
SENATE BILL 5081

State of Washington 65th Legislature 2017 Regular Session

By Senators Pedersen and Miloscia; by request of Uniform Law Commission

Read first time 01/12/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to adoption of the revised uniform law on
2 notarial acts; amending RCW 9.97.020, 18.235.010, 18.235.020,
3 19.34.340, 19.154.060, 43.24.150, 64.08.060, and 64.08.070; adding a
4 new chapter to Title 42 RCW; repealing RCW 42.44.010, 42.44.020,
5 42.44.030, 42.44.050, 42.44.060, 42.44.070, 42.44.080, 42.44.090,
6 42.44.100, 42.44.110, 42.44.120, 42.44.130, 42.44.140, 42.44.150,
7 42.44.160, 42.44.170, 42.44.180, 42.44.190, 42.44.200, 42.44.210,
8 42.44.220, 42.44.221, 42.44.900, 42.44.901, and 42.44.903; and
9 providing an effective date.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and
12 cited as the revised uniform law on notarial acts.

13 NEW SECTION. **Sec. 2.** DEFINITIONS. In this chapter:

14 (1) "Acknowledgment" means a declaration by an individual in the
15 presence of a notarial officer stating that the individual has signed
16 a record of the individual's free will for the purpose stated in the
17 record and, if the record is signed in a representative capacity, the
18 individual also declares that he or she signed the record with proper
19 authority and signed it as the act of the individual or entity
20 identified in the record.

1 (2) "Department" means the department of licensing.

2 (3) "Director" means the director of licensing or the director's
3 designee.

4 (4) "Electronic" means relating to technology having electrical,
5 digital, magnetic, wireless, optical, electromagnetic, or similar
6 capabilities.

7 (5) "Electronic records notary public" means an individual
8 commissioned by the director to perform a notarial act with respect
9 to electronic records.

10 (6) "Electronic signature" means an electronic symbol, sound, or
11 process attached to or logically associated with a record and
12 executed or adopted by an individual with the intent to sign the
13 record.

14 (7) "In a representative capacity" means acting as:

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

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

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

20 (d) An authorized representative of another in any other
21 capacity.

22 (8) "Notarial act" means an act, whether performed with respect
23 to a tangible or electronic record, that a notarial officer may
24 perform under the law of this state. The term includes taking an
25 acknowledgment, administering an oath or affirmation, taking a
26 verification on oath or affirmation, witnessing or attesting a
27 signature, certifying or attesting a copy, and noting a protest of a
28 negotiable instrument if the protest was prepared under the authority
29 of an attorney licensed to practice law in this or another state, or
30 was prepared under the authority of a financial institution that is
31 regulated by this state, another state, or the federal government.

32 (9) "Notarial officer" means a notary public or other individual
33 authorized to perform a notarial act.

34 (10) "Notary public" means an individual commissioned to perform
35 a notarial act by the director.

36 (11) "Official stamp" means a physical image affixed to or
37 embossed on a tangible record or an electronic image attached to or
38 logically associated with an electronic record.

39 (12) "Person" means an individual, corporation, business trust,
40 statutory trust, estate, trust, partnership, limited liability

1 company, association, joint venture, public corporation, government
2 or governmental subdivision, agency, or instrumentality, or any other
3 legal or commercial entity.

4 (13) "Record" means information that is inscribed on a tangible
5 medium or that is stored in an electronic or other medium and is
6 retrievable in human perceivable form.

7 (14) "Sign" means, with present intent to authenticate or adopt a
8 record:

9 (a) To execute or adopt a tangible symbol; or

10 (b) To attach to or logically associate with the record an
11 electronic symbol, sound, or process.

12 (15) "Signature" means a tangible symbol or an electronic
13 signature that evidences the signing of a record.

14 (16) "Stamping device" means:

15 (a) A physical device capable of affixing to or embossing on a
16 tangible record an official stamp; or

17 (b) An electronic device or process capable of attaching to or
18 logically associating with an electronic record an official stamp.

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

23 (18) "Verification on oath or affirmation" means a declaration,
24 made by an individual on oath or affirmation before a notarial
25 officer, that a statement in a record is true.

26 NEW SECTION. **Sec. 3.** APPLICABILITY. This chapter applies to a
27 notarial act performed on or after the effective date of this
28 section.

29 NEW SECTION. **Sec. 4.** AUTHORITY TO PERFORM NOTARIAL ACT. (1) A
30 notarial officer may perform a notarial act authorized by this
31 chapter or by law of this state other than this chapter.

32 (2)(a) A notarial officer may not perform a notarial act with
33 respect to a record to which the officer or the officer's spouse,
34 domestic partner, parent, stepparent, parent-in-law, child, or
35 stepchild is a party, or in which any of the above have a direct
36 beneficial interest.

37 (b) A notarial officer may not notarize the notarial officer's
38 own signature.

1 (c) A notarial act performed in violation of this subsection (2)
2 is voidable.

3 NEW SECTION. **Sec. 5.** REQUIREMENTS FOR CERTAIN NOTARIAL ACTS.

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

9 (2) A notarial officer who takes a verification of a statement on
10 oath or affirmation shall determine, from personal knowledge or
11 satisfactory evidence of the identity of the individual, that the
12 individual appearing before the officer and making the verification
13 has the identity claimed and that the signature on the statement
14 verified is the signature of the individual.

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

19 (4) A notarial officer who certifies or attests a copy of a
20 record or an item that was copied shall compare the copy with the
21 original record or item and determine that the copy is a full, true,
22 and accurate transcription or reproduction of the record or item.

23 (5) A notarial officer may make or note a protest of a negotiable
24 instrument only if the notarial officer is licensed to practice law
25 in this state, acting under the authority of an attorney who is
26 licensed to practice law in this or another state, or acting under
27 the authority of a financial institution regulated by this state,
28 another state, or the federal government. In making or noting a
29 protest of a negotiable instrument the notarial officer or licensed
30 attorney shall determine the matters set forth in RCW 62A.3-505(b).

31 NEW SECTION. **Sec. 6.** PERSONAL APPEARANCE REQUIRED. Notarial
32 officers must take reasonable steps to assure the integrity of the
33 notarial process. If a notarial act relates to a statement made in or
34 a signature executed on a record, the individual making the statement
35 or executing the signature must make the statement or execute the
36 signature in the presence of the notarial officer. The act of being
37 in the presence of the notarial officer may be described by the
38 director in rule.

1 NEW SECTION. **Sec. 7.** IDENTIFICATION OF INDIVIDUAL. (1) A
2 notarial officer has personal knowledge of the identity of an
3 individual appearing before the officer if the individual is
4 personally known to the officer through dealings sufficient to
5 provide reasonable certainty that the individual has the identity
6 claimed.

