 1, paragraph "a", "b", or "c", conclusively
10 establish the authority of the notarial officer to perform the
11 notarial act.

12 Sec. 13. NEW SECTION. **9B.14 Foreign notarial act.**

13 1. As used in this section, "*foreign state*" means a
14 government other than the United States, a state, or a
15 federally recognized Indian tribe.

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

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

27 4. The signature and official stamp of an individual holding
28 an office described in subsection 3 are prima facie evidence
29 that the signature is genuine and the individual holds the
30 designated title.

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

1 6. A consular authentication issued by an individual
2 designated by the United States department of state as a
3 notarial officer for performing notarial acts overseas and
4 attached to the record with respect to which the notarial act
5 is performed conclusively establishes that the signature of the
6 notarial officer is genuine and that the notarial officer holds
7 the indicated office.

8 Sec. 14. NEW SECTION. **9B.15 Certificate of notarial act.**

9 1. A notarial act must be evidenced by a certificate. The
10 certificate must meet all of the following requirements:

11 a. Be executed contemporaneously with the performance of the
12 notarial act.

13 b. Be signed and dated by the notarial officer and, if the
14 notarial officer is a notary public, be signed in the same
15 manner as on file with the secretary of state.

16 c. Identify the jurisdiction in which the notarial act is
17 performed.

18 d. Contain the title of office of the notarial officer.

19 e. If the notarial officer is a notary public, indicate
20 the date of expiration, if any, of the notarial officer's
21 commission.

22 2. If a notarial act regarding a tangible record is
23 performed by a notary public, an official stamp must be affixed
24 to or embossed on the certificate. If a notarial act is
25 performed regarding a tangible record by a notarial officer
26 other than a notary public and the certificate contains the
27 information specified in subsection 1, paragraphs "b", "c", and
28 "d", an official stamp may be affixed to or embossed on the
29 certificate. If a notarial act regarding an electronic record
30 is performed by a notarial officer and the certificate contains
31 the information specified in subsection 1, paragraphs "b", "c",
32 and "d", an official stamp may be attached to or logically
33 associated with the certificate.

34 3. A certificate of a notarial act is sufficient if it
35 meets the requirements of subsections 1 and 2 and all of the

1 following apply:

2 a. It is in a short form set forth in section 9B.16.

3 b. It is in a form otherwise permitted by the law of this
4 state.

5 c. It is in a form permitted by the law applicable in the
6 jurisdiction in which the notarial act is performed.

7 d. It sets forth the actions of the notarial officer and the
8 actions are sufficient to meet the requirements of the notarial
9 act as provided in sections 9B.5, 9B.6, and 9B.7, or a law of
10 this state other than this chapter.

11 4. By executing a certificate of a notarial act, a notarial
12 officer certifies that the notarial officer has complied with
13 the requirements and made the determinations specified in
14 sections 9B.4, 9B.5, and 9B.6.

15 5. A notarial officer shall not affix the notarial officer's
16 signature to, or logically associate it with, a certificate
17 until the notarial act has been performed.

18 6. If a notarial act is performed regarding a tangible
19 record, a certificate must be part of, or securely attached
20 to, the record. If a notarial act is performed regarding
21 an electronic record, the certificate must be affixed to, or
22 logically associated with, the electronic record. If the
23 secretary of state has established standards pursuant to
24 section 9B.27 for attaching, affixing, or logically associating
25 the certificate, the process must conform to the standards.

26 Sec. 15. NEW SECTION. **9B.16 Short form certificates.**

27 The following short form certificates of notarial acts are
28 sufficient for the purposes indicated, if completed with the
29 information required by section 9B.15, subsections 1 and 2:

30 1. For an acknowledgment in an individual capacity:

31 State of.....

32 [County] of.....

33 This record was acknowledged before me on.....(Date)

34 by.....Name(s) of individual(s)

35

1 Signature of notarial officer

2 Stamp

3 [.....]

4 Title of office

5 [My commission expires:.....]

6 2. For an acknowledgment in a representative capacity:

7 State of.....

8 [County] of.....

9 This record was acknowledged before me on.....(Date)

10 by.....Name(s) of individual(s)

11 as (type of authority, such as officer or trustee) of (name of

12 party on behalf of whom record was executed).

13

14 Signature of notarial officer

15 Stamp

16 [.....]

17 Title of office

18 [My commission expires:.....]

19 3. For a verification on oath or affirmation:

20 State of.....

21 [County] of.....

22 Signed and sworn to (or affirmed) before me on.....(Date)

23 by.....Name(s) of individual(s) making statement

24

25 Signature of notarial officer

26 Stamp

27 [.....]

28 Title of office

29 [My commission expires:.....]

30 4. For witnessing or attesting a signature:

31 State of.....

32 [County] of.....

