

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 915 By: Rosino of the Senate  
3 and  
4 Kannady of the House  
5

6 An Act relating to remote online notarial acts;  
7 authorizing recordation of electronic documents in  
8 tangible form; providing for certification of paper  
9 or tangible copies of electronic records; providing  
10 definitions; requiring the Secretary of State to  
11 promulgate standards regulating remote online  
12 notarizations; providing for registration  
13 requirements; authorizing performance of remote  
14 online notarial acts; requiring the creation and  
15 retention of certain electronic records; providing  
16 for use of electronic signatures and seals; providing  
17 procedures for performance of remote online notarial  
18 acts; authorizing fee for remote online notarial  
19 acts; requiring notaries public to destroy electronic  
20 software upon termination of commission; providing  
21 legal recognition of remote online notarial acts;  
22 providing for validity of remote online notarial  
23 acts; providing for applicability of the Remote  
24 Online Notary Act; providing for relation of the  
Remote Online Notary Act to the Electronic Signatures  
in Global and National Commerce Act; providing for  
codification; and providing an effective date.

19 AUTHOR: Add the following House Coauthor: West (Josh)

20 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill  
21 and replace with:

22 "An Act relating to remote online notarial acts;  
23 authorizing recordation of electronic documents in  
24 tangible form; providing for certification of paper  
or tangible copies of electronic records; clarifying  
scope of authority; providing definitions; requiring

1 the Secretary of State to promulgate standards  
2 regulating remote online notarizations; providing  
3 for registration requirements; authorizing  
4 performance of remote online notarial acts;  
5 requiring the creation and retention of certain  
6 electronic records; providing for use of electronic  
7 signatures and seals; providing procedures for  
8 performance of remote online notarial acts;  
9 authorizing fee for remote online notarial acts;  
10 requiring notaries public to destroy electronic  
11 software upon termination of commission; providing  
12 legal recognition of remote online notarial acts;  
13 providing for validity of remote online notarial  
14 acts; providing for applicability of the Remote  
15 Online Notary Act; providing for relation of the  
16 Remote Online Notary Act to the Electronic  
17 Signatures in Global and National Commerce Act;  
18 amending 49 O.S. 2011, Section 5, which relates to  
19 notarial seals and authentication of documents;  
20 authorizing use of electronic signatures and seals;  
21 providing for codification; and providing an  
22 effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 87 of Title 16, unless there is  
created a duplication in numbering, reads as follows:

RECORDATION OF ELECTRONIC DOCUMENTS IN TANGIBLE FORM. A. As  
used in this section:

1. "Document" means information that is:

- a. inscribed on a tangible medium or that is stored in an  
electronic or other medium and is retrievable in  
perceivable form, and

1           b.    eligible to be recorded in the office of the county  
2                    clerk;

3           2.    "Electronic" means relating to technology having electrical,  
4 digital, magnetic, wireless, optical, electromagnetic or similar  
5 capabilities;

6           3.    "Electronic document" means a document created, generated,  
7 sent, communicated, received or stored by electronic means; and

8           4.    "Electronic signature" means an electronic sound, symbol or  
9 process attached to or logically associated with an electronic  
10 document and executed or adopted by a person with the intent to sign  
11 the electronic document.

12          B.    A paper or tangible copy of an electronic document that a  
13 notary public has certified to be a true and correct copy under  
14 subsection C of this section satisfies any requirement of law that,  
15 as a condition for recording, the document:

16           1.    Be an original or be in writing;

17           2.    Be signed or contain an original signature, if the document  
18 contains an electronic signature of the person required to sign the  
19 document; and

20           3.    Be notarized, acknowledged, verified, witnessed or made  
21 under oath, if the document contains an electronic signature of the  
22 person authorized to perform that act, and all other information  
23 required to be included.

1 C. A notary public commissioned under Section 1 of Title 49 of  
2 the Oklahoma Statutes may certify that a paper or tangible copy of  
3 an electronic document is a true and correct copy of the electronic  
4 document if the notary public has:

5 1. Reasonably confirmed that the electronic document is in a  
6 tamper-evident format;

7 2. Detected no changes or errors in any electronic signature or  
8 other information in the electronic document;

9 3. Personally printed or supervised the printing of the  
10 electronic document onto paper or other tangible medium; and

11 4. Not made any changes or modifications to the electronic  
12 document or to the paper or tangible copy thereof other than the  
13 certification described in this subsection.

14 D. A county clerk shall record a paper or tangible copy of a  
15 document that is otherwise entitled to be recorded under the laws of  
16 this state, provided that the paper or tangible copy has been  
17 certified by a notary public to be a true and correct copy of an  
18 electronic document under subsection C of this section as evidenced  
19 by a certificate. The certificate shall be completed in the manner  
20 required in subsection A of Section 118 of Title 49 of the Oklahoma  
21 Statutes.

22 E. The following form of certificate is sufficient for the  
23 purposes of this section if completed in the manner required by  
24 subsection D of this section:

1 State of

2 County of

3 I certify that the preceding or attached document (entitled  
4 (document title)), (dated (document date)), containing (number)  
5 pages is a true and correct copy of an electronic document printed  
6 by me or under my supervision, and that, at the time of printing, no  
7 security features present on the electronic document indicated any  
8 changes or errors in an electronic signature or other information in  
9 the electronic document since its creation or execution.

10 Dated

11 (Signature of notary public)

12 (Notary seal)

13 Notary Public

14 (My commission expires: )

15 F. If a certificate is completed in the manner required by  
16 subsection D of this section and is attached to or made a part of a  
17 paper or tangible document, the certificate is prima facie evidence  
18 that the requirements of subsection C of this section have been  
19 satisfied with respect to the document.

20 G. When any paper or tangible copy of an electronic document  
21 shall have been recorded in the office of the county clerk in the  
22 proper county, and the document was not certified in accordance with  
23 this section, such document shall, from and after the time of the  
24 filing thereof for record, be valid as though such document had, in

1 the first instance, been in all respects duly certified in  
2 accordance with this section. Such document or the record thereof  
3 or a duly authenticated copy thereof shall be competent evidence  
4 without requiring the original to be produced or accounted for to  
5 the same extent that written documents, duly executed and  
6 acknowledged, or the record thereof are competent. This subsection  
7 shall apply to documents recorded before or after January 1, 2020.

8 H. This section does not apply to a plat, plan, map or survey  
9 of real property if under another law of this state or a rule,  
10 regulation or ordinance applicable to a county clerk:

11 1. There are requirements of format or medium for the  
12 execution, creation or recordation of such plat, plan, map or survey  
13 beyond the requirements applicable to a deed to real property; or

14 2. Such plat, plan, map or survey shall be recorded in a  
15 different location than a deed to real property.

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 201 of Title 49, unless there is  
18 created a duplication in numbering, reads as follows:

19 SHORT TITLE. A. Sections 2 through 15 of this act shall be  
20 known and may be cited as the "Remote Online Notary Act".

