

SSB 5081 - H COMM AMD
By Committee on Judiciary

ADOPTED 04/10/2017

1 Strike everything after the enacting clause and insert the
2 following:

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

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

6 (1) "Acknowledgment" means a declaration by an individual in the
7 presence of a notarial officer stating that the individual has signed
8 a record of the individual's free will for the purpose stated in the
9 record and, if the record is signed in a representative capacity, the
10 individual also declares that he or she signed the record with proper
11 authority and signed it as the act of the individual or entity
12 identified in the record.

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

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

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

19 (5) "Electronic records notary public" means an individual
20 commissioned by the director to perform a notarial act with respect
21 to electronic records. Nothing in this act authorizes an electronic
22 records notary public to provide court reporting services.

23 (6) "Electronic signature" means an electronic symbol, sound, or
24 process attached to or logically associated with a record and
25 executed or adopted by an individual with the intent to sign the
26 record.

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

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

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

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

2 (d) An authorized representative of another in any other
3 capacity.

4 (8) "Notarial act" means an act, whether performed with respect
5 to a tangible or electronic record, that a notarial officer may
6 perform under the law of this state. The term includes taking an
7 acknowledgment, administering an oath or affirmation, taking a
8 verification on oath or affirmation, witnessing or attesting a
9 signature, certifying or attesting a copy, certifying the occurrence
10 of an event or the performance of an act, and noting a protest of a
11 negotiable instrument if the protest was prepared under the authority
12 of an attorney licensed to practice law in this state or another
13 state, or was prepared under the authority of a financial institution
14 that is regulated by this state, another state, or the federal
15 government.

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

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

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

23 (12) "Person" means an individual, corporation, business trust,
24 statutory trust, estate, trust, partnership, limited liability
25 company, association, joint venture, public corporation, government
26 or governmental subdivision, agency, or instrumentality, or any other
27 legal or commercial entity.

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

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

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

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

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

38 (16) "Stamping device" means:

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

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

3 (17) "State" means a state of the United States, the District of
4 Columbia, Puerto Rico, the United States Virgin Islands, or any
5 territory or insular possession subject to the jurisdiction of the
6 United States.

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

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

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

16 (2)(a) A notarial officer may not perform a notarial act with
17 respect to a record to which the officer or the officer's spouse or
18 domestic partner is a party, or in which any of the above have a
19 direct beneficial interest.

20 (b) A notarial officer may not notarize the notarial officer's
21 own signature.

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

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

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

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

36 (3) A notarial officer who witnesses or attests to a signature
37 shall determine, from personal knowledge or satisfactory evidence of

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

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

7 (5) A notarial officer may make or note a protest of a negotiable
8 instrument only if the notarial officer is licensed to practice law
9 in this state, acting under the authority of an attorney who is
10 licensed to practice law in this or another state, or acting under
11 the authority of a financial institution regulated by this state,
12 another state, or the federal government. In making or noting a
13 protest of a negotiable instrument the notarial officer or licensed
14 attorney shall determine the matters set forth in RCW 62A.3-505(b).

15 NEW SECTION. **Sec. 6.** If a notarial act relates to a statement
16 made in or a signature executed on a record, the individual making
17 the statement or executing the signature shall appear personally
18 before the notarial officer.

19 NEW SECTION. **Sec. 7.** IDENTIFICATION OF INDIVIDUAL. (1) A
20 notarial officer has personal knowledge of the identity of an
21 individual appearing before the officer if the individual is
22 personally known to the officer through dealings sufficient to
23 provide reasonable certainty that the individual has the identity
24 claimed.

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

28 (a) By means of:

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

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

36 (b) By a verification on oath or affirmation of a credible
37 witness personally appearing before the officer and personally known

1 to the officer and who provides satisfactory evidence of his or her
2 identity as described in (a) of this subsection.

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

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

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

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

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

15 NEW SECTION. **Sec. 9.** SIGNATURE IF INDIVIDUAL UNABLE TO SIGN.
16 Except as otherwise provided in RCW 64.08.100, if an individual is
17 physically unable to sign a record, the individual may direct an
18 individual other than the notarial officer to sign the individual's
19 name on the record. The notarial officer shall insert "signature
20 affixed by (name of other individual) at the direction of (name of
21 individual)" or words of similar import.

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

24 (a) A notary public of this state;

25 (b) A judge, clerk, or deputy clerk of a court of this state; or

26 (c) Any other individual authorized to perform the specific act
27 by the law of this state.

28 (2) The signature and title of an individual authorized by this
29 act to perform a notarial act in this state are prima facie evidence
30 that the signature is genuine and that the individual holds the
31 designated title.

