

14-14-9. Repealed.

History: Laws 1993, ch. 281, § 9; repealed by Laws 2021, ch. 21, § 36.

ANNOTATIONS

Repeals. — Laws 2021, ch. 21, § 36 repealed 14-14-9 NMSA 1978, as enacted by Laws 1993, ch. 281, § 9, relating to notarial acts affected by the Uniform Law on Notarial Acts, effective January 1, 2022. For provisions of former section, see the 2021 NMSA 1978 on *NMOneSource.com*.

14-14-10. Repealed.

History: Laws 1993, ch. 281, § 10; repealed by Laws 2021, ch. 21, § 36.

ANNOTATIONS

Repeals. — Laws 2021, ch. 21, § 36 repealed 14-14-10 NMSA 1978, as enacted by Laws 1993, ch. 281, § 10, relating to uniformity of application and construction, effective January 1, 2022. For provisions of former section, see the 2021 NMSA 1978 on *NMOneSource.com*.

14-14-11. Repealed.

History: Laws 1993, ch. 281, § 11; repealed by Laws 2021, ch. 21, § 36.

ANNOTATIONS

Repeals. — Laws 2021, ch. 21, § 36 repealed 14-14-11 NMSA 1978, as enacted by Laws 1993, ch. 281, § 11, relating to short title, effective January 1, 2022. For provisions of former section, see the 2021 NMSA 1978 on *NMOneSource.com*.

ARTICLE 14A

Revised Uniform Law on Notarial Acts

14-14A-1. Short title.

Chapter 14, Article 14A NMSA 1978 may be cited as the "Revised Uniform Law on Notarial Acts".

History: Laws 2021, ch. 21, § 1; 2023, ch. 110, § 2.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, changed "Sections 1 through 32 of this act" to "Chapter 14, Article 14A NMSA 1978".

Temporary provisions. — Laws 2021, ch. 21, § 35, effective January 1, 2022, provided that references to the Notary Public Act or the Uniform Law on Notarial Acts shall be deemed to be references to the Revised Uniform Law on Notarial Acts.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-2. Definitions.

In addition to the general definitions provided in Section 12-2A-3 NMSA 1978 of the Uniform Statute and Rule Construction Act [12-2A-1 to 12-2A-20 NMSA 1978], as used in the Revised Uniform Law on Notarial Acts:

A. "acknowledgment" means a declaration by an individual before a notarial officer that:

- (1) the individual has signed a record for the purpose stated in the record; and
- (2) if the record is signed in a representative capacity, the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record;

B. "automatic notarial officer" means any of the following who has registered an official stamp with the secretary of state:

- (1) a judicial officer;
- (2) the secretary of state or a full-time staff member of the secretary of state's office while performing a notarial act within the scope of the secretary of state's or staff member's duties;
- (3) a county clerk or deputy county clerk while performing a notarial act within the scope of the county clerk's or deputy county clerk's duties; and
- (4) an individual who is a member of the state bar of New Mexico and licensed to practice law;

C. "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

D. "electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record;

E. "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe;

F. "in a representative capacity" means acting as:

- (1) an authorized officer, agent, partner, trustee or other representative for a person other than an individual;
- (2) a public officer, personal representative, guardian or other representative, in the capacity stated in a record;
- (3) an agent or attorney-in-fact for a principal; or
- (4) an authorized representative of another in any other capacity;

G. "judicial officer" means:

- (1) a judge of a state court of this state;
- (2) a special commissioner or hearing officer appointed pursuant to supreme court rule and employed by a state court;
- (3) a special master appointed pursuant to supreme court rule or state statute; and
- (4) a court clerk or deputy court clerk of a state court of this state;

H. "licensed to practice law" means a person who is a member of the state bar of New Mexico and, based on such membership, is authorized to practice law before the courts of this state;

I. "notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument, but does not apply to any act that would otherwise be a notarial act if:

- (1) the act is performed by a judicial officer within the scope of the judicial officer's duties; and
- (2) the record is filed in the court of the judicial officer;

J. "notarial officer" means:

- (1) an automatic notarial officer; and

(2) a notary public;

K. "notary public" means an individual commissioned by the secretary of state to be a notary public and authorized by such commission to perform notarial acts pursuant to the Revised Uniform Law on Notarial Acts;

L. "official notary seal" means the great seal of the state of New Mexico, unless the secretary of state has adopted a seal specific for use by notarial officers; provided that as applied to automatic notarial officers, "official notary seal" includes as an option:

(1) for judicial officers, the seal of the court, if the supreme court has approved a seal for such court and the seal has been filed with the secretary of state;

(2) for the secretary of state or a full-time staff member of the secretary of state's office, the seal of the secretary of state, if the secretary of state has approved a seal and the seal has been filed with the secretary of state;

(3) for county clerks or deputy county clerks, the seal of the county, if the board of county commissioners has approved a seal for the county and the seal has been filed with the secretary of state; and

(4) for a person who is licensed to practice law and who is not performing a notarial act pursuant to Paragraphs (1) through (3) of this subsection, a seal approved by the state bar of New Mexico for such purpose and the seal has been filed with the secretary of state;

M. "official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record and includes an official notary seal;

N. "person" also includes a statutory trust, public corporation, government or governmental subdivision, agency or instrumentality;

O. "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

P. "sign" or "subscribe", when used with present intent to authenticate or adopt a record, means to:

(1) execute or adopt a tangible symbol; or

(2) attach to or logically associate with the record an electronic symbol, sound or process;

Q. "signature" means a tangible symbol or an electronic signature that evidences the signing of a record;

R. "stamping device" means:

- (1) a physical device capable of affixing to or embossing on a tangible record an official stamp; or
- (2) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp; and