33 Signed [or attested] before me on..... (Date)

34 by.....Name(s) of individual(s)

35

1 Signature of notarial officer

2 Stamp

3 [.....]

4 Title of office

5 [My commission expires.....]

6 5. For certifying a copy of a record:

7 State of.....

8 [County] of.....

9 I certify that this is a true and correct copy of a record in
10 the possession of.....

11 Dated.....

12

13 Signature of notarial officer

14 Stamp

15 [.....]

16 Title of office

17 [My commission expires:.....]

18 Sec. 16. NEW SECTION. **9B.17 Official stamp.**

19 1. The official stamp of a notary public must comply with
20 all of the following:

21 a. Include the notary public's name, the words "Notarial
22 Seal" and "Iowa", the words "Commission Number" followed by
23 a number assigned to the notary public by the secretary of
24 state, the words "My Commission Expires" followed either
25 by the date that the notary public's term would ordinarily
26 expire as provided in section 9B.21 or a blank line, and other
27 information required by the secretary of state.

28 b. Be capable of being copied together with the record to
29 which it is affixed or attached or with which it is logically
30 associated. If the official stamp contains a blank line, the
31 person must print the date that the notary public's term would
32 ordinarily expire on the blank line imprinted on each record
33 subject to a notarial act.

34 2. This section does not apply to a judicial officer as
35 defined in section 602.1101 performing a notarial act in

1 accordance with state or federal authority. This section does
2 not apply to a chief officer or a chief officer's designee
3 certifying a peace officer's verification of a uniform citation
4 and complaint pursuant to section 805.6, subsection 3. A
5 judicial officer, chief officer, or chief officer's designee is
6 not required to acquire or use an official stamp in performing
7 these acts.

8 Sec. 17. NEW SECTION. **9B.18 Stamping device.**

9 1. A notary public is responsible for the security of the
10 notary public's stamping device and shall not allow another
11 individual to use the device to perform a notarial act.

12 2. If a notary public's stamping device is lost or
13 stolen, the notary public or the notary public's personal
14 representative or guardian shall notify promptly the
15 commissioning officer or agency on discovering that the device
16 is lost or stolen.

17 Sec. 18. NEW SECTION. **9B.20 Notification regarding**
18 **performance of notarial act on electronic record —selection of**
19 **technology.**

20 1. A notary public may select one or more tamper-evident
21 technologies to perform notarial acts with respect to
22 electronic records. A person shall not require a notary public
23 to perform a notarial act with respect to an electronic record
24 with a technology that the notary public has not selected.

25 2. Before a notary public performs the notary public's
26 initial notarial act with respect to an electronic record,
27 a notary public shall notify the secretary of state that
28 the notary public will be performing notarial acts with
29 respect to electronic records and identify the technology the
30 notary public intends to use. If the secretary of state has
31 established standards for approval of technology pursuant to
32 section 9B.27, the technology must conform to the standards.
33 If the technology conforms to the standards, the secretary of
34 state shall approve the use of the technology.

35 Sec. 19. NEW SECTION. **9B.21 Commission as notary public —**

1 **qualifications — no immunity or benefit.**

2 1. An individual qualified under subsection 2 may apply to
3 the secretary of state for a commission as a notary public.
4 The applicant shall comply with and provide the information
5 required by rules established by the secretary of state and pay
6 an application fee of thirty dollars to the secretary of state.
7 A person appointed as a notary public under subsection 4 is not
8 subject to the fee imposed by this subsection.

9 2. An applicant for a commission as a notary public shall
10 meet all of the following qualifications:

11 a. Be at least eighteen years of age.

12 b. Be a citizen or permanent legal resident of the United
13 States.

14 c. Be a resident of or have a place of employment or
15 practice in this state.

16 d. Be able to read and write English.

17 e. Not be disqualified to receive a commission under section
18 9B.23.

19 3. Before issuance of a commission as a notary public, an
20 applicant for the commission shall execute an oath of office
21 and submit it to the secretary of state.

22 4. a. The secretary of state shall appoint members of the
23 general assembly as notaries public, upon request, and may
24 revoke an appointment for cause.

25 b. The secretary of state may appoint one or more employees
26 of a state agency as a notary public to perform notarial
27 acts associated with their positions, pursuant to conditions
28 established by the secretary of state. As used in this
29 paragraph, "*state agency*" means any executive, judicial,
30 or legislative department, commission, board, institution,
31 division, bureau, office, agency, or other entity of state
32 government.

33 5. The secretary of state may appoint as a notary public
34 a resident of a state bordering Iowa if that person's place
35 of work or business is within the state of Iowa. If a notary

1 public who is a resident of a state bordering Iowa ceases
2 to work or maintain a place of business in Iowa, the notary
3 commission expires.

