

SENATE BILL No. 357

By Committee on Judiciary

1-26

10 AN ACT concerning notaries public; creating the Kansas notary public
11 act; repealing K.S.A. 53-401, 53-503, 53-505, 53-506, 53-507, 53-508,
12 53-509, 53-510 and 53-511 and K.S.A. 2003 Supp. 53-504.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. This act may be cited as the Kansas notary public act.

16 Sec. 2. The existing bond, seal, length of commission term and lia-
17 bility of current notaries public commissioned before the effective date
18 of this act may not be invalidated, modified or terminated by this act, but
19 those notaries shall comply with this act in performing notarizations and
20 in applying for new commissions.

21 Sec. 3. If any provision of this act or its application to any person or
22 circumstance is held invalid, the invalidity does not affect other provisions
23 or applications of this act that can be given effect without the invalid
24 provision or application, and to this end, the provisions of this act are
25 severable.

26 Sec. 4. For the purposes of sections 1 through ~~36~~ 35 of this act:

27 (a) "Acknowledgment" means a notarial act in which an individual at
28 a single time and place:

29 (1) Appears in person before the notary;

30 (2) is personally known to the notary or identified by the notary
31 through satisfactory evidence; and

32 (3) declares to the notary that the signature on the document is the
33 true signature of the individual and was voluntarily affixed by the individ-
34 ual, and if the instrument is executed in a representative capacity, that
35 the individual was duly authorized to sign in the particular representative
36 capacity.

37 (b) "Affirmation" means a notarial act, or part thereof, which is legally
38 equivalent to an oath and in which an individual at a single time and
39 place:

40 (1) Appears in person before the notary;

41 (2) is personally known to the notary or identified by the notary
42 through satisfactory evidence; and

43 (3) makes a vow of truthfulness or fidelity on penalty of perjury, based

- 1 on personal honor and without invoking a deity or using any form of the
2 word “swear.”
- 3 (c) “Commission” means the authority to perform notarial acts and
4 the written evidence of authority to perform those acts granted by the
5 secretary of state.
- 6 (d) “Copy certification” means a notarial act in which a notary:
- 7 (1) Is presented with a document that is neither a vital statistics rec-
8 ord nor a public record;
- 9 (2) copies or supervises the copying of the document using a photo-
10 graphic or electronic copying process;
- 11 (3) compares the document to the copy; and
- 12 (4) determines that the copy is a full, true and accurate reproduction.
- 13 (e) “Credible witness” means an impartial person who personally
14 knows an individual appearing before a notary and who takes an oath or
15 affirmation administered by the notary and verifies the individual’s
16 identity.
- 17 (f) “Electronic” means relating to technology having electrical, digi-
18 tal, magnetic, wireless, optical, electromagnetic or similar capabilities.
- 19 (g) “Electronic notary public” and “electronic notary” mean a notary
20 public who has registered with the secretary of state the capability of
21 performing electronic notarial acts in conformance with this act.
- 22 (h) “Electronic document” means information that is created, gen-
23 erated, sent, communicated, received or stored by electronic means.
- 24 (i) “Electronic notarial act” and “electronic notarization” mean an
25 official act by an electronic notary public that involves electronic
26 documents.
- 27 (j) “Electronic signature” means an electronic sound, symbol or pro-
28 cess attached to or logically associated with an electronic document and
29 executed or adopted by a person with the intent to sign the document.
- 30 (k) “Notarial act” and “notarization” mean any act that a notary is
31 empowered to perform under this act.
- 32 (l) “Notarial certificate” and “certificate” mean the portion of a no-
33 tarized document that is completed by the notary, bears the notary’s sig-
34 nature and seal and states the facts attested by the notary in a particular
35 notarization.
- 36 (m) “Notary public” and “notary” mean any person commissioned by
37 the secretary of state to perform notarial acts under this act.
- 38 (n) “Oath” means a notarial act, or part thereof, which is legally equiv-
39 alent to an affirmation and in which an individual at a single time and
40 place:
- 41 (1) Appears in person before the notary;
- 42 (2) is personally known to the notary or identified by the notary
43 through satisfactory evidence; and