S. "verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

History: Laws 2021, ch. 21, § 2; 2023, ch. 110, § 3.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, defined "automatic notarial officer," "judicial officer," "licensed to practice law," and "official notary seal," and revised the definitions of "notarial act," "notarial officer," and "notary public"; added a new Subsection B and redesignated former Subsections B through E as Subsections C through F, respectively; added new Subsections G and H and redesignated former Subsections F through H as Subsections I through K, respectively; in Subsection I, in the introductory paragraph, after "negotiable instrument," added "but does not apply to any act that would otherwise be a notarial act if", and added Paragraphs I(1) and I(2); in Subsection J, after "means", deleted "a notary public or other individual authorized to perform a notarial act" and added Paragraphs J(1) and J(2); in Subsection K, after "commissioned", deleted "to perform a notarial act", and after "by the secretary of state", added "to be a notary public and authorized by such commission to perform notarial acts pursuant to the Revised Uniform Law on Notarial Acts"; and added a new Subsection L and redesignated former Subsections I through O as Subsections M through S, respectively.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-3. Authority to perform notarial act.

A. A notarial officer shall perform all notarial acts pursuant to the Revised Uniform Law on Notarial Acts or by law of this state other than the Revised Uniform Law on Notarial Acts.

B. A notarial officer shall not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

C. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

History: Laws 2021, ch. 21, § 3; 2023, ch. 110, § 4.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, in Subsection A, deleted "notary public or".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-4. Requirements for certain notarial acts.

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

B. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

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

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

E. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in Subsection B of Section 55-3-505 NMSA 1978.

History: Laws 2021, ch. 21, § 4.

ANNOTATIONS

Effective dates. — Laws 2021, ch. 21, § 38 made Laws 2021, ch. 21, § 4 effective January 1, 2022.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-5. Personal appearance required; exception authorized for remote notarizations.

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

B. A remotely located individual may comply with this section or with any other requirement of the laws of this state that state that a person appear before a notarial officer at the time of a notarial act by using communication technology to appear before a notarial officer.

C. A notarial officer located in this state may perform a notarial act using communication technology for a remotely located individual if:

(1) the notarial officer:

(a) has personal knowledge of the identity of the individual pursuant to Subsection A of Section 14-14A-6 NMSA 1978;

(b) has taken the required class and has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public pursuant to Subsection B of Section 14-14A-6 NMSA 1978 or this section; or

(c) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(2) the notarial officer is able to reasonably confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(3) the notarial officer, or a person acting on behalf of the notarial officer, creates an audiovisual recording of the performance of the notarial act; and

(4) for a remotely located individual located outside the United States:

(a) the record: 1) is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States; or 2) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States;

(b) the notarial act is deemed to be performed in this state and therefore does not require an apostille in the form otherwise prescribed by the Hague Convention of October 5, 1961; and

(c) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

D. If a notarial act is performed pursuant to this section, the certificate of notarial act required by Section 14-14A-15 NMSA 1978 and the short-form certificate provided in Section 14-14A-15 NMSA 1978 shall indicate that the notarial act was performed using communication technology.

E. A short-form certificate provided pursuant to Section 14-14A-15 NMSA 1978 for a notarial act subject to this section is sufficient if it:

(1) complies with rules adopted under Paragraph (1) of Subsection H of this section; or

(2) is in the form provided in Section 14-14A-15 NMSA 1978 and contains a statement substantially as follows: "This notarial act involved the use of communication technology.".

F. A notarial officer, a guardian, a conservator or an agent of a notarial officer or a personal representative of a deceased notarial officer shall retain the audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted pursuant to Paragraph (4) of Subsection H of this section, the recording must be retained for a period of at least ten years after the recording is made.

G. Before a notarial officer performs the notarial officer's initial notarial act with a remotely located individual under this section, the notarial officer shall notify the secretary of state that the notarial officer will be performing notarial acts with respect to remotely located individuals and identify the technologies the notarial officer intends to use. If the secretary of state has established standards pursuant to Subsection H of this section and Section 14-14A-26 NMSA 1978 for approval of communication technology or identity proofing, the communication technology and identity proofing shall conform to the standards.

H. In addition to adopting rules pursuant to Section 14-14A-26 NMSA 1978, the secretary of state may adopt rules under this section regarding performance of a notarial act. The rules may:

(1) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(2) establish standards for communication technology and identity proofing;

(3) establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(4) establish standards and a period for the retention of an audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section.

I. Before adopting, amending or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state shall consider:

(1) the most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the national association of secretaries of state;

(2) standards, practices and customs of other jurisdictions that have laws substantially similar to this section; and

(3) input from governmental officials and entities and other interested persons.

J. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section, the provider of the communication technology, identity proofing or storage appoints the secretary of state as the provider's agent for service of process in a civil action in this state related to the notarial act.

K. As used in this section:

(1) "communication technology" means an electronic device or process that:

(a) allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(b) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing or speech impairment;

(2) "identity proofing" means a process or service by which a third person provides a notarial officer with the means to verify the identity of a remotely located individual by a review of personal information from public or private data sources;

(3) "outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States; and

(4) "remotely located individual" means an individual who is not in the physical presence of the notarial officer who performs a notarial act under Subsection C of this section.

History: Laws 2021, ch. 21, § 5; 2023, ch. 110, § 5.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, revised personal appearance requirements, and updated certain language; changed each occurrence of "notary public" to "notarial officer" throughout the section; in Subsection C, Subparagraph C(1)(a), after "Section", deleted "6 of the Revised Uniform Law on Notarial Acts" and added "14-14A-6 NMSA 1978", in Subparagraph C(1)(b), after "has", added "taken the required class and has", and after "Section", deleted "6 of the Revised Uniform Law on Notarial Acts" and added "14-14A-6 NMSA 1978", and in Paragraph C(4), added a new Subparagraph C(4)(b) and redesignated former Subparagraph C(4)(b) as Subparagraph C(4)(c); in Subsections D and E, after "Section", deleted "15 of the Revised Uniform Law on Notarial Acts" and added "14-14A-15 NMSA 1978"; and in Subsections G and H, after "Section", deleted "26 of the Revised Uniform Law on Notarial Acts" and added "14-14A-26 NMSA 1978".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-6. Identification of individual.