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

10 (a) By means of:

11 (i) A passport, driver's license, or government-issued nondriver
12 identification card, which is current or expired not more than three
13 years before performance of the notarial act; or

14 (ii) Another form of government identification issued to an
15 individual, which is current or expired not more than three years
16 before performance of the notarial act, contains the signature or a
17 photograph of the individual, and is satisfactory to the officer; or

18 (b) By a verification on oath or affirmation of a credible
19 witness personally appearing before the officer and personally known
20 to the officer and who provides satisfactory evidence of his or her
21 identity as described in (a) of this subsection.

22 (3) A notarial officer may require an individual to provide
23 additional information or identification credentials necessary to
24 assure the officer of the identity of the individual.

25 NEW SECTION. **Sec. 8.** AUTHORITY TO REFUSE TO PERFORM NOTARIAL
26 ACT. (1) A notarial officer has the authority to refuse to perform a
27 notarial act if the officer is not satisfied that:

28 (a) The individual executing the record is competent or has the
29 capacity to execute the record; or

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

31 (2) A notarial officer has the authority to refuse to perform a
32 notarial act unless refusal is prohibited by law other than this
33 chapter.

34 NEW SECTION. **Sec. 9.** SIGNATURE IF INDIVIDUAL UNABLE TO SIGN. If
35 an individual is physically unable to sign a record, the individual
36 may direct an individual other than the notarial officer to sign the
37 individual's name on the record. The notarial officer shall insert

1 "signature affixed by (name of other individual) at the direction of
2 (name of individual)" or words of similar import.

3 NEW SECTION. **Sec. 10.** NOTARIAL ACT IN THIS STATE. (1) A
4 notarial act may be performed in this state by:

- 5 (a) A notary public of this state;
- 6 (b) A judge, clerk, or deputy clerk of a court of this state; or
- 7 (c) Any other individual authorized to perform the specific act
8 by the law of this state.

9 (2) The signature and title of an individual authorized by this
10 act to perform a notarial act in this state are prima facie evidence
11 that the signature is genuine and that the individual holds the
12 designated title.

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

16 NEW SECTION. **Sec. 11.** NOTARIAL ACT IN ANOTHER STATE. (1) A
17 notarial act performed in another state has the same effect under the
18 law of this state as if performed by a notarial officer of this
19 state, if the act performed in that state is performed by:

- 20 (a) A notary public of that state;
- 21 (b) A judge, clerk, or deputy clerk of a court of that state; or
- 22 (c) Any other individual authorized by the law of that state to
23 perform the notarial act.

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

28 (3) The signature and title of a notarial officer described in
29 subsection (1)(a) through (c) of this section conclusively
30 establishes the authority of the officer to perform the notarial act.

31 NEW SECTION. **Sec. 12.** NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY
32 RECOGNIZED INDIAN TRIBE. (1) A notarial act performed under the
33 authority and in the jurisdiction of a federally recognized Indian
34 tribe has the same effect as if performed by a notarial officer of
35 this state, if the act performed in the jurisdiction of the tribe is
36 performed by:

- 37 (a) A notary public of the tribe;

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

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

4 (2) The signature and title of an individual performing a
5 notarial act under the authority of and in the jurisdiction of a
6 federally recognized Indian tribe are prima facie evidence that the
7 signature is genuine and that the individual holds the designated
8 title.

9 (3) The signature and title of a notarial officer described in
10 subsection (1)(a) through (c) of this section conclusively
11 establishes the authority of the officer to perform the notarial act.

12 NEW SECTION. **Sec. 13.** NOTARIAL ACT UNDER FEDERAL AUTHORITY. (1)

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

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

17 (b) An individual in military service or performing duties under
18 the authority of military service who is authorized to perform
19 notarial acts under federal law;

20 (c) An individual designated a notarizing officer by the United
21 States department of state for performing notarial acts overseas; or

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

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

28 (3) The signature and title of an officer described in subsection
29 (1)(a), (b), or (c) of this section conclusively establishes the
30 authority of the officer to perform the notarial act.

31 NEW SECTION. **Sec. 14.** FOREIGN NOTARIAL ACT. (1) In this

32 section, "foreign state" means a government other than the United
33 States, a state, or a federally recognized Indian tribe.

34 (2) If a notarial act is performed under the authority and in the
35 jurisdiction of a foreign state or constituent unit of the foreign
36 state or is performed under the authority of a multinational or
37 international governmental organization, the act has the same effect

1 under the law of this state as if performed by a notarial officer of
2 this state.

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

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

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

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

23 NEW SECTION. **Sec. 15.** CERTIFICATE OF NOTARIAL ACT. (1) A
24 notarial act must be evidenced by a certificate. The certificate
25 must:

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

28 (b) Be signed and dated by the notarial officer and, if the
29 notarial officer is a notary public, be signed in the same manner as
30 on file with the department;

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

33 (d) Contain the title of office of the notarial officer;

34 (e) Be written in English or in dual languages, one of which must
35 be English; and

36 (f) If the notarial officer is a notary public, indicate the date
37 of expiration, if any, of the officer's commission.

38 (2) Regarding notarial act certificates on a tangible record:

1 (a) If a notarial act regarding a tangible record is performed by
2 a notary public, an official stamp must be affixed to or embossed on
3 the certificate.

4 (b) If a notarial act regarding a tangible record is performed by
5 a notarial officer other than a notary public and the certificate
6 contains the information specified in subsection (1)(b), (c), and (d)
7 of this section, an official stamp may be affixed to or embossed on
8 the certificate.

9 (3) Regarding notarial act certificates on an electronic record:

10 (a) If a notarial act regarding an electronic record is performed
11 by an electronic records notary public, an official stamp must be
12 attached to or logically associated with the certificate.

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

18 (4) A certificate of a notarial act is sufficient if it meets the
19 requirements of subsections (1) through (3) of this section and:

20 (a) Is in a short form set forth in section 16 of this act;

21 (b) Is in a form otherwise permitted by the law of this state;

22 (c) Is in a form permitted by the law applicable in the
23 jurisdiction in which the notarial act was performed; or

24 (d) Sets forth the actions of the notarial officer and the
25 actions are sufficient to meet the requirements of the notarial act
26 as provided in sections 5, 6, and 7 of this act or law of this state
27 other than this chapter.

28 (5) By executing a certificate of a notarial act, a notarial
29 officer certifies that the officer has complied with the requirements
30 and made the determinations specified in sections 5, 6, and 7 of this
31 act.

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

35 (7) If a notarial act is performed regarding a tangible record, a
36 certificate must be part of, or securely attached to, the record. If
37 a notarial act is performed regarding an electronic record, the
38 certificate must be affixed to, or logically associated with, the
39 electronic record. If the director has established standards pursuant
40 to section 28 of this act for attaching, affixing, or logically

1 associating the certificate, the process must conform to the
2 standards.