4 6. On compliance with this section, the secretary of state
5 shall issue a commission as a notary public to an applicant for
6 a term of three years. The term of a notarial officer who is a
7 resident of a state bordering Iowa and whose place of work or
8 business is in Iowa is one year. The term of a notary public
9 who is a member of the general assembly is the member's term of
10 office. The term of a notary public who is an employee of a
11 state agency designated to receive an appointment as provided
12 in subsection 4 shall terminate at the end of employment.

13 7. A commission to act as a notary public authorizes the
14 notary public to perform notarial acts. The commission does
15 not provide the notary public any immunity or benefit conferred
16 by law of this state on public officials or employees.

17 Sec. 20. NEW SECTION. **9B.21A Notice of expiration of term.**

18 The secretary of state, two months preceding the
19 expiration of a commission, shall notify the notary public
20 of the expiration date and furnish a blank application for
21 reappointment.

22 Sec. 21. NEW SECTION. **9B.23 Grounds to deny, refuse to
23 renew, revoke, suspend, or condition commission of notary public.**

24 1. The secretary of state may deny, refuse to renew, revoke,
25 suspend, or impose a condition on a commission as notary public
26 for any act or omission that demonstrates the individual lacks
27 the honesty, integrity, competence, or reliability to act
28 as a notary public, including any of the following acts or
29 omissions:

30 a. A failure to comply with this chapter.

31 b. A fraudulent, dishonest, or deceitful misstatement or
32 omission in the application for a commission as a notary public
33 submitted to the secretary of state.

34 c. A conviction of the applicant or notary public of any
35 felony or a crime involving fraud, dishonesty, or deceit.

1 *d.* A finding against, or admission of liability by,
2 the applicant or notary public in any legal proceeding or
3 disciplinary action based on the applicant's or notary public's
4 fraud, dishonesty, or deceit.

5 *e.* A failure by the notary public to discharge any duty
6 required of a notary public, whether by this chapter, rules
7 adopted by the secretary of state, or any federal or state law.

8 *f.* The use of false or misleading advertising or
9 representation by the notary public representing that the
10 notary public has a duty, right, or privilege that the notary
11 public does not have.

12 *g.* A violation by the notary public of a rule adopted by the
13 secretary of state regarding a notary public.

14 *h.* A denial, refusal to renew, revocation, suspension, or
15 conditioning of a notary public commission in another state.

16 2. If the secretary of state denies, refuses to renew,
17 revokes, suspends, or imposes conditions on a commission as a
18 notary public, the applicant or notary public is entitled to
19 timely notice and hearing in accordance with rules adopted by
20 the secretary of state.

21 3. The authority of the secretary of state to deny, refuse
22 to renew, suspend, revoke, or impose conditions on a commission
23 as a notary public does not prevent either the secretary of
24 state or a person aggrieved by a notary public from seeking and
25 obtaining other criminal or civil remedies provided by law.

26 Sec. 22. NEW SECTION. **9B.24 Database of notaries public.**

27 The secretary of state shall maintain an electronic database
28 of notaries public which complies with all of the following:

29 1. Through which a person may verify the authority of a
30 notary public to perform notarial acts.

31 2. Which indicates whether a notary public has notified the
32 secretary of state that the notary public will be performing
33 notarial acts on electronic records.

34 Sec. 23. NEW SECTION. **9B.25 Prohibited acts.**

35 1. A commission as a notary public does not authorize an

1 individual to do any of the following:

2 *a.* Assist persons in drafting legal records, give legal
3 advice, or otherwise practice law.

4 *b.* Act as an immigration consultant or an expert on
5 immigration matters.

6 *c.* Represent a person in a judicial or administrative
7 proceeding relating to immigration to the United States, United
8 States citizenship, or related matters.

9 *d.* Receive compensation for performing any of the activities
10 listed in this subsection.

11 2. A notary public shall not engage in false or deceptive
12 advertising.

13 3. A notary public, other than an attorney licensed to
14 practice law in this state, shall not use the term "notario" or
15 "notario publico".

16 4. A notary public, other than an attorney licensed to
17 practice law in this state, shall not advertise or represent
18 that the notary public may assist persons in drafting legal
19 records, give legal advice, or otherwise practice law. If
20 a notary public who is not an attorney licensed to practice
21 law in this state in any manner advertises or represents that
22 the notary public offers notarial services, whether orally
23 or in a record, including broadcast media, print media, or
24 the internet, the notary public shall include the following
25 statement, or an alternate statement authorized or required by
26 the secretary of state in the advertisement or representation,
27 prominently and in each language used in the advertisement or
28 representation:

29 I am not an attorney licensed to practice law in this state.
30 I am not allowed to draft legal records, give advice on legal
31 matters, including immigration, or charge a fee for those
32 activities.