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

B. A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) by means of:

(a) a passport, driver's license or government-issued nondriver identification card, which is current or expired not more than one year before performance of the notarial act; or

(b) another form of government identification issued to an individual, which is current or expired not more than one year before performance of the notarial act, contains the signature or a photograph of the individual and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer, who is unrelated to and unaffected by the document or transaction, and known to the officer and whom the officer can identify on the basis of a passport, driver's license or government-issued nondriver identification card, which is current or expired not more than one year before performance of the notarial act.

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

History: Laws 2021, ch. 21, § 6.

ANNOTATIONS

Effective dates. — Laws 2021, ch. 21, § 38 made Laws 2021, ch. 21, § 6 effective January 1, 2022.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-7. Authority to refuse to perform notarial acts.

A. A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record; or

(2) the individual's signature is knowingly and voluntarily made.

B. A notarial officer may refuse to perform a notarial act unless refusal is prohibited by a state or federal law other than the Revised Uniform Law on Notarial Acts.

C. In accordance with the Human Rights Act [Chapter 28, Article 1 NMSA 1978], a notary public or notarial officer shall not discriminate in the refusal to perform or the manner in which a notarial act is performed pursuant to the Revised Uniform Law on Notarial Acts.

History: Laws 2021, ch. 21, § 7; 2023, ch. 110, § 6.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, prohibited acts of discrimination as grounds to refuse to perform notarial acts; and in Subsection C, after "discriminate in the", deleted "performance of" and added "refusal to perform or the manner in which", and after "a notarial act", added "is performed".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-8. Signature if individual is unable to sign.

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

History: Laws 2021, ch. 21, § 8.

ANNOTATIONS

Effective dates. — Laws 2021, ch. 21, § 38 made Laws 2021, ch. 21, § 8 effective January 1, 2022.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-9. Notarial acts in this state.

A. A notarial act may be performed in this state by:

- (1) a notary public of this state; or
- (2) an automatic notarial officer of this state.

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

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required unless a state law specifies that an official stamp is not required for that notarial act.

History: Laws 2021, ch. 21, § 9; 2023, ch. 110, § 7.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, clarified and updated language; in Subsection A, Paragraph A(2), deleted " a judge of a court" and added "an automatic notarial officer", and deleted Paragraphs A(3) through A(6); and in Subsection C, after "required", deleted "if the laws of this state require" and added "unless a state law specifies that", and after "official stamp", added "is not required for that notarial act".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-10. Notarial act in another state.

A. A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed in that state is performed by a notarial officer or other individual authorized by the law of that state to perform the notarial act.

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

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required unless a state law specifies that an official stamp is not required by that notarial officer or for that notarial act.

History: Laws 2021, ch. 21, § 10; 2023, ch. 110, § 8.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, in Subsection C, after "official stamp is required", deleted "if the laws of this state require" and added "unless a state law specifies that", and after "official stamp", added "is not required by that notarial officer or for that notarial act".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-11. Notarial act under the authority of a federally recognized Indian nation, tribe or pueblo.

A. A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian nation, tribe or pueblo has the same effect as if performed by a notarial officer of this state if the act performed in the jurisdiction of the nation, tribe or pueblo is performed by a notarial officer or other individual authorized by the written law of the nation, tribe or pueblo to perform the notarial act.

B. The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian nation, tribe or pueblo are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required unless the laws of the nation, tribe or pueblo specify that an official stamp is not required by that notarial officer for that notarial act.

History: Laws 2021, ch. 21, § 11; 2023, ch. 110, § 9.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, recognized notarial acts performed by an Indian nation, tribe or pueblo; in the section heading, added "nation", and "or pueblo"; in Subsection A, added "nation" preceding each occurrence of "tribe", and added "or pueblo" after each occurrence of "tribe"; and in Subsection C, after "unless the laws of the nation, tribe", deleted "require" and added "or pueblo specify that", and after "an official stamp", added "is not required by that notarial officer for that notarial act".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-12. Notarial act under federal authority.

A. A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed under federal law is performed by:

- (1) a judge;
- (2) a court clerk or deputy court clerk;
- (3) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- (4) an individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or
- (5) any other individual authorized by federal law to perform a specified notarial act.

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

C. The signature and title of an officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official

stamp is required unless a law specifies that an official stamp is not required by that federal notarial officer or for that notarial act.

History: Laws 2021, ch. 21, § 12; 2023, ch. 110, § 10.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, required an official stamp unless a law specifies that an official stamp is not required; and in Subsection C, added "An official stamp is required unless a law specifies that an official stamp is not required by that federal notarial officer or for that notarial act.".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-13. Foreign notarial acts.

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

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

C. The signature and official stamp of an individual holding an office described in Subsection B of this section are prima facie evidence that the signature is genuine and the individual holds the designated title. An official stamp is required unless a law of the foreign state specifies that an official stamp is not required by that notarial officer or for that notarial act.

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

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

History: Laws 2021, ch. 21, § 13; 2023, ch. 110, § 11.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, required an official stamp unless a law of the foreign state specifies that an official stamp is not required; and in Subsection C, added "An official stamp is required unless a law of the foreign state specifies that an official stamp is not required by that notarial officer or for that notarial act.".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-14. Certificate of notarial act.

