

1 AN ACT relating to official documents.

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

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

5 *As used in Sections 1 to 32 of this Act:*

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

11 *(2) "Electronic" means relating to technology having electrical, digital, magnetic,*
12 *wireless, optical, electromagnetic, or similar capabilities;*

13 *(3) "Electronic signature" means an electronic symbol, sound, or process attached to*
14 *or logically associated with a record and executed or adopted by an individual*
15 *with the intent to sign the record;*

16 *(4) "In a representative capacity" means acting as:*

17 *(a) An authorized officer, agent, partner, trustee, or other representative for a*
18 *person other than an individual;*

19 *(b) A public officer, personal representative, guardian, or other representative,*
20 *in the capacity stated in a record;*

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

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

23 *(5) "Notarial act" means an act, whether performed with respect to a tangible or*
24 *electronic record, that a notarial officer may perform under the law of the*
25 *Commonwealth. The term includes taking an acknowledgment, administering an*
26 *oath or affirmation, taking a verification on oath or affirmation, witnessing or*
27 *attesting a signature, certifying or attesting a copy, and noting a protest of a*

- 1 *negotiable instrument;*
- 2 *(6) "Notarial officer" means a notary public or other individual authorized to*
- 3 *perform a notarial act;*
- 4 *(7) "Notary public" means an individual commissioned to perform a notarial act by*
- 5 *the Secretary of State;*
- 6 *(8) "Official stamp" means a physical image affixed to or embossed on a tangible*
- 7 *record or an electronic image attached to or logically associated with an*
- 8 *electronic record;*
- 9 *(9) "Person" means an individual, corporation, business trust, statutory trust, estate,*
- 10 *trust, partnership, limited liability company, association, joint venture, public*
- 11 *corporation, government or governmental subdivision, agency, or*
- 12 *instrumentality, or any other legal or commercial entity;*
- 13 *(10) "Record" means information that is inscribed on a tangible medium or that is*
- 14 *stored in an electronic or other medium and is retrievable in perceivable form;*
- 15 *(11) "Sign" means, with present intent to authenticate or adopt a record:*
- 16 *(a) To execute or adopt a tangible symbol; or*
- 17 *(b) To attach to or logically associate with the record an electronic symbol,*
- 18 *sound, or process;*
- 19 *(12) "Signature" means a tangible symbol or an electronic signature that evidences*
- 20 *the signing of a record;*
- 21 *(13) "Stamping device" means:*
- 22 *(a) A physical device capable of affixing to or embossing on a tangible record*
- 23 *an official stamp; or*
- 24 *(b) An electronic device or process capable of attaching to or logically*
- 25 *associating with an electronic record an official stamp;*
- 26 *(14) "State" means a state of the United States, the District of Columbia, Puerto Rico,*
- 27 *the United States Virgin Islands, or any territory or insular possession subject to*

1 the jurisdiction of the United States; and

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

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

7 Sections 1 to 34 of this Act apply to a notarial act performed on or after July 1, 2017.

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

10 (1) A notarial officer may perform a notarial act authorized by this Act or by law of
11 the Commonwealth other than this Act.

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

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

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

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

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

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

8 (5) A notarial officer who makes or notes a protest of a negotiable instrument shall
 9 determine the matters set forth in KRS 355.3-505.

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

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

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

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

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

23 (a) By means of:

24 1. A passport, driver's license, or government issued nondriver
 25 identification card, which is current or expired not more than three (3)
 26 years before performance of the notarial act; or

27 2. Another form of government identification issued to an individual,

1 which is current or expired not more than three (3) years before
 2 performance of the notarial act, contains the signature or a
 3 photograph of the individual, and is satisfactory to the officer; or

4 **(b) By a verification on oath or affirmation of a credible witness personally**
 5 **appearing before the officer and known to the officer or whom the officer**
 6 **can identify on the basis of a passport, driver's license, or government**
 7 **issued nondriver identification card, which is current or expired not more**
 8 **than three years before performance of the notarial act.**

9 **(3) A notarial officer may require an individual to provide additional information or**
 10 **identification credentials necessary to assure the officer of the identity of the**
 11 **individual.**

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

14 **(1) A notarial officer may refuse to perform a notarial act if the officer is not**
 15 **satisfied that:**