33 If the form of advertisement or representation is not
34 broadcast media, print media, or the internet and does not
35 permit inclusion of the statement required by this subsection

1 because of size, it must be displayed prominently or provided
2 at the place of performance of the notarial act before the
3 notarial act is performed.

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

8 Sec. 24. NEW SECTION. **9B.26 Validity of notarial acts.**

9 1. Except as otherwise provided in section 9B.4, subsection
10 2, the failure of a notarial officer to perform a duty or meet
11 a requirement specified in this chapter does not invalidate a
12 notarial act performed by the notarial officer. The validity
13 of a notarial act under this chapter does not prevent an
14 aggrieved person from seeking to invalidate the record or
15 transaction that is the subject of the notarial act or from
16 seeking other remedies based on law of this state other than
17 this chapter or law of the United States. This section
18 does not validate a purported notarial act performed by an
19 individual who does not have the authority to perform notarial
20 acts.

21 2. The validity of a notarial act shall not be affected
22 or impaired by the fact that the notarial officer performing
23 the notarial act is an officer, director, or shareholder of
24 a corporation that may have a beneficial interest or other
25 interest in the subject matter of the notarial act.

26 Sec. 25. NEW SECTION. **9B.27 Rules.**

27 1. The secretary of state may adopt rules to administer this
28 chapter. Any rules adopted with respect to the performance of
29 notarial acts on electronic records shall not require or favor
30 one technology or technical specification over another.

31 Sec. 26. NEW SECTION. **9B.28 Notary public commission in
32 effect.**

33 A commission as a notary public in effect on January 1,
34 2013, continues until its date of expiration. A notary public
35 who applies to renew a commission as a notary public on or

1 after January 1, 2013, is subject to and shall comply with this
2 chapter. A notary public, in performing notarial acts on or
3 after January 1, 2013, shall comply with this chapter.

4 Sec. 27. NEW SECTION. **9B.30 Uniformity of application and**
5 **construction.**

6 In applying and construing this chapter, consideration must
7 be given to the need to promote uniformity of the law with
8 respect to its subject matter among states that enact the
9 revised uniform law on notarial acts.

10 Sec. 28. NEW SECTION. **9B.31 Relation to electronic**
11 **signatures in global and national commerce act.**

12 This chapter modifies, limits, and supersedes the federal
13 Electronic Signatures in Global and National Commerce Act, 15
14 U.S.C. § 7001 et seq., but does not modify, limit, or supersede
15 section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize
16 electronic delivery of any of the notices described in section
17 103(b) of that Act, 15 U.S.C. § 7003(b).

18 Sec. 29. REPEAL. Chapter 9E, Code 2011, is repealed.

19 DIVISION II

20 COORDINATING AMENDMENTS

21 Sec. 30. Section 2C.7, subsection 1, Code 2011, is amended
22 to read as follows:

23 1. Hold another public office of trust or profit under the
24 laws of this state other than ~~the office of~~ notary public as
25 provided in chapter 9B.

26 Sec. 31. Section 4.1, subsection 28, Code 2011, is amended
27 to read as follows:

28 28. *Seal.* Where the seal of a court, public office, public
29 officer, or public or private corporation may be required
30 to be affixed to any paper, the word "*seal*" shall include
31 an impression upon the paper alone, or upon wax, ~~or~~ a wafer
32 affixed to the paper, or an official ink stamp ~~if a notarial~~
33 ~~seal~~ of a notarial officer as provided in chapter 9B. If the
34 seal of a court is required, the word "*seal*" may also include a
35 visible electronic image of the seal on an electronic document.

1 Sec. 32. Section 29B.129, unnumbered paragraph 1, Code
2 2011, is amended to read as follows:

3 The following members of the state military forces may
4 administer oaths for the purposes of military administration
5 including military justice, and affidavits may be taken for
6 those purposes before persons having the general powers of a
7 notary public as provided in chapter 9B:

8 Sec. 33. Section 43.14, subsection 4, paragraph e, Code
9 2011, is amended to read as follows:

10 e. The signature of a notary public under chapter 9B or
11 other officer empowered to witness oaths.

12 Sec. 34. Section 45.5, subsection 5, paragraph d, Code 2011,
13 is amended to read as follows:

14 d. The signature of a notary public under chapter 9B or
15 other officer empowered to witness oaths.

16 Sec. 35. Section 144.12A, subsection 5, paragraph a, Code
17 2011, is amended to read as follows:

18 a. Information provided to the registry may be revoked by
19 the registrant by submission of a written statement signed
20 and acknowledged by the registrant before a notary public as
21 provided in chapter 9B.