- 1 (3) makes a vow of truthfulness or fidelity on penalty of perjury while
2 invoking a deity or using any form of the word “swear.”
- 3 (o) “Official misconduct” means:
- 4 (1) A notary’s performance of any act prohibited by law or failure to
5 perform any act mandated by this act or any other law in connection with
6 the performance of a notarial act; or
- 7 (2) a notary’s performance of a notarial act in a manner found by the
8 secretary of state to be negligent or contrary to the public interest.
- 9 (p) “Personal appearance” means that the principal appears in the
10 presence of the notary so that both parties are physically close enough to
11 see, hear and communicate with each other and to hand identification
12 documents to each other.
- 13 (q) “Personal knowledge of identity” and “personally knows” mean
14 familiarity with an individual resulting from interactions with that indi-
15 vidual over a period of time sufficient to dispel any reasonable uncertainty
16 that the individual has the identity claimed.
- 17 (r) “Principal” means:
- 18 (1) A person whose signature is notarized; or
- 19 (2) a person, other than a credible witness, taking an oath or affir-
20 mation from the notary.
- 21 (s) “Representative capacity” means:
- 22 (1) For and on behalf of a corporation, partnership, trust or other
23 entity, as an authorized officer, agent, partner, trustee or other
24 representative;
- 25 (2) as a public officer, personal representative, guardian or other rep-
26 resentative in the capacity recited in the instrument;
- 27 (3) as a attorney in fact for a principal; or
- 28 (4) in any other capacity as an authorized representative of another.
- 29 (t) “Satisfactory evidence of identity” means identification of an in-
30 dividual based on:
- 31 (1) At least one current document issued by a federal, state, local or
32 tribal government agency with the individual’s photograph, signature im-
33 age and physical description; or
- 34 (2) the oath or affirmation (a) of one credible witness unaffected by
35 the document or transaction who is personally known to the notary and
36 who personally knows the individual; or (b) of two credible witnesses
37 unaffected by the document or transaction each of whom personally
38 knows the individual and shows to the notary documentary identification
39 as described in subparagraph (1) of this section.
- 40 (u) “Seal” shall have the meaning prescribed in section ~~17~~ **16** of this
41 act.
- 42 (v) “Signature witnessing” and “attesting a signature” mean a notarial
43 act in which an individual at a single time and place:

- 1 (1) Appears in person before the notary;
- 2 (2) is personally known to the notary or identified by the notary
- 3 through satisfactory evidence; and
- 4 (3) signs the document in the presence of the notary.
- 5 (w) “Verification” means a notarial act in which an individual at a
- 6 single time and place:
 - 7 (1) Appears in person before the notary;
 - 8 (2) is personally known to the notary or identified by the notary
 - 9 through satisfactory evidence;
 - 10 (3) takes an oath or affirmation from the notary declaring the truth-
 - 11 fulness or accuracy of the document; and
 - 12 (4) signs the document in the presence of the notary.
- 13 Sec. 5. (a) The secretary of state shall issue a notary commission to
- 14 any qualified person who submits an application, oath of office and a
- 15 ~~\$25,000~~ **\$10,000** bond to the secretary of state in accordance with this
- 16 act.
 - 17 (b) A qualified person shall:
 - 18 (1) Be at least 18 years of age;
 - 19 (2) reside or have a regular place of work or business in this state;
 - 20 (3) reside legally in the United States; ~~and~~
 - 21 ~~(4) pass a course of instruction and examination prescribed by the~~
 - 22 ~~secretary of state.~~
 - 23 (c) The secretary of state may deny an application based on:
 - 24 (1) Submission of an application containing material misstatement or
 - 25 omission of fact;
 - 26 (2) the applicant’s conviction or plea of admission or nolo contendere
 - 27 for a felony or any crime involving dishonesty or moral turpitude or of a
 - 28 nature incompatible with the duties of a notary public, but in no case may
 - 29 a commission be issued to the applicant within five years after such con-
 - 30 viction or plea;
 - 31 (3) a finding or admission of liability against the applicant in a civil
 - 32 lawsuit based on the applicant’s negligence or deceit;
 - 33 (4) revocation, suspension, restriction or denial of a notarial commis-
 - 34 sion or professional license by this or any other state or nation but in no
 - 35 case may a commission be issued to the applicant within five years after
 - 36 such disciplinary action; or
 - 37 (5) the applicant’s official misconduct.
 - 38 (d) The secretary of state, if satisfied that the applicant is qualified to
 - 39 be appointed as a notary public, shall issue a certificate of commission
 - 40 stating the notary public’s name and the starting and ending dates of the
 - 41 commission and forward it to the notary public at the residential address
 - 42 given on the application.
 - 43 (e) No person may be automatically reappointed as a notary public.