3 NEW SECTION. **Sec. 16.** SHORT FORM CERTIFICATES. The following
4 short form certificates of notarial acts are sufficient for the
5 purposes indicated, if completed with the information required by
6 section 15 (1) through (4) of this act:

7 (1) For an acknowledgment in an individual capacity:
8 State of
9 County of

10 This record was acknowledged before me on (date) by (name(s) of
11 individuals).

12

13 (Signature of notary
14 public)

15 (Stamp)

16

17 (Title of office)

18 My commission expires:

19

20 (date)

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

22 State of

23 County of

24 This record was acknowledged before me on (date) by (name(s) of
25 individuals) as (type of authority, such as officer or trustee) of
26 (name of party on behalf of whom record was executed).

27

28 (Signature of notary
29 public)

30 (Stamp)

31

32 (Title of office)

33 My commission expires:

34

35 (date)

1 (3) For verification on oath or affirmation:
2 State of
3 County of
4 Signed and sworn to (or affirmed) before me on (date) by (name(s)
5 of individuals making statement).

6
7 (Signature of notary
8 public)
9 (Stamp)
10
11 (Title of office)
12 My commission expires:
13
14 (date)

15 (4) For witnessing or attesting a signature:
16 State of
17 County of
18 Signed or attested before me on (date) by (name(s) of
19 individuals).

20
21 (Signature of notary
22 public)
23 (Stamp)
24
25 (Title of office)
26 My commission expires:
27
28 (date)

29 (5) For certifying or attesting a copy of a record:
30 State of
31 County of
32 I certify that this is a true and correct copy of a record in the
33 possession of

34 Dated:
35

(Signature of notary
public)

(Stamp)

.....
(Title of office)

My commission expires:

.....
(date)

9 NEW SECTION. **Sec. 17.** OFFICIAL STAMP. (1) It is unlawful for
10 any person intentionally to manufacture, give, sell, procure, or
11 possess a seal or stamp evidencing the current appointment of a
12 person as a notary public until the director has issued a notary
13 commission. The official seal or stamp of a notary public must
14 include:

- 15 (a) The words "notary public;"
- 16 (b) The words "state of Washington;"
- 17 (c) The notary public's name as commissioned;
- 18 (d) The notary public's commission expiration date; and
- 19 (e) Any other information required by the director.

20 (2) The size and form or forms of the seal or stamp shall be
21 prescribed by the director in rule.

22 (3) The seal or stamp must be capable of being copied together
23 with the record to which it is affixed or attached or with which it
24 is logically associated.

25 NEW SECTION. **Sec. 18.** STAMPING DEVICE. (1) A notary public is
26 responsible for the security of the notary public's stamping device
27 and may not allow another individual to use the device to perform a
28 notarial act. On resignation from, or the revocation or expiration
29 of, the notary public's commission, or on the expiration of the date
30 set forth in the stamping device, the notary public shall disable the
31 stamping device by destroying, defacing, damaging, erasing, or
32 securing it against use in a manner that renders it unusable. On the
33 death or adjudication of incompetency of a notary public, the notary
34 public's personal representative or guardian or any other person
35 knowingly in possession of the stamping device shall render it

1 unusable by destroying, defacing, damaging, erasing, or securing it
2 against use in a manner that renders it unusable.

3 (2) If a notary public's stamping device is lost or stolen, the
4 notary public or the notary public's personal representative or
5 guardian shall notify promptly the commissioning officer or agency on
6 discovering that the device is lost or stolen.

7 NEW SECTION. **Sec. 19.** FEES. (1) The director may establish by
8 rule the maximum fees that may be charged by notaries public for
9 various notarial services.

10 (2) A notary public need not charge fees for notarial acts.

11 NEW SECTION. **Sec. 20.** JOURNAL. (1) A notary public shall
12 maintain a journal in which the notary public chronicles all notarial
13 acts that the notary public performs. The notary public shall retain
14 the journal for ten years after the performance of the last notarial
15 act chronicled in the journal. The journal is to be destroyed as
16 required by the director in rule upon completion of the ten-year
17 period.

18 (2) Notwithstanding any other provision of this chapter requiring
19 a notary public to maintain a journal, a notary public who is an
20 attorney licensed to practice law in this state is not required to
21 chronicle a notarial act in a journal if documentation of the
22 notarial act is otherwise maintained by professional practice.

23 (3) A notary public shall maintain only one tangible journal at a
24 time to chronicle notarial acts, whether those notarial acts are
25 performed regarding tangible or electronic records. The journal must
26 be a permanent, bound register with numbered pages. An electronic
27 records notary public may also maintain an electronic format journal,
28 which can be kept concurrently with the tangible journal. The
29 electronic journal must be in a permanent, tamper-evident electronic
30 format complying with the rules of the director.

31 (4) An entry in a journal must be made contemporaneously with
32 performance of the notarial act and contain the following
33 information:

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

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

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

1 (d) Any additional information as required by the director in
2 rule.

3 (5) The journal shall be kept in a locked and secured area, under
4 the direct and exclusive control of the notary public. Failure to
5 secure the journal may be cause for the director to take
6 administrative action against the commission held by the notary
7 public. If a notary public's journal is lost or stolen, the notary
8 public promptly shall notify the department on discovering that the
9 journal is lost or stolen.

10 (6) On resignation from, or the revocation or suspension of, a
11 notary public's commission, the notary public shall retain the notary
12 public's journal in accordance with subsection (1) of this section
13 and inform the department where the journal is located.

14 NEW SECTION. **Sec. 21.** NOTIFICATION REGARDING PERFORMANCE OF
15 NOTARIAL ACT ON ELECTRONIC RECORD—SELECTION OF TECHNOLOGY. (1) A
16 notary public may not perform notarial acts with respect to
17 electronic records unless the notary public holds a commission as an
18 electronic records notary public.

19 (2) An electronic records notary public may select one or more
20 tamper-evident technologies to perform notarial acts with respect to
21 electronic records that meet the standards provided in subsection (4)
22 of this section. A person cannot require an electronic records notary
23 public to perform a notarial act with respect to an electronic record
24 with a technology that the notary public has not selected.

25 (3) Before an electronic records notary public performs the
26 notary public's initial notarial act with respect to an electronic
27 record, an electronic records notary public shall notify the
28 department that he or she will be performing notarial acts with
29 respect to electronic records and identify the technology the
30 electronic records notary public intends to use.

31 (4) The director shall establish standards for approval of
32 technology in rule. If the technology conforms to the standards, the
33 director shall approve the use of the technology.

34 NEW SECTION. **Sec. 22.** COMMISSION AS NOTARY PUBLIC—
35 QUALIFICATIONS—NO IMMUNITY OR BENEFIT. (1) An individual qualified
36 under subsection (2) of this section may apply to the director for a
37 commission as a notary public. The applicant shall comply with and

1 provide the information required by rules established by the director
2 and pay any application fee.

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

4 (a) Be at least eighteen years of age;

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

7 (c) Be a resident of or have a place of employment or practice in
8 this state;

9 (d) Be able to read and write English;

10 (e) Not be disqualified to receive a commission under section 24
11 of this act; and

12 (f) Have successfully completed a course or passed an examination
13 required under section 23 of this act.