A. A notarial act shall be evidenced by a certificate. The certificate shall:

- (1) be executed contemporaneously with the performance of the notarial act;
- (2) be signed and dated by the notarial officer in the same manner as on file with the secretary of state;
- (3) identify the jurisdiction in which the notarial act is performed;
- (4) contain the title of office of the notarial officer;
- (5) if the notarial officer is a notary public, indicate the notary public's commission number and the date of expiration of the notarial officer's commission; and
- (6) if the notarial officer is an automatic notarial officer:
 - (a) identify the judicial district or area served if the notarial officer is a judicial officer;
 - (b) identify the county served if the notarial officer is a county clerk or deputy county clerk; and
 - (c) identify the state bar number if the notarial officer is an attorney but is not performing a notarial act pursuant to Subparagraph (a) or (b) of this paragraph and is not a judge.

B. If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by an automatic notarial officer and the certificate contains the information specified in Paragraphs (2), (3), (4), (5) and (6) of Subsection A of this section, an official stamp shall be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in Paragraphs (2), (3), (4), (5) and (6) of

Subsection A of this section, an official stamp shall be attached to or logically associated with the certificate.

C. A certificate of a notarial act is sufficient if it meets the requirements of Subsections A and B of this section and:

- (1) is in a short-form set forth in Section 14-14A-15 NMSA 1978;
- (2) is in a form otherwise permitted by the laws of this state;
- (3) is in a form permitted by law applicable in the jurisdiction in which the notarial act was performed; or
- (4) sets forth the actions of the notarial officer, and the actions are sufficient to meet the requirements of the notarial act as provided in Sections 14-14A-4 through 14-14A-6 NMSA 1978 or law of this state other than the Revised Uniform Law on Notarial Acts.

D. By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in Sections 14-14A-4 through 14-14A-6 NMSA 1978.

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

F. If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards pursuant to Section 14-14A-26 NMSA 1978 for attaching, affixing or logically associating the certificate, the process shall conform to the standards.

History: Laws 2021, ch. 21, § 14; 2023, ch. 110, § 12.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, provided requirements for a certificate of notarial acts; in Subsection A, Paragraph A(2), after "notarial officer", deleted "and, if the notarial officer is a notary public; be signed", in Paragraph A(6), added "if the notarial officer is an automatic notarial officer", redesignated former Paragraphs A(7) and A(8) as Subparagraphs A(6)(b) and A(6)(c), respectively, in Subparagraph A(6)(a), after "officer is a", deleted "judge, court clerk or deputy court clerk" and added "judicial officer", in Subparagraph A(6)(c), after "but is not", deleted "in a category identified in Paragraph (6) or (7)" and added "performing a notarial act pursuant to Subparagraph (a) or (b)", and after "of this", deleted "subsection" and added "paragraph"; in Subsection B, after "tangible record by", added "an automatic", after "notarial officer",

deleted "other than a notary public", after the next two occurrences of "(6)", deleted "and (7)"; in Subsection C, Paragraph C(1), after "Section", deleted "15 of the Revised Uniform Law on Notarial Acts" and added "14-14A-15 NMSA 1978", and in Paragraph C(4) and Subsection D, after "Sections", deleted "4, 5 and 6 of the Revised Uniform Law on Notarial Acts" and added "14-14A-4 through 14-14A-6 NMSA 1978"; and in Subsection F, after "Section", deleted "26 of the Revised Uniform Law on Notarial Acts" and added "14-14A-26 NMSA 1978".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

Sufficiency of acknowledgment. — Substantial compliance with this section in regard to acknowledgment is sufficient. *Byers Bros. & Co. Live Stock Comm'n Corp. v. McKenzie*, 1925-NMSC-015, 30 N.M. 487, 239 P. 525 (decided under former 14-14-7 NMSA 1978).

The acknowledgment of a member of a copartnership was sufficient where form used expressed fact of acknowledgment being made, and also that the person making it was known to the official making the acknowledgment. *Byers Bros. & Co. Live Stock Comm'n Corp. v. McKenzie*, 1925-NMSC-015, 30 N.M. 487, 239 P. 525 (decided under former 14-14-7 NMSA 1978).

Insufficient compliance. — An acknowledgment in the following form: "This mortgage was acknowledged before me by O.G. Keysor, this 11th day of April, 1911," was invalid. It was not a substantial compliance with the statutory requirements. *Vorenberg v. Bosserman*, 1913-NMSC-005, 17 N.M. 433, 130 P. 438 (decided under former 14-14-7 NMSA 1978).

Missing recitals. — Where there was no recital that the mortgagor acknowledged that he executed the instrument, or that the person who appeared before the notary was the person described in and who executed the instrument, the acknowledgment was insufficient. *Vorenberg v. Bosserman*, 1913-NMSC-005, 17 N.M. 433, 130 P. 438 (decided under former 14-14-7 NMSA 1978).

14-14A-15. Short-form certificates.

The following short-form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by Subsections A and B of Section 14-14A-14 NMSA 1978:

A. for an acknowledgment in an individual capacity:

State of _____

[County] of _____

This record was acknowledged before me on _____

Date

by _____.

Name(s) of individual(s)

Signature of notarial officer

Stamp

[_____]

Title of office

[New Mexico state bar identification number, judicial district or area, county or notary public commission number and date of commission expiration: _____];

B. for an acknowledgment in a representative capacity:

State of _____

[County] of _____

This record was acknowledged before me on _____ by

Date

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

Signature of notarial officer

Stamp

[_____]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration: _____];

C. for a verification on oath or affirmation:

State of _____

[County] of _____

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

Date

by _____.

Name(s) of individual(s) making statement

Signature of notarial officer

Stamp

[_____]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration: _____];

D. for witnessing or attesting a signature:

State of _____

[County] of _____

Signed (or attested) before me on _____ by

Date

_____.

Name(s) of individual(s)

Signature of notarial officer

Stamp

[_____]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration: _____]; and

E. for certifying a copy of a record:

State of _____

[County] of _____

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

Dated _____

Signature of notarial officer

Stamp

[_____]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration: _____].