21 B. Nothing in this act shall permit a notary to take testimony,  
22 certify transcripts, or otherwise exercise any authority of a  
23 certified or licensed shorthand reporter, as provided in Sections  
24 1501 through 1513 of Title 20 of the Oklahoma Statutes.

1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 202 of Title 49, unless there is  
3 created a duplication in numbering, reads as follows:

4 DEFINITIONS. As used in the Remote Online Notary Act:

5 1. "Communication technology" means an electronic device or  
6 process that allows a notary public and a remotely located  
7 individual to communicate with each other by sight and sound;

8 2. "Credential analysis" means a process or service that meets  
9 the standards under Section 4 of this act through which a third  
10 person affirms the validity of an identification credential through  
11 review of public or private data sources;

12 3. "Electronic" means relating to technology having electrical,  
13 digital, magnetic, wireless, optical, electromagnetic or similar  
14 capabilities;

15 4. "Electronic record" means information that is created,  
16 generated, sent, communicated, received or stored by electronic  
17 means;

18 5. "Electronic seal" means an electronic image containing  
19 information attached to or logically associated with an electronic  
20 record that contains the notary public's name exactly as indicated  
21 on the notary's commission, the words "State of Oklahoma" and  
22 "Notary Public", and the notary public's commission number and the  
23 date of expiration of the notary public's commission;

24

1       6. "Electronic signature" means an electronic sound, symbol or  
2 process attached to or logically associated with an electronic  
3 record and executed or adopted by a person with the intent to sign  
4 the electronic record;

5       7. "Foreign state" means a jurisdiction other than the United  
6 States, a state or a federally recognized Indian tribe;

7       8. "Identity proofing" means a process or service that meets  
8 the standards under Section 4 of this act through which a third  
9 person provides a notary public with a means to verify the identity  
10 of a remotely located individual by a review of personal information  
11 from public or private data sources;

12       9. "Notarial act" or "notarization" means an act that a notary  
13 public is authorized to perform under subsection A of Section 6 of  
14 Title 49 of the Oklahoma Statutes or under any other law of this  
15 state;

16       10. "Outside the United States" means a location outside the  
17 geographic boundaries of the United States, Puerto Rico, the United  
18 States Virgin Islands and any territory, insular possession or other  
19 location subject to the jurisdiction of the United States;

20       11. "Person" means an individual, corporation, business trust,  
21 statutory trust, estate, trust, partnership, limited liability  
22 company, association, joint venture, public corporation, government  
23 or governmental subdivision, agency or instrumentality, or any other  
24 legal or commercial entity;



1       12. "Personal knowledge" means knowledge through dealings  
2 sufficient to provide reasonable certainty that the individual has  
3 the identity claimed, and "personally known" and "personally knows"  
4 have corresponding meanings;

5       13. "Principal" means a remotely located individual whose  
6 signature is notarized in a remote online notarization, whether in  
7 an individual or representative capacity, or who makes an oath,  
8 affirmation or acknowledgment in a remote online notarization, other  
9 than in the capacity of a witness;

10       14. "Remote online notarization" or "remote online notarial  
11 act" means a notarial act performed by means of communication  
12 technology under this act;

13       15. "Remote presentation" means transmission to a notary public  
14 through communication technology of an image of a remotely located  
15 individual's identification credential that is of sufficient quality  
16 to enable the notary public to reasonably identify the remotely  
17 located individual and to perform credential analysis;

18       16. "Remotely located individual" means an individual who is  
19 not in the physical presence of the notary public who performs a  
20 remote online notarization; and

21       17. "State" means a state of the United States, the District of  
22 Columbia, Puerto Rico, the United States Virgin Islands or any  
23 territory or insular possession subject to the jurisdiction of the  
24 United States.

1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 203 of Title 49, unless there is  
3 created a duplication in numbering, reads as follows:

4 RULEMAKING; ADMINISTRATION OF STANDARDS. A. The Secretary of  
5 State shall promulgate rules to implement and ensure the effective  
6 administration of the provisions of Sections 1 through 15 of this  
7 act and Sections 1 through 12 of Title 49 of the Oklahoma Statutes.  
8 The rules shall provide standards for:

9 1. Ensuring integrity in the creation, transmittal, storage and  
10 authentication of electronic signatures, electronic seals and  
11 electronic records;

12 2. The means of performing remote online notarial acts;

13 3. Communication technology, credential analysis and identity  
14 proofing;

15 4. The retention of journals and audio and visual recordings  
16 under Section 7 of this act;

17 5. Sufficient forms of notarial certificates for remote online  
18 notarizations; and

19 6. Other matters as deemed necessary by the Secretary of State  
20 to implement and administer the provisions of Sections 1 through 15  
21 of this act and Sections 1 through 12 of Title 49 of the Oklahoma  
22 Statutes.

23 B. In promulgating, amending, supplementing and repealing rules  
24 under this section, the Secretary of State may consider standards

1 adopted by national standard-setting bodies such as the National  
2 Association of Secretaries of State and the Mortgage Industry  
3 Standards and Maintenance Organization, the standards and practices  
4 of other jurisdictions that have laws substantially similar to the  
5 provisions of Title 49 of the Oklahoma Statutes, and the views of  
6 government officials and other interested persons.

7 C. The rules promulgated under this section may be amended,  
8 supplemented and repealed.

9 SECTION 5. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 204 of Title 49, unless there is  
11 created a duplication in numbering, reads as follows:

12 REGISTRATION REQUIRED. A. A notary public appointed and  
13 commissioned under Section 1 of Title 49 of the Oklahoma Statutes  
14 may perform remote online notarizations under Title 49 of the  
15 Oklahoma Statutes if authorized by the Secretary of State. Before a  
16 notary public performs the notary public's initial remote online  
17 notarization, the notary public shall register with the Secretary of  
18 State under subsection C of this section and receive written  
19 authorization from the Secretary of State under subsection D of this  
20 section. An individual may apply for a commission under Section 1  
21 of Title 49 of the Oklahoma Statutes and apply for registration  
22 under this section at the same time.

23 B. A notary public applying to register to perform remote  
24 online notarizations shall pay a fee of Twenty-five Dollars (\$25.00)

1 to the Secretary of State with the application. These funds shall  
2 be deposited in the revolving fund created for the Secretary of  
3 State under Section 276.1 of Title 62 of the Oklahoma Statutes.

4 C. A notary public registering to perform remote online  
5 notarizations under this section shall submit a completed  
6 application using the forms or format required by the Secretary of  
7 State that shall include:

8 1. The full legal name of the applicant and the applicant's  
9 official name as it appears on the applicant's notarial commission  
10 under Section 1 of Title 49 of the Oklahoma Statutes;

11 2. A description of the technology the applicant intends to use  
12 in performing remote online notarizations;

13 3. A statement that the applicant will comply with the  
14 standards under Section 4 of this act; and

15 4. Any other information the Secretary of State may by rule  
16 require.

