



2019 SENATE BILL 317

July 10, 2019 - Introduced by Senators OLSEN, L. TAYLOR, BERNIER, COWLES, JACQUE, MARKLEIN and WANGGAARD, cosponsored by Representatives BALLWEG, HAYWOOD, SUMMERFIELD, CROWLEY, DITTRICH, DOYLE, HORLACHER, JAMES, KNODL, KRUG, KULP, KURTZ, SINICKI, SKOWRONSKI, SPIROS, SPREITZER, STEFFEN, SUBECK, C. TAYLOR and TUSLER. Referred to Committee on Agriculture, Revenue and Financial Institutions.

1 **AN ACT** *to renumber and amend* 137.01 (1) and 137.01 (9); *to amend*
2 subchapter I (title) of chapter 137 [precedes 137.01], 137.01 (2), 137.01 (3) (a),
3 137.01 (4) (a), 137.01 (4) (b), 137.01 (6) (a), 137.01 (6m), 137.01 (7), subchapter
4 II (title) of chapter 137 [precedes 137.11], 137.11 (8), 137.19, 179.14 (1g) (b),
5 180.0103 (7k), 181.0103 (10p), 183.0107 (1g) (b), 193.005 (11p), 610.60 (4) (e),
6 706.001 (1), 706.25 (1) (d), 706.25 (2) (c) and 801.18 (1) (f); and *to create* 137.01
7 (1c), 137.01 (2m), 137.01 (3) (c), 137.01 (9) (bm), 137.01 (10), 137.01 (11), 137.01
8 (12), 137.01 (13), 137.195, 706.001 (2m) and 706.07 (8m) of the statutes;
9 **relating to:** online notaries public and electronic notarizations, granting
10 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill allows a notary public holding a commission from the Department of Financial Institutions to obtain an additional commission as an online notary public, which authorizes the notary public to perform online notarial acts for persons who are not in the same physical location as the notary public. The bill also authorize any notary public to use an electronic seal in addition to an electronic signature. The bill further requires registration of online notarization system providers.

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Under current law, DFI issues commissions to notaries public. The commission of an attorney is permanent and the commission of a nonattorney is for a term of four years. A notary public must maintain an official seal or stamp that, applied to paper, leaves a legible impression or imprint stating “Notary Public,” “State of Wisconsin,” and the name of the notary. Among a notary public’s powers, a notary public may administer oaths and take acknowledgements of deeds or other written instruments. Every official act of a notary public must be attested by the notary public’s written signature or electronic signature, and the seal or stamp must be applied to notarized deeds or other written instruments that are acknowledged or sworn to. Under the Uniform Electronic Transactions Act, as adopted in this state, if a law requires a person’s signature or a record (which may be tangible or electronic) to be notarized, this requirement is satisfied if the electronic signature of a notary public, together with any other information required to be included, is attached to or logically associated with the person’s signature or the record.

Current law also includes the Uniform Law on Notarial Acts, as adopted in this state, which applies to notaries public and others authorized by law to perform notarial acts. Under the uniform law, a “notarial act” includes, among other actions, 1) taking an acknowledgment (which is a declaration that a person has executed an instrument and, if executed in a representative capacity, that the person signed the instrument with proper authority), 2) administering an oath or affirmation, 3) taking a verification upon oath or affirmation (which is a declaration that a statement is true, made by a person upon oath or affirmation), and 4) witnessing or attesting a signature. The uniform law specifies certain requirements for performing notarial acts, including verification of the identity of the person for whom the notarial act is performed. When performed by a notary public, a notarial act must be evidenced by a certificate of notarial act signed and dated by the notary public that includes identification of the jurisdiction in which the notarial act is performed and the date of expiration, if any, of the notary public’s commission. The uniform law includes various forms for certificates of notarial acts that provide for the notary public’s seal or stamp to be affixed and include other information. By executing a certificate of a notarial act, a notary public certifies that he or she has satisfied the requirements for performing that notarial act.