1 A current or former notary applying for a new notary commission shall
2 submit a new completed application, oath of office and bond.

3 Sec. 6. (a) Every application for a notary commission shall be made
4 under oath on forms prescribed by the secretary of state and include:

5 (1) A statement of the applicant's personal qualifications;

6 (2) ~~a certificate evidencing successful completion of a course of in-~~
7 ~~struction and examination;~~

8 ~~(3)~~ an oath of office for the applicant;

9 ~~(4)~~ (3) the notary's official signature and a sample or an impression
10 of the notary's seal;

11 ~~(5)~~ (4) such other information as the secretary of state may deem
12 appropriate; and

13 ~~(6)~~ (5) an application fee prescribed by the secretary of state in rule
14 and regulation.

15 (b) The secretary of state may require any person applying for an
16 electronic notary public commission to provide additional information as
17 prescribed by rules and regulations.

18 (c) Any information provided on the application by an electronic no-
19 tary public pertaining to decrypting instructions, codes, keys or software
20 shall be used by the secretary of state only for the purpose of performing
21 official duties under this act and shall not be disclosed to any person other
22 than a government agent acting in an official capacity and duly authorized
23 to obtain such information, a person authorized by court order or to the
24 registrant or the registrant's duly authorized agent.

25 Sec. 7. (a) The statement of personal qualifications for a notary com-
26 mission shall state:

27 (1) The applicant's date of birth;

28 (2) the applicant's residential address and telephone number;

29 (3) the applicant's business address and telephone number, the busi-
30 ness mailing address, if different, and the name of the applicant's em-
31 ployer, if any;

32 (4) that the applicant is a legal resident or a U.S. citizen residing or
33 having a regular place of work or business in the state;

34 (5) all issuances, denials, revocations, suspensions, restrictions and
35 resignations of a notarial commission, professional license or public office
36 involving the applicant in this or any other state or nation;

37 (6) all criminal convictions of the applicant, including any pleas of
38 admission or nolo contendere, in this or any other state or nation; and

39 (7) all claims pending or disposed against a notary bond held by the
40 applicant, and all civil findings or admissions of fault or liability regarding
41 the applicant's activities as a notary, in this or any other state or nation.

42 Sec. 8. A person commissioned as a notary may perform notarial acts
43 in any part of this state for a term of four years unless the commission is

1 earlier revoked or resigned.

2 Sec. 9. (a) The notary shall secure a bond for a term of four years,
3 commencing on the effective date of the notary commission and termi-
4 nating on its expiration date, with payment of bond funds to any person
5 conditioned upon the notary's misconduct. The bond shall be executed
6 by a surety licensed in this state, or other surety as approved by the
7 secretary of state, on a form prescribed by the secretary of state.

8 (b) No surety shall cancel a notary public's bond without giving 30
9 days written notice to the notary public. The surety shall provide to the
10 secretary of state a copy of the notice of cancellation. If proper notice is
11 given, the surety shall be released from liability on such bond as of the
12 date of cancellation. The notary public shall secure a good and sufficient
13 surety bond, which shall be filed with the secretary of state prior to the
14 cancellation date. Failure to secure a new bond within the prescribed
15 time shall result in revocation of the notary public's commission.

16 (c) The surety for a notary bond shall report any claim against the
17 bond to the secretary of state within 30 days from the date of payment
18 on the claim.

19 (d) If a notary bond has been exhausted by claims paid out by the
20 surety, the surety shall notify the secretary of state, who shall suspend
21 the notary's commission until:

22 (1) A new bond is obtained by the notary; and

23 (2) the notary's fitness to serve the remainder of the commission term
24 is determined by the secretary of state.

25 (e) Any person injured by the failure of a notary public to faithfully
26 perform any notarial act for which a bond is given under the laws of this
27 state may sue on the bond in the person's own name in any court of
28 competent jurisdiction to recover the damages the person may have sus-
29 tained by such failure.