14 (3) Before issuance of a commission as a notary public, an
15 applicant for the commission shall execute an oath of office and
16 submit it to the department in the format prescribed by the director
17 in rule.

18 (4) Before issuance of a commission as a notary public, the
19 applicant for a commission shall submit to the director an assurance
20 in the form of a surety bond in the amount established by the
21 director in rule. The assurance must be issued by a surety or other
22 entity licensed or authorized to write surety bonds in this state.
23 The assurance must be effective for a four-year term or for a term
24 that expires on the date the notary public's commission expires. The
25 assurance must cover acts performed during the term of the notary
26 public's commission and must be in the form prescribed by the
27 director. If a notary public violates law with respect to notaries
28 public in this state, the surety or issuing entity is liable under
29 the assurance. The surety or issuing entity shall give at least
30 thirty days notice to the department before canceling the assurance.
31 The surety or issuing entity shall notify the department not later
32 than thirty days after making a payment to a claimant under the
33 assurance. A notary public may perform notarial acts in this state
34 only during the period that a valid assurance is on file with the
35 department.

36 (5) On compliance with this section, the director shall issue a
37 commission as a notary public to an applicant for a term of four
38 years or for a term that expires on the date of expiration of the
39 assurance, whichever comes first.

1 (6) A commission to act as a notary public authorizes the notary
2 public to perform notarial acts. The commission does not provide the
3 notary public any immunity or benefit conferred by law of this state
4 on public officials or employees.

5 (7) An individual qualified under (a) of this subsection may
6 apply to the director for a commission as an electronic records
7 notary public. The applicant shall comply with and provide the
8 information required by rules established by the director and pay the
9 relevant application fee.

10 (a) An applicant for a commission as an electronic records notary
11 public must hold a commission as notary public.

12 (b) An electronic records notary public commission may take the
13 form of an endorsement to the notary public commission if deemed
14 appropriate by the director.

15 NEW SECTION. **Sec. 23.** EXAMINATION OF NOTARY PUBLIC. The
16 director may require an applicant for a commission or renewal of a
17 commission as a notary public, including an applicant for a
18 commission as an electronic records notary public, to successfully
19 pass a course or an examination, as prescribed by the director in
20 rule.

21 NEW SECTION. **Sec. 24.** GROUNDS TO DENY, REFUSE TO RENEW, REVOKE,
22 SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC. (1) In addition to
23 conduct defined as unprofessional under RCW 18.235.130, the director
24 may take action as provided for in RCW 18.235.110 against a
25 commission as notary public for any act or omission that demonstrates
26 the individual lacks the honesty, integrity, competence, or
27 reliability to act as a notary public, including:

28 (a) Failure to comply with this chapter;

29 (b) A fraudulent, dishonest, or deceitful misstatement or
30 omission in the application for a commission as a notary public
31 submitted to the department;

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

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

1 (e) Failure by the notary public to discharge any duty required
2 of a notary public, whether by this chapter, rules of the director,
3 or any federal or state law;

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

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

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

11 (i) Failure of the notary public to maintain an assurance as
12 provided in section 22(4) of this act; or

13 (j) Making or noting a protest of a negotiable instrument without
14 being a person authorized by section 5(5) of this act.

15 (2) If the director denies, refuses to renew, revokes, suspends,
16 imposes conditions, or otherwise sanctions, a commission as a notary
17 public, the applicant or notary public is entitled to timely notice
18 and hearing in accordance with chapter 34.05 RCW.

19 (3) The authority of the director to take disciplinary action on
20 a commission as a notary public does not prevent a person from
21 seeking and obtaining other criminal or civil remedies provided by
22 law.

23 NEW SECTION. **Sec. 25.** DATABASE OF NOTARIES PUBLIC. The director
24 shall maintain an electronic database of notaries public:

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

27 (2) Which indicates whether a notary public has notified the
28 director that the notary public will be performing notarial acts on
29 electronic records.

30 NEW SECTION. **Sec. 26.** PROHIBITED ACTS. (1) A commission as a
31 notary public does not authorize an individual to:

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

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

36 (c) Represent a person in a judicial or administrative proceeding
37 relating to immigration to the United States, United States
38 citizenship, or related matters; or

1 (d) Receive compensation for performing any of the activities
2 listed in this subsection.

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

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

8 (4) A notary public, other than an attorney licensed to practice
9 law in this state, may not assist another person in selecting the
10 appropriate certificate required by section 15 of this act.

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

30 (6) Except as otherwise allowed by law, a notary public may not
31 withhold access to or possession of an original record provided by a
32 person that seeks performance of a notarial act by the notary public.
33 A notary public may not maintain copies or electronic images of
34 documents notarized unless the copies or images are maintained by an
35 attorney for the performance of legal services or for other services
36 performed for the client and the copies or images are not maintained
37 solely as part of the notary transaction.

38 NEW SECTION. **Sec. 27.** VALIDITY OF NOTARIAL ACTS. Except as
39 otherwise provided in section 4(2) of this act, the failure of a

1 notarial officer to perform a duty or meet a requirement specified in
2 this chapter does not invalidate a notarial act performed by the
3 notarial officer. The validity of a notarial act under this chapter
4 does not prevent an aggrieved person from seeking to invalidate the
5 record or transaction that is the subject of the notarial act or from
6 seeking other remedies based on law of this state other than this
7 chapter or law of the United States. This section does not validate a
8 purported notarial act performed by an individual who does not have
9 the authority to perform notarial acts. Nothing in this act gives the
10 director authority to invalidate a notarial act.

11 NEW SECTION. **Sec. 28.** RULES. (1) The director may adopt rules
12 necessary to implement this chapter.

13 (2) In adopting, amending, or repealing rules about notarial acts
14 with respect to electronic records, the director shall consider
15 standards, practices, and customs of other jurisdictions that
16 substantially enact this chapter.

17 NEW SECTION. **Sec. 29.** NOTARY PUBLIC COMMISSION IN EFFECT. A
18 commission as a notary public in effect on the effective date of this
19 section continues until its date of expiration. A notary public who
20 applies to renew a commission as a notary public on or after the
21 effective date of this section is subject to and shall comply with
22 this chapter. A notary public, in performing notarial acts after the
23 effective date of this section, shall comply with this chapter.

24 NEW SECTION. **Sec. 30.** SAVINGS CLAUSE. This chapter does not
25 affect the validity or effect of a notarial act performed before the
26 effective date of this section.

27 NEW SECTION. **Sec. 31.** UNIFORMITY OF APPLICATION AND
28 CONSTRUCTION. In applying and construing this uniform act,
29 consideration must be given to the need to promote uniformity of the
30 law with respect to its subject matter among states that enact it.

31 NEW SECTION. **Sec. 32.** RELATION TO ELECTRONIC SIGNATURES IN
32 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
33 supersedes the electronic signatures in global and national commerce
34 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
35 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or

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

3 NEW SECTION. **Sec. 33.** UNIFORM REGULATION OF BUSINESS AND
4 PROFESSIONS ACT. The uniform regulation of business and professions
5 act, chapter 18.235 RCW, governs unlicensed practice, the issuance
6 and denial of licenses, and the discipline of licensees under this
7 chapter.

