

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 465

Introduced by Harr, 8.

Read first time January 20, 2015

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to notaries public; to adopt the Electronic

2 Notary Public Act.

3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 16 of this act shall be known and may be
2 cited as the Electronic Notary Public Act.

3 Sec. 2. For purposes of the Electronic Notary Public Act:

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

7 (2) Electronic document means information that is created,
8 generated, sent, communicated, received, or stored by electronic means;

9 (3) Electronic notarial act means an official act by an electronic
10 notary public that involves electronic documents;

11 (4) Electronic notary public means a notary public registered with
12 the Secretary of State that has the capability of performing electronic
13 notarial acts in conformance with the Electronic Notary Public Act;

14 (5) Electronic notary seal means information within a notarized
15 electronic document that includes the notary public's name, jurisdiction,
16 and commission expiration date and generally corresponds to the data in
17 notary seals used on paper documents;

18 (6) Electronic signature means an electronic symbol or process
19 attached to or logically associated with an electronic document and
20 executed or adopted by a person with the intent to sign the document; and

21 (7) Notary public's electronic signature means an electronic
22 signature which has been approved by the Secretary of State in rules and
23 regulations adopted and promulgated under section 16 of this act as an
24 acceptable means for an electronic notary public to attach or logically
25 associate the notary public's official signature to an electronic
26 document that is being notarized.

27 Sec. 3. (1) To be eligible to register as an electronic notary
28 public, a person shall:

29 (a) Hold a valid commission as a notary public in the State of
30 Nebraska;

31 (b) Satisfy the education requirement of section 5 of this act; and

1 (c) Pay the fee required under section 6 of this act.

2 (2) The Secretary of State shall not accept the registration if the
3 requirements of subsection (1) of this section are not met.

4 Sec. 4. (1) Before performing an electronic notarial act, a notary
5 public shall register with the Secretary of State in a manner prescribed
6 by the Secretary of State.

7 (2) The term of registration as an electronic notary public shall
8 coincide with the term of the commission of the notary public.

9 (3) A person registered as an electronic notary public may renew his
10 or her electronic notary public registration at the same time he or she
11 renews his or her notary public commission.

12 Sec. 5. (1) Before registering as an electronic notary public, a
13 notary public shall take a course of instruction approved by the
14 Secretary of State and pass an examination for such course in addition to
15 the requirements provided in section 64-101.01.

16 (2) The content of the course and the basis for the examination
17 shall include notarial laws, procedures, technology, and the ethics of
18 electronic notarization.

19 Sec. 6. The fee for registering or reregistering as an electronic
20 notary shall be fifty dollars in addition to the fee required in section
21 33-102. The Secretary of State shall remit fees received under this
22 section to the State Treasurer for credit to the Administration Cash Fund
23 for use in administering the Electronic Notary Public Act.

24 Sec. 7. The following types of electronic notarial acts may be
25 performed by an electronic notary public:

26 (1) Acknowledgments;

27 (2) Jurats;

28 (3) Verifications or proofs; and

29 (4) Oaths or affirmations.

30 Sec. 8. An electronic notarial act shall not be performed if the
31 signer of the electronic document is not in the physical presence of the

1 electronic notary public at the time of notarization and is not
2 personally known to the electronic notary public or identified by the
3 notary public through satisfactory evidence as provided in section
4 64-105.

5 Sec. 9. In performing an electronic notarial act, all of the
6 following components shall be attached to, or logically associated with,
7 the electronic document by the electronic notary public and shall be
8 immediately perceptible and reproducible in the electronic document to
9 which the notary public's electronic signature is attached: (1) The
10 electronic notary seal; (2) the notary public's electronic signature; and
11 (3) the completed wording of one of the following notarial certificates:
12 (a) Acknowledgment, (b) jurat, (c) verification or proof, or (d) oath or
13 affirmation.

14 Sec. 10. (1) A notary public's electronic signature in combination
15 with the electronic notary seal shall be used only for the purpose of
16 performing an electronic notarial act.

17 (2) An electronic notary public shall safeguard his or her
18 electronic signature, electronic notary seal, and all other notarial
19 records. Notarial records shall be maintained by the electronic notary
20 public, and the electronic notary public shall not surrender or destroy
21 the records except as required by a court order or as allowed under rules
22 and regulations adopted and promulgated by the Secretary of State.

23 (3) When not in use, the electronic notary public shall keep his or
24 her electronic signature, electronic notary seal, and all other notarial
25 records secure, under his or her exclusive control, and shall not allow
26 them to be used by any other notary public or any other person.

27 (4) Within ten days after discovering that his or her electronic
28 notary seal or electronic signature has been stolen, lost, damaged, or
29 otherwise rendered incapable of being attached to or logically associated
30 with an electronic document, an electronic notary public shall notify the
31 Secretary of State and appropriate law enforcement agency in the case of

1 theft or vandalism.

2 Sec. 11. (1) When the registration of an electronic notary public
3 expires or is resigned or revoked or when an electronic notary public
4 dies, he or she or his or her duly authorized representative shall erase,
5 delete, or destroy the coding, disk, certificate, card, software, file,
6 or program that enables the attachment or logical association of the
7 notary public's electronic signature.

8 (2) A former electronic notary public whose previous registration
9 was not revoked or denied by the Secretary of State need not erase,
10 delete, or destroy the coding, disk, certificate, card, software, file,
11 or program that enables the attachment or logical association of the
12 notary public's electronic signature if he or she is reregistered as an
13 electronic notary public using the same electronic signature within three
14 months after the registration expires.

15 Sec. 12. Electronic evidence of the authenticity of the notary
16 public's electronic signature and electronic notary seal of an electronic
17 notary public of this state, if required, shall be attached to, or
18 logically associated with, a document with a notary public's electronic
19 signature transmitted to another state or nation and shall be in the form
20 of an electronic certificate of authority signed by the Secretary of
21 State in conformance with any current and pertinent international
22 treaties, agreements, and conventions subscribed to by the United States
23 Government.

24 Sec. 13. (1) An electronic certificate of authority evidencing the
25 authenticity of the notary public's electronic signature and electronic
26 notary seal of an electronic notary public of this state shall contain
27 substantially the following words:

28 Certificate of Authority for an Electronic Notarial Act

29 I(name, title, jurisdiction of commissioning
30 official) certify that (name of electronic notary
31 public), the person named as an electronic notary public in the attached

1 or associated document, was indeed registered as an electronic notary
2 public for the State of Nebraska and authorized to act as such at the
3 time of the document's electronic notarization. To verify this
4 Certificate of Authority for an Electronic Notarial Act, I have included
5 herewith my electronic signature this day
6 of, 20.....

7 (Electronic signature (and seal) of commissioning official)

8 (2) The Secretary of State may charge a fee of twenty dollars for
9 issuing an electronic certificate of authority. The Secretary of State
10 shall remit the fees to the State Treasurer for credit to the
11 Administration Cash Fund.

12 Sec. 14. A person violating the Electronic Notary Public Act is
13 subject to having his or her registration removed under the removal
14 procedures provided in section 64-113.

15 Sec. 15. Nothing in the Electronic Notary Public Act requires a
16 notary public to register as an electronic notary public if he or she
17 does not perform electronic notarial acts.

18 Sec. 16. The Secretary of State may adopt and promulgate rules and
19 regulations to insure the integrity, security, and authenticity of
20 electronic notarizations in accordance with the Electronic Notary Public
21 Act. In addition the Secretary of State may require an electronic notary
22 public to create and to maintain a record, journal, or entry of each
23 electronic notarial act.