Under this bill, a person who holds a commission from DFI as a notary public and who meets certain eligibility requirements may obtain an additional commission as an online notary public. The term of this commission is four years. An online notary public who is physically located in this state may perform an online notarial act for a person who is physically located in the United States or for a person who is physically located outside the United States if certain conditions are satisfied. An online notarial act is a notarial act, as described above, performed by means of communication technology that meets standards established by DFI. “Communication technology” means an electronic device or process that allows an individual physically in one location and a notary public physically located at another location in this state to communicate with each other in real time by sight and sound. An online notary public must verify the identity of the person for whom the notarial act is performed (principal) using certain prescribed procedures. A

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SECTION 2. 137.01 (1) of the statutes is renumbered 137.01 (1g), and 137.01 (1g)

(a), (b), (d), (e) and (g), as renumbered, are amended to read:

137.01 **(1g)** (a) ~~The secretary of financial institutions~~ department shall appoint notaries public who shall be United States residents and at least 18 years of age. Applicants who are not attorneys shall file an application with the department of ~~financial institutions~~ and pay a \$20 fee.

(b) ~~The secretary of financial institutions~~ department shall satisfy ~~himself or herself~~ itself that the applicant has the equivalent of an 8th grade education, is familiar with the duties and responsibilities of a notary public and, subject to ss. 111.321, 111.322 and 111.335, does not have an arrest or conviction record.

(d) Qualified applicants shall be notified by the department of ~~financial institutions~~ to take and file the official oath and execute and file an official bond in the sum of \$500, with a surety executed by a surety company and approved by the ~~secretary of financial institutions~~ department.

(e) The qualified applicant shall file his or her signature, post-office address, and an impression of his or her official seal, or imprint of his or her official rubber stamp, with the department of ~~financial institutions~~.

(g) At least 30 days before the expiration of a commission the department of ~~financial institutions~~ shall mail notice of the expiration date to the holder of a commission.

SECTION 3. 137.01 (1c) of the statutes is created to read:

137.01 **(1c)** DEFINITIONS. In this section:

(a) "Department" means the department of financial institutions.

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1 (b) “Electronic signature” has the meaning given in s. 137.11 (8).

2 (c) “Online notarial act” or “online notarization” has the meaning given in s.
3 137.195 (1) (f).

4 (d) “Tamper-evident” means that any change to a record generates evidence
5 of the change.

6 **SECTION 4.** 137.01 (2) of the statutes is amended to read:

7 137.01 (2) NOTARIES PUBLIC WHO ARE ATTORNEYS. (a) Except as provided in par.
8 (am), any United States resident who is licensed to practice law in this state is
9 entitled to a permanent commission as a notary public upon application to the
10 department of ~~financial institutions~~ and payment of a \$50 fee. The application shall
11 include a certificate of good standing from the supreme court, the signature and
12 post-office address of the applicant and an impression of the applicant’s official seal,
13 or imprint of the applicant’s official rubber stamp.

14 (am) If a United States resident has his or her license to practice law in this
15 state suspended or revoked, upon reinstatement of his or her license to practice law
16 in this state, the person may be entitled to receive a certificate of appointment as a
17 notary public for a term of 4 years. An eligible notary appointed under this
18 paragraph is entitled to reappointment for 4-year increments. At least 30 days
19 before the expiration of a commission under this paragraph the department of
20 ~~financial institutions~~ shall mail notice of the expiration date to the holder of the
21 commission.

22 (b) The ~~secretary of financial institutions~~ department shall issue a certificate
23 of appointment as a notary public to persons who qualify under the requirements of
24 this subsection. The certificate shall state that the notary commission is permanent
25 or is for 4 years.

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1 (c) The supreme court shall file with the department of financial institutions
2 notice of the surrender, suspension, or revocation of the license to practice law of any
3 attorney who holds a permanent commission as a notary public. Such notice shall
4 be deemed a revocation of said commission.