8 NEW SECTION. **Sec. 34.** NEW CHAPTER. Sections 1 through 33 and 45
9 of this act constitute a new chapter in Title 42 RCW.

10 NEW SECTION. **Sec. 35.** REPEALS. The following acts or parts of
11 acts are each repealed:

- 12 (1) RCW 42.44.010 (Definitions) and 1985 c 156 s 1;
- 13 (2) RCW 42.44.020 (Qualifications—Application—Bond) and 1985 c
14 156 s 2;
- 15 (3) RCW 42.44.030 (Appointment—Denial for unprofessional conduct
16 —Certificate of appointment) and 2011 c 244 s 6, 2002 c 86 s 287, &
17 1985 c 156 s 3;
- 18 (4) RCW 42.44.050 (Seal or stamp) and 1985 c 156 s 5;
- 19 (5) RCW 42.44.060 (Term) and 2002 c 86 s 288 & 1985 c 156 s 6;
- 20 (6) RCW 42.44.070 (Reappointment without endorsements) and 1985 c
21 156 s 7;
- 22 (7) RCW 42.44.080 (Standards for notarial acts) and 1987 c 76 s 3
23 & 1985 c 156 s 8;
- 24 (8) RCW 42.44.090 (Form of certificate—General—Seal or stamp as
25 exclusive property) and 1985 c 156 s 9;
- 26 (9) RCW 42.44.100 (Short forms of certificate) and 1988 c 69 s 4
27 & 1985 c 156 s 10;
- 28 (10) RCW 42.44.110 (Illegible writing) and 1985 c 156 s 11;
- 29 (11) RCW 42.44.120 (Fees) and 1985 c 156 s 12;
- 30 (12) RCW 42.44.130 (Notarial acts by officials of other
31 jurisdictions) and 1985 c 156 s 13;
- 32 (13) RCW 42.44.140 (Notarial acts by federal authorities) and
33 1985 c 156 s 14;
- 34 (14) RCW 42.44.150 (Notarial acts by foreign authorities) and
35 1985 c 156 s 15;

- 1 (15) RCW 42.44.160 (Official misconduct—Penalty) and 2002 c 86 s
2 289 & 1985 c 156 s 16;
- 3 (16) RCW 42.44.170 (Revocation of appointment—Resignation) and
4 2002 c 86 s 290 & 1985 c 156 s 17;
- 5 (17) RCW 42.44.180 (Evidence of authenticity of notarial seal and
6 signature) and 1985 c 156 s 18;
- 7 (18) RCW 42.44.190 (Rules) and 2002 c 86 s 291 & 1985 c 156 s 20;
- 8 (19) RCW 42.44.200 (Transfer of records) and 1985 c 156 s 22;
- 9 (20) RCW 42.44.210 (Uniform regulation of business and
10 professions act) and 2002 c 86 s 292;
- 11 (21) RCW 42.44.220 (Military training or experience) and 2011 c
12 351 s 18;
- 13 (22) RCW 42.44.221 (Spouses of military personnel—Appointment)
14 and 2011 2nd sp.s. c 5 s 7;
- 15 (23) RCW 42.44.900 (Savings—1985 c 156) and 1985 c 156 s 21;
- 16 (24) RCW 42.44.901 (Construction) and 1985 c 156 s 23; and
- 17 (25) RCW 42.44.903 (Effective date—1985 c 156) and 1985 c 156 s
18 27.

19 **Sec. 36.** RCW 9.97.020 and 2016 c 81 s 3 are each amended to read
20 as follows:

21 (1) Except as provided in this section, no state, county, or
22 municipal department, board, officer, or agency authorized to assess
23 the qualifications of any applicant for a license, certificate of
24 authority, qualification to engage in the practice of a profession or
25 business, or for admission to an examination to qualify for such a
26 license or certificate may disqualify a qualified applicant, solely
27 based on the applicant's criminal history, if the qualified applicant
28 has obtained a certificate of restoration of opportunity and the
29 applicant meets all other statutory and regulatory requirements,
30 except as required by federal law or exempted under this subsection.
31 Nothing in this section is interpreted as restoring or creating a
32 means to restore any firearms rights or eligibility to obtain a
33 firearm dealer license pursuant to RCW 9.41.110 or requiring the
34 removal of a protection order.

35 (a)(i) Criminal justice agencies, as defined in RCW 10.97.030,
36 and the Washington state bar association are exempt from this
37 section.

1 (ii) This section does not apply to the licensing, certification,
2 or qualification of the following professionals: Accountants, RCW
3 18.04.295; assisted living facilities employees, RCW 18.20.125; bail
4 bond agents, RCW 18.185.020; escrow agents, RCW 18.44.241; long-term
5 care workers, RCW 18.88B.080; nursing home administrators, RCW
6 18.52.071; nursing, chapter 18.79 RCW; physicians and physician
7 assistants, chapters 18.71 and 18.71A RCW; private investigators, RCW
8 18.165.030; receivers, RCW 7.60.035; teachers, chapters 28A.405 and
9 28A.410 RCW; notaries public, chapter ((42.44 RCW)) 42.--- RCW (the
10 new chapter created in section 34 of this act); private
11 investigators, chapter 18.165 RCW; real estate brokers and
12 salespersons, chapters 18.85 and 18.86 RCW; security guards, chapter
13 18.170 RCW; and vulnerable adult care providers, RCW 43.43.842.

14 (iii) To the extent this section conflicts with the requirements
15 for receipt of federal funding under the adoption and safe families
16 act, 42 U.S.C. Sec. 671, this section does not apply.

17 (b) Unless otherwise addressed in statute, in cases where an
18 applicant would be disqualified under RCW 43.20A.710, and the
19 applicant has obtained a certificate of restoration of opportunity,
20 the department of social and health services may, after review of
21 relevant factors, including the nature and seriousness of the
22 offense, time that has passed since conviction, changed circumstances
23 since the offense occurred, and the nature of the employment or
24 license sought, at its discretion:

25 (i) Allow the applicant to have unsupervised access to children,
26 vulnerable adults, or individuals with mental illness or
27 developmental disabilities if the applicant is otherwise qualified
28 and suitable; or

29 (ii) Disqualify the applicant solely based on the applicant's
30 criminal history.

31 (c) If the practice of a profession or business involves
32 unsupervised contact with vulnerable adults, children, or individuals
33 with mental illness or developmental disabilities, or populations
34 otherwise defined by statute as vulnerable, the department of health
35 may, after review of relevant factors, including the nature and
36 seriousness of the offense, time that has passed since conviction,
37 changed circumstances since the offense occurred, and the nature of
38 the employment or license sought, at its discretion:

39 (i) Disqualify an applicant who has obtained a certificate of
40 restoration of opportunity, for a license, certification, or

1 registration to engage in the practice of a health care profession or
2 business solely based on the applicant's criminal history; or

3 (ii) If such applicant is otherwise qualified and suitable,
4 credential or credential with conditions an applicant who has
5 obtained a certificate of restoration of opportunity for a license,
6 certification, or registration to engage in the practice of a health
7 care profession or business.