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

35 NEW SECTION. **Sec. 11.** NOTARIAL ACT IN ANOTHER STATE. (1) A
36 notarial act performed in another state has the same effect under the

1 law of this state as if performed by a notarial officer of this
2 state, if the act performed in that state is performed by:

3 (a) A notary public of that state;

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

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

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

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

14 NEW SECTION. **Sec. 12.** NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY
15 RECOGNIZED INDIAN TRIBE. (1) A notarial act performed under the
16 authority and in the jurisdiction of a federally recognized Indian
17 tribe has the same effect as if performed by a notarial officer of
18 this state, if the act performed in the jurisdiction of the tribe is
19 performed by:

20 (a) A notary public of the tribe;

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

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

24 (2) The signature and title of an individual performing a
25 notarial act under the authority of and in the jurisdiction of a
26 federally recognized Indian tribe are prima facie evidence that the
27 signature is genuine and that the individual holds the designated
28 title.

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

32 NEW SECTION. **Sec. 13.** NOTARIAL ACT UNDER FEDERAL AUTHORITY. (1)
33 A notarial act performed under federal law has the same effect under
34 the law of this state as if performed by a notarial officer of this
35 state, if the act performed under federal law is performed by:

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

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

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

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

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

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

15 NEW SECTION. **Sec. 14.** FOREIGN NOTARIAL ACT. (1) In this
16 section, "foreign state" means a government other than the United
17 States, a state, or a federally recognized Indian tribe.

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

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

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

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

38 (6) A consular authentication issued by an individual designated
39 by the United States department of state as a notarizing officer for

1 performing notarial acts overseas and attached to the record with
2 respect to which the notarial act is performed conclusively
3 establishes that the signature of the notarial officer is genuine and
4 that the officer holds the indicated office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) Is in a short form set forth in section 16 of this act;
- 2 (b) Is in a form otherwise permitted by the law of this state;
- 3 (c) Is in a form permitted by the law applicable in the
- 4 jurisdiction in which the notarial act was performed; or
- 5 (d) Sets forth the actions of the notarial officer and the
- 6 actions are sufficient to meet the requirements of the notarial act
- 7 as provided in sections 5, 6, and 7 of this act or law of this state
- 8 other than this chapter.

9 (5) By executing a certificate of a notarial act, a notarial
 10 officer certifies that the officer has complied with the requirements
 11 and made the determinations specified in sections 5, 6, and 7 of this
 12 act.

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

16 (7) If a notarial act is performed regarding a tangible record, a
 17 certificate must be part of, or securely attached to, the record. If
 18 a notarial act is performed regarding an electronic record, the
 19 certificate must be affixed to, or logically associated with, the
 20 electronic record. If the director has established standards pursuant
 21 to section 28 of this act for attaching, affixing, or logically
 22 associating the certificate, the process must conform to the
 23 standards.

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

- 28 (1) For an acknowledgment in an individual capacity:
- 29 State of
- 30 County of

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

33

34 (Signature of notary
 35 public)

36 (Stamp)

37

(Title of office)

My commission expires:

.....

(date)

(2) For an acknowledgment in a representative capacity:

State of

County of

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

.....

(Signature of notary

public)

(Stamp)

.....

(Title of office)

My commission expires:

.....

(date)

(3) For verification on oath or affirmation:

State of

County of

Signed and sworn to (or affirmed) before me on (date) by (name(s) of individuals making statement).

.....

(Signature of notary

public)

(Stamp)

.....

(Title of office)

My commission expires:

.....

(date)

(4) For witnessing or attesting a signature:

1 State of

2 County of

3 Signed or attested before me on (date) by (name(s) of
4 individuals).

5

6 (Signature of notary
7 public)

8 (Stamp)

9

10 (Title of office)

11 My commission expires:

12

13 (date)

14 (5) For certifying or attesting a copy of a record:

15 State of

16 County of

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

19 Dated:

20

21 (Signature of notary
22 public)

23 (Stamp)

24

25 (Title of office)

26 My commission expires:

27

28 (date)

29 (6) For certifying the occurrence of an event or the performance
30 of any act:

31 State of

32 County of

33 I certify that the event described in this document has occurred
34 or been performed.

35 Dated:

.....

(Signature of notary
public)

(Stamp)

.....

(Title of office)

My commission expires:

.....

(date)

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

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

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

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

26 (4) The seal or stamp used at the time that a notarial act is
27 performed must be the seal or stamp evidencing the notary public's
28 commission in effect as of such time, even if the notary public has
29 received the seal or stamp evidencing his or her next commission.

30 NEW SECTION. Sec. 18. STAMPING DEVICE. (1) A notary public is
31 responsible for the security of the notary public's stamping device
32 and may not allow another individual to use the device to perform a
33 notarial act. On resignation from, or the revocation or expiration
34 of, the notary public's commission, or on the expiration of the date
35 set forth in the stamping device, the notary public shall disable the
36 stamping device by destroying, defacing, damaging, erasing, or

1 securing it against use in a manner that renders it unusable. On the
2 death or adjudication of incompetency of a notary public, the notary
3 public's personal representative or guardian or any other person
4 knowingly in possession of the stamping device shall render it
5 unusable by destroying, defacing, damaging, erasing, or securing it
6 against use in a manner that renders it unusable.

