

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5081

Chapter 281, Laws of 2017

65th Legislature
2017 Regular Session

REVISED UNIFORM LAW ON NOTARIAL ACTS

EFFECTIVE DATE: 7/1/2018

Passed by the Senate April 19, 2017
Yeas 48 Nays 1

CYRUS HABIB

President of the Senate

Passed by the House April 18, 2017
Yeas 94 Nays 2

FRANK CHOPP

Speaker of the House of Representatives

Approved May 10, 2017 11:34 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5081** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 10, 2017

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5081

AS AMENDED BY THE HOUSE

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

By Senate Law & Justice (originally sponsored by Senators Pedersen and Miloscia; by request of Uniform Law Commission)

READ FIRST TIME 02/09/17.

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. Nothing in this act authorizes an electronic
10 records notary public to provide court reporting services.

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

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

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

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

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

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

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

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

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

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

4 (12) "Person" means an individual, corporation, business trust,
5 statutory trust, estate, trust, partnership, limited liability
6 company, association, joint venture, public corporation, government
7 or governmental subdivision, agency, or instrumentality, or any other
8 legal or commercial entity.

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

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

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

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

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

19 (16) "Stamping device" means:

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

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

24 (17) "State" means a state of the United States, the District of
25 Columbia, Puerto Rico, the United States Virgin Islands, or any
26 territory or insular possession subject to the jurisdiction of the
27 United States.

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

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

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

37 (2)(a) A notarial officer may not perform a notarial act with
38 respect to a record to which the officer or the officer's spouse or

1 domestic partner is a party, or in which any of the above have a
2 direct beneficial interest.

3 (b) A notarial officer may not notarize the notarial officer's
4 own signature.

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 6.** PERSONAL APPEARANCE REQUIRED. If a
36 notarial act relates to a statement made in or a signature executed
37 on a record, the individual making the statement or executing the
38 signature shall appear personally before the notarial officer.

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.
35 Except as otherwise provided in RCW 64.08.100, if an individual is
36 physically unable to sign a record, the individual may direct an
37 individual other than the notarial officer to sign the individual's
38 name on the record. The notarial officer shall insert "signature

1 affixed by (name of other individual) at the direction of (name of
2 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 27 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)

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

State of

County of

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

Dated:

.....
(Signature of notary public)

(Stamp)

.....
(Title of office)

My commission expires:

.....
(date)

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

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

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

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

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

10 NEW SECTION. **Sec. 18.** STAMPING DEVICE. (1) A notary public is
11 responsible for the security of the notary public's stamping device
12 and may not allow another individual to use the device to perform a
13 notarial act. On resignation from, or the revocation or expiration
14 of, the notary public's commission, or on the expiration of the date
15 set forth in the stamping device, the notary public shall disable the
16 stamping device by destroying, defacing, damaging, erasing, or
17 securing it against use in a manner that renders it unusable. On the
18 death or adjudication of incompetency of a notary public, the notary
19 public's personal representative or guardian or any other person
20 knowingly in possession of the stamping device shall render it
21 unusable by destroying, defacing, damaging, erasing, or securing it
22 against use in a manner that renders it unusable.

23 (2) The seal or stamp should be kept in a locked and secured
24 area, under the direct and exclusive control of the notary public. If
25 a notary public's stamping device is lost or stolen, the notary
26 public or the notary public's personal representative or guardian
27 shall notify promptly the department on discovering that the device
28 is lost or stolen. Any replacement device must contain a variance
29 from the lost or stolen seal or stamp.

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

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

34 NEW SECTION. **Sec. 20.** JOURNAL. (1) A notary public shall
35 maintain a journal in which the notary public chronicles all notarial
36 acts that the notary public performs. The notary public shall retain
37 the journal for ten years after the performance of the last notarial

1 act chronicled in the journal. The journal is to be destroyed as
2 required by the director in rule upon completion of the ten-year
3 period.

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

9 (3) A notary public shall maintain only one tangible journal at a
10 time to chronicle notarial acts, whether those notarial acts are
11 performed regarding tangible or electronic records. The journal must
12 be a permanent, bound register with numbered pages. An electronic
13 records notary public may also maintain an electronic format journal,
14 which can be kept concurrently with the tangible journal. The
15 electronic journal must be in a permanent, tamper-evident electronic
16 format complying with the rules of the director.