5 **SECTION 5.** 137.01 (2m) of the statutes is created to read:

6 137.01 (2m) ONLINE NOTARIES PUBLIC; APPLICATION AND COMMISSION. (a) A notary
7 public holding a commission under sub. (1g) or (2) may also apply to the department
8 for a commission as an online notary public. The application shall include, at a
9 minimum, all of the following:

10 1. The applicant's name to be used in acting as an online notary public.

11 2. A certification that the applicant will comply with standards established by
12 the department under sub. (13) (a) 1.

13 3. A certification that the applicant will use tamper-evident technologies to
14 perform online notarizations and will have the capability to retain the evidence of
15 these online notarizations for a period established by the department under sub. (13)
16 (a) 2.

17 4. Proof that the applicant has completed a course of instruction approved by
18 the department as provided in sub. (13) (a) 3.

19 5. Disclosure of all instances in which the applicant's commission, license, or
20 other authorization as a notary public has been revoked or terminated, or the
21 applicant has been otherwise subject to any disciplinary action, in any state within
22 the 10-year period preceding the date of application.

23 (b) Qualified applicants under this subsection shall be notified by the
24 department to take and file the official oath as an online notary public. This oath is
25 in addition to the oath required under sub. (1g) (d).

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1 (c) For applicants who have fulfilled the requirements of this subsection, the
2 department shall appoint the applicant as an online notary public and issue to the
3 applicant a certificate of appointment for a term of 4 years. The certificate shall state
4 the expiration date of the commission under this subsection.

5 **SECTION 6.** 137.01 (3) (a) of the statutes is amended to read:

6 137.01 (3) (a) Except as authorized in s. 137.19, and except as provided in par.
7 (c), every notary public shall provide an engraved official seal which makes a distinct
8 and legible impression or official rubber stamp which makes a distinct and legible
9 imprint on paper. The impression of the seal or the imprint of the rubber stamp shall
10 state only the following: “Notary Public,” “State of Wisconsin” and the name of the
11 notary. But any notarial seal in use on August 1, 1959, shall be considered in
12 compliance.

13 **SECTION 7.** 137.01 (3) (c) of the statutes is created to read:

14 137.01 (3) (c) For electronic notarizations and online notarial acts, the notary
15 public and online notary public shall use an electronic notarial seal that clearly and
16 legibly states the following: “Notary Public,” “State of Wisconsin,” and the name of
17 the notary. The electronic notarial seal shall afford the notary public or online notary
18 public the opportunity to indicate the day, month, and year when his or her
19 commission will expire or that the commission is permanent.

20 **SECTION 8.** 137.01 (4) (a) of the statutes is amended to read:

21 137.01 (4) (a) Every official act of a notary public shall be attested by the notary
22 public’s written signature or electronic signature, ~~as defined in s. 137.11 (8).~~

23 **SECTION 9.** 137.01 (4) (b) of the statutes is amended to read:

24 137.01 (4) (b) Except as authorized in s. 137.19, and except when a notary
25 public properly uses an electronic notarial seal under sub. (3) (c), all certificates of

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1 acknowledgments of deeds and other conveyances, or any written instrument
2 required or authorized by law to be acknowledged or sworn to before any notary
3 public, within this state, shall be attested by a clear impression of the official seal or
4 imprint of the rubber stamp of said officer, and in addition thereto shall be written
5 or stamped either the day, month and year when the commission of said notary public
6 will expire, or that such commission is permanent.

7 **SECTION 10.** 137.01 (6) (a) of the statutes is amended to read:

8 137.01 (6) (a) The ~~secretary of financial institutions~~ department may certify
9 to the official qualifications of any notary public and to the genuineness of the notary
10 public's signature and seal or rubber stamp.

11 **SECTION 11.** 137.01 (6m) of the statutes is amended to read:

12 137.01 (6m) CHANGE OF RESIDENCE. A notary public does not vacate his or her
13 office by reason of his or her change of residence within the United States. Written
14 notice of any change of address shall be given to the department of ~~financial~~
15 ~~institutions~~ within 10 days of the change.