22 Sec. 36. Section 144A.3, subsection 2, paragraph b, Code
23 2011, is amended to read as follows:

24 b. Is acknowledged before a notarial officer within this
25 state as provided in chapter 9B.

26 Sec. 37. Section 144B.3, subsection 1, paragraph b,
27 subparagraph (2), Code 2011, is amended to read as follows:

28 (2) Is acknowledged before a notarial officer within this
29 state as provided in chapter 9B.

30 Sec. 38. Section 144C.6, subsection 2, paragraph b, Code
31 Supplement 2011, is amended to read as follows:

32 b. Acknowledged before a notarial officer as provided in
33 chapter 9B.

34 Sec. 39. Section 252A.3A, subsection 5, paragraph h, Code
35 Supplement 2011, is amended to read as follows:

1 *h.* The signature of a notary public under chapter 9B
2 attesting to the identities of the parties signing the
3 affidavit of paternity.

4 Sec. 40. Section 321.251, subsection 2, paragraph b, Code
5 2011, is amended to read as follows:

6 *b.* A written notice of election shall be filed with the
7 designated officials of the local authority whose ordinances,
8 rules, or regulations will govern the vehicular traffic. The
9 appropriate officials shall be the city clerk and chief of
10 police of the city in which the real property is located and
11 the county sheriff and the county recorder of the county in
12 which the real property is located. The notice shall include
13 the legal description of the real property, the street address,
14 if any, and the date and time when the owner wishes the
15 election to become effective. The notice shall be signed by
16 every titleholder of the real property and acknowledged by a
17 notary public as provided in chapter 9B.

18 Sec. 41. Section 321G.29, subsection 3, Code Supplement
19 2011, is amended to read as follows:

20 3. An owner of a snowmobile shall apply to the county
21 recorder for issuance of a certificate of title within thirty
22 days after acquisition. The application shall be on forms the
23 department prescribes and accompanied by the required fee.
24 The application shall be signed and sworn to before a ~~notary~~
25 ~~public~~ notarial officer as provided in chapter 9B or other
26 person who administers oaths, or shall include a certification
27 signed in writing containing substantially the representation
28 that statements made are true and correct to the best of the
29 applicant's knowledge, information, and belief, under penalty
30 of perjury. The application shall contain the date of sale
31 and gross price of the snowmobile or the fair market value if
32 no sale immediately preceded the transfer and any additional
33 information the department requires. If the application is
34 made for a snowmobile last previously registered or titled in
35 another state or foreign country, the application shall contain

1 this information and any other information the department
2 requires.

3 Sec. 42. Section 321I.31, subsection 3, Code 2011, is
4 amended to read as follows:

5 3. An owner of an all-terrain vehicle shall apply to
6 the county recorder for issuance of a certificate of title
7 within thirty days after acquisition. The application shall
8 be on forms the department prescribes and accompanied by the
9 required fee. The application shall be signed and sworn to
10 before a notary public as provided in chapter 9B or other
11 person who administers oaths, or shall include a certification
12 signed in writing containing substantially the representation
13 that statements made are true and correct to the best of the
14 applicant's knowledge, information, and belief, under penalty
15 of perjury. The application shall contain the date of sale and
16 gross price of the all-terrain vehicle or the fair market value
17 if no sale immediately preceded the transfer and any additional
18 information the department requires. If the application is
19 made for an all-terrain vehicle last previously registered or
20 titled in another state or foreign country, the application
21 shall contain this information and any other information the
22 department requires.

23 Sec. 43. Section 462A.77, subsection 4, Code 2011, is
24 amended to read as follows:

25 4. Every owner of a vessel subject to titling under this
26 chapter shall apply to the county recorder for issuance of a
27 certificate of title for the vessel within thirty days after
28 acquisition. The application shall be on forms the department
29 prescribes, and accompanied by the required fee. The
30 application shall be signed and sworn to before a notary public
31 as provided in chapter 9B or other person who administers
32 oaths, or shall include a certification signed in writing
33 containing substantially the representation that statements
34 made are true and correct to the best of the applicant's
35 knowledge, information, and belief, under penalty of perjury.

1 The application shall contain the date of sale and gross price
2 of the vessel or the fair market value if no sale immediately
3 preceded the transfer, and any additional information the
4 department requires. If the application is made for a vessel
5 last previously registered or titled in another state or
6 foreign country, it shall contain this information and any
7 other information the department requires.

8 Sec. 44. Section 535B.1, subsection 11, Code Supplement
9 2011, is amended to read as follows:

10 11. "*Real estate closing services*" means the administrative
11 and clerical services required to carry out the conveyance or
12 transfer of real estate or an interest in real estate located
13 in this state to a purchaser or lender. "*Real estate closing*
14 *services*" include but are not limited to preparing settlement
15 statements, determining that all closing documents conform
16 to the parties' contract requirements, ascertaining that the
17 lender's instructions have been satisfied, conducting a closing
18 conference, receiving and disbursing funds, and completing
19 form documents and instruments selected by and in accordance
20 with instructions of the parties to the transaction. "*Real*
21 *estate closing services*" do not include performing solely ~~notary~~
22 ~~functions~~ notarial acts as provided in chapter 9B.