7 (2) The seal or stamp should be kept in a locked and secured
8 area, under the direct and exclusive control of the notary public. If
9 a notary public's stamping device is lost or stolen, the notary
10 public or the notary public's personal representative or guardian
11 shall notify promptly the department on discovering that the device
12 is lost or stolen. Any replacement device must contain a variance
13 from the lost or stolen seal or stamp.

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

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

18 NEW SECTION. **Sec. 20.** (1) A notary public shall maintain a
19 journal in which the notary public chronicles all notarial acts that
20 the notary public performs. The notary public shall retain the
21 journal for ten years after the performance of the last notarial act
22 chronicled in the journal. The journal is to be destroyed as required
23 by the director in rule upon completion of the ten-year period.

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

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

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

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

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

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

9 (d) Any additional information as required by the director in
10 rule.

11 (5) The journal shall be kept in a locked and secured area, under
12 the direct and exclusive control of the notary public. Failure to
13 secure the journal may be cause for the director to take
14 administrative action against the commission held by the notary
15 public. If a notary public's journal is lost or stolen, the notary
16 public promptly shall notify the department on discovering that the
17 journal is lost or stolen.

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

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

27 (2) An electronic records notary public may select one or more
28 tamper-evident technologies to perform notarial acts with respect to
29 electronic records that meet the standards provided in subsection (4)
30 of this section. A person cannot require an electronic records notary
31 public to perform a notarial act with respect to an electronic record
32 with a technology that the notary public has not selected.

33 (3) Before an electronic records notary public performs the
34 notary public's initial notarial act with respect to an electronic
35 record, an electronic records notary public shall notify the
36 department that he or she will be performing notarial acts with
37 respect to electronic records and identify the technology the
38 electronic records notary public intends to use.

1 (4) The director shall establish standards for approval of
2 technology in rule. If the technology conforms to the standards, the
3 director shall approve the use of the technology.

4 NEW SECTION. **Sec. 22.** COMMISSION AS NOTARY PUBLIC—
5 QUALIFICATIONS—NO IMMUNITY OR BENEFIT. (1) An individual qualified
6 under subsection (2) of this section may apply to the director for a
7 commission as a notary public. The applicant shall comply with and
8 provide the information required by rules established by the director
9 and pay any application fee.

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

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

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

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

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

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

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

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

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

1 assurance. A notary public may perform notarial acts in this state
2 only during the period that a valid assurance is on file with the
3 department.

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

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

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

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

19 (b) An electronic records notary public commission may take the
20 form of an endorsement to the notary public commission if deemed
21 appropriate by the director.

22 NEW SECTION. **Sec. 23.** EXAMINATION OF NOTARY PUBLIC. The
23 director may require an applicant for a commission or renewal of a
24 commission as a notary public, including an applicant for a
25 commission as an electronic records notary public, to successfully
26 pass a course or an examination, as prescribed by the director in
27 rule.

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

35 (a) Failure to comply with this chapter;

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

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

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

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

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

13 (g) Violation by the notary public of a rule of the director
14 regarding a notary public;

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

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

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

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

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

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

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

33 (2) Which indicates whether a notary public has notified the
34 director that the notary public will be performing notarial acts on
35 electronic records.

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

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

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

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

8 (d) Receive compensation for performing any of the activities
9 listed in this subsection; or

10 (e) Provide court reporting services.

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

13 (3) A notary public, other than an attorney licensed to practice
14 law in this state, or a Washington-licensed limited license legal
15 technician acting within the scope of his or her license, may not use
16 the term "notario" or "notario publico."

17 (4) A notary public, other than an attorney licensed to practice
18 law in this state or a limited license legal technician acting within
19 the scope of his or her license, may not assist another person in
20 selecting the appropriate certificate required by section 15 of this
21 act.

22 (5) A notary public, other than an attorney licensed to practice
23 law in this state, or a Washington-licensed limited license legal
24 technician acting within the scope of his or her license, may not
25 advertise or represent that the notary public may assist persons in
26 drafting legal records, give legal advice, or otherwise practice law.
27 If a notary public who is not an attorney licensed to practice law in
28 this state, or a Washington-licensed limited license legal technician
29 acting within the scope of his or her license, in any manner
30 advertises or represents that the notary public offers notarial
31 services, whether orally or in a record, including broadcast media,
32 print media, and the internet, the notary public shall include the
33 following statement, or an alternate statement authorized or required
34 by the director, in the advertisement or representation, prominently
35 and in each language used in the advertisement or representation: "I
36 am not an attorney licensed to practice law in this state. I am not
37 allowed to draft legal records, give advice on legal matters,
38 including immigration, or charge a fee for those activities." If the
39 form of advertisement or representation is not broadcast media, print
40 media, or the internet and does not permit inclusion of the statement

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

4 (6) Except as otherwise allowed by law, a notary public may not
5 withhold access to or possession of an original record provided by a
6 person that seeks performance of a notarial act by the notary public.
7 A notary public may not maintain copies or electronic images of
8 documents notarized unless the copies or images are maintained by an
9 attorney or Washington-licensed limited license legal technician
10 acting within his or her scope of practice for the performance of
11 legal services or for other services performed for the client and the
12 copies or images are not maintained solely as part of the notary
13 transaction.