30 ~~Sec. 10. (a) Each applicant for a notary commission shall, within the~~
31 ~~six months prior to application, take a course of instruction and pass a~~
32 ~~written examination. Any person applying for an electronic notary public~~
33 ~~commission shall take an additional course of instruction and pass an~~
34 ~~additional written examination within the six-month period preceding ap-~~
35 ~~plication. The additional course and test shall be specific to electronic~~
36 ~~notarizations. Courses of instruction and examinations required by this~~
37 ~~section shall be prescribed by the secretary of state in rules and~~
38 ~~regulations.~~

39 ~~(b) Each applicant for a notary commission shall include an education~~
40 ~~fee, in addition to the application fee. If the applicant requests an elec-~~
41 ~~tronic notary public commission, an additional education fee shall be in-~~
42 ~~cluded. All education fees shall be set by the secretary of state in rules~~
43 ~~and regulations.~~

1 ~~(c) There is hereby created in the state treasury the notary public~~
2 ~~education fee fund. The secretary of state shall remit all moneys received~~
3 ~~by or for it from fees to the state treasurer in accordance with K.S.A. 75-~~
4 ~~4215, and amendments thereto. Upon receipt of such remittance, the~~
5 ~~state treasurer shall deposit the entire amount in the state treasury to the~~
6 ~~credit of the notary public education fee fund. All expenditures from the~~
7 ~~notary public education fee fund shall be made in accordance with ap-~~
8 ~~propriation acts upon warrants of the director of accounts and reports~~
9 ~~issued pursuant to vouchers approved by the secretary of state or by a~~
10 ~~person or persons designated by the secretary of state.~~

11 ~~Sec. 10.~~ **10.** (a) A notary is empowered to perform the following no-
12 tarial acts:

- 13 (1) Acknowledgment;
- 14 (2) administering oaths and affirmations;
- 15 (3) verification;
- 16 (4) witnessing or attesting a signature;
- 17 (5) copy certification; and
- 18 (6) any other acts authorized by law.

19 (b) A notary may accept the use of a mark instead of a signature on
20 a document presented for notarization if:

- 21 (1) The mark is affixed in the presence of the notary and two wit-
22 nesses unaffected by the document;
- 23 (2) both witnesses sign their own names beside the mark;
- 24 (3) the notary states below the mark: “Mark affixed by (name of signer
25 by mark) in presence of (names and addresses of witnesses) and under-
26 signed notary”; and
- 27 (4) the notary notarizes the signature by mark through an acknow-
28 ledgment, verification or signature witnessing.

29 (c) Notary acts may be performed electronically by a commissioned
30 notary public:

- 31 (1) Who complies with the provisions of this act, the Kansas uniform
32 electronic transactions act and other applicable law; and
- 33 (2) affixes an electronic notarial certificate as authorized by the sec-
34 retary of state.

35 ~~Sec. 11.~~ **11.** (a) A notary shall not perform a notarial act if the
36 principal:

- 37 (1) Is not in the notary’s presence at the time of notarization;
 - 38 (2) is not personally known to the notary or identified by the notary
39 through satisfactory evidence;
 - 40 (3) in the notary’s judgment, does not appear to be aware of the
41 significance of the transaction requiring a notarial act; or
 - 42 (4) in the notary’s judgment, is not acting of his or her own free will.
- 43 (b) A notary shall not execute a certificate containing information

1 known or believed by the notary to be false.

2 (c) A notary shall not affix an official signature or seal on a notarial
3 certificate that is incomplete.

4 (d) A notary shall not provide a signed or sealed notarial certificate
5 to another person with the understanding that it will be completed or
6 attached to a document outside of the notary's presence.

7 (e) A notary shall not notarize a signature on a document without
8 notarial certificate wording.

9 Sec. ~~13~~ **12**. (a) A notary is disqualified from performing a notarial
10 act if the notary:

11 (1) Is a party to or named in the document that is to be notarized;

12 (2) will receive as a direct or indirect result any commission, fee,
13 advantage, right, title, interest, cash, property or other consideration, ex-
14 cluding a notary fee; or

15 (3) is a spouse, ancestor, descendant or sibling of the principal, in-
16 cluding in-law, step or half relatives.

17 (b) A notary public is not disqualified when the notary public acts in
18 the capacity of an agent, employee, insurer, attorney, escrow agent or
19 lender for a person having a financial or beneficial interest in the
20 transaction.

21 Sec. ~~14~~ **13**. A notary shall perform any notarial act for any person
22 requesting such an act unless:

23 (1) The notary knows or has good reason to believe that the notarial
24 act or the associated transaction is unlawful; or

25 (2) the act is prohibited under section ~~12~~ **11** and amendments
26 thereto.

