

ILLINOIS COMPILED STATUTES

**CHAPTER 5. GENERAL PROVISIONS
ACT 312. ILLINOIS NOTARY PUBLIC ACT**

**ARTICLE I
GENERAL PROVISIONS**

5 ILCS 312/1-101. Short Title.

This Act shall be known and may be cited as the “Illinois Notary Public Act”.

5 ILCS 312/1-102. Purposes and Rules of Construction

(a) This Act shall be construed and applied to promote its underlying purposes and policies.

(b) The underlying purposes and policies of this Act are:

- (1) to simplify, clarify, and modernize the law governing notaries public; and
- (2) to promote, serve, and protect the public interest.

5 ILCS 312/1-103. Prospective Effect of Act.

This Act applies prospectively. Nothing in this Act shall be construed to revoke any notary public commission existing on the effective date of this Act. All reappointments of notarial commissions shall be obtained in accordance with this Act.

5 ILCS 312/1-104. Notary Public and Notarization Defined.

(a) The terms “notary public” and “notary” are used interchangeably to mean any individual appointed and commissioned to perform notarial acts.

(b) “Notarization” means the performance of a notarial act.

(c) “Accredited immigration representative” means a not-for-profit organization recognized by the Board of Immigration Appeals under 8 C.F.R. 292.2(a) and employees of those organizations accredited under 8 C.F.R. 292.2(d).

**ARTICLE II
APPOINTMENT PROVISIONS**

5 ILCS 312/2-101. Appointment.

The Secretary of State may appoint and commission as notaries public for a 4-year term as many persons resident in a county in this State as he deems necessary. The Secretary of State may appoint and commission as notaries public for a one-year term as many persons who are residents of a state bordering Illinois whose place of work or business is within a county in this State as the Secretary deems necessary, but only if the laws of that state authorize residents of Illinois to be appointed and commissioned as notaries public in that state.

5 ILCS 312/2-102. Application.

Every applicant for appointment and commission as a notary shall complete an application in a format prescribed by the Secretary of State to be filed with the Secretary of State, stating:

(a) the applicant’s official name, as it appears on his or her current driver’s license or state-issued identification card;

(b) the county in which the applicant resides or, if the applicant is a resident of a state bordering Illinois, the county in Illinois in which that person's principal place of work or principal place of business is located;

(c) the applicant's residence address, as it appears on his or her current driver's license or state-issued identification card;

(c-5) the applicant's business address if different than the applicant's residence address, if performing notarial acts constitutes any portion of the applicant's job duties;

(d) that the applicant has resided in the State of Illinois for 30 days preceding the application or that the applicant who is a resident of a state bordering Illinois has worked or maintained a business in Illinois for 30 days preceding the application;

(e) that the applicant is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(f) the applicant's date of birth;

(g) that the applicant is able to read and write the English language;

(h) that the applicant has never been the holder of a notary public appointment that was revoked or suspended during the past 10 years;

(i) that the applicant has not been convicted of a felony;

(i-5) that the applicant's signature authorizes the Office of the Secretary of State to conduct a verification to confirm the information provided in the application, including a criminal background check of the applicant, if necessary;

(j) that the applicant's signature authorizes the Office of the Secretary of State to conduct a verification to confirm the information provided in the application; and

(k) any other information the Secretary of State deems necessary.

5 ILCS 312/2-102.5. Online notary public application system.

(a) The Secretary of State may establish and maintain an online application system that permits an Illinois resident to apply for appointment and commission as a notary public.

(b) Any such online notary public application system shall employ security measures to ensure the accuracy and integrity of notary public applications submitted electronically under this Section.

(c) The Secretary of State may cross reference information provided by applicants with that contained in the Secretary of State's driver's license and Illinois Identification Card databases in order to match the information submitted by applicants, and may receive from those databases the applicant's digitized signature upon a successful match of the applicant's information with that information contained in the databases.

(d) An online notary public application shall contain all of the information that is required for a paper application as provided in Section 2-102 of this Act. The applicant shall also be required to provide:

(1) the applicant's full Illinois driver's license or Illinois Identification Card number;

(2) the date of issuance of the Illinois driver's license or Illinois Identification Card;

and

(3) the applicant's e-mail address for notices to be provided under this Section.

(e) For his or her application to be accepted, the applicant shall mark the box associated with the following statement included as part of the online notary public application: "By clicking on the box below, I swear or affirm all of the following:

(1) I am the person whose name and identifying information is provided on this form, and I desire to be appointed and commissioned as a notary public in the State of Illinois.

(2) All the information I have provided on this form is true and correct as of the date I am submitting this form.

(3) I authorize the Secretary of State to utilize my signature on file with the Secretary of State driver's license and Illinois Identification Card databases and understand that such signature will be used on this online notary public application for appointment and commission as a notary public as if I had signed this form personally."

(f) Immediately upon receiving a completed online notary public application, the online system shall send by electronic mail a confirmation notice that the application has been received. Upon completion of the procedure outlined in subsection (c) of this Section, the online notary public application system shall send by electronic mail a notice informing the applicant of whether the following information has been matched with the Secretary of State driver's license and Illinois Identification Card databases:

(1) that the applicant has an authentic Illinois driver's license or Illinois Identification Card issued by the Secretary of State and that the driver's license or Illinois Identification Card number provided by the applicant matches the driver's license or Illinois Identification Card number for that person on file with the Secretary of State;

(2) that the date of issuance of the Illinois driver's license or Illinois Identification Card listed on the application matches the date of issuance of that license or card for that person on file with the Secretary of State;

(3) that the date of birth provided by the applicant matches the date of birth for that person on file with the Secretary of State; and

(4) that the residence address provided by the applicant matches the residence address for that person on file with the Secretary of State.