8 (d) The state of Washington, any of its counties, cities, towns,
9 municipal corporations, or quasi-municipal corporations, the
10 department of health, and its officers, employees, contractors, and
11 agents are immune from suit in law, equity, or any action under the
12 administrative procedure act based upon its exercise of discretion
13 under this section. This section does not create a protected class;
14 private right of action; any right, privilege, or duty; or change to
15 any right, privilege, or duty existing under law. This section does
16 not modify a licensing or certification applicant's right to a review
17 of an agency's decision under the administrative procedure act or
18 other applicable statute or agency rule. A certificate of restoration
19 of opportunity does not remove or alter citizenship or legal
20 residency requirements already in place for state agencies and
21 employers.

22 (2) A qualified court has jurisdiction to issue a certificate of
23 restoration of opportunity to a qualified applicant.

24 (a) A court must determine, in its discretion whether the
25 certificate:

26 (i) Applies to all past criminal history; or

27 (ii) Applies only to the convictions or adjudications in the
28 jurisdiction of the court.

29 (b) The certificate does not apply to any future criminal justice
30 involvement that occurs after the certificate is issued.

31 (c) A court must determine whether to issue a certificate by
32 determining whether the applicant is a qualified applicant as defined
33 in RCW 9.97.010.

34 (3) An employer or housing provider may, in its sole discretion,
35 determine whether to consider a certificate of restoration of
36 opportunity issued under this chapter in making employment or rental
37 decisions. An employer or housing provider is immune from suit in
38 law, equity, or under the administrative procedure act for damages
39 based upon its exercise of discretion under this section or the
40 refusal to exercise such discretion. In any action at law against an

1 employer or housing provider arising out of the employment of or
2 provision of housing to the recipient of a certificate of restoration
3 of opportunity, evidence of the crime for which a certificate of
4 restoration of opportunity has been issued may not be introduced as
5 evidence of negligence or intentionally tortious conduct on the part
6 of the employer or housing provider. This subsection does not create
7 a protected class, private right of action, any right, privilege, or
8 duty, or to change any right, privilege, or duty existing under law
9 related to employment or housing except as provided in RCW 7.60.035.

10 (4)(a) Department of social and health services: A certificate of
11 restoration of opportunity does not apply to the state abuse and
12 neglect registry. No finding of abuse, neglect, or misappropriation
13 of property may be removed from the registry based solely on a
14 certificate. The department must include such certificates as part of
15 its criminal history record reports, qualifying letters, or other
16 assessments pursuant to RCW 43.43.830 through 43.43.838. The
17 department shall adopt rules to implement this subsection.

18 (b) Washington state patrol: The Washington state patrol is not
19 required to remove any records based solely on a certificate of
20 restoration of opportunity. The state patrol must include a
21 certificate as part of its criminal history record report.

22 (c) Court records:

23 (i) A certificate of restoration of opportunity has no effect on
24 any other court records, including records in the judicial
25 information system. The court records related to a certificate of
26 restoration of opportunity must be processed and recorded in the same
27 manner as any other record.

28 (ii) The qualified court where the applicant seeks the
29 certificate of restoration of opportunity must administer the court
30 records regarding the certificate in the same manner as it does
31 regarding all other proceedings.

32 (d) Effect in other judicial proceedings: A certificate of
33 restoration of opportunity may only be submitted to a court to
34 demonstrate that the individual met the specific requirements of this
35 section and not for any other procedure, including evidence of
36 character, reputation, or conduct. A certificate is not an equivalent
37 procedure under Rule of Evidence 609(c).

38 (e) Department of health: The department of health must include a
39 certificate of restoration of opportunity on its public web site if:

1 (i) Its web site includes an order, stipulation to informal
2 disposition, or notice of decision related to the conviction
3 identified in the certificate of restoration of opportunity; and

4 (ii) The credential holder has provided a certified copy of the
5 certificate of restoration of opportunity to the department of
6 health.

7 (5) In all cases, an applicant must provide notice to the
8 prosecutor in the county where he or she seeks a certificate of
9 restoration of opportunity of the pendency of such application. If
10 the applicant has been sentenced by any other jurisdiction in the
11 five years preceding the application for a certificate, the applicant
12 must also notify the prosecuting attorney in those jurisdictions. The
13 prosecutor in the county where an applicant applies for a certificate
14 shall provide the court with a report of the applicant's criminal
15 history.

16 (6) Application for a certificate of restoration of opportunity
17 must be filed as a civil action.

18 (7) A superior court in the county in which the applicant resides
19 may decline to consider the application for certificate of
20 restoration of opportunity. If the superior court in which the
21 applicant resides declines to consider the application, the court
22 must dismiss the application without prejudice and the applicant may
23 refile the application in another qualified court. The court must
24 state the reason for the dismissal on the order. If the court
25 determines that the applicant does not meet the required
26 qualifications, then the court must dismiss the application without
27 prejudice and state the reason(s) on the order. The superior court in
28 the county of the applicant's conviction or adjudication may not
29 decline to consider the application.

30 (8) Unless the qualified court determines that a hearing on an
31 application for certificate of restoration is necessary, the court
32 must decide without a hearing whether to grant the certificate of
33 restoration of opportunity based on a review of the application filed
34 by the applicant and pleadings filed by the prosecuting attorney.

35 (9) The clerk of the court in which the certificate of
36 restoration of opportunity is granted shall transmit the certificate
37 of restoration of opportunity to the Washington state patrol
38 identification section, which holds criminal history information for
39 the person who is the subject of the conviction. The Washington state

1 patrol shall update its records to reflect the certificate of
2 restoration of opportunity.

3 (10)(a) The administrative office of the courts shall develop and
4 prepare instructions, forms, and an informational brochure designed
5 to assist applicants applying for a certificate of restoration of
6 opportunity.

7 (b) The instructions must include, at least, a sample of a
8 standard application and a form order for a certificate of
9 restoration of opportunity.

10 (c) The administrative office of the courts shall distribute a
11 master copy of the instructions, informational brochure, and sample
12 application and form order to all county clerks and a master copy of
13 the application and order to all superior courts by January 1, 2017.

14 (d) The administrative office of the courts shall determine the
15 significant non-English-speaking or limited English-speaking
16 populations in the state. The administrator shall then arrange for
17 translation of the instructions, which shall contain a sample of the
18 standard application and order, and the informational brochure into
19 languages spoken by those significant non-English-speaking
20 populations and shall distribute a master copy of the translated
21 instructions and informational brochures to the county clerks by
22 January 1, 2017.