27 Sec. ~~15~~ **14**. In notarizing a document, a notary shall sign the notarial
28 certificate at the time the notarial act is performed using a signature that
29 matches the signature given on the notary's commission.

30 Sec. ~~16~~ **15**. (a) A notary shall keep an official seal that is the exclusive
31 property of the notary. Such seal shall not be possessed or used by any
32 other person or surrendered to an employer upon termination of
33 employment.

34 (b) When not in use, the seal shall be kept in a secure area under the
35 exclusive control of the notary.

36 (c) If the notary public obtains a new seal for any reason, the notary
37 shall notify the secretary of state of the change of seal and provide an
38 impression of the new seal within 30 days of obtaining the new seal. The
39 notary public shall not use the new seal until an impression of the seal is
40 provided to the secretary of state.

41 (d) Upon resignation, revocation or expiration of a notary commission
42 or death of the notary, the seal shall be destroyed, defaced or otherwise
43 rendered inoperable so that it may not be misused by another person.

1 Sec. ~~17~~ **16**. (a) At the time the notarial act is performed, the notary
2 shall affix a legible and photographically reproducible impression of the
3 official seal on the notarial certificate, near the notary's official signature,
4 that shall include the following elements:

5 (1) The notary's name exactly as listed on the commission;

6 (2) the words "Notary Public" and "State of Kansas"

7 (b) The seal for an electronic notarization shall be prescribed by the
8 secretary of state in rules and regulations.

9 Sec. ~~18~~ **17**. Within 30 days after the change of a notary's residence,
10 business or mailing address, the notary shall send to the secretary of state
11 notice of the change, giving both old and new addresses.

12 Sec. ~~19~~ **18**. A notary whose name has changed shall send to the sec-
13 retary of state notice of the change within 30 days after such change
14 occurs, giving both former and new names and providing a specimen of
15 the new seal and new official signature. The notary shall not perform
16 notarial acts using the new name until notice has been provided to the
17 secretary of state. The notary may perform notarial acts using the former
18 name that time period.

19 Sec. ~~20~~ **19**. (a) A notary may resign his or her commission by sending
20 to the secretary of state notice stating the effective date of resignation.
21 The commission of the notary public shall cease to be effective upon the
22 secretary of state's receipt of the resignation.

23 (b) Notaries who cease to reside in or to maintain a regular place of
24 work or business in this state, or who become permanently unable to
25 perform their notarial duties, shall resign their commission.

26 Sec. ~~21~~ **20**. (a) A notary is liable to any person for damages caused
27 by the notary's negligence, intentional violation of law or official miscon-
28 duct in relation to a notarization.

29 (b) A surety for a notary's bond is liable to any person for damages
30 caused that person by the notary's negligence, intentional violation of law
31 or official misconduct in relation to a notarization during the bond term,
32 but this liability may not exceed the dollar amount of the bond or of any
33 remaining bond funds that have not been disbursed to other claimants.

34 (c) An employer of a notary is liable to any person for damages caused
35 by the notary's negligence, intentional violation of law or official miscon-
36 duct in performing a notarization during the course of employment, if
37 the employer directed, encouraged or approved the notary's negligence,
38 violation of law or official misconduct.

39 (d) No suit shall be instituted against a notary public, a surety or an
40 employer more than three years after the cause of action accrues.

41 Sec. ~~22~~ **21**. (a) The secretary of state may revoke a notary commis-
42 sion for any ground on which an application for a commission may be
43 denied under section 5 and amendments thereto.

1 (b) The secretary of state shall revoke the commission of any notary
2 who fails to maintain a residence or a regular place of work or business
3 in this state or status as a legal resident of the United States.

4 (c) Prior to revocation of a notary commission, the secretary of state
5 shall inform the notary that the revocation takes effect on a particular
6 date unless a proper appeal is filed with the secretary of state before that
7 date.

8 (d) Resignation or expiration of a notary commission does not ter-
9minate or preclude an investigation into the notary's conduct by the sec-
10retary of state.

11 (e) Any person whose notary public commission has been revoked
12 may not apply for a new commission until the expiration of five years
13 from the date of revocation.

14 (f) The secretary of state may deliver a written warning to any notary
15 who has engaged in official misconduct and may record a complaint of
16 official misconduct on the notary public's record.