17 D. If the technology identified by the applicant conforms to  
18 the standards under Section 4 of this act and the applicant has  
19 satisfied the requirements of this section, the Secretary of State  
20 shall approve the use of the technology and issue to the applicant  
21 written authorization to perform remote online notarizations during  
22 the term of the applicant's notarial commission under Section 1 of  
23 Title 49 of the Oklahoma Statutes.

24

1 E. The Secretary of State may deny a notary public's  
2 application for registration under this section:

3 1. For a reason for which the Secretary of State may deny,  
4 refuse to renew or revoke a commission under subsection A of Section  
5 12 of Title 49 of the Oklahoma Statutes;

6 2. For a violation of the rules under Section 4 of this act;

7 3. If the technology identified by the notary public does not  
8 conform to the standards under Section 4 of this act; or

9 4. If any information on the application is missing, inaccurate  
10 or incomplete.

11 F. The term of a notary public's authorization to perform  
12 remote online notarizations begins on the authorization date set by  
13 the Secretary of State and terminates on the commission's expiration  
14 date. The renewal of a notary public's commission pursuant to  
15 Section 1 of Title 49 of the Oklahoma Statutes shall not constitute  
16 the renewal of the notary public's authorization to perform remote  
17 online notarizations under this section.

18 G. A notary public's authorization to perform remote online  
19 notarizations terminates if:

20 1. The notary public's name changes during the term of the  
21 notary public's commission; and

22 2. The notary public elects to use the notary public's new name  
23 under a new commission pursuant to paragraph 2 of subsection B of  
24 Section 11 of Title 49 of the Oklahoma Statutes.

1 H. Nothing in this section shall be construed as prohibiting a  
2 notary public from receiving, installing or utilizing a hardware or  
3 software update to the technology that the notary public identified  
4 under this section if the hardware or software update does not  
5 result in a technology that is materially different from the  
6 technology that the notary public identified under this section.

7 SECTION 6. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 205 of Title 49, unless there is  
9 created a duplication in numbering, reads as follows:

10 AUTHORITY TO PERFORM REMOTE ONLINE NOTARIAL ACTS. A notary  
11 public physically located in this state and authorized to perform  
12 remote online notarizations under Section 5 of this act may perform  
13 a notarial act by means of communication technology for a remotely  
14 located individual who is physically located:

- 15 1. In this state;
- 16 2. Outside this state but not outside the United States; or
- 17 3. Outside the United States if:
  - 18 a. the electronic record:
    - 19 (i) is to be filed with or relates to a matter before
    - 20 a court, governmental entity, public official or
    - 21 other entity subject to the jurisdiction of the
    - 22 United States, or
    - 23 (ii) involves property located in the territorial
    - 24 jurisdiction of the United States or a

1 transaction substantially connected to the United  
2 States, and

- 3 b. the notary public has no actual knowledge that the act  
4 of making the statement or signing the electronic  
5 record is prohibited by the foreign state in which the  
6 remotely located individual is located.

7 SECTION 7. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 206 of Title 49, unless there is  
9 created a duplication in numbering, reads as follows:

10 ELECTRONIC RECORD OF REMOTE ONLINE NOTARIAL ACTS. A. A notary  
11 public shall maintain a journal in a permanent, tamper-evident  
12 electronic format complying with standards promulgated by the  
13 Secretary of State in which the notary public chronicles all remote  
14 online notarial acts that the notary public performs. An entry in a  
15 journal shall be made contemporaneously with the performance of the  
16 remote online notarial act and contain the following information:

- 17 1. The date and time of the remote online notarial act;  
18 2. A description of the document, if any, and type of notarial  
19 act;  
20 3. The full name and address of each principal for whom the  
21 notarial act is performed;  
22 4. If the identity of the principal is based on personal  
23 knowledge, a statement to that effect;

1           5. If identity of the principal is based on credential analysis  
2 and identity proofing, a brief description of the results of the  
3 identity verification process and the identification credential  
4 remotely presented, including the date of issuance and expiration of  
5 the identification credential;

6           6. If identity of the principal is based on oath or affirmation  
7 of a credible witness, the information identified in paragraph 4 or  
8 5 of this subsection, as applicable, that provided a basis for the  
9 notary public's identification of the credible witness, a statement  
10 of the basis by which the credible witness claims personal knowledge  
11 of the principal, the location of the credible witness, and the full  
12 name and address of the credible witness; and

13           7. The fee, if any, charged by the notary public.

14           B. A notary public, or a person acting on behalf of the notary  
15 public, shall create an audio and visual recording of the  
16 performance of each remote online notarial act.

17           C. A notary public shall take reasonable steps to:

18           1. Ensure the integrity, security and authenticity of remote  
19 online notarial acts;

20           2. Maintain a backup of the journal and the audio and visual  
21 recording; and

22           3. Protect the backup from unauthorized use.

23           D. A notary public, a guardian, conservator or agent of the  
24 notary public, or a personal representative of a deceased notary



1 public shall retain the journal and the audio and visual recording  
2 or cause the journal and the recording to be retained by a  
3 depository designated by or on behalf of the person required to  
4 retain the journal and the recording. The recording shall be  
5 retained for at least ten (10) years from the date of the remote  
6 online notarial act. The journal shall be retained for at least ten  
7 (10) years after the performance of the last remote online notarial  
8 act chronicled in the journal.

9 SECTION 8. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 207 of Title 49, unless there is  
11 created a duplication in numbering, reads as follows:

12 USE OF ELECTRONIC SIGNATURE AND SEAL. A. In performing a  
13 remote online notarial act, a notary public shall attach or  
14 logically associate the notary public's electronic signature and  
15 electronic seal to the certificate of notarial act in a tamper-  
16 evident format. The electronic seal shall be capable of being  
17 copied together with the electronic record to which it is attached  
18 or with which it is logically associated. The certificate shall be  
19 attached to or logically associated with the electronic record that  
20 is the subject of the remote online notarial act. If the Secretary  
21 of State has approved standards under Section 4 of this act for  
22 attaching or logically associating the electronic signature,  
23 electronic seal or certificate, the process shall conform to the  
24 standards.

1 B. A notary public's use of an electronic signature and  
2 electronic seal under this section satisfies the requirement of  
3 Section 5 of Title 49 of the Oklahoma Statutes that a notary public  
4 authenticate an official act with an official signature and seal of  
5 office.

6 C. A notary public shall take reasonable steps to protect the  
7 notary public's electronic seal from unauthorized use. A notary  
8 public may not allow another person to use the notary public's  
9 electronic seal.

10 D. A notary public shall immediately notify an appropriate law  
11 enforcement agency and the Secretary of State upon actual knowledge  
12 of the theft or vandalism of the notary public's journal or  
13 electronic seal. A notary public shall immediately notify the  
14 Secretary of State upon actual knowledge of the loss or use by  
15 another person of the notary public's journal or electronic seal.

16 E. Unless required as part of the application under subsection  
17 C of Section 5 of this act, a notary public is not required to  
18 submit an image of the notary public's electronic seal to the  
19 Secretary of State. A notary public's electronic seal is not  
20 subject to the requirement that an impression be filed with and  
21 approved by the Secretary of State under Section 2 of Title 49 of  
22 the Oklahoma Statutes.