23 (e) The administrative office of the courts shall update the
24 instructions, brochures, standard application and order, and
25 translations when changes in the law make an update necessary.

26 **Sec. 37.** RCW 18.235.010 and 2007 c 256 s 11 are each amended to
27 read as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

30 (1) "Board" means those boards specified in RCW 18.235.020(2)(b).

31 (2) "Department" means the department of licensing.

32 (3) "Director" means the director of the department or director's
33 designee.

34 (4) "Disciplinary action" means sanctions identified in RCW
35 18.235.110.

36 (5) "Disciplinary authority" means the director, board, or
37 commission having the authority to take disciplinary action against a
38 holder of, or applicant for, a professional or business license upon

1 a finding of a violation of this chapter or a chapter specified under
2 RCW 18.235.020.

3 (6) "License," "licensing," and "licensure" are deemed equivalent
4 to the terms "license," "licensing," "licensure," "certificate,"
5 "certification," and "registration" as those terms are defined in RCW
6 18.118.020. Each of these terms, and the term (~~("appointment")~~)
7 "commission" under chapter (~~(42.44 RCW)~~) 42.--- RCW (the new chapter
8 created in section 34 of this act), are interchangeable under the
9 provisions of this chapter.

10 (7) "Unlicensed practice" means:

11 (a) Practicing a profession or operating a business identified in
12 RCW 18.235.020 without holding a valid, unexpired, unrevoked, and
13 unsuspended license to do so; or

14 (b) Representing to a person, through offerings, advertisements,
15 or use of a professional title or designation, that the individual or
16 business is qualified to practice a profession or operate a business
17 identified in RCW 18.235.020 without holding a valid, unexpired,
18 unrevoked, and unsuspended license to do so.

19 **Sec. 38.** RCW 18.235.020 and 2013 c 322 s 29 are each amended to
20 read as follows:

21 (1) This chapter applies only to the director and the boards and
22 commissions having jurisdiction in relation to the businesses and
23 professions licensed under the chapters specified in this section.
24 This chapter does not apply to any business or profession not
25 licensed under the chapters specified in this section.

26 (2)(a) The director has authority under this chapter in relation
27 to the following businesses and professions:

28 (i) Auctioneers under chapter 18.11 RCW;

29 (ii) Bail bond agents and bail bond recovery agents under chapter
30 18.185 RCW;

31 (iii) Camping resorts' operators and salespersons under chapter
32 19.105 RCW;

33 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

34 (v) Cosmetologists, barbers, manicurists, and estheticians under
35 chapter 18.16 RCW;

36 (vi) Court reporters under chapter 18.145 RCW;

37 (vii) Driver training schools and instructors under chapter 46.82
38 RCW;

39 (viii) Employment agencies under chapter 19.31 RCW;

- 1 (ix) For hire vehicle operators under chapter 46.72 RCW;
- 2 (x) Limousines under chapter 46.72A RCW;
- 3 (xi) Notaries public under chapter (~~42.44 RCW~~) 42.--- RCW (the
4 new chapter created in section 34 of this act);
- 5 (xii) Private investigators under chapter 18.165 RCW;
- 6 (xiii) Professional boxing, martial arts, and wrestling under
7 chapter 67.08 RCW;
- 8 (xiv) Real estate appraisers under chapter 18.140 RCW;
- 9 (xv) Real estate brokers and salespersons under chapters 18.85
10 and 18.86 RCW;
- 11 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
12 metal suppliers under chapter 19.290 RCW;
- 13 (xvii) Security guards under chapter 18.170 RCW;
- 14 (xviii) Sellers of travel under chapter 19.138 RCW;
- 15 (xix) Timeshares and timeshare salespersons under chapter 64.36
16 RCW;
- 17 (xx) Whitewater river outfitters under chapter 79A.60 RCW;
- 18 (xxi) Home inspectors under chapter 18.280 RCW;
- 19 (xxii) Body artists, body piercers, and tattoo artists, and body
20 art, body piercing, and tattooing shops and businesses, under chapter
21 18.300 RCW; and
- 22 (xxiii) Appraisal management companies under chapter 18.310 RCW.
- 23 (b) The boards and commissions having authority under this
24 chapter are as follows:
- 25 (i) The state board for architects established in chapter 18.08
26 RCW;
- 27 (ii) The Washington state collection agency board established in
28 chapter 19.16 RCW;
- 29 (iii) The state board of registration for professional engineers
30 and land surveyors established in chapter 18.43 RCW governing
31 licenses issued under chapters 18.43 and 18.210 RCW;
- 32 (iv) The funeral and cemetery board established in chapter 18.39
33 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
- 34 (v) The state board of licensure for landscape architects
35 established in chapter 18.96 RCW; and
- 36 (vi) The state geologist licensing board established in chapter
37 18.220 RCW.
- 38 (3) In addition to the authority to discipline license holders,
39 the disciplinary authority may grant or deny licenses based on the
40 conditions and criteria established in this chapter and the chapters

1 specified in subsection (2) of this section. This chapter also
2 governs any investigation, hearing, or proceeding relating to denial
3 of licensure or issuance of a license conditioned on the applicant's
4 compliance with an order entered under RCW 18.235.110 by the
5 disciplinary authority.

6 **Sec. 39.** RCW 19.34.340 and 1997 c 27 s 21 are each amended to
7 read as follows:

8 (1) Unless otherwise provided by law or contract, if so provided
9 in the certificate issued by a licensed certification authority, a
10 digital signature verified by reference to the public key listed in a
11 valid certificate issued by a licensed certification authority
12 satisfies the requirements for an acknowledgment under ((RCW
13 ~~42.44.010(4)~~) section 2(1) of this act and for acknowledgment of
14 deeds and other real property conveyances under RCW 64.04.020 if
15 words of an express acknowledgment appear with the digital signature
16 regardless of whether the signer personally appeared before either
17 the certification authority or some other person authorized to take
18 acknowledgments of deeds, mortgages, or other conveyance instruments
19 under RCW 64.08.010 when the digital signature was created, if that
20 digital signature is:

- 21 (a) Verifiable by that certificate; and
22 (b) Affixed when that certificate was valid.

23 (2) If the digital signature is used as an acknowledgment, then
24 the certification authority is responsible to the same extent as a
25 notary up to the recommended reliance limit for failure to satisfy
26 the requirements for an acknowledgment. The certification authority
27 may not disclaim or limit, other than as provided in RCW 19.34.280,
28 the effect of this section.

29 **Sec. 40.** RCW 19.154.060 and 2011 c 244 s 3 are each amended to
30 read as follows:

31 (1) Persons, other than those licensed to practice law in this
32 state or otherwise permitted to practice law or represent others
33 under federal law in an immigration matter, are prohibited from
34 engaging in the practice of law in an immigration matter for
35 compensation.