14 NEW SECTION. **Sec. 27.** VALIDITY OF NOTARIAL ACTS. Except as
15 otherwise provided in section 4(2) of this act, the failure of a
16 notarial officer to perform a duty or meet a requirement specified in
17 this chapter does not invalidate a notarial act performed by the
18 notarial officer. The validity of a notarial act under this chapter
19 does not prevent an aggrieved person from seeking to invalidate the
20 record or transaction that is the subject of the notarial act or from
21 seeking other remedies based on law of this state other than this
22 chapter or law of the United States. This section does not validate a
23 purported notarial act performed by an individual who does not have
24 the authority to perform notarial acts. Nothing in this act gives the
25 director authority to invalidate a notarial act.

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

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

32 NEW SECTION. **Sec. 29.** NOTARY PUBLIC COMMISSION IN EFFECT. A
33 commission as a notary public in effect on the effective date of this
34 section continues until its date of expiration. A notary public who
35 applies to renew a commission as a notary public on or after the
36 effective date of this section is subject to and shall comply with

1 this chapter. A notary public, in performing notarial acts after the
2 effective date of this section, shall comply with this chapter.

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

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

10 NEW SECTION. **Sec. 32.** RELATION TO ELECTRONIC SIGNATURES IN
11 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
12 supersedes the electronic signatures in global and national commerce
13 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
14 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
15 authorize electronic delivery of any of the notices described in
16 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

17 NEW SECTION. **Sec. 33.** UNIFORM REGULATION OF BUSINESS AND
18 PROFESSIONS ACT. The uniform regulation of business and professions
19 act, chapter 18.235 RCW, governs unlicensed practice, the issuance
20 and denial of licenses, and the discipline of licensees under this
21 chapter.

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

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

- 26 (1) RCW 42.44.010 (Definitions) and 1985 c 156 s 1;
- 27 (2) RCW 42.44.020 (Qualifications—Application—Bond) and 1985 c
28 156 s 2;
- 29 (3) RCW 42.44.030 (Appointment—Denial for unprofessional conduct
30 —Certificate of appointment) and 2011 c 244 s 6, 2002 c 86 s 287, &
31 1985 c 156 s 3;
- 32 (4) RCW 42.44.050 (Seal or stamp) and 1985 c 156 s 5;
- 33 (5) RCW 42.44.060 (Term) and 2002 c 86 s 288 & 1985 c 156 s 6;

- 1 (6) RCW 42.44.070 (Reappointment without endorsements) and 1985 c
2 156 s 7;
- 3 (7) RCW 42.44.080 (Standards for notarial acts) and 1987 c 76 s 3
4 & 1985 c 156 s 8;
- 5 (8) RCW 42.44.090 (Form of certificate—General—Seal or stamp as
6 exclusive property) and 1985 c 156 s 9;
- 7 (9) RCW 42.44.100 (Short forms of certificate) and 1988 c 69 s 4
8 & 1985 c 156 s 10;
- 9 (10) RCW 42.44.110 (Illegible writing) and 1985 c 156 s 11;
- 10 (11) RCW 42.44.120 (Fees) and 1985 c 156 s 12;
- 11 (12) RCW 42.44.130 (Notarial acts by officials of other
12 jurisdictions) and 1985 c 156 s 13;
- 13 (13) RCW 42.44.140 (Notarial acts by federal authorities) and
14 1985 c 156 s 14;
- 15 (14) RCW 42.44.150 (Notarial acts by foreign authorities) and
16 1985 c 156 s 15;
- 17 (15) RCW 42.44.160 (Official misconduct—Penalty) and 2002 c 86 s
18 289 & 1985 c 156 s 16;
- 19 (16) RCW 42.44.170 (Revocation of appointment—Resignation) and
20 2002 c 86 s 290 & 1985 c 156 s 17;
- 21 (17) RCW 42.44.180 (Evidence of authenticity of notarial seal and
22 signature) and 1985 c 156 s 18;
- 23 (18) RCW 42.44.190 (Rules) and 2002 c 86 s 291 & 1985 c 156 s 20;
- 24 (19) RCW 42.44.200 (Transfer of records) and 1985 c 156 s 22;
- 25 (20) RCW 42.44.210 (Uniform regulation of business and
26 professions act) and 2002 c 86 s 292;
- 27 (21) RCW 42.44.220 (Military training or experience) and 2011 c
28 351 s 18;
- 29 (22) RCW 42.44.221 (Spouses of military personnel—Appointment)
30 and 2011 2nd sp.s. c 5 s 7;
- 31 (23) RCW 42.44.900 (Savings—1985 c 156) and 1985 c 156 s 21;
- 32 (24) RCW 42.44.901 (Construction) and 1985 c 156 s 23; and
- 33 (25) RCW 42.44.903 (Effective date—1985 c 156) and 1985 c 156 s
34 27.