17 Sec. ~~23~~ **22**. (a) In performing a notarial act, a notary is guilty of a
18 class ~~A C~~, nonperson misdemeanor, ~~punishable upon conviction by a fine~~
19 ~~not exceeding \$2,500 or imprisonment for not more than one year, or~~
20 ~~both~~, for knowingly:

21 (1) Failing to require the presence of a principal at the time of the
22 notarial act;

23 (2) failing to identify a principal through personal knowledge or sat-
24isfactory evidence; or

25 (3) executing a false notarial certificate.

26 (b) Any person who is not a notary and who knowingly acts as or
27 otherwise impersonates a notary is guilty of a class ~~B C~~, nonperson mis-
28demeanor, ~~punishable upon conviction by a fine not exceeding \$1,000 or~~
29 ~~imprisonment for not more than six months or both~~.

30 (c) Any person who knowingly obtains, conceals, damages or destroys
31 the seal, journal or official records of a notary is guilty of a class ~~B C~~,
32 nonperson misdemeanor ~~punishable upon conviction by a fine not ex-~~
33 ~~ceeding \$1,000 or imprisonment for not more than six months or both~~.
34 Defacement or destruction of a seal in accordance with subsection (d) of
35 section ~~16~~ **15** and amendments thereto shall not constitute a violation of
36 this section.

37 (d) Any person who knowingly obtains, conceals, damages or destroys
38 the certificate, disk, coding, card, program, software or hardware enabling
39 an electronic notary to affix an official electronic signature is guilty of a
40 class ~~B C~~, nonperson misdemeanor ~~punishable upon conviction by a fine~~
41 ~~not exceeding \$1,000 or imprisonment for not more than six months or~~
42 ~~both~~.

43 (e) Any person who knowingly solicits, coerces or in any way influ-

1 ences a notary to commit official misconduct is guilty of a class **B C**,
 2 nonperson misdemeanor, ~~punishable upon conviction by a fine not ex-~~
 3 ~~ceeding \$1,000 or imprisonment for not more than six months or both.~~

4 (f) The criminal penalties in this act do not preclude other criminal
 5 penalties provided by law.

6 Sec. ~~24~~ **23**. (a) The state of Kansas hereby declares its intent to ac-
 7 cede to the Hague convention abolishing the requirement of legalization
 8 for foreign public documents.

9 (b) Upon presentation of a public document to which the convention
 10 applies, the secretary of state, or an assistant or deputy assistant secretary
 11 of state appointed pursuant to K.S.A. 75-412, and amendments thereto
 12 shall affix to the document the certificate required by the convention.
 13 The secretary of state shall maintain a record of all documents certified
 14 under this section.

15 Sec. ~~25~~ **24**. On a notarized document sent to another state or nation,
 16 evidence of the authenticity of the official seal and signature of a notary
 17 of this state, if required, shall be in the form of:

18 (a) A certificate of authority from the secretary of state and any des-
 19 ignated local official if necessary, authenticated as necessary by additional
 20 certificates from United States or foreign government agencies; or

21 (b) in the case of a notarized document to be used in a nation that
 22 has signed and ratified the Hague convention abolishing the requirement
 23 of legalization for foreign public documents of October 5, 1961, an apos-
 24 tille from the federally designated official in the form prescribed by the
 25 convention, with no additional authenticating certificates required.

26 Sec. ~~26~~ **25**. A certificate of authority evidencing the authenticity of
 27 the official seal and signature of a notary of this state shall be substantially
 28 in the following form:

29 Certificate of Authority for a Notarial Act

30 I, _____ Secretary of State, certify that _____ (name of no-
 31 tary), the person named as the notary public in the attached document,
 32 was a notary public for the State of Kansas and authorized to act as such
 33 at the time of the document's notarization.

34 To verify this Certificate of Authority for a Notarial Act, I have affixed
 35 below my signature and seal of office this ____ day of _____,
 36 20_____.

37 Sec. ~~27~~ **26**. The secretary of state shall prescribe by rule and regu-
 38 lation the fee for issuing a certificate of authority or an apostille.

39 Sec. ~~28~~ **27**. (a) As used in this section, the term "notarial officer"
 40 means any person authorized to perform notarial acts under section ~~29~~
 41 **28** and amendments thereto

42 (b) In taking an acknowledgment, the notarial officer shall determine,
 43 either from personal knowledge of identity or from satisfactory evidence

1 of identity, that the person appearing before the officer and making the
2 acknowledgment is the person whose true signature is on the instrument.