23  
24

1 SECTION 9. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 208 of Title 49, unless there is  
3 created a duplication in numbering, reads as follows:

4 REMOTE ONLINE NOTARIZATION PROCEDURES. A. Before performing a  
5 remote online notarial act, a notary public shall:

6 1. Reasonably identify the electronic record before the notary  
7 public as the same electronic record in which the principal made a  
8 statement or on which the principal executed or adopted an  
9 electronic signature; and

10 2. Take reasonable steps to ensure that the communication  
11 technology used in the remote online notarial act is secure from  
12 unauthorized interception.

13 B. In performing a remote online notarial act, a notary shall  
14 reasonably verify the identity of the principal by:

15 1. The notary public's personal knowledge of the principal;

16 2. Each of the following:

17 a. remote presentation by the principal of a current  
18 government-issued identification credential containing  
19 the photograph and signature of the principal,

20 b. credential analysis of the identification credential,  
21 and

22 c. identity proofing of the principal; or

23 3. Oath or affirmation of a credible witness who personally  
24 knows the principal if:

1 a. the credible witness is personally known to the notary  
2 public, or

3 b. the notary public has reasonably verified the identity  
4 of the credible witness under paragraph 2 of this  
5 subsection.

6 C. A notary public may:

7 1. Require a principal or credible witness to provide  
8 additional information necessary to assure the notary public of the  
9 identity of the principal or credible witness; and

10 2. Refuse to perform a remote online notarial act if the remote  
11 online notary public is not satisfied as to the identity of a  
12 principal.

13 D. A credible witness under subsection B of this section who  
14 is:

15 1. Physically present with a principal at the time of a remote  
16 online notarial act may be a remotely located individual if the  
17 credible witness and notary public communicate by means of  
18 communication technology; or

19 2. Physically present with a notary public at the time of a  
20 remote online notarial act may be outside the physical presence of a  
21 principal if the credible witness and principal communicate by means  
22 of communication technology.

23 E. The certificate of notarial act for a remote online  
24 notarization shall indicate that the notarial act was a remote

1 online notarial act performed by means of communication technology.

2 A certificate is sufficient to satisfy the requirement of this  
3 subsection if it:

- 4 1. Complies with standards under Section 4 of this act; or
- 5 2. Is in a form otherwise sufficient under the laws of this  
6 state and contains a statement substantially as follows: "This  
7 remote online notarization involved the use of communication  
8 technology."

9 SECTION 10. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 209 of Title 49, unless there is  
11 created a duplication in numbering, reads as follows:

12 FEES. A notary public, or a person acting for or on behalf of a  
13 notary public, may charge and collect a fee not to exceed Twenty-  
14 five Dollars (\$25.00) for a remote online notarial act.

15 SECTION 11. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 210 of Title 49, unless there is  
17 created a duplication in numbering, reads as follows:

18 TERMINATION OF NOTARY PUBLIC'S COMMISSION. A. Except as  
19 provided by subsection B of this section, a notary public authorized  
20 to perform remote online notarial acts whose commission is  
21 terminated or revoked shall destroy the coding, disk, certificate,  
22 card, software or password that enables the notary public to attach  
23 or logically associate the notary public's electronic signature and  
24 electronic seal to an electronic record. A notary public subject to

1 the provisions of this subsection shall certify compliance with this  
2 subsection to the Secretary of State. On the death or adjudication  
3 of incompetency of a notary public, the notary public's personal  
4 representative or guardian shall comply with the provisions of this  
5 subsection.

6 B. A former notary public whose commission is terminated for a  
7 reason other than revocation is not required to destroy the items  
8 described by subsection A of this section if the former notary  
9 public receives a new commission as a notary public within three (3)  
10 months of the termination of the notary public's former commission.

11 C. A notary public's electronic signature and electronic seal  
12 shall be destroyed under subsection A of this section if:

13 1. The notary public's name changes during the term of the  
14 notary public's commission; and

15 2. The notary public elects to use the notary public's new name  
16 under a new commission pursuant to paragraph 2 of subsection B of  
17 Section 11 of Title 49 of the Oklahoma Statutes.

18 D. The termination of a notary public's commission shall not  
19 affect the retention requirements of subsection D of Section 7 of  
20 this act.

21 SECTION 12. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 211 of Title 49, unless there is  
23 created a duplication in numbering, reads as follows:

24

1       LEGAL RECOGNITION OF REMOTE ONLINE NOTARIAL ACTS.   A.   A remote  
2 online notarization under this act satisfies any requirement of law  
3 of this state that a principal appear before, appear personally  
4 before, or be in the physical presence of a notary public at the  
5 time of the performance of the notarial act.

6       B.   A notary public's verification of a principal's identity  
7 under subsection B of Section 9 of this act constitutes satisfactory  
8 evidence of identity of the principal and satisfies any requirement  
9 of law of this state that the notary public obtain satisfactory  
10 evidence of identity of the principal.

11       SECTION 13.       NEW LAW       A new section of law to be codified  
12 in the Oklahoma Statutes as Section 212 of Title 49, unless there is  
13 created a duplication in numbering, reads as follows:

14       VALIDITY OF REMOTE ONLINE NOTARIAL ACTS.   The failure of a  
15 notary public to perform a duty or meet a requirement specified in  
16 this act does not invalidate a remote online notarial act performed  
17 by the notary public.   The validity of a remote online notarial act  
18 under this act does not prevent an aggrieved person from seeking to  
19 invalidate the electronic record or transaction that is the subject  
20 of the remote online notarial act or from seeking other remedies  
21 based on law of this state other than this chapter or based on law  
22 of the United States.   This section does not validate a purported  
23 remote online notarial act performed by an individual who does not  
24 have the authority to perform remote online notarial acts.

1 SECTION 14. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 213 of Title 49, unless there is  
3 created a duplication in numbering, reads as follows:

4 APPLICABLE LAW; CONFLICT OF LAWS. A. The validity of a remote  
5 online notarization performed under the Remote Online Notary Act is  
6 determined by applying the laws of this state, regardless of the  
7 physical location of the principal at the time of the remote online  
8 notarization.

9 B. In the event of a conflict between a provision of the Remote  
10 Online Notary Act and another provision of Title 49 of the Oklahoma  
11 Statutes or any other law of this state, the provision of the Remote  
12 Online Notary Act controls.