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

- 37 (1) Except as provided in this section, no state, county, or
38 municipal department, board, officer, or agency authorized to assess

1 the qualifications of any applicant for a license, certificate of
2 authority, qualification to engage in the practice of a profession or
3 business, or for admission to an examination to qualify for such a
4 license or certificate may disqualify a qualified applicant, solely
5 based on the applicant's criminal history, if the qualified applicant
6 has obtained a certificate of restoration of opportunity and the
7 applicant meets all other statutory and regulatory requirements,
8 except as required by federal law or exempted under this subsection.
9 Nothing in this section is interpreted as restoring or creating a
10 means to restore any firearms rights or eligibility to obtain a
11 firearm dealer license pursuant to RCW 9.41.110 or requiring the
12 removal of a protection order.

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

16 (ii) This section does not apply to the licensing, certification,
17 or qualification of the following professionals: Accountants, RCW
18 18.04.295; assisted living facilities employees, RCW 18.20.125; bail
19 bond agents, RCW 18.185.020; escrow agents, RCW 18.44.241; long-term
20 care workers, RCW 18.88B.080; nursing home administrators, RCW
21 18.52.071; nursing, chapter 18.79 RCW; physicians and physician
22 assistants, chapters 18.71 and 18.71A RCW; private investigators, RCW
23 18.165.030; receivers, RCW 7.60.035; teachers, chapters 28A.405 and
24 28A.410 RCW; notaries public, chapter ~~((42.44 RCW))~~ 42.--- RCW (the
25 new chapter created in section 34 of this act); private
26 investigators, chapter 18.165 RCW; real estate brokers and
27 salespersons, chapters 18.85 and 18.86 RCW; security guards, chapter
28 18.170 RCW; and vulnerable adult care providers, RCW 43.43.842.

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

32 (b) Unless otherwise addressed in statute, in cases where an
33 applicant would be disqualified under RCW 43.20A.710, and the
34 applicant has obtained a certificate of restoration of opportunity,
35 the department of social and health services may, after review of
36 relevant factors, including the nature and seriousness of the
37 offense, time that has passed since conviction, changed circumstances
38 since the offense occurred, and the nature of the employment or
39 license sought, at its discretion:

1 (i) Allow the applicant to have unsupervised access to children,
2 vulnerable adults, or individuals with mental illness or
3 developmental disabilities if the applicant is otherwise qualified
4 and suitable; or

5 (ii) Disqualify the applicant solely based on the applicant's
6 criminal history.

7 (c) If the practice of a profession or business involves
8 unsupervised contact with vulnerable adults, children, or individuals
9 with mental illness or developmental disabilities, or populations
10 otherwise defined by statute as vulnerable, the department of health
11 may, after review of relevant factors, including the nature and
12 seriousness of the offense, time that has passed since conviction,
13 changed circumstances since the offense occurred, and the nature of
14 the employment or license sought, at its discretion:

15 (i) Disqualify an applicant who has obtained a certificate of
16 restoration of opportunity, for a license, certification, or
17 registration to engage in the practice of a health care profession or
18 business solely based on the applicant's criminal history; or

19 (ii) If such applicant is otherwise qualified and suitable,
20 credential or credential with conditions an applicant who has
21 obtained a certificate of restoration of opportunity for a license,
22 certification, or registration to engage in the practice of a health
23 care profession or business.

24 (d) The state of Washington, any of its counties, cities, towns,
25 municipal corporations, or quasi-municipal corporations, the
26 department of health, and its officers, employees, contractors, and
27 agents are immune from suit in law, equity, or any action under the
28 administrative procedure act based upon its exercise of discretion
29 under this section. This section does not create a protected class;
30 private right of action; any right, privilege, or duty; or change to
31 any right, privilege, or duty existing under law. This section does
32 not modify a licensing or certification applicant's right to a review
33 of an agency's decision under the administrative procedure act or
34 other applicable statute or agency rule. A certificate of restoration
35 of opportunity does not remove or alter citizenship or legal
36 residency requirements already in place for state agencies and
37 employers.

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

1 (a) A court must determine, in its discretion whether the
2 certificate:

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

4 (ii) Applies only to the convictions or adjudications in the
5 jurisdiction of the court.