17 (4) An entry in a journal must be made contemporaneously with
18 performance of the notarial act and contain the following
19 information:

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

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

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

25 (d) Any additional information as required by the director in
26 rule.

27 (5) The journal shall be kept in a locked and secured area, under
28 the direct and exclusive control of the notary public. Failure to
29 secure the journal may be cause for the director to take
30 administrative action against the commission held by the notary
31 public. If a notary public's journal is lost or stolen, the notary
32 public promptly shall notify the department on discovering that the
33 journal is lost or stolen.

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

38 NEW SECTION. **Sec. 21.** NOTIFICATION REGARDING PERFORMANCE OF
39 NOTARIAL ACT ON ELECTRONIC RECORD—SELECTION OF TECHNOLOGY. (1) A

1 notary public may not perform notarial acts with respect to
2 electronic records unless the notary public holds a commission as an
3 electronic records notary public.

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

10 (3) Before an electronic records notary public performs the
11 notary public's initial notarial act with respect to an electronic
12 record, an electronic records notary public shall notify the
13 department that he or she will be performing notarial acts with
14 respect to electronic records and identify the technology the
15 electronic records notary public intends to use.

16 (4) The director shall establish standards for approval of
17 technology in rule. If the technology conforms to the standards, the
18 director shall approve the use of the technology.

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

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

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

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

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

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

32 (e) Not be disqualified to receive a commission under section 23
33 of this act.

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

38 (4) Before issuance of a commission as a notary public, the
39 applicant for a commission shall submit to the director an assurance

1 in the form of a surety bond in the amount established by the
2 director in rule. The assurance must be issued by a surety or other
3 entity licensed or authorized to write surety bonds in this state.
4 The assurance must be effective for a four-year term or for a term
5 that expires on the date the notary public's commission expires. The
6 assurance must cover acts performed during the term of the notary
7 public's commission and must be in the form prescribed by the
8 director. If a notary public violates law with respect to notaries
9 public in this state, the surety or issuing entity is liable under
10 the assurance. The surety or issuing entity shall give at least
11 thirty days notice to the department before canceling the assurance.
12 The surety or issuing entity shall notify the department not later
13 than thirty days after making a payment to a claimant under the
14 assurance. A notary public may perform notarial acts in this state
15 only during the period that a valid assurance is on file with the
16 department.

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

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

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

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

32 (b) An electronic records notary public commission may take the
33 form of an endorsement to the notary public commission if deemed
34 appropriate by the director.

35 NEW SECTION. **Sec. 23.** GROUNDS TO DENY, REFUSE TO RENEW, REVOKE,
36 SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC. (1) In addition to
37 conduct defined as unprofessional under RCW 18.235.130, the director
38 may take action as provided for in RCW 18.235.110 against a
39 commission as notary public for any act or omission that demonstrates

1 the individual lacks the honesty, integrity, competence, or
2 reliability to act as a notary public, including:

3 (a) Failure to comply with this chapter;

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

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

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

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

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

19 (g) Violation by the notary public of a rule of the director
20 regarding a notary public;

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

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

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

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

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

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

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

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

4 NEW SECTION. **Sec. 25.** PROHIBITED ACTS. (1) A commission as a
5 notary public does not authorize an individual to:

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

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

10 (c) Represent a person in a judicial or administrative proceeding
11 relating to immigration to the United States, United States
12 citizenship, or related matters;

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

15 (e) Provide court reporting services.

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

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

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

27 (5) A notary public, other than an attorney licensed to practice
28 law in this state, or a Washington-licensed limited license legal
29 technician acting within the scope of his or her license, may not
30 advertise or represent that the notary public may assist persons in
31 drafting legal records, give legal advice, or otherwise practice law.
32 If a notary public who is not an attorney licensed to practice law in
33 this state, or a Washington-licensed limited license legal technician
34 acting within the scope of his or her license, in any manner
35 advertises or represents that the notary public offers notarial
36 services, whether orally or in a record, including broadcast media,
37 print media, and the internet, the notary public shall include the
38 following statement, or an alternate statement authorized or required
39 by the director, in the advertisement or representation, prominently

1 and in each language used in the advertisement or representation: "I
2 am not an attorney licensed to practice law in this state. I am not
3 allowed to draft legal records, give advice on legal matters,
4 including immigration, or charge a fee for those activities." If the
5 form of advertisement or representation is not broadcast media, print
6 media, or the internet and does not permit inclusion of the statement
7 required by this subsection because of size, it must be displayed
8 prominently or provided at the place of performance of the notarial
9 act before the notarial act is performed.