13 SECTION 15. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 214 of Title 49, unless there is  
15 created a duplication in numbering, reads as follows:

16 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL  
17 COMMERCE ACT. The Remote Online Notary Act modifies, limits and  
18 supersedes the federal Electronic Signatures in Global and National  
19 Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify,  
20 limit or supersede Section 101(c) of that act (15 U.S.C. Section  
21 7001(c)) or authorize electronic delivery of any of the notices  
22 described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

23 SECTION 16. AMENDATORY 49 O.S. 2011, Section 5, is  
24 amended to read as follows:



1 Section 5. A. Every notary shall obtain a notarial seal  
2 containing the words "State of Oklahoma" and "Notary Public" and the  
3 notary's name. This seal may be either a metal seal which leaves an  
4 embossed impression or a rubber stamp used in conjunction with a  
5 stamp pad and ink. Each notary shall authenticate all official  
6 acts, attestations, and instruments with this seal; and shall add to  
7 the notary's official signature, the commission number of the notary  
8 and the date of expiration of the commission of the notary. Failure  
9 to add the commission number or the date of expiration of the  
10 commission shall not affect the recordability of the instrument or  
11 the notice given by such recording. This date and commission number  
12 may be a part of the stamp or seal. If any notary public shall  
13 neglect or refuse to attach to the notary's official signature the  
14 date of expiration of the notary's commission, the notary shall be  
15 deemed guilty of a misdemeanor, and upon conviction thereof shall be  
16 fined in any sum not exceeding Fifty Dollars (\$50.00). The maximum  
17 fee a notary may charge and collect for each notarial act is Five  
18 Dollars (\$5.00), except no fee shall be charged for the notarization  
19 of an official absentee ballot affidavit.

20 B. As authorized by Section 15-111 of Title 12A of the Oklahoma  
21 Statutes, regarding electronic transactions, a notary public's use  
22 of an electronic signature and electronic seal satisfies the  
23 requirement in this section to authenticate an official act with an  
24

1 official signature and seal of office. The electronic seal must  
2 legibly reproduce the required elements of the notarial seal.

3 SECTION 17. This act shall become effective January 1, 2020."

4 Passed the House of Representatives the 17th day of April, 2019.

5

6

7 \_\_\_\_\_  
8 Presiding Officer of the House of  
Representatives

9 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2019.

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1 ENGROSSED SENATE  
2 BILL NO. 915

By: Rosino of the Senate

and

Kannady of the House

3  
4  
5  
6 An Act relating to remote online notarial acts;  
7 authorizing recordation of electronic documents in  
8 tangible form; providing for certification of paper  
9 or tangible copies of electronic records; providing  
10 definitions; requiring the Secretary of State to  
11 promulgate standards regulating remote online  
12 notarizations; providing for registration  
13 requirements; authorizing performance of remote  
14 online notarial acts; requiring the creation and  
15 retention of certain electronic records; providing  
16 for use of electronic signatures and seals; providing  
17 procedures for performance of remote online notarial  
18 acts; authorizing fee for remote online notarial  
19 acts; requiring notaries public to destroy electronic  
20 software upon termination of commission; providing  
21 legal recognition of remote online notarial acts;  
22 providing for validity of remote online notarial  
23 acts; providing for applicability of the Remote  
24 Online Notary Act; providing for relation of the  
Remote Online Notary Act to the Electronic Signatures  
in Global and National Commerce Act; providing for  
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 18. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 87 of Title 16, unless there is  
created a duplication in numbering, reads as follows:

RECORDATION OF ELECTRONIC DOCUMENTS IN TANGIBLE FORM.

A. As used in this section:

1 1. "Document" means information that is:

- 2 a. inscribed on a tangible medium or that is stored in an  
3 electronic or other medium and is retrievable in  
4 perceivable form, and  
5 b. eligible to be recorded in the office of the county  
6 clerk;

7 2. "Electronic" means relating to technology having electrical,  
8 digital, magnetic, wireless, optical, electromagnetic, or similar  
9 capabilities;

10 3. "Electronic document" means a document created, generated,  
11 sent, communicated, received, or stored by electronic means;

12 4. "Electronic signature" means an electronic sound, symbol, or  
13 process attached to or logically associated with an electronic  
14 document and executed or adopted by a person with the intent to sign  
15 the electronic document.

16 B. A paper or tangible copy of an electronic document that a  
17 notary public has certified to be a true and correct copy under  
18 subsection C of this section satisfies any requirement of law that,  
19 as a condition for recording, the document:

- 20 1. Be an original or be in writing;  
21 2. Be signed or contain an original signature, if the document  
22 contains an electronic signature of the person required to sign the  
23 document; and  
24

1           3. Be notarized, acknowledged, verified, witnessed, or made  
2 under oath, if the document contains an electronic signature of the  
3 person authorized to perform that act, and all other information  
4 required to be included.

5           C. A notary public commissioned under Section 1 of Title 49 of  
6 the Oklahoma Statutes may certify that a paper or tangible copy of  
7 an electronic document is a true and correct copy of the electronic  
8 document if the notary public has:

9           1. Reasonably confirmed that the electronic document is in a  
10 tamper-evident format;

11           2. Detected no changes or errors in any electronic signature or  
12 other information in the electronic document;

13           3. Personally printed or supervised the printing of the  
14 electronic document onto paper or other tangible medium; and

15           4. Not made any changes or modifications to the electronic  
16 document or to the paper or tangible copy thereof other than the  
17 certification described in this subsection.

18           D. A county clerk shall record a paper or tangible copy of a  
19 document that is otherwise entitled to be recorded under the laws of  
20 this state, provided that the paper or tangible copy has been  
21 certified by a notary public to be a true and correct copy of an  
22 electronic document under subsection C of this section as evidenced  
23 by a certificate. The certificate shall be completed in the manner  
24

1 required in subsection A of Section 118 of Title 49 of the Oklahoma  
2 Statutes.

3 E. The following form of certificate is sufficient for the  
4 purposes of this section if completed in the manner required by  
5 subsection D of this section:

6 State of

7 County of

8 I certify that the preceding or attached document (entitled  
9 (document title)), (dated (document date)), containing (number)  
10 pages is a true and correct copy of an electronic document printed  
11 by me or under my supervision, and that, at the time of printing, no  
12 security features present on the electronic document indicated any  
13 changes or errors in an electronic signature or other information in  
14 the electronic document since its creation or execution.

15 Dated

16 (Signature of notary public)

17 (Notary seal)

18 Notary Public

19 (My commission expires: )

20 F. If a certificate is completed in the manner required by  
21 subsection D of this section and is attached to or made a part of a  
22 paper or tangible document, the certificate is prima facie evidence  
23 that the requirements of subsection C of this section have been  
24 satisfied with respect to the document.

1 G. When any paper or tangible copy of an electronic document  
2 shall have been recorded in the office of the county clerk in the  
3 proper county, and the document was not certified in accordance with  
4 this section, such document shall, from and after the time of the  
5 filing thereof for record, be valid as though such document had, in  
6 the first instance, been an all respects duly certified in  
7 accordance with this section. Such document or the record thereof  
8 or a duly-authenticated copy thereof shall be competent evidence  
9 without requiring the original to be produced or accounted for to  
10 the same extent that written documents, duly executed and  
11 acknowledged, or the record thereof, are competent. This subsection  
12 shall apply to documents recorded before or after January 1, 2020.