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

18 **(b) The individual's signature is knowingly and voluntarily made.**

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

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

23 **If an individual is physically unable to sign a record, the individual may direct an**
 24 **individual other than the notarial officer to sign the individual's name on the record.**

25 **The notarial officer shall insert "Signature affixed by (name of other individual) at the**
 26 **direction of (name of individual)" or words of similar import.**

27 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) A notarial act may be performed in the Commonwealth by:

3 (a) A notary public of the Commonwealth;

4 (b) A judge, clerk, or deputy clerk of a court of the Commonwealth;

5 (c) An individual licensed to practice law in the Commonwealth;

6 (d) A county clerk in the exercise of the official functions of the office of clerk
7 within his or her county; or

8 (e) Any other individual authorized to perform the specific act by the law of the
9 Commonwealth.

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

13 (3) The signature and title of a notarial officer described in paragraphs (a), (b), (c),
14 or (d) of subsection (1) of this section conclusively establish the authority of the
15 officer to perform the notarial act.

16 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

17 READ AS FOLLOWS:

18 (1) A notarial act performed in another state has the same effect under the law of the
19 Commonwealth as if performed by a notarial officer of the Commonwealth, if the
20 act performed in that state is performed by:

21 (a) A notary public of that state;

22 (b) A judge, clerk, or deputy clerk of a court of that state; or

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

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

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

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

6 (1) A notarial act performed under the authority and in the jurisdiction of a federally
 7 recognized Indian tribe has the same effect as if performed by a notarial officer
 8 of the Commonwealth, if the act performed in the jurisdiction of the tribe is
 9 performed by:

10 (a) A notary public of the tribe;

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

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

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

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

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

23 (1) A notarial act performed under federal law has the same effect under the law of
 24 the Commonwealth as if performed by a notarial officer of the Commonwealth, if
 25 the act performed under federal law is performed by:

26 (a) A judge, clerk, or deputy clerk of a court;

27 (b) An individual in military service or performing duties under the authority of

1 military service who is authorized to perform notarial acts under federal
 2 law;

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

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

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

9 (3) The signature and title of an officer described in paragraphs (a), (b), or (c) of
 10 subsection (1) of this section conclusively establish the authority of the officer to
 11 perform the notarial act.

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

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

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

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

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

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

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

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

12 (1) As used in this section:

13 (a) "Communication technology" means an electronic device or process that
 14 allows an individual located outside the United States and a notary public
 15 located in the Commonwealth to communicate with each other by sight and
 16 sound;

17 (b) "Identity proofing" means a process or service by which a third person
 18 provides a notary public with a reasonable means to verify the identity of an
 19 individual by a review of personal information from public or proprietary
 20 data sources; and

21 (c) "Outside the United States" means outside the geographic boundaries of
 22 the United States, Puerto Rico, the United States Virgin Islands, and any
 23 territory or insular possession subject to the jurisdiction of the United
 24 States.

25 (2) A notary public in the Commonwealth may perform by means of communication
 26 technology a notarial act relating to a statement made in or signature executed
 27 on a record by an individual located outside the United States if:

1 (a) The notary public has:

2 1. Personal knowledge under subsection (1) of Section 6 of this Act of
3 the identity of the individual; or

4 2. Satisfactory evidence under subsection (4) of this section of the
5 identity of the individual;

6 (b) The record;

7 1. Is to be filed with or relates to a matter before a court, governmental
8 entity, public official, or other entity located in the territorial
9 jurisdiction of the United States; or

10 2. Involves property located in the territorial jurisdiction of, or a
11 transaction substantially connected with, the United States;

12 (c) The notary public is able, by use of tamper-evident technology or personal
13 acknowledgement of the individual, reasonably to identify the record before
14 the notary public as the same record in which the individual made the
15 statement or on which the individual executed the signature; and

16 (d) The act of making the statement or signing the record is not prohibited by
17 the foreign state, as defined in Section 13 of this Act, in which the
18 individual is located.

19 (3) If a notarial act relates to a statement made in or a signature executed on a
20 record by an individual located outside the United States, the individual may
21 comply with Section 5 of this Act by appearing before the notary public by means
22 of communication technology.

23 (4) In addition to the methods permitted by subsection (1) of Section 6 of this Act for
24 identification of an individual, a notary public has satisfactory evidence of the
25 identity of an individual appearing before the notary public by means of
26 communication technology if the notary public reasonably can identify the
27 individual by means of identity proofing.