36 (2) Persons, other than those licensed to practice law in this
37 state or otherwise permitted to practice law or represent others

1 under federal law in an immigration matter, are prohibited from
2 engaging in the following acts or practices, for compensation:

3 (a) Advising or assisting another person in determining the
4 person's legal or illegal status for the purpose of an immigration
5 matter;

6 (b) Selecting or assisting another in selecting, or advising
7 another as to his or her answers on, a government agency form or
8 document in an immigration matter;

9 (c) Selecting or assisting another in selecting, or advising
10 another in selecting, a benefit, visa, or program to apply for in an
11 immigration matter;

12 (d) Soliciting to prepare documents for, or otherwise
13 representing the interests of, another in a judicial or
14 administrative proceeding in an immigration matter;

15 (e) Explaining, advising, or otherwise interpreting the meaning
16 or intent of a question on a government agency form in an immigration
17 matter;

18 (f) Charging a fee for referring another to a person licensed to
19 practice law;

20 (g) Selecting, drafting, or completing legal documents affecting
21 the legal rights of another in an immigration matter.

22 (3) Persons, other than those holding an active license to
23 practice law issued by the Washington state bar association or
24 otherwise permitted to practice law or represent others under federal
25 law in an immigration matter, are prohibited from engaging in the
26 following acts or practices, regardless of whether compensation is
27 sought:

28 (a) Representing, either orally or in any document, letterhead,
29 advertisement, stationery, business card, web site, or other
30 comparable written material, that he or she is a notario publico,
31 notario, immigration assistant, immigration consultant, immigration
32 specialist, or using any other designation or title, in any language,
33 that conveys or implies that he or she possesses professional legal
34 skills in the area of immigration law;

35 (b) Representing, in any language, either orally or in any
36 document, letterhead, advertisement, stationery, business card, web
37 site, or other comparable written material, that he or she can or is
38 willing to provide services in an immigration matter, if such
39 services would constitute the practice of law.

1 (4)(a) The prohibitions of subsections (1) through (3) of this
2 section shall not apply to the activities of nonlawyer assistants
3 acting under the supervision of a person holding an active license to
4 practice law issued by the Washington state bar association or
5 otherwise permitted to practice law or represent others under federal
6 law in an immigration matter.

7 (b) This section does not prohibit a person from offering
8 translation services, regardless of whether compensation is sought.
9 Translating words contained on a government form from English to
10 another language and translating a person's words from another
11 language to English does not constitute the unauthorized practice of
12 law.

13 (5) In addition to complying with the prohibitions of subsections
14 (1) through (3) of this section, persons licensed as a notary public
15 under chapter ((42.44 RCW)) 42.--- RCW (the new chapter created in
16 section 34 of this act) who do not hold an active license to practice
17 law issued by the Washington state bar association shall not use the
18 term notario publico, notario, immigration assistant, immigration
19 consultant, immigration specialist, or any other designation or
20 title, in any language, that conveys or implies that he or she
21 possesses professional legal skills in the areas of immigration law,
22 when advertising notary public services in the conduct of their
23 business. A violation of any provision of this chapter by a person
24 licensed as a notary public under chapter ((42.44 RCW)) 42.--- RCW
25 (the new chapter created in section 34 of this act) shall constitute
26 unprofessional conduct under the uniform regulation of business and
27 professions act, chapter 18.235 RCW.

28 **Sec. 41.** RCW 43.24.150 and 2013 2nd sp.s. c 4 s 978 are each
29 amended to read as follows:

30 (1) The business and professions account is created in the state
31 treasury. All receipts from business or professional licenses,
32 registrations, certifications, renewals, examinations, or civil
33 penalties assessed and collected by the department from the following
34 chapters must be deposited into the account:

- 35 (a) Chapter 18.11 RCW, auctioneers;
- 36 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 37 (c) Chapter 18.145 RCW, court reporters;
- 38 (d) Chapter 18.165 RCW, private investigators;
- 39 (e) Chapter 18.170 RCW, security guards;

- 1 (f) Chapter 18.185 RCW, bail bond agents;
2 (g) Chapter 18.280 RCW, home inspectors;
3 (h) Chapter 19.16 RCW, collection agencies;
4 (i) Chapter 19.31 RCW, employment agencies;
5 (j) Chapter 19.105 RCW, camping resorts;
6 (k) Chapter 19.138 RCW, sellers of travel;
7 (l) Chapter (~~(42.44 RCW)~~) 42.--- RCW (the new chapter created in
8 section 34 of this act), notaries public;
9 (m) Chapter 64.36 RCW, timeshares;
10 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
11 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
12 (p) Chapter 79A.60 RCW, whitewater river outfitters;
13 (q) Chapter 19.158 RCW, commercial telephone solicitation; and
14 (r) Chapter 19.290 RCW, scrap metal businesses.

15 Moneys in the account may be spent only after appropriation.
16 Expenditures from the account may be used only for expenses incurred
17 in carrying out these business and professions licensing activities
18 of the department. Any residue in the account must be accumulated and
19 may not revert to the general fund at the end of the biennium.
20 However, during the 2013-2015 fiscal biennium the legislature may
21 transfer to the state general fund such amounts as reflect the excess
22 fund balance in the account.

23 (2) The director must biennially prepare a budget request based
24 on the anticipated costs of administering the business and
25 professions licensing activities listed in subsection (1) of this
26 section, which must include the estimated income from these business
27 and professions fees.

28 **Sec. 42.** RCW 64.08.060 and 2016 c 202 s 40 are each amended to
29 read as follows:

30 A certificate of acknowledgment for an individual, substantially
31 in the following form or, after December 31, 1985, substantially in
32 the form set forth in (~~(RCW 42.44.100(1))~~) section 16(1) of this act,
33 shall be sufficient for the purposes of this chapter and for any
34 acknowledgment required to be taken in accordance with this chapter:

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State of }
County of } ss.

On this day personally appeared before me (here insert the name of grantor or grantors) to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he (she or they) signed the same as his (her or their) free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this day of, (year) (Signature of officer and official seal)

If acknowledgment is taken before a notary public of this state the signature shall be followed by substantially the following: Notary Public in and for the state of Washington, residing at, (giving place of residence).

Sec. 43. RCW 64.08.070 and 2016 c 202 s 41 are each amended to read as follows:

A certificate of acknowledgment for a corporation, substantially in the following form or, after December 31, 1985, substantially in the form set forth in (~~RCW 42.44.100(2)~~) section 16(2) of this act, shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of }
County of } ss.

On this day of, (year), before me personally appeared, to me known to be the (president, vice president, secretary, treasurer, or other authorized officer or agent, as the case may be) of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he or

1 she was authorized to execute said instrument and that the seal
2 affixed is the corporate seal of said corporation.

3 In Witness Whereof I have hereunto set my hand and affixed my
4 official seal the day and year first above written. (Signature and
5 title of officer with place of residence of notary public.)

6 NEW SECTION. **Sec. 44.** SEVERABILITY. If any provision of this
7 act or its application to any person or circumstance is held invalid,
8 the remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 45.** EFFECTIVE DATE. This act takes effect
11 July 1, 2018.

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