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

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

11 (3) An employer or housing provider may, in its sole discretion,
12 determine whether to consider a certificate of restoration of
13 opportunity issued under this chapter in making employment or rental
14 decisions. An employer or housing provider is immune from suit in
15 law, equity, or under the administrative procedure act for damages
16 based upon its exercise of discretion under this section or the
17 refusal to exercise such discretion. In any action at law against an
18 employer or housing provider arising out of the employment of or
19 provision of housing to the recipient of a certificate of restoration
20 of opportunity, evidence of the crime for which a certificate of
21 restoration of opportunity has been issued may not be introduced as
22 evidence of negligence or intentionally tortious conduct on the part
23 of the employer or housing provider. This subsection does not create
24 a protected class, private right of action, any right, privilege, or
25 duty, or to change any right, privilege, or duty existing under law
26 related to employment or housing except as provided in RCW 7.60.035.

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

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

39 (c) Court records:

1 (i) A certificate of restoration of opportunity has no effect on
2 any other court records, including records in the judicial
3 information system. The court records related to a certificate of
4 restoration of opportunity must be processed and recorded in the same
5 manner as any other record.

6 (ii) The qualified court where the applicant seeks the
7 certificate of restoration of opportunity must administer the court
8 records regarding the certificate in the same manner as it does
9 regarding all other proceedings.

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

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

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

21 (ii) The credential holder has provided a certified copy of the
22 certificate of restoration of opportunity to the department of
23 health.

24 (5) In all cases, an applicant must provide notice to the
25 prosecutor in the county where he or she seeks a certificate of
26 restoration of opportunity of the pendency of such application. If
27 the applicant has been sentenced by any other jurisdiction in the
28 five years preceding the application for a certificate, the applicant
29 must also notify the prosecuting attorney in those jurisdictions. The
30 prosecutor in the county where an applicant applies for a certificate
31 shall provide the court with a report of the applicant's criminal
32 history.

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

35 (7) A superior court in the county in which the applicant resides
36 may decline to consider the application for certificate of
37 restoration of opportunity. If the superior court in which the
38 applicant resides declines to consider the application, the court
39 must dismiss the application without prejudice and the applicant may
40 refile the application in another qualified court. The court must

1 state the reason for the dismissal on the order. If the court
2 determines that the applicant does not meet the required
3 qualifications, then the court must dismiss the application without
4 prejudice and state the reason(s) on the order. The superior court in
5 the county of the applicant's conviction or adjudication may not
6 decline to consider the application.

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

12 (9) The clerk of the court in which the certificate of
13 restoration of opportunity is granted shall transmit the certificate
14 of restoration of opportunity to the Washington state patrol
15 identification section, which holds criminal history information for
16 the person who is the subject of the conviction. The Washington state
17 patrol shall update its records to reflect the certificate of
18 restoration of opportunity.

19 (10)(a) The administrative office of the courts shall develop and
20 prepare instructions, forms, and an informational brochure designed
21 to assist applicants applying for a certificate of restoration of
22 opportunity.

23 (b) The instructions must include, at least, a sample of a
24 standard application and a form order for a certificate of
25 restoration of opportunity.

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

30 (d) The administrative office of the courts shall determine the
31 significant non-English-speaking or limited English-speaking
32 populations in the state. The administrator shall then arrange for
33 translation of the instructions, which shall contain a sample of the
34 standard application and order, and the informational brochure into
35 languages spoken by those significant non-English-speaking
36 populations and shall distribute a master copy of the translated
37 instructions and informational brochures to the county clerks by
38 January 1, 2017.

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

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

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

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

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

10 (3) "Director" means the director of the department or director's
11 designee.

12 (4) "Disciplinary action" means sanctions identified in RCW
13 18.235.110.

14 (5) "Disciplinary authority" means the director, board, or
15 commission having the authority to take disciplinary action against a
16 holder of, or applicant for, a professional or business license upon
17 a finding of a violation of this chapter or a chapter specified under
18 RCW 18.235.020.

19 (6) "License," "licensing," and "licensure" are deemed equivalent
20 to the terms "license," "licensing," "licensure," "certificate,"
21 "certification," and "registration" as those terms are defined in RCW
22 18.118.020. Each of these terms, and the term (~~"appointment"~~)
23 "commission" under chapter (~~(42.44 RCW)~~) 42.--- RCW (the new chapter
24 created in section 34 of this act), are interchangeable under the
25 provisions of this chapter.

26 (7) "Unlicensed practice" means:

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

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

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

37 (1) This chapter applies only to the director and the boards and
38 commissions having jurisdiction in relation to the businesses and

1 professions licensed under the chapters specified in this section.
2 This chapter does not apply to any business or profession not
3 licensed under the chapters specified in this section.