16 **SECTION 12.** 137.01 (7) of the statutes is amended to read:

17 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold
18 office, the notary public, or in case of the notary public's death the notary public's
19 personal representative, shall deposit the notary public's official records and papers
20 with the department of ~~financial institutions~~. If the notary or personal
21 representative, after the records and papers come to his or her hands, neglects for
22 3 months to deposit them, he or she shall forfeit not less than \$50 nor more than \$500.
23 If any person knowingly destroys, defaces, or conceals any records or papers of any
24 notary public, the person shall forfeit not less than \$50 nor more than \$500, and shall

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1 be liable for all damages resulting to the party injured. The department of financial
2 institutions shall receive and safely keep all such papers and records.

3 **SECTION 13.** 137.01 (9) of the statutes is renumbered 137.01 (9) (am), and
4 137.01 (9) (am) (intro.), as renumbered, is amended to read:

5 137.01 (9) (am) (intro.) ~~A~~ Except as provided in par. (bm), a notary public shall
6 be allowed the following fees:

7 **SECTION 14.** 137.01 (9) (bm) of the statutes is created to read:

8 137.01 (9) (bm) Subject to any rule promulgated under sub. (13) (b) 1., an online
9 notary public may charge any fee for the performance of an online notarization.

10 **SECTION 15.** 137.01 (10) of the statutes is created to read:

11 137.01 (10) ONLINE NOTARIZATION SYSTEM PROVIDERS. (a) In this subsection:

12 1. “Electronic notarial act” or “electronic notarization” means an act that an
13 online notary public is authorized to perform. The term includes all of the following:

14 a. Taking an acknowledgment.

15 b. Administering an oath or affirmation.

16 c. Taking a verification upon oath or affirmation.

17 d. Witnessing or attesting a signature.

18 e. Certifying or attesting a copy.

19 f. Noting a protest of a negotiable instrument.

20 g. Performing any other duty prescribed by a specific statute for an online
21 notary public.

22 2. “Electronic notarization system” means a set of applications, programs,
23 hardware, software, or technologies designed to enable an online notary public to
24 perform electronic notarizations.

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1 3. “Online notarization system provider” means any person that offers the
2 services of an electronic notarization system.

3 (b) The department shall establish and maintain a registration system for
4 online notarization system providers.

5 (c) No person may conduct business in this state as an online notarization
6 system provider unless the person first registers with the department as such.

7 (d) 1. An online notarization system provider may not authorize use of its
8 electronic notarization system by any person other than an online notary public
9 holding a commission under sub. (2m). An online notarization system provider shall
10 establish a method for enrolling online notaries public authorized to use its electronic
11 notarization system.

12 2. Within 5 days after enrolling an online notary public to use its electronic
13 notarization system, an online notarization system provider shall notify the
14 department of the name of the online notary public.

15 (e) Each online notarization system provider shall take reasonable steps to
16 ensure that any online notary public authorized to use its electronic notarization
17 system has the requisite knowledge to perform electronic notarial acts using the
18 system.

19 (f) An online notarization system provider shall ensure that all of the following
20 requirements are satisfied with respect to its electronic notarization system:

21 1. The electronic notarization system incorporates security measures to limit
22 system access and complies with all security standards established by the
23 department under sub. (13) (a) 5.

24 2. The electronic notarization system allows an online notary public to affix the
25 online notary public’s electronic signature and electronic notarial seal in a manner

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1 that attributes the electronic notarial act to the online notary public and renders the
2 electronic notarial act tamper-evident.

3 **SECTION 16.** 137.01 (11) of the statutes is created to read:

4 137.01 (11) TERMINATION OF NOTARY PUBLIC'S COMMISSION; DESTRUCTION OF
5 HARDWARE OR SOFTWARE. (a) Except as provided in par. (b), if a notary public
6 maintains any coding, disk, certificate, card, software, or password that enables the
7 notary public's electronic signature or electronic seal to be affixed and if the notary
8 public's commission is terminated, the notary public shall destroy the coding, disk,
9 certificate, card, software, or password within 3 months of termination of the notary
10 public's commission.