1 (5) In addition to the authority of a notary public under Section 7 of this Act to
2 refuse to perform a notarial act, a notary public may refuse to perform a notarial
3 act under this section if the notary public is not satisfied that the individual is
4 located outside the United States.

5 (6) If a notarial act involves a statement made in or a signature executed on a record
6 by an individual by means of communication technology, the certificate of
7 notarial act required by Section 15 of this Act must indicate that the individual
8 making the statement or signing the record declared to the notary public that the
9 individual was located outside the United States at the time the notarial act was
10 performed.

11 (7) If a notarial act involves the use of communication technology, the notary public
12 shall retain a video and audio copy of the performance of the notarial act.

13 (8) The following short-form certificates of notarial acts performed with regard to an
14 individual located outside the United States are sufficient for the purposes
15 indicated, if completed with the information required by subsection (6) of this
16 section and subsections (1) and (2) of Section 15 of this Act:

17 (a) For a verification on oath or affirmation by an individual located outside the
18 United States:

19 State of _____

20 [County] of _____

21 Signed and sworn to (or affirmed) before me by use of communication technology on
22 _____ by _____, who declared that he or she is located

23 Date Name(s) of individual(s)

24 in _____ and that this record is to be filed with or relates to a
25 matter before a court, governmental entity, public official, or other entity located in the
26 territorial jurisdiction of the United States, or involves property located in the
27 territorial jurisdiction of, or a transaction substantially connected with, the United

1 States.

2 _____

3 Signature of notary public

4 (Place stamp here)

5 [_____]

6 Title of office

7 [My commission expires: _____];

8 (b) For an acknowledgement in an individual capacity by an individual located
9 outside the United States:

10 State of _____

11 [County] of _____

12 This record was acknowledged before me by use of communication technology on

13 _____ by _____, who declared that he or she is located

14 Date _____ Name(s) of individual(s)

15 in _____ and that this record is to be filed with or relates to a
16 matter before a court, governmental entity, public official, or other entity located in the
17 territorial jurisdiction of the United States, or involves property located in the
18 territorial jurisdiction of, or a transaction substantially connected with, the United
19 States.

20 _____

21 Signature of notary public

22 (Place stamp here)

23 [_____]

24 Title of office

25 [My commission expires: _____];

26 (c) For an acknowledgement in a representative capacity by an individual located
27 outside the United States:

1 State of _____

2 [County] of _____

3 This record was acknowledged before me by use of communication technology on

4 _____ (Date) by _____ (Name(s) of individual(s)) as (type of

5 authority, such as officer or trustee) of (name of party on behalf of whom record was

6 executed), who declared that he or she is located in _____ and that

7 this record is to be filed with or relates to a matter before a court, governmental entity,

8 public official, or other entity located in the territorial jurisdiction of the United States,

9 or involves property located in the territorial jurisdiction of, or a transaction

10 substantially connected with, the United States.

11 _____

12 Signature of notary public

13 (Place stamp here)

14 [_____]

15 Title of office

16 [My commission expires: _____]; and

17 (d) For witnessing or attesting a signature by an individual located outside the

18 United States:

19 State of _____

20 [County] of _____

21 Signed [or attested] before me by use of communication technology on

22 _____ by _____, who declared that he or she is located

23 Date Name(s) of individual(s)

24 in _____ and that this record is to be filed with or relates to a

25 matter before a court, governmental entity, public official, or other entity located in the

26 territorial jurisdiction of the United States, or involves property located in the

27 territorial jurisdiction of, or a transaction substantially connected with, the United

1 States.

2 _____

3 Signature of notary public

4 (Place stamp here)

5 [_____]

6 Title of office

7 [My commission expires: _____].

8 (9) Before a notary public performs the notary public's initial notarial act under this
9 section, the notary public must notify the Secretary of State that the notary public
10 will be performing notarial acts by communication technology and identify the
11 communication technology and any provider of third-person identity verification
12 on whom the notary public intends to rely on for identity proofing. If the
13 Secretary of State has established standards for approval of communication
14 technology under subsection (10) of this section and Section 27 of this Act, the
15 communication technology must conform to the standards. If the communication
16 technology conforms to the standards, the Secretary of State shall approve the use
17 of the communication technology.