History: Laws 2021, ch. 21, § 15; 2023, ch. 110, § 13.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, after "Section", deleted "14 of the Revised Uniform Law on Notarial Acts" and added "14-4A-14".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-16. Official stamp.

The official stamp of a notarial officer shall:

A. include the notarial officer's name, New Mexico state bar identification number if the notary public is licensed to practice law, judicial district or area served if the notarial officer is a judge, court clerk or deputy court clerk, county if the notarial officer is a county clerk or deputy county clerk or notary public commission number and date of commission expiration, the notarial officer's official notary seal and other information required by the secretary of state;

B. be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated; and

C. be filed with the secretary of state before the notarial officer performs the notarial officer's initial notarial act.

History: Laws 2021, ch. 21, § 16; 2023, ch. 110, § 14.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, revised requirements for an official stamp; and in Subsection A, after "officer's name", deleted "jurisdiction and", after "licensed to practice law", deleted "in this state", and after "expiration", added "the notarial officer's official notary seal".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-17. Stamping device.

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

B. If a notarial officer's stamping device is lost or stolen, the notarial officer or the notarial officer's personal representative or guardian shall promptly notify the secretary of state on discovering that the device is lost or stolen.

History: Laws 2021, ch. 21, § 17; 2023, ch. 110, § 15.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, changed each occurrence of "notary public" to "notarial officer" throughout the section.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-18. Journal.

A. A notarial officer in this state shall maintain a journal in which the notarial officer chronicles all notarial acts that the notarial officer performs. The notarial officer shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal.

B. A journal may be created on a tangible medium or in an electronic format. A notarial officer performing notarial acts pursuant to Subsection E of this section shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records; provided that a notarial officer may keep a journal in a tangible medium for tangible records and an electronic journal for electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

C. An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (1) the date and time of the notarial act;
- (2) a description of the record, if any, and type of notarial act;
- (3) the full name and address of each individual for whom the notarial act is performed;
- (4) if identity of the individual is based on personal knowledge, a statement to that effect;
- (5) if identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential; and
- (6) the fee, if any, charged by the notarial officer.

D. If a notarial officer's journal is lost or stolen, the notarial officer shall promptly notify the secretary of state on discovering that the journal is lost or stolen.

E. Pursuant to the requirements provided in Subsections B and C of this section, a notarial officer licensed to practice law shall maintain a journal when performing notarial acts for members of the public unrelated to an established attorney-client relationship.

F. On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with Subsection A of this section and inform the secretary of state of where the journal is located.

G. Instead of retaining a journal as provided in Subsections A and F of this section, a current or former notarial officer may transmit the journal to the secretary of state, the state records administrator or a repository approved by the secretary of state.

H. On the death or adjudication of incompetency of a current or former notarial officer, the notarial officer's personal representative or guardian or any other person knowingly in possession of the journal shall transmit the journal to the secretary of state, the state records officer or a repository approved by the secretary of state.

History: Laws 2021, ch. 21, § 18; 2023, ch. 110, § 16.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, changed each occurrence of "notary public" to "notarial officer" throughout the section; and in Subsection E, after "licensed to practice law", deleted "in this state".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-19. Notification regarding performance of notarial act on electronic record; selection of technology.

A. A notarial officer shall select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notarial officer to perform a notarial act with respect to an electronic record with a technology that the notarial officer has not selected.

B. Before performing the notarial officer's initial notarial act with respect to an electronic record, a notarial officer shall notify the secretary of state that the notarial officer will be performing notarial acts with respect to electronic records and identify the technology the notarial officer intends to use. If the secretary of state has established standards for approval of technology pursuant to Section 14-14A-26 NMSA 1978, the

technology must conform to the standards. If the technology conforms to those standards, the secretary of state shall approve the use of the technology.

History: Laws 2021, ch. 21, § 19; 2023, ch. 110, § 17.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, changed each occurrence of "notary public" to "notarial officer" throughout the section; and in Subsection B, after "Section", deleted "26 of the Revised Uniform Law on Notarial Acts" and added "14-14A-26 NMSA 1978".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-20. Commission as notary public qualifications; no immunity or benefit.

A. An individual may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the secretary of state and pay any application fee.

B. To qualify for the commission as a notary public, an applicant:

- (1) shall be at least eighteen years of age;
- (2) shall be a resident of or have a place of employment in this state;
- (3) shall be able to read and write English;
- (4) shall not be disqualified to receive a commission under Section 14-14A-22 NMSA 1978;
- (5) shall have passed the examination required pursuant to Subsection A of Section 14-14A-21 NMSA 1978; and
- (6) if a judicial officer, the secretary of state or a full-time staff member of the secretary of state's office, county clerk or deputy county clerk who is not licensed to practice law, may also be commissioned as a notary public to perform notarial acts outside the individual's scope of duties as an automatic notarial officer.

C. Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office pursuant to the laws of this state and submit it to the secretary of state.

D. Before issuance of a commission as a notary public, the notary public or applicant for a commission shall submit to the secretary of state an assurance in the form of a surety bond or its functional equivalent in the amount of ten thousand dollars (\$10,000). The assurance must be issued by a surety or other entity licensed or authorized to do business in this state. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the secretary of state. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty days notice to the secretary of state before canceling the assurance. The surety or issuing entity shall notify the secretary of state not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

E. On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of four years.

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

G. At least thirty days before expiration of each notarial officer's commission, the secretary of state shall mail a notice of expiration to the notarial officer's mailing address of record. A notarial officer may be reappointed upon making an application in the same manner as required for an original application.