11 (b) If a notary public's commission is terminated for any reason other than
12 revocation or denial of renewal, the notary public is not required to destroy the
13 coding, disk, certificate, card, software, or password as described in par. (a) if the
14 notary public is recommissioned within 3 months and keeps the same electronic
15 signature and electronic seal.

16 **SECTION 17.** 137.01 (12) of the statutes is created to read:

17 137.01 (12) WRONGFUL POSSESSION OR DESTRUCTION OF SOFTWARE OR HARDWARE.
18 Any person who knowingly obtains or destroys, without prior authorization, a
19 certificate, disk, coding, card, program, software, or hardware that enables a notary
20 public's electronic signature or electronic seal to be affixed is guilty of a Class I felony.

21 **SECTION 18.** 137.01 (13) of the statutes is created to read:

22 137.01 (13) RULE MAKING. (a) The department shall promulgate rules that do
23 all of the following:

24 1. Establish standards for online notaries public holding a commission under
25 sub. (2m).

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1 2. Establish a minimum period during which online notaries public shall retain
2 evidence of online notarizations.

3 3. Require applicants for appointment as an online notary public under sub.
4 (2m) to complete a course of instruction and identify all courses of instruction
5 approved by the department to satisfy this requirement.

6 4. Specify the electronic notarial seals described in sub. (3) (c).

7 5. Establish security standards for accessing electronic notarization systems
8 maintained by online notarization system providers under sub. (10).

9 (b) The department may promulgate rules that do any of the following:

10 1. Establish maximum fees that may be charged by an online notary public for
11 performing an online notarization.

12 2. Establish any other standard or requirement, not inconsistent with this
13 section and s. 137.195, relating to online notaries public and online notarizations.

14 **SECTION 19.** Subchapter II (title) of chapter 137 [precedes 137.11] of the
15 statutes is amended to read:

CHAPTER 137

SUBCHAPTER II

ELECTRONIC TRANSACTIONS AND

RECORDS; ~~ELECTRONIC NOTARIZATION~~

~~AND ACKNOWLEDGEMENT~~

21 **SECTION 20.** 137.11 (8) of the statutes is amended to read:

22 137.11 (8) “Electronic signature” means an electronic sound, symbol, or process
23 attached to, incorporated into, or logically associated with a record and executed or
24 adopted by a person with the intent to sign the record.

25 **SECTION 21.** 137.19 of the statutes is amended to read:

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1 **137.19 Notarization and acknowledgement.** If a law requires a signature
2 or record to be notarized, acknowledged, verified, or made under oath, the
3 requirement is satisfied if the electronic signature of the person authorized to
4 administer the oath or to make the notarization, acknowledgment, or verification,
5 together with all other information required to be included by other applicable law,
6 is attached to, incorporated into, or logically associated with the signature or record.

7 **SECTION 22.** 137.195 of the statutes is created to read:

8 **137.195 Online notarization. (1) DEFINITIONS.** In this section:

9 (a) “Credential” means a tangible record evidencing the identity of a person.

10 (b) “Credential analysis” means a process or service that complies with any
11 rules promulgated by the department through which a 3rd party affirms the validity
12 of a government-issued credential or any data thereon through review of public and
13 proprietary data sources.

14 (c) “Communication technology” means an electronic device or process that
15 allows an individual physically in one location and a notary public physically located
16 at another location in this state to communicate with each other in real time by sight
17 and sound.

18 (d) “Department” means the department of financial institutions.

19 (e) “Identity proofing” means a process or service operating according to criteria
20 approved by the department through which a 3rd party affirms the identity of an
21 individual through review of personal information from public and proprietary data
22 sources.

23 (f) “Online notarial act” or “online notarization” means a notarial act, as defined
24 in s. 706.07 (1) (c), performed by means of communication technology that meets the
25 standards established by the department.

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1 (g) "Online notary public" means a person appointed and holding a commission
2 under s. 137.01 (2m).