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

6 (i) Auctioneers under chapter 18.11 RCW;

7 (ii) Bail bond agents and bail bond recovery agents under chapter
8 18.185 RCW;

9 (iii) Camping resorts' operators and salespersons under chapter
10 19.105 RCW;

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

12 (v) Cosmetologists, barbers, manicurists, and estheticians under
13 chapter 18.16 RCW;

14 (vi) Court reporters under chapter 18.145 RCW;

15 (vii) Driver training schools and instructors under chapter 46.82
16 RCW;

17 (viii) Employment agencies under chapter 19.31 RCW;

18 (ix) For hire vehicle operators under chapter 46.72 RCW;

19 (x) Limousines under chapter 46.72A RCW;

20 (xi) Notaries public under chapter (~~42.44 RCW~~) 42.--- RCW (the
21 new chapter created in section 34 of this act);

22 (xii) Private investigators under chapter 18.165 RCW;

23 (xiii) Professional boxing, martial arts, and wrestling under
24 chapter 67.08 RCW;

25 (xiv) Real estate appraisers under chapter 18.140 RCW;

26 (xv) Real estate brokers and salespersons under chapters 18.85
27 and 18.86 RCW;

28 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
29 metal suppliers under chapter 19.290 RCW;

30 (xvii) Security guards under chapter 18.170 RCW;

31 (xviii) Sellers of travel under chapter 19.138 RCW;

32 (xix) Timeshares and timeshare salespersons under chapter 64.36
33 RCW;

34 (xx) Whitewater river outfitters under chapter 79A.60 RCW;

35 (xxi) Home inspectors under chapter 18.280 RCW;

36 (xxii) Body artists, body piercers, and tattoo artists, and body
37 art, body piercing, and tattooing shops and businesses, under chapter
38 18.300 RCW; and

39 (xxiii) Appraisal management companies under chapter 18.310 RCW.

1 (b) The boards and commissions having authority under this
2 chapter are as follows:

3 (i) The state board for architects established in chapter 18.08
4 RCW;

5 (ii) The Washington state collection agency board established in
6 chapter 19.16 RCW;

7 (iii) The state board of registration for professional engineers
8 and land surveyors established in chapter 18.43 RCW governing
9 licenses issued under chapters 18.43 and 18.210 RCW;

10 (iv) The funeral and cemetery board established in chapter 18.39
11 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

12 (v) The state board of licensure for landscape architects
13 established in chapter 18.96 RCW; and

14 (vi) The state geologist licensing board established in chapter
15 18.220 RCW.

16 (3) In addition to the authority to discipline license holders,
17 the disciplinary authority may grant or deny licenses based on the
18 conditions and criteria established in this chapter and the chapters
19 specified in subsection (2) of this section. This chapter also
20 governs any investigation, hearing, or proceeding relating to denial
21 of licensure or issuance of a license conditioned on the applicant's
22 compliance with an order entered under RCW 18.235.110 by the
23 disciplinary authority.

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

26 (1) Unless otherwise provided by law or contract, if so provided
27 in the certificate issued by a licensed certification authority, a
28 digital signature verified by reference to the public key listed in a
29 valid certificate issued by a licensed certification authority
30 satisfies the requirements for an acknowledgment under ((RCW
31 ~~42.44.010(4)~~) section 2(1) of this act and for acknowledgment of
32 deeds and other real property conveyances under RCW 64.04.020 if
33 words of an express acknowledgment appear with the digital signature
34 regardless of whether the signer personally appeared before either
35 the certification authority or some other person authorized to take
36 acknowledgments of deeds, mortgages, or other conveyance instruments
37 under RCW 64.08.010 when the digital signature was created, if that
38 digital signature is:

39 (a) Verifiable by that certificate; and

1 (b) Affixed when that certificate was valid.

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

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

10 (1) Persons, other than those licensed to practice law in this
11 state or otherwise permitted to practice law or represent others
12 under federal law in an immigration matter, are prohibited from
13 engaging in the practice of law in an immigration matter for
14 compensation.

15 (2) Persons, other than those licensed to practice law in this
16 state or otherwise permitted to practice law or represent others
17 under federal law in an immigration matter, are prohibited from
18 engaging in the following acts or practices, for compensation:

19 (a) Advising or assisting another person in determining the
20 person's legal or illegal status for the purpose of an immigration
21 matter;

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

25 (c) Selecting or assisting another in selecting, or advising
26 another in selecting, a benefit, visa, or program to apply for in an
27 immigration matter;

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

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

34 (f) Charging a fee for referring another to a person licensed to
35 practice law;

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

38 (3) Persons, other than those holding an active license to
39 practice law issued by the Washington state bar association or

1 otherwise permitted to practice law or represent others under federal
2 law in an immigration matter, are prohibited from engaging in the
3 following acts or practices, regardless of whether compensation is
4 sought:

5 (a) Representing, either orally or in any document, letterhead,
6 advertisement, stationery, business card, web site, or other
7 comparable written material, that he or she is a notario publico,
8 notario, immigration assistant, immigration consultant, immigration
9 specialist, or using any other designation or title, in any language,
10 that conveys or implies that he or she possesses professional legal
11 skills in the area of immigration law;

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

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

23 (b) This section does not prohibit a person from offering
24 translation services, regardless of whether compensation is sought.
25 Translating words contained on a government form from English to
26 another language and translating a person's words from another
27 language to English does not constitute the unauthorized practice of
28 law.