3 (c) In taking a verification upon oath or affirmation, the notarial of-
4 ficer shall determine, either from personal knowledge of identity or from
5 satisfactory evidence of identity, that the person appearing before the
6 officer and making the verification is the person whose true signature is
7 on the statement.

8 (d) In witnessing or attesting a signature, the notarial officer shall
9 determine, either from personal knowledge of identity or from satisfac-
10 tory evidence of identity, that the signature is that of the person appearing
11 before the officer and named in the instrument.

12 (e) In certifying a copy of a document, the notarial officer shall de-
13 termine that the proffered copy is a full, true, and accurate transcription
14 or reproduction of that which was copied.

15 Sec. ~~29~~ **28**. (a) A notarial act may be performed within this state by
16 the following persons:

- 17 (1) A notary public of this state;
- 18 (2) a judge, clerk or deputy clerk of any court of this state;
- 19 (3) a county clerk or deputy county clerk;
- 20 (4) an election commissioner or assistant election commissioner; or
- 21 (5) any other person authorized to perform the specific act by the
22 law of this state.

23 (b) Notarial acts performed within this state under federal authority
24 as provided in section ~~31~~ **30**, and amendments thereto, shall have the
25 same effect as if performed by a notarial officer of this state.

26 (c) The signature and title of a person performing a notarial act are
27 prima facie evidence that the signature is genuine and that the person
28 holds the designated title.

29 Sec. ~~30~~ **29**. (a) A notarial act has the same effect under the law of
30 this state as if performed by a notarial officer of this state, if performed
31 in another state, commonwealth, territory, district or possession of the
32 United States by any of the following persons:

- 33 (1) A notary public of that jurisdiction;
- 34 (2) a judge, clerk or deputy clerk of a court of that jurisdiction; or
- 35 (3) any other person authorized by the law of that jurisdiction to per-
36 form notarial acts.

37 (b) Notarial acts performed in other jurisdictions of the United States
38 under federal authority as provided in section ~~31~~ **30**, and amendments
39 thereto, have the same effect as if performed by a notarial officer of this
40 state.

41 (c) The signature and title of a person performing a notarial act are
42 prima facie evidence that the signature is genuine and that the person
43 holds the designated title.

1 (d) The signature and indicated title of an officer listed in subsection
2 (a)(1) or (a)(2) conclusively establish the authority of a holder of that title
3 to perform a notarial act.

4 ~~Sec. 30.~~ **30.** (a) A notarial act has the same effect under the law of
5 this state as if performed by a notarial officer of this state if performed
6 anywhere by any of the following persons under authority granted by the
7 law of the United States:

- 8 (1) A judge, clerk or deputy clerk of a court;
- 9 (2) a commissioned officer on active duty in the military service of
10 the United States;
- 11 (3) an officer of the foreign service or consular officer of the United
12 States; or
- 13 (4) any other person authorized by federal law to perform notarial
14 acts.

15 (b) The signature and title of a person performing a notarial act are
16 prima facie evidence that the signature is genuine and that the person
17 holds the designated title.

18 (c) the signature and indicated title of an officer listed in subsection
19 (a)(1), (a)(2) or (a)(3) conclusively establish the authority of a holder of
20 that title to perform a notarial act.

21 ~~Sec. 31.~~ **31.** (a) A notarial act has the same effect under the law of
22 this state as if performed by a notarial officer of this state if performed
23 within the jurisdiction of and under authority of a foreign nation or its
24 constituent units or a multi-national or international organization by any
25 of the following persons:

- 26 (1) A notary public or notary;
- 27 (2) a judge, clerk or deputy clerk of a court of record; or
- 28 (3) any other person authorized by the law of that jurisdiction to per-
29 form notarial acts.

30 (b) An “Apostille” in the form prescribed by the Hague Convention
31 of October 5, 1961, conclusively establishes that the signature of the no-
32 tarial officer is genuine and that the officer holds the indicated office.

33 (c) A certificate by a foreign service or consular officer of the United
34 States stationed in the nation under the jurisdiction of which the notarial
35 act was performed, or a certificate by a foreign service or consular officer
36 of that nation stationed in the United States, conclusively establishes any
37 matter relating to the authenticity or validity of the notarial act set forth
38 in the certificate.

39 (d) An official stamp or seal of the person performing the notarial act
40 is prima facie evidence that the signature is genuine and that the person
41 holds the indicated title.