3 (h) "Principal" means any of the following:

4 1. An individual whose electronic signature is notarized in an online
5 notarization.

6 2. An individual taking an oath or affirmation from an online notary public but
7 not in the capacity of a witness for the online notarial act.

8 (i) "Real time" means the actual span of uninterrupted time during which all
9 parts of an online notarial act occur.

10 (j) "Remote presentation" means the transmission to an online notary public
11 through communication technology of an image of a government-issued credential
12 that is of sufficient quality to enable the online notary public to do all of the following:

13 1. Identify the individual appearing before the online notary public.

14 2. Perform a credential analysis.

15 (k) "United States" has the meaning given in s. 990.01 (44) but also includes
16 a tribe, as defined in s. 822.02 (16).

17 **(2) AUTHORITY TO PERFORM ONLINE NOTARIZATIONS.** (a) An online notary public
18 may perform online notarial acts for a person who is physically located in the United
19 States.

20 (am) An online notary public may perform online notarial acts for a person who
21 is physically located outside the United States if all of the following apply:

22 1. The online notarial act is not, to the notary's actual knowledge, prohibited
23 in the jurisdiction where the person is physically located at the time of the online
24 notarial act.

25 2. The online notarial act relates to any of the following:

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1 a. A matter that is before a court, a governmental entity, or another entity in
2 the United States.

3 b. Property located in the United States.

4 c. A transaction substantially connected to the United States.

5 (b) An online notary public must be physically located in this state in order to
6 perform the online notarial act.

7 **(3) ONLINE NOTARIZATION PROCEDURES.** (a) An online notary public shall verify
8 the identity of the person creating the electronic signature at the time the signature
9 is taken by using communication technology that meets the requirements of this
10 section and rules promulgated by the department. The identity may be verified by
11 any of the following:

12 1. The online notary public's personal knowledge of the person creating the
13 electronic signature.

14 2. The occurrence of all of the following:

15 a. The principal's remote presentation of a government-issued credential,
16 including a passport or operator's license, that contains a signature and photograph
17 of the principal.

18 b. The online notary public's application of credential analysis to the credential
19 under subd. 2. a.

20 c. The online notary public's use of identity proofing with respect to the
21 principal making the remote presentation under subd. 2. a.

22 (b) The online notary public shall take reasonable steps to ensure that the
23 communication technology used for the online notarization is secure from
24 unauthorized use.

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1 (c) A principal for whom an online notarization is performed under this section
2 is considered, for purposes of any other law, to appear personally before and be in the
3 physical presence of the online notary public at the time of the online notarial act.

4 (d) 1. For each online notarial act performed under this section, the online
5 notary public shall prepare an electronic certificate of notarial act that satisfies the
6 requirements for a certificate of notarial act under s. 706.07 (7) and (8) except to the
7 extent provided in subds. 2. to 4.

8 2. The electronic certificate of notarial act for an online notarial act shall clearly
9 indicate that the principal appeared by remote presentation, and the face of the
10 notarized record shall clearly indicate that it was notarized by means of an online
11 notarial act. For purposes of the forms under s. 706.07 (8) and any other form
12 authorized under s. 706.07 (7) (b), a principal for whom an online notarial act is
13 performed is considered to be before the online notary public. An electronic
14 certificate of notarial act for an online notarial act shall be in lieu of any written
15 certificate.

16 3. For purposes of determining the jurisdiction in which an online notarial act
17 is performed, the location of the online notary public shall be determinative. The
18 commission expiration date appearing on the certificate shall be the expiration date
19 of the commission as an online notary public, regardless of any other commission the
20 notary public holds. The online notary public shall use on the electronic certificate
21 the electronic notarial seal under s. 137.01 (3) (c).

22 4. By executing an electronic certificate of notarial act under this paragraph,
23 the online notary public certifies that the online notary public has acted in
24 compliance with this section. Section 706.07 (7) (c) does not apply with respect to an
25 electronic certificate of notarial act.