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

20 NEW SECTION. **Sec. 26.** VALIDITY OF NOTARIAL ACTS. Except as
21 otherwise provided in section 4(2) of this act, the failure of a
22 notarial officer to perform a duty or meet a requirement specified in
23 this chapter does not invalidate a notarial act performed by the
24 notarial officer. The validity of a notarial act under this chapter
25 does not prevent an aggrieved person from seeking to invalidate the
26 record or transaction that is the subject of the notarial act or from
27 seeking other remedies based on law of this state other than this
28 chapter or law of the United States. This section does not validate a
29 purported notarial act performed by an individual who does not have
30 the authority to perform notarial acts. Nothing in this act gives the
31 director authority to invalidate a notarial act.

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

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

1 NEW SECTION. **Sec. 28.** NOTARY PUBLIC COMMISSION IN EFFECT. A
2 commission as a notary public in effect on the effective date of this
3 section continues until its date of expiration. A notary public who
4 applies to renew a commission as a notary public on or after the
5 effective date of this section is subject to and shall comply with
6 this chapter. A notary public, in performing notarial acts after the
7 effective date of this section, shall comply with this chapter.

8 NEW SECTION. **Sec. 29.** SAVINGS CLAUSE. This chapter does not
9 affect the validity or effect of a notarial act performed before the
10 effective date of this section.

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

15 NEW SECTION. **Sec. 31.** RELATION TO ELECTRONIC SIGNATURES IN
16 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
17 supersedes the electronic signatures in global and national commerce
18 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
19 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
20 authorize electronic delivery of any of the notices described in
21 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

22 NEW SECTION. **Sec. 32.** UNIFORM REGULATION OF BUSINESS AND
23 PROFESSIONS ACT. The uniform regulation of business and professions
24 act, chapter 18.235 RCW, governs unlicensed practice, the issuance
25 and denial of licenses, and the discipline of licensees under this
26 chapter.

27 NEW SECTION. **Sec. 33.** NEW CHAPTER. Sections 1 through 32 and 44
28 of this act constitute a new chapter in Title 42 RCW.

29 NEW SECTION. **Sec. 34.** REPEALS. The following acts or parts of
30 acts are each repealed:

- 31 (1) RCW 42.44.010 (Definitions) and 1985 c 156 s 1;
32 (2) RCW 42.44.020 (Qualifications—Application—Bond) and 1985 c
33 156 s 2;

1 (3) RCW 42.44.030 (Appointment—Denial for unprofessional conduct
2 —Certificate of appointment) and 2011 c 244 s 6, 2002 c 86 s 287, &
3 1985 c 156 s 3;
4 (4) RCW 42.44.050 (Seal or stamp) and 1985 c 156 s 5;
5 (5) RCW 42.44.060 (Term) and 2002 c 86 s 288 & 1985 c 156 s 6;
6 (6) RCW 42.44.070 (Reappointment without endorsements) and 1985 c
7 156 s 7;
8 (7) RCW 42.44.080 (Standards for notarial acts) and 1987 c 76 s 3
9 & 1985 c 156 s 8;
10 (8) RCW 42.44.090 (Form of certificate—General—Seal or stamp as
11 exclusive property) and 1985 c 156 s 9;
12 (9) RCW 42.44.100 (Short forms of certificate) and 1988 c 69 s 4
13 & 1985 c 156 s 10;
14 (10) RCW 42.44.110 (Illegible writing) and 1985 c 156 s 11;
15 (11) RCW 42.44.120 (Fees) and 1985 c 156 s 12;
16 (12) RCW 42.44.130 (Notarial acts by officials of other
17 jurisdictions) and 1985 c 156 s 13;
18 (13) RCW 42.44.140 (Notarial acts by federal authorities) and
19 1985 c 156 s 14;
20 (14) RCW 42.44.150 (Notarial acts by foreign authorities) and
21 1985 c 156 s 15;
22 (15) RCW 42.44.160 (Official misconduct—Penalty) and 2002 c 86 s
23 289 & 1985 c 156 s 16;
24 (16) RCW 42.44.170 (Revocation of appointment—Resignation) and
25 2002 c 86 s 290 & 1985 c 156 s 17;
26 (17) RCW 42.44.180 (Evidence of authenticity of notarial seal and
27 signature) and 1985 c 156 s 18;
28 (18) RCW 42.44.190 (Rules) and 2002 c 86 s 291 & 1985 c 156 s 20;
29 (19) RCW 42.44.200 (Transfer of records) and 1985 c 156 s 22;
30 (20) RCW 42.44.210 (Uniform regulation of business and
31 professions act) and 2002 c 86 s 292;
32 (21) RCW 42.44.220 (Military training or experience) and 2011 c
33 351 s 18;
34 (22) RCW 42.44.221 (Spouses of military personnel—Appointment)
35 and 2011 2nd sp.s. c 5 s 7;
36 (23) RCW 42.44.900 (Savings—1985 c 156) and 1985 c 156 s 21;
37 (24) RCW 42.44.901 (Construction) and 1985 c 156 s 23; and
38 (25) RCW 42.44.903 (Effective date—1985 c 156) and 1985 c 156 s
39 27.