History: Laws 2021, ch. 21, § 20; 2023, ch. 110, § 18.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, revised the qualifications for the commission as a notary public; in Subsection B, deleted former Paragraph B(2), which provided "be a citizen or permanent legal resident of the United States", and redesignated former Paragraphs B(3) through B(6) as Paragraphs B(2) through B(5), respectively, in Paragraph B(4), after "Section", deleted "22 of the Revised Uniform Law on Notarial Acts" and added "14-14A-22 NMSA 1978", in Paragraph B(5), after "Section", deleted "21 of the Revised Uniform Law on Notarial Acts" and added "14-14A-21 NMSA 1978", deleted former Paragraph B(7) and added new Paragraph B(6); and in Subsection G, changed each occurrence of "notary public" to "notarial officer".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-21. Examination of notary public and notarial officers; continuing legal education requirements for automatic notarial officers.

A. An applicant for a commission as a notary public who does not hold a commission in this state is required to pass an examination administered by the secretary of state or an entity approved by the secretary of state. The examination will be based on the course of study described in Subsection B of this section.

B. The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures and ethics relevant to notarial acts.

C. A person qualified to be an automatic notarial officer is required to attend a course, not to exceed ninety minutes, delivered by the secretary of state or an entity approved by the secretary of state. The course may be delivered in person or online. Attendance in the course is required before the person's seal may be registered with the secretary of state, and attendees shall demonstrate an understanding of the course material. The course shall cover laws, rules, procedures and ethics relevant to being an automatic notarial officer.

D. An automatic notarial officer may obtain continuing legal education credit, pursuant to rules established by the board of bar commissioners of the state of New Mexico, for participating in continuing legal education related to performing the notarial acts.

History: Laws 2021, ch. 21, § 21; 2023, ch. 110, § 19.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, provided continuing legal education requirements for automatic notarial officers; in the section heading, added "for automatic notarial officers"; deleted former Subsection C and added a new Subsection C; and in Subsection D, added "An automatic notarial officer", and after "may obtain", deleted "one unit of".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-22. Grounds to deny, refuse to renew, revoke, suspend or condition commission of notarial officer.

A. The state ethics commission may revoke, suspend or impose a condition on a notarial officer for any act or omission that demonstrates that the individual lacks the honesty, integrity, competence or reliability to act as a notarial officer, including:

- (1) failure to comply with the Revised Uniform Law on Notarial Acts;

- (2) a fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public;
- (3) a conviction of the applicant or automatic notarial officer of any felony or a crime involving fraud, dishonesty or deceit during the preceding four years;
- (4) a finding against, or admission of liability by, the applicant or notarial officer in any legal proceeding or disciplinary action based on the applicant's or notarial officer's fraud, dishonesty or deceit;
- (5) failure by the notarial officer to discharge any duty required of a notarial officer, whether by the provisions of the Revised Uniform Law on Notarial Acts, rules of the secretary of state or any federal or state law;
- (6) violation by the notarial officer of an obligation required of a notarial officer, whether by the provisions of the Revised Uniform Law on Notarial Acts, rules of the secretary of state or any federal or state law;
- (7) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right or privilege that the notary does not have;
- (8) denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state;
- (9) failure of the notary public to maintain an assurance as provided in Subsection D of Section 14-14A-20 NMSA 1978; or
- (10) if the individual ceases to be a resident of this state or ceases to be employed in this state.

B. The secretary of state may deny or refuse to renew an applicant upon notice from the state ethics commission of adverse action upon an applicant or a notarial officer.

C. The authority of the state ethics commission to deny, refuse to renew, suspend, revoke or impose conditions on a notarial officer does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

History: Laws 2021, ch. 21, § 22; 2023, ch. 110, § 20.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, revised the grounds to deny, refuse to renew, revoke, suspend or condition the commission of a notarial officer; changed each occurrence of "notary public" to "notarial officer" throughout the section; in the section

heading, deleted "notary public" and added "notarial officer"; in Subsection A, in the introductory clause, after "commission may", deleted "deny, refuse to renew", after "condition on a", deleted "notary public", in Paragraph A(2), after "notary public", deleted "submitted to the state ethics commission", in Paragraph A(3), deleted "notary public" and added "automatic notarial officer", after "deceit during the", deleted "term of the notary public's commission or during the five years immediately preceding such term" and added "preceding four years"; added a new Paragraph A(6) and redesignated former Paragraph A(6) as Paragraph A(7), deleted former Paragraph A(7), and in Paragraph A(9), after "Section", deleted "20 of the Revised Uniform Law on Notarial Acts" and added "14-14A-20 NMSA 1978"; and in Subsection B, after "action upon", added "an applicant or".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

Notary Public Act (repealed) did not provide the exclusive remedy for a claim against a notary public. — Where plaintiff, as the personal representative of decedent's estate, filed a complaint for damages for fraud against defendant, a notary public, alleging that defendant notarized a false affidavit, and where defendant filed a motion for summary judgment, arguing that the Notary Public Act, 14-12-1 to 14-12-26 NMSA 1978 (repealed), required that a claim for misconduct be against the notary public's official bond, and where the district court granted defendant's motion for summary judgment, concluding that a complaint alleging misconduct by a notary public is limited by the Notary Public Act, the district court erred in granting defendant's motion for summary judgment, because the Notary Public Act, 14-12A-9(B) NMSA 1978 (repealed), provided a remedy in the form of a civil action on the notary public's ten-thousand dollar surety bond, but did not provide the exclusive remedy; a plaintiff alleging fraud may recover such damages as are the direct and natural consequences of the reliance on a fraudulent representation. *Romero v. Tafoya*, 2023-NMCA-024.

14-14A-23. Database of notarial officers.

The secretary of state shall maintain an electronic database of notarial officers providing the following:

A. information and a means through which a person may verify the authority of a notarial officer to perform notarial acts; and

B. indication of whether a notarial officer has notified the secretary of state that the notarial officer will be performing notarial acts on electronic records.

History: Laws 2021, ch. 21, § 23; 2023, ch. 110, § 21.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, changed each occurrence of "notary public" to "notarial officer".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-24. Prohibited acts.