13 H. This section does not apply to a plat, plan, map, or survey  
14 of real property if under another law of this state or a rule,  
15 regulation, or ordinance applicable to a county clerk:

16 1. There are requirements of format or medium for the  
17 execution, creation, or recordation of such plat, plan, map, or  
18 survey beyond the requirements applicable to a deed to real  
19 property; or

20 2. Such plat, plan, map, or survey shall be recorded in a  
21 different location than a deed to real property.

22 SECTION 19. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 201 of Title 49, unless there is  
24 created a duplication in numbering, reads as follows:

1       SHORT TITLE. Sections 2 through 15 shall be known and may be  
2 cited as the "Remote Online Notary Act".

3       SECTION 20.       NEW LAW       A new section of law to be codified  
4 in the Oklahoma Statutes as Section 202 of Title 49, unless there is  
5 created a duplication in numbering, reads as follows:

6       As used in this act:

7       1. "Communication technology" means an electronic device or  
8 process that allows a notary public and a remotely located  
9 individual to communicate with each other by sight and sound;

10       2. "Credential analysis" means a process or service that meets  
11 the standards under Section 4 of this act through which a third  
12 person affirms the validity of an identification credential through  
13 review of public or private data sources;

14       3. "Electronic" means relating to technology having electrical,  
15 digital, magnetic, wireless, optical, electromagnetic, or similar  
16 capabilities;

17       4. "Electronic record" means information that is created,  
18 generated, sent, communicated, received, or stored by electronic  
19 means;

20       5. "Electronic seal" means an electronic image containing  
21 information attached to or logically associated with an electronic  
22 record that contains the notary public's name exactly as indicated  
23 on the notary's commission, the words "State of Oklahoma" and  
24



1 "Notary Public", and the notary public's commission number and the  
2 date of expiration of the notary public's commission;

3 6. "Electronic signature" means an electronic sound, symbol, or  
4 process attached to or logically associated with an electronic  
5 record and executed or adopted by a person with the intent to sign  
6 the electronic record;

7 7. "Foreign state" means a jurisdiction other than the United  
8 States, a state, or a federally recognized Indian tribe;

9 8. "Identity proofing" means a process or service that meets  
10 the standards under Section 4 of this act through which a third  
11 person provides a notary public with a means to verify the identity  
12 of a remotely located individual by a review of personal information  
13 from public or private data sources;

14 9. "Notarial act" or "Notarization" means an act that a notary  
15 public is authorized to perform under subsection A of Section 6 of  
16 Title 49 of the Oklahoma Statutes or under any other law of this  
17 state;

18 10. "Outside the United States" means a location outside the  
19 geographic boundaries of the United States, Puerto Rico, the United  
20 States Virgin Islands, and any territory, insular possession, or  
21 other location subject to the jurisdiction of the United States;

22 11. "Person" means an individual, corporation, business trust,  
23 statutory trust, estate, trust, partnership, limited liability  
24 company, association, joint venture, public corporation, government

1 or governmental subdivision, agency, or instrumentality, or any  
2 other legal or commercial entity;

3 12. "Personal knowledge" means knowledge through dealings  
4 sufficient to provide reasonable certainty that the individual has  
5 the identity claimed, and "personally known" and "personally knows"  
6 have corresponding meanings;

7 13. "Principal" means a remotely located individual whose  
8 signature is notarized in a remote online notarization, whether in  
9 an individual or representative capacity, or who makes an oath,  
10 affirmation, or acknowledgment in a remote online notarization,  
11 other than in the capacity of a witness;

12 14. "Remote online notarization" or "remote online notarial  
13 act" means a notarial act performed by means of communication  
14 technology under this act;

15 15. "Remote presentation" means transmission to a notary public  
16 through communication technology of an image of a remotely located  
17 individual's identification credential that is of sufficient quality  
18 to enable the notary public to reasonably identify the remotely  
19 located individual and to perform credential analysis;

20 16. "Remotely located individual" means an individual who is  
21 not in the physical presence of the notary public who performs a  
22 remote online notarization; and

23 17. "State" means a state of the United States, the District of  
24 Columbia, Puerto Rico, the United States Virgin Islands, or any

1 territory or insular possession subject to the jurisdiction of the  
2 United States.

3 SECTION 21. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 203 of Title 49, unless there is  
5 created a duplication in numbering, reads as follows:

6 RULEMAKING; ADMINISTRATION OF STANDARDS.

7 A. The Secretary of State shall promulgate rules to implement  
8 and ensure the effective administration of this act. The rules  
9 shall provide standards for:

10 1. Ensuring integrity in the creation, transmittal, storage,  
11 and authentication of electronic signatures, electronic seals, and  
12 electronic records;

13 2. The means of performing remote online notarial acts;

14 3. Communication technology, credential analysis, and identity  
15 proofing;

16 4. The retention of journals and audio and visual recordings  
17 under Section 7 of this act;

18 5. Sufficient forms of notarial certificates for remote online  
19 notarizations; and

20 6. Other matters as deemed necessary by the Secretary of State  
21 to implement and administer this act.

22 B. In promulgating, amending, supplementing, and repealing  
23 rules under this section, the Secretary of State may consider  
24 standards adopted by national standard-setting bodies such as the

1 National Association of Secretaries of State and the Mortgage  
2 Industry Standards and Maintenance Organization, the standards and  
3 practices of other jurisdictions that have laws substantially  
4 similar to this act, and the views of government officials and other  
5 interested persons.

6 C. The rules promulgated under this section may be amended,  
7 supplemented, and repealed.

8 SECTION 22. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 204 of Title 49, unless there is  
10 created a duplication in numbering, reads as follows:

11 REGISTRATION REQUIRED.

12 A. A notary public appointed and commissioned under Section 1  
13 of Title 49 of the Oklahoma Statutes may perform remote online  
14 notarizations under this title if authorized by the Secretary of  
15 State. Before a notary public performs the notary public's initial  
16 remote online notarization, the notary public shall register with  
17 the Secretary of State under subsection C of this section and  
18 receive written authorization from the Secretary of State under  
19 subsection D of this section. An individual may apply for a  
20 commission under Section 1 of Title 49 of the Oklahoma Statutes and  
21 apply for registration under this section at the same time.

22 B. A notary public applying to register to perform remote  
23 online notarizations shall pay a fee of Twenty-five Dollars (\$25.00)  
24 to the Secretary of State with the application. These funds shall

1 be deposited in the Revolving Fund created for the Secretary of  
2 State under Section 276.1 of Title 62 of the Oklahoma Statutes.

3 C. A notary public registering to perform remote online  
4 notarizations under this section shall submit a completed  
5 application using the forms or format required by the Secretary of  
6 State that shall include:

7 1. The full legal name of the applicant and the applicant's  
8 official name as it appears on the applicant's notarial commission  
9 under Section 1 of Title 49 of the Oklahoma Statutes;

10 2. A description of the technology the applicant intends to use  
11 in performing remote online notarizations;

12 3. A statement that the applicant will comply with the  
13 standards under Section 4 of this act; and

14 4. Any other information the Secretary of State may by rule  
15 require.