23 Sec. 45. Section 554.3505, subsection 2, Code 2011, is
24 amended to read as follows:

25 2. A protest is a certificate of dishonor made by a United
26 States consul or vice consul, or a notary public as provided
27 in chapter 9B or other person authorized to administer oaths
28 by the law of the place where dishonor occurs. It may be made
29 upon information satisfactory to that person. The protest must
30 identify the instrument and certify either that presentment
31 has been made or, if not made, the reason why it was not made,
32 and that the instrument has been dishonored by nonacceptance
33 or nonpayment. The protest may also certify that notice of
34 dishonor has been given to some or all parties.

35 Sec. 46. Section 558.15, Code 2011, is amended to read as

1 follows:

2 **558.15 ~~Notarial~~ Official stamps or seals of nonresidents**
3 **nonresident public notaries — presumption.**

4 Any ~~notarial~~ official stamp or seal purporting to have been
5 affixed to any instrument in writing, by any notary public as
6 provided in chapter 9B residing elsewhere than in this state,
7 shall be prima facie evidence that the words thereon engraved
8 conform to the requirements of the law of the place where such
9 certificate purports to have been made.

10 Sec. 47. Section 558.20, Code 2011, is amended to read as
11 follows:

12 **558.20 Acknowledgments.**

13 The acknowledgment of any deed, conveyance, or other
14 instrument in writing by which real estate in this state
15 is conveyed or encumbered, whether made within this state,
16 outside this state, outside the United States, or under federal
17 authority, shall comply with the provisions of chapter 9E 9B.

18 Sec. 48. Section 558.40, Code 2011, is amended to read as
19 follows:

20 **558.40 Liability of officer.**

21 Any officer, who knowingly misstates a material fact in any
22 of the certificates mentioned in this chapter or chapter 9E 9B,
23 shall be liable for all damages caused thereby, and shall be
24 guilty of a serious misdemeanor.

25 Sec. 49. Section 558.42, Code 2011, is amended to read as
26 follows:

27 **558.42 Acknowledgment as condition precedent.**

28 A document shall not be deemed lawfully recorded, unless
29 it has been previously acknowledged or proved in the manner
30 prescribed in chapter 9E 9B, except that affidavits, and
31 certified copies of petitions in bankruptcy with or without the
32 schedules appended, of decrees of adjudication in bankruptcy,
33 and of orders approving trustees' bonds in bankruptcy, and
34 uniform commercial code financing statements and financing
35 statement changes as provided in chapter 554 need not be thus

1 acknowledged.

2 Sec. 50. Section 589.4, Code 2011, is amended to read as
3 follows:

4 **589.4 Acknowledgments by corporation officers.**

5 The acknowledgments of all deeds, mortgages, or other
6 instruments in writing taken or certified more than ten years
7 earlier, which instruments have been recorded in the recorder's
8 office of any county of this state, including acknowledgments
9 of instruments made by a corporation, or to which the
10 corporation was a party, or under which the corporation was
11 a beneficiary, and which have been acknowledged before or
12 certified by a notary public as provided in chapter 9B who was
13 at the time of the acknowledgment or certifying a stockholder
14 or officer in the corporation, are legal and valid official
15 acts of the notaries public, and entitle the instruments to be
16 recorded, anything in the laws of the state of Iowa in regard
17 to acknowledgments to the contrary notwithstanding. This
18 section does not affect pending litigation.

19 Sec. 51. Section 589.5, Code 2011, is amended to read as
20 follows:

21 **589.5 Acknowledgments by stockholders.**

22 All deeds and conveyances of lands within this state
23 executed more than ten years earlier, but which have been
24 acknowledged or proved according to and in compliance with
25 the laws of this state before a notary public as provided
26 in chapter 9B or other official authorized by law to take
27 acknowledgments who was, at the time of the acknowledgment,
28 an officer or stockholder of a corporation interested in the
29 deed or conveyance, or otherwise interested in the deeds or
30 conveyances, are, if otherwise valid, valid in law as though
31 acknowledged or proved before an officer not interested in
32 the deeds or conveyances; and if recorded more than ten years
33 earlier, in the respective counties in which the lands are, the
34 records are valid in law as though the deeds and conveyances,
35 so acknowledged or proved and recorded, had, prior to being

1 recorded, been acknowledged or proved before an officer having
2 no interest in the deeds or conveyances.