42 (e) An official stamp or seal of an officer listed in subsection (a)(1)
43 or (a)(2) is prima facie evidence that a person with the indicated title has

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

6 Sec. ~~33~~ **32**. (a) A notarial act shall be evidenced by a certificate
 7 signed and dated by a notarial officer. The certificate must include iden-
 8 tification of the jurisdiction in which the notarial act is performed and
 9 the title of the office of the notarial officer and shall include the official
 10 stamp or seal of the notary public or any official stamp or seal of office
 11 of any other notarial officer, if such exists. If the officer is a notary public,
 12 the certificate must also indicate the date of expiration, if any, of the
 13 commission of office. If the officer is a commissioned officer on active
 14 duty in the military service of the United States, the certificate must also
 15 include the officer's rank.

16 (b) A certificate of a notarial act is sufficient if it meets the require-
 17 ments of subsection (a) and it:

18 (1) Is in the short form set forth in section ~~34~~ **33** and amendments
 19 thereto;

20 (2) is in a form otherwise prescribed by the law of this state;

21 (3) is in a form prescribed by the laws or regulations applicable in
 22 the place in which the notarial act was performed; or

23 (4) sets forth the actions of the notarial officer and those are sufficient
 24 to meet the requirements of the designated notarial act.

25 (c) The form and content of an electronic notarial certificate shall be
 26 prescribed by the secretary of state in rules and regulations.

27 (d) By executing a certificate of a notarial act, the notarial officer
 28 certifies that the officer has made the determinations required by section
 29 ~~28~~ **27**, and amendments thereto.

30 Sec. ~~34~~ **33**. The following short form certificates of notarial acts are
 31 sufficient for the purposes indicated, if completed with the information
 32 required by subsection (a) of section ~~33~~ **32**, and amendments thereto:

33 (a) For an acknowledgment in an individual capacity:

34 State of _____)

35 (County) of _____)

36 This instrument was acknowledged before me on _____(date)_____ by _____
 37 _____[name(s) of person(s)]_____

38 _____
 39 (Signature of notarial officer)

40 (Seal, if any)

41 _____
 42 Title (and Rank)

43 [My appointment expires: _____]

1 (b) For an acknowledgment in a representative capacity:
 2 State of _____
 3 (County) of _____
 4 This instrument was acknowledged before me on _____(date)_____ by _____[name(s)]
 5 of person(s)]_____ as (type of authority, e.g., officer, trustee, etc.) of (name of party on
 6 behalf of whom instrument was executed.)
 7 _____
 8 (Signature of notarial officer)
 9 (Seal, if any)
 10 _____
 11 Title (and Rank)
 12 [My appointment expires: _____]

13 (c) For a verification upon oath or affirmation:
 14 State of _____
 15 (County) of _____
 16 Signed and sworn to (or affirmed) before me on _____(date)_____ by _____[name(s)]
 17 of person(s)]_____ making statement].
 18 _____
 19 (Signature of notarial officer)
 20 (Seal, if any)
 21 _____
 22 Title (and Rank)
 23 [My appointment expires: _____]

24 (d) For witnessing or attesting a signature:
 25 State of _____
 26 (County) of _____
 27 Signed or attested before me on _____(date)_____ by _____[name(s) of person(s)].
 28 _____
 29 (Signature of notarial officer)
 30 (Seal, if any)
 31 _____
 32 Title (and Rank)
 33 [My appointment expires: _____]

34 (e) For attestation of a copy of a document:
 35 State of _____
 36 (County) of _____
 37 I certify that this is a true and correct copy made by me _____ [description of
 38 document]
 39 Dated: _____
 40 _____
 41 (Signature of notarial officer)
 42 (Seal, if any)
 43 _____

1
2 Title (and Rank)
3 [My appointment expires: _____]
4 Sec. ~~35~~ **34**. This act applies to notarial acts performed on or after its
5 effective date.
6 Sec. ~~36~~ **35**. This act shall be applied and construed to effectuate its
7 general purpose to make uniform the law with respect to the subject of
8 this act among states enacting it.
9 Sec. ~~37~~ **36**. K.S.A. 53-401, 53-503, 53-505, 53-506, 53-507, 53-508,
10 53-509, 53-510 and 53-511 and K.S.A. 2003 Supp. 53-504 are hereby
11 repealed.
12 Sec. ~~38~~ **37**. This act shall take effect and be in force from and after
January 1, 2005, and its publication in the statute book.