16 D. If the technology identified by the applicant conforms to  
17 the standards under Section 4 of this act and the applicant has  
18 satisfied the requirements of this section, the Secretary of State  
19 shall approve the use of the technology and issue to the applicant  
20 written authorization to perform remote online notarizations during  
21 the term of the applicant's notarial commission under Section 1 of  
22 Title 49 of the Oklahoma Statutes.

23 E. The Secretary of State may deny a notary public's  
24 application for registration under this section:

1           1. For a reason for which the Secretary of State may deny,  
2 refuse to renew, or revoke a commission under subsection A of  
3 Section 12 of Title 49 of the Oklahoma Statutes;

4           2. For a violation of the rules under Section 4 of this act;

5           3. If the technology identified by the notary public does not  
6 conform to the standards under Section 4 of this act; or

7           4. If any information on the application is missing,  
8 inaccurate, or incomplete.

9           F. The term of a notary public's authorization to perform  
10 remote online notarizations begins on the authorization date set by  
11 the Secretary of State and continues as long as the notary public's  
12 commission remains valid. The renewal of a notary public's  
13 commission pursuant to Section 1 of Title 49 of the Oklahoma  
14 Statutes shall constitute the renewal of the notary public's  
15 authorization to perform remote online notarizations under this  
16 section.

17           G. A notary public's authorization to perform remote online  
18 notarizations terminates if:

19           1. The notary public's name changes during the term of the  
20 notary public's commission; and

21           2. The notary public elects to use the notary public's new name  
22 under a new commission pursuant to paragraph 2 of subsection B of  
23 Section 11 of Title 49 of the Oklahoma Statutes.

24

1 H. Nothing in this section shall be construed as prohibiting a  
2 notary public from receiving, installing, or utilizing a hardware or  
3 software update to the technology that the notary public identified  
4 under this section if the hardware or software update does not  
5 result in a technology that is materially different from the  
6 technology that the notary public identified under this section.

7 SECTION 23. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 205 of Title 49, unless there is  
9 created a duplication in numbering, reads as follows:

10 AUTHORITY TO PERFORM REMOTE ONLINE NOTARIAL ACTS.

11 A notary public physically located in this state and authorized  
12 to perform remote online notarizations under Section 5 of this act  
13 may perform a notarial act by means of communication technology for  
14 a remotely located individual who is physically located:

- 15 1. In this state;
- 16 2. Outside this state but not outside the United States; or
- 17 3. Outside the United States if:
  - 18 a. the electronic record:
    - 19 (i) is to be filed with or relates to a matter before
    - 20 a court, governmental entity, public official, or
    - 21 other entity subject to the jurisdiction of the
    - 22 United States, or
    - 23 (2) involves property located in the territorial
    - 24 jurisdiction of the United States or a

1 transaction substantially connected to the United  
2 States, and

3 b. the notary public has no actual knowledge that the act  
4 of making the statement or signing the electronic  
5 record is prohibited by the foreign state in which the  
6 remotely located individual is located.

7 SECTION 24. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 206 of Title 49, unless there is  
9 created a duplication in numbering, reads as follows:

10 ELECTRONIC RECORD OF REMOTE ONLINE NOTARIAL ACTS.

11 A. A notary public shall maintain a journal in a permanent,  
12 tamper-evident electronic format complying with standards  
13 promulgated by the Secretary of State in which the notary public  
14 chronicles all remote online notarial acts that the notary public  
15 performs. An entry in a journal shall be made contemporaneously  
16 with the performance of the remote online notarial act and contain  
17 the following information:

18 1. The date and time of the remote online notarial act;

19 2. A description of the document, if any, and type of notarial  
20 act;

21 3. The full name and address of each principal for whom the  
22 notarial act is performed;

23 4. If the identity of the principal is based on personal  
24 knowledge, a statement to that effect;



1        5. If identity of the principal is based on credential analysis  
2 and identity proofing, a brief description of the results of the  
3 identity verification process and the identification credential  
4 remotely presented, including the date of issuance and expiration of  
5 the identification credential;

6        6. If identity of the principal is based on oath or affirmation  
7 of a credible witness, the information identified in paragraph 4 or  
8 5 of this subsection, as applicable, that provided a basis for the  
9 notary public's identification of the credible witness, a statement  
10 of the basis by which the credible witness claims personal knowledge  
11 of the principal, the location of the credible witness, and the full  
12 name and address of the credible witness; and

13        7. The fee, if any, charged by the notary public.

14        B. A notary public, or a person acting on behalf of the notary  
15 public, shall create an audio and visual recording of the  
16 performance of each remote online notarial act.

17        C. A notary public shall take reasonable steps to:

18        1. Ensure the integrity, security, and authenticity of remote  
19 online notarial acts;

20        2. Maintain a backup of the journal and the audio and visual  
21 recording; and

22        3. Protect the backup from unauthorized use.

23        D. A notary public, a guardian, conservator, or agent of the  
24 notary public, or a personal representative of a deceased notary

1 public shall retain the journal and the audio and visual recording  
2 or cause the journal and the recording to be retained by a  
3 depository designated by or on behalf of the person required to  
4 retain the journal and the recording. The recording shall be  
5 retained for at least ten (10) years from the date of the remote  
6 online notarial act. The journal shall be retained for at least ten  
7 (10) years after the performance of the last remote online notarial  
8 act chronicled in the journal.

9 SECTION 25. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 207 of Title 49, unless there is  
11 created a duplication in numbering, reads as follows:

12 USE OF ELECTRONIC SIGNATURE AND SEAL.

13 A. In performing a remote online notarial act, a notary public  
14 shall attach or logically associate the notary public's electronic  
15 signature and electronic seal to the certificate of notarial act in  
16 a tamper-evident format. The electronic seal shall be capable of  
17 being copied together with the electronic record to which it is  
18 attached or with which it is logically associated. The certificate  
19 shall be attached to or logically associated with the electronic  
20 record that is the subject of the remote online notarial act. If  
21 the Secretary of State has approved standards under Section 4 of  
22 this act for attaching or logically associating the electronic  
23 signature, electronic seal, or certificate, the process shall  
24 conform to the standards.

1 B. A notary public's use of an electronic signature and  
2 electronic seal under this section satisfies the requirement of  
3 Section 5 of Title 49 of the Oklahoma Statutes that a notary public  
4 authenticate an official act with an official signature and seal of  
5 office.

6 C. A notary public shall take reasonable steps to protect the  
7 notary public's electronic seal from unauthorized use. A notary  
8 public may not allow another person to use the notary public's  
9 electronic seal.

10 D. A notary public shall immediately notify an appropriate law  
11 enforcement agency and the Secretary of State upon actual knowledge  
12 of the theft or vandalism of the notary public's journal or  
13 electronic seal. A notary public shall immediately notify the  
14 Secretary of State upon actual knowledge of the loss or use by  
15 another person of the notary public's journal or electronic seal.

16 E. Unless required as part of the application under subsection  
17 C of Section 5 of this act, a notary public is not required to  
18 submit an image of the notary public's electronic seal to the  
19 Secretary of State. A notary public's electronic seal is not  
20 subject to the requirement that an impression be filed with and  
21 approved by the Secretary of State under Section 2 of Title 49 of  
22 the Oklahoma Statutes.