18 (10) The Secretary of State may adopt rules regarding performance of a notarial act
19 with respect to an individual located outside the United States. The rules may:

20 (a) Prescribe the means of performing a notarial act involving communication
21 technology to communicate with an individual located outside the United
22 States;

23 (b) Establish standards for the approval of communication technology;

24 (c) Approve providers of third-person identity verification and the process of
25 identity proofing; and

26 (d) Establish standards for the retention of a video and audio copy of the
27 performance of a notarial act under this Act.

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

3 (1) A notarial act must be evidenced by a certificate. The certificate must:

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

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

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

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

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

12 (2) If a notarial act regarding a tangible record is performed by a notary public, an
13 official stamp must be affixed to or embossed on the certificate. If a notarial act is
14 performed regarding a tangible record by a notarial officer other than a notary
15 public and the certificate contains the information specified in paragraphs (a),
16 (b), (c), and (d) of subsection (1) of this section, an official stamp may be affixed
17 to or embossed on the certificate. If a notarial act regarding an electronic record
18 is performed by a notarial officer and the certificate contains the information
19 specified in paragraphs (b), (c), and (d) of subsection (1) of this section, an
20 official stamp may be attached to or logically associated with the certificate.

21 (3) A certificate of a notarial act is sufficient if it meets the requirements of
22 subsections (1) and (2) of this section and:

23 (a) Is in a short form set forth in Section 16 of this Act;

24 (b) Is in a form otherwise permitted by the law of the Commonwealth;

25 (c) Is in a form permitted by the law applicable in the jurisdiction in which the
26 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 Sections 4, 5, and 6
2 of this Act or law of this state other than this Act.

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
5 specified in Sections 4, 5, and 6.

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

8 (6) If a notarial act is performed regarding a tangible record, a certificate must be
9 part of, or securely attached to, the record. If a notarial act is performed
10 regarding an electronic record, the certificate must be affixed to, or logically
11 associated with, the electronic record. If the Secretary of State has established
12 standards pursuant to Section 27 for attaching, affixing, or logically associating
13 the certificate, the process must conform to the standards.

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

16 The following short form certificates of notarial acts are sufficient for the
17 purposes indicated, if completed with the information required by subsections (1) and
18 (2) of Section 15 of this Act:

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

20 State of _____

21 [County] of _____

22 This record was acknowledged before me on _____ by _____

23 _____ Date Name(s) of individual(s)

24 _____

25 Signature of notarial officer

26 Stamp

27 [_____]

1 Title of office

2 [My commission expires: _____];

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

4 State of _____

5 [County] of _____

6 This record was acknowledged before me on _____ by _____

7 Date Name(s) of individual(s)

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

10 _____

11 Signature of notarial officer

12 Stamp

13 [_____]

14 Title of office

15 [My commission expires: _____];

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

17 State of _____

18 [County] of _____

19 Signed and sworn to (or affirmed) before me on _____ by _____

20 Date Name(s) of individual(s)

21 making statement

22 _____

23 Signature of notarial officer

24 Stamp

25 [_____]

26 Title of office

27 [My commission expires: _____];

1 (4) For witnessing or attesting a signature:

2 State of _____

3 [County] of _____

4 Signed [or attested] before me on _____ by _____

5 _____ Date _____ Name(s) of individual(s)

6 _____

7 Signature of notarial officer

8 Stamp

9 [_____]

10 Title of office

11 [My commission expires: _____]; and

12 (5) For certifying a copy of a record:

13 State of _____

14 [County] of _____

15 I certify that this is a true and correct copy of a record in the possession

16 of _____.

17 Dated _____

18 _____

19 Signature of notarial officer

20 Stamp

21 [_____]

22 Title of office

23 [My commission expires: _____].

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

26 The official stamp of a notary public must:

27 (1) Include the notary public’s name, jurisdiction, commission expiration date, and

1 other information required by the Secretary of State; and

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

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

6 (1) A notary public is responsible for the security of the notary public's stamping
7 device and may not allow another individual to use the device to perform a
8 notarial act. On resignation from, or the revocation or expiration of, the notary
9 public's commission, or on the expiration of the date set forth in the stamping
10 device, if any, the notary public shall disable the stamping device by destroying,
11 defacing, damaging, erasing, or securing it against use in a manner that renders
12 it unusable. On the death or adjudication of incompetency of a notary public, the
13 notary public's personal representative or guardian or any other person
14 knowingly in possession of the stamping device shall render it unusable by
15 destroying, defacing, damaging, erasing, or securing it against use in a manner
16 that renders it unusable.