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1 (e) An online notarial act performed under this section involving the principal's
2 remote presentation shall comply with the following minimum standards:

3 1. The online notary public shall use identity proofing that includes
4 knowledge-based authentication with at least the following minimum security
5 characteristics:

6 a. The principal shall be presented with 5 or more questions with a minimum
7 of 5 possible answer choices per question.

8 b. Each question under subd. 1. a. shall be drawn from a 3rd-party provider
9 of public and proprietary data sources and be identifiable to the principal's social
10 security number or other identification information or the principal's identity and
11 historical events records.

12 c. Responses to all questions under subd. 1. a. shall be made within a 2-minute
13 time constraint.

14 d. The principal shall answer a minimum of 80 percent of the questions
15 correctly.

16 e. The principal may be offered an additional attempt in the event of a failed
17 first attempt.

18 f. During a second attempt, the principal may not be presented with more than
19 3 questions from the prior attempt.

20 2. The online notary public shall confirm that the principal's credential is valid
21 and matches the principal's claimed identity by using credential analysis consisting
22 of one or more automated software or hardware processes that scan the credential,
23 including its format features, data, bar codes, or other security elements.

24 **(4) ELECTRONIC RECORD OF ONLINE NOTARIZATIONS.** (a) Subject to par. (e), an
25 online notary public shall keep electronic records for online notarized documents and

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1 shall maintain the security of these records. These records shall include all of the
2 following:

- 3 1. The date and time of the online notarial act.
- 4 2. The type of online notarial act.
- 5 3. A description of the online proceeding.
- 6 4. The name and address of each principal involved in the proceeding.
- 7 5. A notation of the type of credential provided by each principal involved in the
8 proceeding to the online notary public.
- 9 6. The fee, if any, charged for the notarization.

10 (b) The online notary public shall create an audio and video copy of the
11 performance of the online notarial act, which recording may provide satisfactory
12 evidence of identification.

13 (c) The online notary public shall take reasonable steps to ensure the integrity
14 and security of online notarizations, maintain a backup for all electronic records, and
15 protect the backup records from unauthorized access and use.

16 (d) All electronic records shall be maintained for at least 7 years after the date
17 of the transaction or proceeding associated with the record.

18 (e) An online notary public may, by written agreement, designate a repository
19 to maintain the electronic records required under par. (a) and the audio and video
20 recordings required under par. (b). The written agreement shall require the
21 repository to maintain the security of these electronic records and to meet all
22 applicable requirements of this paragraph and par. (c). The repository may be the
23 employer of the online notary public.

24 **(5) USE OF ELECTRONIC RECORD, SIGNATURE, AND SEAL.** (a) An online notary public
25 shall take reasonable steps to ensure registered devices used to create electronic

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1 signatures are current and have not been revoked or terminated by the devices'
2 issuing authority.

3 (b) An online notary public may not allow another person to use the online
4 notary public's electronic signature.

5 (c) An online notary public shall immediately report to the department any loss,
6 theft, or vandalism of the online notary public's electronic signature or electronic
7 seal.

8 **(6) RULE MAKING.** The department shall promulgate rules to implement this
9 section and to facilitate online notarizations. These rules shall include standards for
10 online notarization, credential analysis, identity proofing, and communication
11 technology.

12 **(7) GOVERNING LAW.** The validity of an online notarial act shall be determined
13 by applying the laws of this state, regardless of the physical location of the principal
14 at time of the online notarial act.

15 **SECTION 23.** 179.14 (1g) (b) of the statutes is amended to read:

16 179.14 **(1g)** (b) "Electronic signature" means an electronic sound, symbol, or
17 process, attached to, incorporated into, or logically associated with a writing and
18 executed or adopted by a person with intent to authenticate the writing.

19 **SECTION 24.** 180.0103 (7k) of the statutes is amended to read:

20 180.0103 **(7k)** "Electronic signature" means an electronic sound, symbol, or
21 process, attached to, incorporated into, or logically associated with a writing and
22 executed or adopted by a person with intent to authenticate the writing.