23  
24

1 SECTION 26. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 208 of Title 49, unless there is  
3 created a duplication in numbering, reads as follows:

4 REMOTE ONLINE NOTARIZATION PROCEDURES.

5 A. Before performing a remote online notarial act, a notary  
6 public shall:

7 1. Reasonably identify the electronic record before the notary  
8 public as the same electronic record in which the principal made a  
9 statement or on which the principal executed or adopted an  
10 electronic signature; and

11 2. Take reasonable steps to ensure that the communication  
12 technology used in the remote online notarial act is secure from  
13 unauthorized interception.

14 B. In performing a remote online notarial act, a notary shall  
15 reasonably verify the identity of the principal by:

16 1. The notary public's personal knowledge of the principal;

17 2. Each of the following:

18 a. remote presentation by the principal of a current  
19 government-issued identification credential containing  
20 the photograph and signature of the principal,

21 b. credential analysis of the identification credential,  
22 and

23 c. identity proofing of the principal; or  
24

1           3. Oath or affirmation of a credible witness who personally  
2 knows the principal if:

3           a. the credible witness is personally known to the notary  
4           public, or

5           b. the notary public has reasonably verified the identity  
6           of the credible witness under paragraph 2 of this  
7           subsection.

8           C. A notary public may:

9           1. Require a principal or credible witness to provide  
10 additional information necessary to assure the notary public of the  
11 identity of the principal or credible witness; and

12           2. Refuse to perform a remote online notarial act if the remote  
13 online notary public is not satisfied as to the identity of a  
14 principal.

15           D. A credible witness under subsection B of this section who  
16 is:

17           1. Physically present with a principal at the time of a remote  
18 online notarial act may be a remotely located individual if the  
19 credible witness and notary public communicate by means of  
20 communication technology; or

21           2. Physically present with a notary public at the time of a  
22 remote online notarial act may be outside the physical presence of a  
23 principal if the credible witness and principal communicate by means  
24 of communication technology.

1 E. The certificate of notarial act for a remote online  
2 notarization shall indicate that the notarial act was a remote  
3 online notarial act performed by means of communication technology.  
4 A certificate is sufficient to satisfy the requirement of this  
5 subsection if it:

- 6 1. Complies with standards under Section 4 of this act; or
- 7 2. Is in a form otherwise sufficient under the laws of this  
8 state and contains a statement substantially as follows: "This  
9 remote online notarization involved the use of communication  
10 technology."

11 SECTION 27. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 209 of Title 49, unless there is  
13 created a duplication in numbering, reads as follows:

14 FEES.

15 A notary public, or a person acting for or on behalf of a notary  
16 public, may charge and collect a fee not to exceed Twenty-five  
17 Dollars (\$25.00) for a remote online notarial act.

18 SECTION 28. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 210 of Title 49, unless there is  
20 created a duplication in numbering, reads as follows:

21 TERMINATION OF NOTARY PUBLIC'S COMMISSION.

22 A. Except as provided by subsection B of this section, a notary  
23 public authorized to perform remote online notarial acts whose  
24 commission is terminated or revoked shall destroy the coding, disk,

1 certificate, card, software, or password that enables the notary  
2 public to attach or logically associate the notary public's  
3 electronic signature and electronic seal to an electronic record. A  
4 notary public subject to the provisions of this subsection shall  
5 certify compliance with this subsection to the Secretary of State.  
6 On the death or adjudication of incompetency of a notary public, the  
7 notary public's personal representative or guardian shall comply  
8 with the provisions of this subsection.

9 B. A former notary public whose commission terminated for a  
10 reason other than revocation is not required to destroy the items  
11 described by subsection A of this section if the former notary  
12 public receives a new commission as a notary public within three (3)  
13 months of the termination of the notary public's former commission.

14 C. A notary public's electronic signature and electronic seal  
15 shall be destroyed under subsection A of this section if:

16 1. The notary public's name changes during the term of the  
17 notary public's commission; and

18 2. The notary public elects to use the notary public's new name  
19 under a new commission pursuant to paragraph 2 of subsection B of  
20 Section 11 of Title 49 of the Oklahoma Statutes.

21 D. The termination of a notary public's commission shall not  
22 affect the retention requirements of subsection D of Section 7 of  
23 this act.

24

1 SECTION 29. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 211 of Title 49, unless there is  
3 created a duplication in numbering, reads as follows:

4 LEGAL RECOGNITION OF REMOTE ONLINE NOTARIAL ACTS.

5 A. A remote online notarization under this act satisfies any  
6 requirement of law of this state that a principal appear before,  
7 appear personally before, or be in the physical presence of a notary  
8 public at the time of the performance of the notarial act.

9 B. A notary public's verification of a principal's identity  
10 under subsection B of Section 9 of this act constitutes satisfactory  
11 evidence of identity of the principal and satisfies any requirement  
12 of law of this state that the notary public obtain satisfactory  
13 evidence of identity of the principal.

14 SECTION 30. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 212 of Title 49, unless there is  
16 created a duplication in numbering, reads as follows:

17 VALIDITY OF REMOTE ONLINE NOTARIAL ACTS.

18 The failure of a notary public to perform a duty or meet a  
19 requirement specified in this act does not invalidate a remote  
20 online notarial act performed by the notary public. The validity of  
21 a remote online notarial act under this act does not prevent an  
22 aggrieved person from seeking to invalidate the electronic record or  
23 transaction that is the subject of the remote online notarial act or  
24 from seeking other remedies based on law of this state other than



1 this chapter or based on law of the United States. This section  
2 does not validate a purported remote online notarial act performed  
3 by an individual who does not have the authority to perform remote  
4 online notarial acts.

5 SECTION 31. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 213 of Title 49, unless there is  
7 created a duplication in numbering, reads as follows:

8 APPLICABLE LAW; CONFLICT OF LAWS.

9 A. The validity of a remote online notarization performed under  
10 this act is determined by applying the laws of this state,  
11 regardless of the physical location of the principal at the time of  
12 the remote online notarization.

13 B. In the event of a conflict between a provision of this act  
14 and another provision of this title or any other law of this state,  
15 the provision this act controls.

16 SECTION 32. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 214 of Title 49, unless there is  
18 created a duplication in numbering, reads as follows:

19 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL  
20 COMMERCE ACT.

21 This act modifies, limits, and supersedes the federal Electronic  
22 Signatures in Global and National Commerce Act (15 U.S.C. Section  
23 7001, et seq.) but does not modify, limit, or supersede Section  
24 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize

1 electronic delivery of any of the notices described in Section  
2 103(b) of that act (15 U.S.C. Section 7003(b)).

3 SECTION 33. This act shall become effective January 1, 2020.  
4 Passed the Senate the 25th day of February, 2019.

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\_\_\_\_\_  
Presiding Officer of the Senate

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8 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
9 2019.

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Presiding Officer of the House  
of Representatives

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