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

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

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

26 (2) A journal may be created on a tangible medium or in an electronic format. A
27 notary public shall maintain only one journal at a time to chronicle all notarial

1 acts, whether those notarial acts are performed regarding tangible or electronic
2 records. If the journal is maintained on a tangible medium, it must be a
3 permanent, bound register with numbered pages. If the journal is maintained in
4 an electronic format, it must be in a permanent, tamper-evident electronic format
5 complying with regulations promulgated pursuant to Section 27 of this Act.

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

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

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

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

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

14 (e) If identity of the individual is based on satisfactory evidence, a brief
15 description of the method of identification and the identification credential
16 presented, if any, including the date of issuance and expiration of any
17 identification credential; and

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

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

21 (5) On resignation from, or the revocation or suspension of, a notary public's
22 commission, the notary public shall retain the notary public's journal in
23 accordance with subsection (1) of this section and inform the Secretary of State
24 where the journal is located.

25 (6) Instead of retaining a journal as provided in subsections (1) and (5) of this
26 section, a current or former notary public may transmit the journal to the
27 Secretary of State or a repository approved by the Secretary of State.

1 (7) On the death or adjudication of incompetency of a current or former notary
 2 public, the notary public's personal representative or guardian or any other
 3 person knowingly in possession of the journal shall transmit it to the Secretary of
 4 State or a repository approved by the Secretary of State.

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

7 (1) A notary public may select one or more tamper-evident technologies to perform
 8 notarial acts with respect to electronic records. A person may not require a notary
 9 public to perform a notarial act with respect to an electronic record with a
 10 technology that the notary public has not selected.

11 (2) Before a notary public performs the notary public's initial notarial act with
 12 respect to an electronic record, a notary public shall notify the Secretary of State
 13 that the notary public will be performing notarial acts with respect to electronic
 14 records and identify the technology the notary public intends to use. If the
 15 Secretary of State has established standards for approval of technology pursuant
 16 to Section 27 of this Act, the technology must conform to the standards. If the
 17 technology conforms to the standards, the Secretary of State shall approve the use
 18 of the technology.

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

21 (1) An individual qualified under subsection (2) of this section may apply to the
 22 Secretary of State for a commission as a notary public. The applicant shall
 23 comply with and provide the information required by regulations promulgated
 24 pursuant to Section 27 of this Act and pay any application fee.

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

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

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

- 1 (c) Be a resident of the county from which he or she makes his or her
2 application or be principally employed in the county from which he or she
3 makes his or her application;
- 4 (d) Be able to read and write;
- 5 (e) Be capable of discharging the duties imposed upon him or her by this Act;
- 6 (f) Not be disqualified to receive a commission under Section 23 of this Act;
7 and
- 8 (g) Have passed the examination required under Section 22 of this Act.
- 9 (3) Before issuance of a commission as a notary public, an applicant for the
10 commission shall execute an oath of office and submit it to the Secretary of State.
- 11 (4) Before issuance of a commission as a notary public, the applicant for a
12 commission shall submit to the Secretary of State an assurance in the form of a
13 surety bond or its functional equivalent. The assurance must be issued by a surety
14 or other entity licensed or authorized to do business in the Commonwealth. The
15 assurance must cover acts performed during the term of the notary public's
16 commission and must be in the form prescribed by the Secretary of State. If a
17 notary public violates law with respect to notaries public in the Commonwealth,
18 the surety or issuing entity is liable under the assurance. The surety or issuing
19 entity shall give thirty (30) days' notice to the Secretary of State before cancelling
20 the assurance. The surety or issuing entity shall notify the Secretary of State not
21 later than thirty (30) days after making a payment to a claimant under the
22 assurance. A notary public may perform notarial acts in this state only during the
23 period that a valid assurance is on file with the Secretary of State.
- 24 (5) On compliance with this section, the Secretary of State shall issue a commission
25 as a notary public to an applicant for a term of four (4) years.
- 26 (6) A commission to act as a notary public authorizes the notary public to perform
27 notarial acts. The commission does not provide the notary public any immunity

1 or benefit conferred by law of this state on public officials or employees.