23 **SECTION 25.** 181.0103 (10p) of the statutes is amended to read:

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1 181.0103 **(10p)** “Electronic signature” means an electronic sound, symbol, or
2 process, attached to, incorporated into, or logically associated with a writing and
3 executed or adopted by a person with intent to authenticate the writing.

4 **SECTION 26.** 183.0107 (1g) (b) of the statutes is amended to read:

5 183.0107 **(1g)** (b) “Electronic signature” means an electronic sound, symbol, or
6 process, attached to, incorporated into, or logically associated with a writing and
7 executed or adopted by a person with intent to authenticate the writing.

8 **SECTION 27.** 193.005 (11p) of the statutes is amended to read:

9 193.005 **(11p)** “Electronic signature” means an electronic sound, symbol, or
10 process, attached to, incorporated into, or logically associated with a writing and
11 executed or adopted by a person with intent to authenticate the writing.

12 **SECTION 28.** 610.60 (4) (e) of the statutes is amended to read:

13 610.60 **(4)** (e) If a provision of, or rule promulgated under, chs. 600 to 655
14 requires a signature or a notice or document to be notarized, acknowledged, verified,
15 or made under oath, the requirement is satisfied if the electronic signature of the
16 person authorized to perform those acts, together with all other information required
17 to be included by the provision, is attached to, incorporated into, or logically
18 associated with the signature, notice, or document.

19 **SECTION 29.** 706.001 (1) of the statutes is amended to read:

20 706.001 **(1)** Subject to the exclusions in sub. (2) and subject to sub. (2m), this
21 chapter shall govern every transaction by which any interest in land is created,
22 aliened, mortgaged, assigned or may be otherwise affected in law or in equity.

23 **SECTION 30.** 706.001 (2m) of the statutes is created to read:

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1 706.001 **(2m)** Section 706.07 is not limited in application to transactions by
2 which an interest in land is created, aliened, mortgaged, assigned, or may be
3 otherwise affected in law or in equity.

4 **SECTION 31.** 706.07 (8m) of the statutes is created to read:

5 706.07 **(8m)** ONLINE NOTARIAL ACTS. (a) Notwithstanding sub. (1) (c), in this
6 subsection, “online notarial act” has the meaning given in s. 137.195 (1) (f).

7 (b) Any online notarial act performed in accordance with s. 137.195 is
8 considered to be performed in accordance with this section, and any online notary
9 public performing such an act is an authorized notarial officer under this section.

10 **SECTION 32.** 706.25 (1) (d) of the statutes is amended to read:

11 706.25 **(1)** (d) “Electronic signature” means an electronic sound, symbol, or
12 process attached to, incorporated into, or logically associated with a document and
13 executed or adopted by a person with the intent to sign the document.

14 **SECTION 33.** 706.25 (2) (c) of the statutes is amended to read:

15 706.25 **(2)** (c) A requirement that a document or a signature associated with
16 a document be notarized, acknowledged, verified, witnessed, or made under oath is
17 satisfied if the electronic signature of the person authorized to perform that act, and
18 all other information required to be included, is attached to, incorporated into, or
19 logically associated with the document or signature. A physical or electronic image
20 of a stamp, impression, or seal need not accompany an electronic signature.

21 **SECTION 34.** 801.18 (1) (f) of the statutes is amended to read:

22 801.18 **(1)** (f) “Electronic signature” means an electronic sound, symbol, or
23 process attached to, incorporated into, or logically associated with a record and
24 executed or adopted by a person with the intent to sign the document. For purposes
25 of the electronic filing system, a document is electronically signed if it is submitted

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1 by or on behalf of a user or court official through the electronic filing system and bears
2 the name of the user in the place where a signature would otherwise appear.
3 “Electronic signature” includes only those signature technologies specifically
4 approved by the director.

5 **SECTION 35. Effective date.**

6 (1) This act takes effect on the first day of the 4th month beginning after
7 publication.

8 (END)