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

3 (1) Except as provided in this section, no state, county, or
4 municipal department, board, officer, or agency authorized to assess
5 the qualifications of any applicant for a license, certificate of
6 authority, qualification to engage in the practice of a profession or
7 business, or for admission to an examination to qualify for such a
8 license or certificate may disqualify a qualified applicant, solely
9 based on the applicant's criminal history, if the qualified applicant
10 has obtained a certificate of restoration of opportunity and the
11 applicant meets all other statutory and regulatory requirements,
12 except as required by federal law or exempted under this subsection.
13 Nothing in this section is interpreted as restoring or creating a
14 means to restore any firearms rights or eligibility to obtain a
15 firearm dealer license pursuant to RCW 9.41.110 or requiring the
16 removal of a protection order.

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

20 (ii) This section does not apply to the licensing, certification,
21 or qualification of the following professionals: Accountants, RCW
22 18.04.295; assisted living facilities employees, RCW 18.20.125; bail
23 bond agents, RCW 18.185.020; escrow agents, RCW 18.44.241; long-term
24 care workers, RCW 18.88B.080; nursing home administrators, RCW
25 18.52.071; nursing, chapter 18.79 RCW; physicians and physician
26 assistants, chapters 18.71 and 18.71A RCW; private investigators, RCW
27 18.165.030; receivers, RCW 7.60.035; teachers, chapters 28A.405 and
28 28A.410 RCW; notaries public, chapter ~~((42.44 RCW))~~ 42.--- RCW (the
29 new chapter created in section 33 of this act); private
30 investigators, chapter 18.165 RCW; real estate brokers and
31 salespersons, chapters 18.85 and 18.86 RCW; security guards, chapter
32 18.170 RCW; and vulnerable adult care providers, RCW 43.43.842.

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

36 (b) Unless otherwise addressed in statute, in cases where an
37 applicant would be disqualified under RCW 43.20A.710, and the
38 applicant has obtained a certificate of restoration of opportunity,
39 the department of social and health services may, after review of
40 relevant factors, including the nature and seriousness of the

1 offense, time that has passed since conviction, changed circumstances
2 since the offense occurred, and the nature of the employment or
3 license sought, at its discretion:

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

8 (ii) Disqualify the applicant solely based on the applicant's
9 criminal history.

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

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

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

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

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

3 (a) A court must determine, in its discretion whether the
4 certificate:

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

6 (ii) Applies only to the convictions or adjudications in the
7 jurisdiction of the court.

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

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

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

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

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

1 (c) Court records:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (d) The administrative office of the courts shall determine the
32 significant non-English-speaking or limited English-speaking
33 populations in the state. The administrator shall then arrange for
34 translation of the instructions, which shall contain a sample of the
35 standard application and order, and the informational brochure into
36 languages spoken by those significant non-English-speaking
37 populations and shall distribute a master copy of the translated
38 instructions and informational brochures to the county clerks by
39 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. 36.** 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 33 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. 37.** 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 33 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. 38.** 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. 39.** 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 33 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 33 of this act) shall constitute
2 unprofessional conduct under the uniform regulation of business and
3 professions act, chapter 18.235 RCW.

4 **Sec. 40.** 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 33 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. 41.** 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. 42.** 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. 43.** 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. 44.** EFFECTIVE DATE. This act takes effect
23 July 1, 2018.

Passed by the Senate April 19, 2017.
Passed by the House April 18, 2017.
Approved by the Governor May 10, 2017.
Filed in Office of Secretary of State May 10, 2017.

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