29 (5) In addition to complying with the prohibitions of subsections
30 (1) through (3) of this section, persons licensed as a notary public
31 under chapter ((42.44-RCW)) 42.--- RCW (the new chapter created in
32 section 34 of this act) who do not hold an active license to practice
33 law issued by the Washington state bar association shall not use the
34 term notario publico, notario, immigration assistant, immigration
35 consultant, immigration specialist, or any other designation or
36 title, in any language, that conveys or implies that he or she
37 possesses professional legal skills in the areas of immigration law,
38 when advertising notary public services in the conduct of their
39 business. A violation of any provision of this chapter by a person
40 licensed as a notary public under chapter ((42.44-RCW)) 42.--- RCW

1 (the new chapter created in section 34 of this act) shall constitute
2 unprofessional conduct under the uniform regulation of business and
3 professions act, chapter 18.235 RCW.

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

6 (1) The business and professions account is created in the state
7 treasury. All receipts from business or professional licenses,
8 registrations, certifications, renewals, examinations, or civil
9 penalties assessed and collected by the department from the following
10 chapters must be deposited into the account:

- 11 (a) Chapter 18.11 RCW, auctioneers;
- 12 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 13 (c) Chapter 18.145 RCW, court reporters;
- 14 (d) Chapter 18.165 RCW, private investigators;
- 15 (e) Chapter 18.170 RCW, security guards;
- 16 (f) Chapter 18.185 RCW, bail bond agents;
- 17 (g) Chapter 18.280 RCW, home inspectors;
- 18 (h) Chapter 19.16 RCW, collection agencies;
- 19 (i) Chapter 19.31 RCW, employment agencies;
- 20 (j) Chapter 19.105 RCW, camping resorts;
- 21 (k) Chapter 19.138 RCW, sellers of travel;
- 22 (l) Chapter (~~(42.44 RCW)~~) 42.--- RCW (the new chapter created in
23 section 34 of this act), notaries public;
- 24 (m) Chapter 64.36 RCW, timeshares;
- 25 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- 26 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- 27 (p) Chapter 79A.60 RCW, whitewater river outfitters;
- 28 (q) Chapter 19.158 RCW, commercial telephone solicitation; and
- 29 (r) Chapter 19.290 RCW, scrap metal businesses.

30 Moneys in the account may be spent only after appropriation.
31 Expenditures from the account may be used only for expenses incurred
32 in carrying out these business and professions licensing activities
33 of the department. Any residue in the account must be accumulated and
34 may not revert to the general fund at the end of the biennium.
35 However, during the 2013-2015 fiscal biennium the legislature may
36 transfer to the state general fund such amounts as reflect the excess
37 fund balance in the account.

38 (2) The director must biennially prepare a budget request based
39 on the anticipated costs of administering the business and

1 professions licensing activities listed in subsection (1) of this
2 section, which must include the estimated income from these business
3 and professions fees.

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

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

11
12 State of }
13 County of } ss.
14
15

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

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

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

30 A certificate of acknowledgment for a corporation, substantially
31 in the following form or, after December 31, 1985, substantially in
32 the form set forth in (~~RCW 42.44.100(2)~~) section 16(2) 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:

1
2
3
4
5

State of }
County of } ss.

6 On this day of, (year), before me
7 personally appeared, to me known to be the (president,
8 vice president, secretary, treasurer, or other authorized officer or
9 agent, as the case may be) of the corporation that executed the
10 within and foregoing instrument, and acknowledged said instrument to
11 be the free and voluntary act and deed of said corporation, for the
12 uses and purposes therein mentioned, and on oath stated that he or
13 she was authorized to execute said instrument and that the seal
14 affixed is the corporate seal of said corporation.

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

18 NEW SECTION. **Sec. 44.** SEVERABILITY. If any provision of this
19 act or its application to any person or circumstance is held invalid,
20 the remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 45.** EFFECTIVE DATE. This act takes effect
23 July 1, 2018."

24 Correct the title.

EFFECT: Strikes language requiring that an individual making a statement or executing a signature must do so "in the presence of" a notarial officer, and instead requires that the individual appear personally before the notarial officer per the language that is found in the 2010 RULONA recommended by the NCUSL. Provides an exception to the RULONA section regarding instances in which an individual is physically unable to sign a record for situations which are governed by RCW 64.08.100 (pertaining to acknowledgments of real property deeds and mortgages), which section already specifies a process for such situations. Provides, in two places, that neither the RULONA nor a commission as a notary public authorizes a person to provide court reporting services.

Requires, rather than encourages, a notary public to keep a journal. Provides that an applicant for a commission as a notary public, including an applicant for a commission as an electronic

records notary public, must have successfully completed a course or passed an examination required by the director of the DOL in rule.

--- END ---