3 Sec. 52. Section 600.7, subsection 2, paragraph b, Code
4 2011, is amended to read as follows:

5 b. If by any other person, either in the presence of the
6 juvenile court or court in which the adoption petition is filed
7 or before a notary public as provided in chapter 9B.

8 Sec. 53. Section 602.8102, subsection 78, Code 2011, is
9 amended to read as follows:

10 78. Certify an acknowledgment of a written instrument
11 relating to real estate as provided in section ~~9E.10~~ 9B.10 or
12 558.20.

13 Sec. 54. Section 622.86, Code 2011, is amended to read as
14 follows:

15 **622.86 Foreign affidavits.**

16 Those taken out of the state before any judge or clerk of
17 a court of record, or before a notary public as provided in
18 chapter 9B, or a commissioner appointed by the governor of this
19 state to take acknowledgment of deeds in the state where such
20 affidavit is taken, are of the same credibility as if taken
21 within the state.

22 Sec. 55. Section 624.37, subsection 1, Code Supplement
23 2011, is amended to read as follows:

24 1. When the amount due upon judgment is paid off, or
25 satisfied in full, the party entitled to the proceeds thereof,
26 or those acting for that party, must acknowledge satisfaction
27 of the judgment by the execution of an instrument referring to
28 it, duly acknowledged or notarized in the manner prescribed
29 in chapter ~~9E~~ 9B, and filed in the office of the clerk in
30 every county wherein the judgment is a lien. A failure to
31 acknowledge satisfaction of the judgment in such manner within
32 thirty days after having been requested to do so in a writing
33 containing a draft release of the judgment shall subject the
34 delinquent party to a penalty of four hundred dollars to be
35 recovered by a motion filed in the court that rendered the

1 original judgment requesting that the payor of the judgment,
2 if different from the judgment debtor, be subrogated to the
3 rights of the judgment creditor, that the court determine the
4 amount currently owed on the judgment, or any other relief as
5 may be necessary to accomplish payment and satisfaction of the
6 judgment. If the motion relates to a lien of judgment as to
7 specific property, the motion may be filed by a person with an
8 interest in the property.

9 Sec. 56. Section 633.279, subsection 2, paragraph a, Code
10 Supplement 2011, is amended to read as follows:

11 a. An attested will may be made self-proved at the time of
12 its execution, or at any subsequent date, by the acknowledgment
13 thereof by the testator and the affidavits of the witnesses,
14 each made before a person authorized to administer oaths
15 and take acknowledgments under the laws of this state, and
16 evidenced by such person's certificate, under seal, attached
17 or annexed to the will, in form and content substantially as
18 follows:

19 Affidavit

20 State of)
21 County of) ss

22 We, the undersigned,, and, the
23 testator and the witnesses, respectively, whose names are
24 signed to the attached or foregoing instrument, being first
25 duly sworn, declare to the undersigned authority that said
26 instrument is the testator's will and that the testator
27 willingly signed and executed such instrument, or expressly
28 directed another to sign the same in the presence of the
29 witnesses, as a free and voluntary act for the purposes therein
30 expressed; that said witnesses, and each of them, declare to
31 the undersigned authority that such will was executed and
32 acknowledged by the testator as the testator's will in their
33 presence and that they, in the testator's presence, at the
34 testator's request, and in the presence of each other, did
35 subscribe their names thereto as attesting witnesses on the

1 date of the date of such will; and that the testator, at the
2 time of the execution of such instrument, was of full age and
3 of sound mind and that the witnesses were sixteen years of age
4 or older and otherwise competent to be witnesses.

5

6 Testator

7

8 Witness

9

10 Witness

11 Subscribed, sworn and acknowledged before me by,
12 the testator; and subscribed and sworn before me by
13 and, witnesses, this ... day of (month), ...
14 (year)

15

16 Notary Public, or other notarial
17 officer

18 ~~(Seal)~~ (Stamp) authorized to take and certify
19 acknowledgments and
20 administer oaths

21 Sec. 57. Section 633.295, Code 2011, is amended to read as
22 follows:

23 **633.295 Testimony of witnesses.**

24 The proof may be made by the oral or written testimony of
25 one or more of the subscribing witnesses to the will. If such
26 testimony is in writing, it shall be substantially in the
27 following form executed and sworn to after the death of the
28 decedent:

1 In the District Court of Iowa
2 In and for County
3 In the Matter of the Estate of
4, Deceased
5 Probate No.

6 Testimony of Subscribing
7 Witness on Probate of Will.
8 State of)
9 County) ss

10 I,, being first duly sworn, state:
11 I reside in the County of, State of; I
12 knew the testator on the day of (month), ...
13 (year), the date of the instrument, the original or exact
14 reproduction of which is attached hereto, now shown to me,
15 and purporting to be the last will and testament of the said
16, deceased; I am one of the subscribing witnesses to
17 said instrument; at the said date of said instrument, I knew
18, the other subscribing witness; that said instrument was
19 exhibited to me and to the other subscribing witness by the
20 testator, who declared the same to be the testator's last will
21 and testament, and was signed by the testator at,
22 in the County of, State of, on the date shown
23 in said instrument, in the presence of myself and the other
24 subscribing witness; and the other subscribing witness and I
25 then and there, at the request of the testator, in the presence
26 of said testator and in the presence of each other, subscribed
27 our names thereto as witnesses.