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

4 (1) An applicant for a commission as a notary public who does not hold a
5 commission in the Commonwealth must pass an examination administered by the
6 Secretary of State or an entity approved by the Secretary of State. The
7 examination must be based on the course of study described in subsection (2) of
8 this section.

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

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

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

19 (a) Failure to comply with the provisions of KRS Chapter 423;

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

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

25 (d) A finding against, or admission of liability by, the applicant or notary public
26 in any legal proceeding or disciplinary action based on the applicant's or
27 notary public's fraud, dishonesty, or deceit;

1 (e) Failure by the notary public to discharge any duty required of a notary
 2 public, whether by KRS Chapter 423, regulations promulgated pursuant to
 3 Section 26 of this Act, or any federal or state law;

4 (f) Use of false or misleading advertising or representation by the notary public
 5 representing that the notary has a duty, right, or privilege that the notary
 6 does not have;

7 (g) Violation by the notary public of a rule of the Secretary of State regarding a
 8 notary public;

9 (h) Denial, refusal to renew, revocation, suspension, or conditioning of a
 10 notary public commission in another state; or

11 (i) Failure of the notary public to maintain an assurance as provided in
 12 subsection (4) of Section 21 of this Act.

13 (2) If the Secretary of State denies, refuses to renew, revokes, suspends, or imposes
 14 conditions on a commission as a notary public, the applicant or notary public is
 15 entitled to timely notice and hearing in accordance with KRS Chapter 13B.

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

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

22 The Secretary of State shall maintain an electronic database of notaries public:

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

25 (2) Which indicates whether a notary public has notified the Secretary of State that
 26 the notary public will be performing notarial acts on electronic records.

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

1 READ AS FOLLOWS:

2 (1) A commission as a notary public does not authorize an individual to:

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

5 (b) Act as an immigration consultant or an expert on immigration matters;

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

9 (c) Receive compensation for performing any of the activities listed in this
10 subsection.

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

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

14 (4) A notary public, other than an attorney licensed to practice law in this state, may
15 not advertise or represent that the notary public may assist persons in drafting
16 legal records, give legal advice, or otherwise practice law. If a notary public who
17 is not an attorney licensed to practice law in this state in any manner advertises
18 or represents that the notary public offers notarial services, whether orally or in a
19 record, including broadcast media, print media, and the Internet, the notary
20 public shall include the following statement, or an alternate statement authorized
21 or required by the Secretary of State, in the advertisement or representation,
22 prominently and in each language used in the advertisement or representation:
23 "I am not an attorney licensed to practice law in this state. I am not allowed to
24 draft legal records, give advice on legal matters, including immigration, or
25 charge a fee for those activities". If the form of advertisement or representation is
26 not broadcast media, print media, or the Internet and does not permit inclusion of
27 the statement required by this subsection because of size, it must be displayed

1 *prominently or provided at the place of performance of the notarial act before the*
2 *notarial act is performed.*

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

6 ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
7 READ AS FOLLOWS:

8 *Except as otherwise provided in subsection (2) of Section 3 of this Act, the failure of a*
9 *notarial officer to perform a duty or meet a requirement specified in this Act does not*
10 *invalidate a notarial act performed by the notarial officer. The validity of a notarial act*
11 *under this Act does not prevent an aggrieved person from seeking to invalidate the*
12 *record or transaction that is the subject of the notarial act or from seeking other*
13 *remedies based on law of the Commonwealth other than this Act or law of the United*
14 *States. This section does not validate a purported notarial act performed by an*
15 *individual who does not have the authority to perform notarial acts.*

16 ➔SECTION 27. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
17 READ AS FOLLOWS:

18 *(1) The Secretary of State may promulgate administrative regulations to implement*
19 *this Act. Promulgated regulations regarding the performance of notarial acts*
20 *with respect to electronic records may not require, or accord greater legal status*
21 *or effect to, the implementation or application of a specific technology or*
22 *technical specification. The regulations may:*

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

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

27 *(c) Include provisions to ensure integrity in the creation, transmittal, storage,*