A. A commission as a notary public or status as an automatic notarial officer does not by itself authorize an individual to:

- (1) assist persons in drafting legal records, give legal advice or otherwise practice law;
- (2) act as an immigration consultant or an expert on immigration matters;
- (3) represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or
- (4) receive compensation for performing any of the activities listed in this subsection.

B. A notarial officer shall not engage in false or deceptive advertising.

C. A notarial officer, other than an attorney licensed to practice law in this state, shall not use the term "notario" or "notario publico".

D. A notarial officer who is not licensed to practice law shall not advertise or represent that the notarial officer may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notarial officer who is not an attorney licensed to practice law in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the internet, the notarial officer shall include the following statement or an alternate statement authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media or the internet and does not permit inclusion of the statement required by this subsection because of size, the statement shall be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

E. Except as otherwise allowed by law, a notarial officer shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notarial officer.

F. A notarial officer shall not:

- (1) perform a notarial act on a blank or incomplete record;
- (2) certify or authenticate a photograph;
- (3) perform a notarial act with intent to deceive or defraud; or
- (4) use the title of notary public, notarial officer or official stamp to endorse, promote, denounce or oppose any product, service, contest, candidate or other offering.

G. A notarial officer shall not:

- (1) make or deliver a certificate of notarial act containing statements that the notarial officer knows to be false; or
- (2) knowingly perform a notarial act for an individual who does not comply with Section 14-14A-6 NMSA 1978.

H. A notarial officer who violates any of the provisions of Subsections A through G of this section is guilty of a misdemeanor for each violation and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment for a period not exceeding six months, or both.

I. An individual who performs a purported notarial act with knowledge that the individual's commission as a notary public has expired or that the individual is otherwise disqualified from being a notarial officer is guilty of a misdemeanor for each purported notarial act and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

History: Laws 2021, ch. 21, § 24; 2023, ch. 110, § 22.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, revised provisions related to prohibited acts for notary publics and notarial officers, and made certain technical changes; substituted each occurrence of "notary public" with "notarial officer" throughout the section; in Subsection D, after "A", deleted "notary public" and added "notarial officer who is not licensed to practice law", and after "attorney licensed to practice law", deleted "in this state"; in Subsection G, Paragraph G(2), after "Section", deleted "6 of the Revised Uniform Law on Notarial Acts" and added "14-14A-6 NMSA 1978"; and in Subsection I, after "disqualified from", deleted "the office of notary public or as a" and added "being a", after "guilty of a misdemeanor", added "for each purported notarial act", and after "shall be", deleted "punished by a fine of five hundred dollars (\$500) and shall be removed from office by the state ethics commission" and added "sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

Notary Public Act (repealed) did not provide the exclusive remedy for a claim against a notary public. — Where plaintiff, as the personal representative of decedent's estate, filed a complaint for damages for fraud against defendant, a notary public, alleging that defendant notarized a false affidavit, and where defendant filed a motion for summary judgment, arguing that the Notary Public Act, 14-12-1 to 14-12-26 NMSA 1978 (repealed), required that a claim for misconduct be against the notary public's official bond, and where the district court granted defendant's motion for summary judgment, concluding that a complaint alleging misconduct by a notary public is limited by the Notary Public Act, the district court erred in granting defendant's motion for summary judgment, because the Notary Public Act, 14-12A-9(B) NMSA 1978 (repealed), provided a remedy in the form of a civil action on the notary public's ten-thousand dollar surety bond, but did not provide the exclusive remedy; a plaintiff alleging fraud may recover such damages as are the direct and natural consequences of the reliance on a fraudulent representation. *Romero v. Tafoya*, 2023-NMCA-024.

14-14A-25. Validity of notarial acts.

Except as otherwise provided in Subsection B of Section 14-14A-3 NMSA 1978, the failure of a notarial officer to perform a duty or meet a requirement specified in the Revised Uniform Law on Notarial Acts does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under the Revised Uniform Law on Notarial Acts does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than the Revised Uniform Law on Notarial Acts or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

History: Laws 2021, ch. 21, § 25; 2023, ch. 110, § 23.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, after "Section", changed "3 of the Revised Uniform Law on Notarial Acts" to "14-14A-3 NMSA 1978".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-26. Rules.

A. The secretary of state may adopt rules to implement the secretary's responsibilities pursuant to the Revised Uniform Law on Notarial Acts. Rules adopted regarding the performance of notarial acts with respect to electronic records may not

require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may:

- (1) prescribe the manner of performing notarial acts regarding tangible and electronic records;
- (2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- (3) include provisions to ensure integrity in the creation, transmittal, storage or authentication of electronic records or signatures;
- (4) prescribe the process of granting or renewing a notary public commission;
- (5) include provisions to prevent fraud or mistake in the performance of notarial acts;
- (6) establish the process for approving and accepting surety bonds and other forms of assurance pursuant to Subsection D of Section 14-14A-20 NMSA 1978;
- (7) provide for the administration of the examination pursuant to Subsection A of Section 14-14A-21 NMSA 1978 and the course of study pursuant to Subsection B of Section 14-14A-21 NMSA 1978; and
- (8) provide for the administration of continuing legal education for notarial officers authorized to practice law in this state in collaboration with the board of bar commissioners of the state of New Mexico and pursuant to rules adopted by the board of bar commissioners of the state of New Mexico.

B. In adopting, amending or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with the Revised Uniform Law on Notarial Acts:

- (1) the most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state;
- (2) standards, practices and customs of other jurisdictions that substantially enact the Revised Uniform Law on Notarial Acts; and
- (3) the views of governmental officials and entities and other interested persons.

C. The state ethics commission may adopt rules to implement the commission's responsibilities pursuant to the Revised Uniform Law on Notarial Acts. The rules may:

- (1) prescribe the process of submitting a complaint;

- (2) provide for the administration of the adjudication of complaints;
- (3) prescribe the procedure by which the state ethics commission shall handle complaints;
- (4) prescribe the procedure the state ethics commission shall follow in approving a hearing officer's recommendation; and
- (5) prescribe the procedure of appealing the state ethics commission's determination.