28
29 Name of witness
30

31 Address

32 Subscribed and sworn to before me this ... day of
33 (month), ... (year)

34
35 Notary Public in and for

1 the

2 ~~(Seal)~~ (Stamp) State of

3 Sec. 58. Section 633A.4604, subsection 2, Code 2011, is
4 amended to read as follows:

5 2. The certification must contain a statement that the trust
6 has not been revoked, modified, or amended in any manner which
7 would cause the representations contained in the certification
8 of trust to be incorrect and must contain a statement that it
9 is being signed by all of the currently acting trustees of the
10 trust and is sworn and subscribed to under penalty of perjury
11 before a notary public as provided in chapter 9B.

12 DIVISION III

13 EFFECTIVE DATE

14 Sec. 59. EFFECTIVE DATE. This Act takes effect January 1,
15 2013.

16 EXPLANATION

17 GENERAL. This bill is based in part on the Revised Uniform
18 Law on Notarial Acts as proposed by the national conference
19 of commissioners on uniform state laws (tentatively codified
20 under Code chapter 9B), repeals the "Iowa Law on Notarial
21 Acts" (currently codified under Code chapter 9E), and makes
22 conforming changes throughout the Code concerning notaries
23 public. The bill differs from the model act in several
24 respects. For example, it does not include optional provisions
25 requiring a notary public to maintain a journal or pass an
26 examination. The bill also includes provisions that are part
27 of the current law. For example, it requires the secretary
28 of state to notify a notary public of an upcoming expiration.
29 The secretary of state is responsible for administering
30 requirements applicable to notaries public.

31 NOTARIAL OFFICERS. Under the bill, a notarial officer
32 (a notary public or other authorized individual) may take
33 an acknowledgment, administer an oath or affirmation, take
34 a verification on oath or affirmation, witness or attest a
35 signature, certify or attest a copy, and note a protest of a

1 negotiable instrument. The bill requires a notarial officer
2 to have personal knowledge or satisfactory evidence of the
3 identity of someone appearing before the officer for certain
4 notarial acts. The bill requires notaries public to use a
5 stamp, and sets requirements for the stamp and stamping device.
6 It establishes qualifications to become a notary public,
7 including requiring a notary public to be a citizen or legal
8 permanent resident. It provides grounds for the secretary of
9 state to deny, suspend, or otherwise limit a notary public's
10 appointment. It also requires a nonattorney notary public to
11 state in any advertisement that they are not authorized to give
12 legal advice. The bill replaces a reference to a notarial seal
13 with an official stamp.

14 NOTARIAL ACTS. The bill provides for the recognition
15 of notarial acts, under specified procedures, that are
16 performed both within and outside the state. It prescribes
17 requirements for different types of notarial acts as well as
18 certificates that must be executed along with such acts. The
19 bill authorizes a notarial act to be performed in Iowa by a
20 notary public or other designated person (a judge, clerk or
21 deputy clerk of a court, a person authorized by the law of this
22 state to administer oaths, an individual authorized to perform
23 a specific act by the law, or a registrar of vital statistics
24 or a designee). Under the bill, the signature and title of
25 someone performing a notarial act is prima facie evidence that
26 the signature is genuine and that the individual holds the
27 designated title. The bill recognizes a notarial act legally
28 performed in another state, territory, or insular possession
29 of the United States, or on the land of a federally recognized
30 Indian tribe. The bill specifically applies to a notarial act
31 performed with respect to a tangible or electronic record. It
32 requires a notary public who wishes to perform a notarial act
33 involving an electronic record to notify the secretary of state
34 regarding the technology that the notary public will use.

35 RULEMAKING. The bill authorizes the secretary of state to

1 adopt rules necessary to administer the bill.

2 COORDINATING AMENDMENTS. The bill amends a number of
3 provisions which refer to a notary public, by expressly
4 referencing the bill's new Code chapter. The affected Code
5 chapters include those relating to the office of citizens'
6 aide, military justice, elections, vital statistics, health
7 care, family support, transportation and recreation, commercial
8 law, court administration, property conveyances, family law,
9 evidence, and probate.

10 EFFECTIVE DATE. The bill takes effect on January 1, 2013.