- 1 or authentication of electronic records or signatures;
- 2 (d) Prescribe the process of granting, renewing, conditioning, denying,
- 3 suspending, or revoking a notary public commission and assuring the
- 4 trustworthiness of an individual holding a commission as notary public;
- 5 (e) Include provisions to prevent fraud or mistake in the performance of
- 6 notarial acts;
- 7 (f) Establish the process for approving and accepting surety bonds and other
- 8 forms of assurance under subsection (4) of Section 20 of this Act; and
- 9 (g) Provide for the administration of the examination under subsection 1 of
- 10 Section 22 of this Act and the course of study under subsection (2) of
- 11 Section 22 of this Act.
- 12 (2) In adopting, amending, or repealing regulations about notarial acts with respect
- 13 to electronic records, the Secretary of State shall consider, so far as is consistent
- 14 with this KRS Chapter 423:
- 15 (a) The most recent standards regarding electronic records promulgated by
- 16 national bodies, such as the National Association of Secretaries of State;
- 17 (b) Standards, practices, and customs of other jurisdictions that substantially
- 18 enact the Revised Uniform Law on Notarial Acts; and
- 19 (c) The views of governmental officials and entities and other interested
- 20 persons.

21 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

22 READ AS FOLLOWS:

23 A commission as a notary public in effect on July 1, 2017 shall continue until its date

24 of expiration. A notary public who applies to renew a commission as a notary public on

25 or after July 1, 2017 is subject to and shall comply with the requirements of KRS

26 Chapter 423 and regulations promulgated pursuant to Section 27 of this Act. A notary

27 public, in performing notarial acts after July 1, 2017, shall comply with the

1 requirements of KRS Chapter 423 and regulations promulgated pursuant to Section 26
2 of this Act.

3 →SECTION 29. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
4 READ AS FOLLOWS:

5 This Act does not affect the validity or effect of a notarial act performed before July 1,
6 2017.

7 →SECTION 30. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
8 READ AS FOLLOWS:

9 In applying and construing this Act, consideration must be given to the need to
10 promote uniformity of the law with respect to its subject matter among states that enact
11 it.

12 →SECTION 31. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
13 READ AS FOLLOWS:

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

19 →SECTION 32. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
20 READ AS FOLLOWS:

21 Sections 1 to 32 of this Act may be cited as the Revised Uniform Law on Notarial Acts.

22 →Section 33. KRS 369.103 is amended to read as follows:

23 (1) Except as otherwise provided in subsection (2) of this section, KRS 369.101 to
24 369.120 applies to electronic records and electronic signatures relating to a
25 transaction.

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

1 (a) A law governing the creation and execution of wills, codicils, or testamentary
2 trusts;

3 and

4 (b) KRS Chapter 355 other than KRS 355.1-107 and 355.1-206, and Articles 2
5 and 2A of KRS Chapter 355[;

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

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

9 (3) KRS 369.101 to 369.120 applies to an electronic record or electronic signature
10 otherwise excluded from the application of KRS 369.101 to 369.120 under
11 subsection (2) of this section to the extent it is governed by a law other than those
12 specified in subsection (2) of this section.

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

15 ➔Section 34. The following KRS sections are repealed:

16 423.010 Appointment, term, and qualifications of notaries -- County clerk has powers of
17 notary when acting in capacity as clerk.

18 423.020 Notary may act in any county -- Certification of notary's authority.

19 423.030 Protests to be recorded -- Copies as evidence.

20 423.040 Notice of dishonor -- To whom sent.

21 423.050 Records of notary to be delivered to county clerk, when.

22 423.060 Foreign notary -- When protest by is evidence.

23 423.070 Commissioners of foreign deeds -- Appointment, term.

24 423.080 Powers of commissioners.

25 423.110 Recognition of notarial acts performed outside this state.

26 423.130 Certificate of person taking acknowledgment.

27 423.140 Recognition of certificate of acknowledgment.

- 1 423.150 Certificate of acknowledgment.
- 2 423.160 Short forms of acknowledgment.
- 3 423.170 Acknowledgments not affected by KRS 423.110 to 423.190.
- 4 423.180 Uniformity of interpretation.
- 5 423.190 Short title.
- 6 423.200 Admission of documents to the public record.
- 7 423.990 Penalties.
- 8 ➔Section 35. This Act shall take effect July 1, 2017