History: Laws 2021, ch. 21, § 26; 2023, ch. 110, § 24.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, provided that the state ethics commission may adopt rules to implement the commission's responsibilities pursuant to the Revised Uniform Law on Notarial Acts; in Subsection A, in the introductory paragraph, after "implement the", added "secretary's responsibilities pursuant to the", in Paragraph A(4), after "renewing", deleted "conditioning, denying, suspending or revoking", and after "commission", deleted "and assuring the trustworthiness of an individual holding a commission as notary public", in Paragraph A(6), after "Section", deleted "20 of the Revised Uniform Law on Notarial Acts" and added "14-14A-20 NMSA 1978", and in Paragraph A(7), after each occurrence of "Section", deleted "21 of the Revised Uniform Law on Notarial Acts" and added "14-14A-21 NMSA 1978"; and added Subsection C.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-27. Effect of adoption of and amendments to act.

A. A commission as a notary public in effect on the effective date of the Revised Uniform Law on Notarial Acts continues until its date of expiration.

B. A notarial officer, in performing notarial acts after the effective date of the Revised Uniform Law on Notarial Acts or any amendments to the Revised Uniform Law on Notarial Acts shall comply with the most recent version of the Revised Uniform Law on Notarial Acts in effect.

C. When changes to the official stamp are adopted in the Revised Uniform Law on Notarial Acts or by rules issued by the secretary of state, a notarial officer who has registered a stamp with the secretary of state may continue to use the registered stamp until:

- (1) the expiration of the officer's commission, in the case of a notary public; or

(2) one year following the effective date of the change, in the case of an automatic notarial officer.

D. The secretary of state shall notify notarial officers when a change to the official stamp is adopted.

History: Laws 2021, ch. 21, § 27; 2023, ch. 110, § 25.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, provided compliance provisions when amendments are made to the Revised Uniform Law on Notarial Acts; in the section heading, deleted "notary public commission in", added "of adoption of and amendments to act"; deleted former Subsections B and C and redesignated former Subsection D as Subsection B; in Subsection B, deleted "notary public of" preceding "notarial officer", after "Notarial Acts", added "or any amendments to the Revised Uniform Law on Notarial Acts", after "comply with the", added "most recent version of the", and after "Notarial Acts", added "in effect"; and added Subsections C and D.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-28. Fees.

A. A notarial officer may charge the maximum fee specified in this section, charge less than the maximum fee or waive the fee.

B. An employer shall not establish fees for notarial services that are in excess of those specified in this section nor on the attributes of the principal as delineated.

C. The maximum fees that may be charged by a notarial officer for notarial acts are:

- (1) for acknowledgments, five dollars (\$5.00) per acknowledgment;
- (2) for oaths or affirmations without a signature, five dollars (\$5.00) per person;
- (3) for jurats, five dollars (\$5.00) per jurat; and
- (4) for copy certifications, fifty cents (\$.50) per page with a minimum total charge of five dollars (\$5.00).

D. A notarial officer may charge a travel fee when traveling to perform a notarial act if:

(1) the notarial officer and the person requesting the notarial act agree upon the travel fee in advance of the travel; and

(2) the notarial officer explains to the person requesting the notarial act that the travel fee is separate from the notarial fees and not mandated by law.

E. In addition to the fees prescribed in Subsections C and D of this section, a notarial officer may charge a technology fee not to exceed twenty-five dollars (\$25.00) or other amount established by rule by the secretary of state per notarial act performed with respect to an electronic record.

History: Laws 2021, ch. 21, § 28; 2023, ch. 110, § 26.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, substituted each occurrence of "notary public" with "notarial officer" throughout the section; in Subsection A, deleted "notary public or" preceding "notarial officer"; and in Subsection C, after "notarial officer", deleted "licensed to practice law".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-29. Repealed.

History: Laws 2021, ch. 21, § 29; repealed by Laws 2022, ch. 27, § 1.

ANNOTATIONS

Repeals. — Laws 2022, ch. 27, § 1 repealed 14-14A-29 NMSA 1978, as enacted by Laws 2021, ch. 21, § 29, relating to inspection of public records act compliance, effective March 1, 2022. For provisions of former section, see the 2021 NMSA 1978 on *NMOneSource.com*.

14-14A-30. Saving clause.

The Revised Uniform Law on Notarial Acts does not affect the validity or effect of a notarial act performed before the effective date of the Revised Uniform Law on Notarial Acts or any amendments to the Revised Uniform Law on Notarial Acts.

History: Laws 2021, ch. 21, § 30; 2023, ch. 110, § 27.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, provided that the Revised Uniform Law on Notarial Acts does not affect the validity or effect of a notarial act performed before

the effective date of any amendments to the Revised Uniform Law on Notarial Acts; and added "or any amendments to the Revised Uniform Law on Notarial Acts".

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-31. Uniformity of application and construction.

In applying and construing the Revised Uniform Law on Notarial Acts, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History: Laws 2021, ch. 21, § 31.

ANNOTATIONS

Effective dates. — Laws 2021, ch. 21, § 38 made Laws 2021, ch. 21, § 31 effective January 1, 2022.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

14-14A-32. Relation to federal Electronic Signatures in Global and National Commerce Act.

The Revised Uniform Law on Notarial Acts modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

History: Laws 2021, ch. 21, § 32.

ANNOTATIONS

Effective dates. — Laws 2021, ch. 21, § 38 made Laws 2021, ch. 21, § 32 effective January 1, 2022.

Applicability. — Laws 2021, ch. 21, § 37 provided that the provisions of Laws 2021, ch. 21 apply to notarial acts performed in this state on and after January 1, 2022.

ARTICLE 15

Electronic Authentication of Documents