(g) If the information provided by the applicant matches all of the criteria identified in subsection (f) of this Section, the online notary public application system shall retrieve from the Secretary of State's database files an electronic copy of the applicant's signature from his or her Illinois driver's license or Illinois Identification Card and such signature shall be deemed to be the applicant's signature on his or her online notary public application.

5 ILCS 312/2-103. Appointment Fee.

Every applicant for appointment and commission as a notary public shall pay to the Secretary of State a fee of \$10.

5 ILCS 312/2-104. Oath.

(a) Every applicant for appointment and commission as a notary public shall take the following oath:

"I, (name of applicant), solemnly affirm, under the penalty of perjury, that the answers to all questions in this application are true, complete, and correct; that I have carefully read the notary law of this State; and that, if appointed and commissioned as a notary public, I will perform faithfully, to the best of my ability, all notarial acts in accordance with the law."

(b) In the event that the applicant completes a paper application for appointment and commission as a notary public, he or she shall take the oath in the presence of a person qualified to administer an oath in this State. The printed oath shall be followed by the signature of the applicant and notarized as follows:

" _____ (Signature of applicant)
Subscribed and affirmed before me on (insert date).

_____ (Official signature and official seal of notary)”.

(c) In the event that the applicant completes an online application for appointment and commission as a notary public, he or she shall affirm the oath electronically. An electronic affirmation of the oath in the online notary public application system shall have the same force and effect as an oath sworn and affirmed in person.

5 ILCS 312/2-105. Bond.

Every application for appointment and commission as a notary public shall be accompanied by an executed bond commencing on the date of the appointment with a term of 4 years, in the sum of \$5,000, with, as surety thereon, a company qualified to write surety bonds in this State. The bond shall be conditioned upon the faithful performance of all notarial acts in accordance with this Act. The Secretary of State may prescribe an official bond form.

5 ILCS 312/2-106. Appointment Recorded by County Clerk.

The appointment of the applicant as a notary public is complete when the commission is recorded with the county clerk.

The Secretary of State shall forward the applicant’s commission to the county clerk of the county in which the applicant resides or, if the applicant is a resident of a state bordering Illinois, the county in Illinois in which the applicant’s principal place of work or principal place of business is located. Upon receipt thereof, the county clerk shall notify the applicant of the action taken by the Secretary of State, and the applicant shall either appear at the county clerk’s office to record the same and receive the commission or request by mail to have the commission sent to the applicant with a specimen signature of the applicant attached to the request. The applicant shall have a record of the appointment, and the time when the commission will expire, entered in the records of the office of the county clerk. When the applicant appears before the county clerk, the applicant shall pay a fee of \$5, at which time the county clerk shall then deliver the commission to the applicant.

If the appointment is completed by mail, the applicant shall pay the county clerk a fee of \$10.00, which shall be submitted with the request to the county clerk. The county clerk shall then record the appointment and send the commission by mail to the applicant.

If an applicant does not respond to the notification by the county clerk within 30 days, the county clerk shall again notify the applicant that the county clerk has received the applicant’s notary public commission issued by the Secretary of State. The second notice shall be in substantially the following form:

“The records of this office indicate that you have not picked up your notary public commission from the Office of the County Clerk.

The Illinois Notary Public Law requires you to appear in person in the clerk’s office, record your commission, and pay a fee of \$5.00 to the county clerk or request that your commission be mailed to you. This request must be accompanied by a specimen of your signature and a \$10.00 fee payable to the county clerk.

Your appointment as a notary is not complete until the commission is recorded with the county clerk. Furthermore, if you do not make arrangements with the clerk for recording and delivery of your commission within 30 days from the date of this letter, the county clerk will return your commission to the Secretary of State. Your commission will be cancelled and your name will be removed from

the list of notaries in the State of Illinois.

I should also like to remind you that any person who attests to any document as a notary and is not a notary in good standing with the Office of the Secretary of State is guilty of official misconduct and may be subject to a fine or imprisonment”.

The Secretary of State shall cancel the appointment of all notaries whose commissions are returned to his office by the county clerks. No application fee will be refunded and no bonding company is required to issue a refund when an appointment is cancelled.

ARTICLE III DUTIES- FEES-AUTHORITY

5 ILCS 312/3-101. Official Seal.

(a) Each notary public shall, upon receiving the commission from the county clerk, obtain an official rubber stamp seal with which the notary shall authenticate his official acts. The rubber stamp seal shall contain the following information:

- (1) the words “Official Seal”;
 - (2) the notary’s official name;
 - (3) the words “Notary Public”, “State of Illinois”, and “My commission expires ____ (commission expiration date)”;
 - (4) a serrated or milled edge border in a rectangular form not more than one inch in height by two and one-half inches in length surrounding the information.
- (b) (blank)

5 ILCS 312/3-102. Notarial Record; Residential Real Property Transactions.

(a)-(i) no longer apply as of July 1, 2018.

(j) In the event there is a breach in the security of a Notarial Record maintained pursuant to subsections (d) and (e) by the Recorder of Deeds of Cook County, Illinois, the Recorder shall notify the person identified as the “signer” in the Notarial Record at the signer’s residential street address set forth in the Notarial Record. “Breach” shall mean unauthorized acquisition of the fingerprint data contained in the Notarial Record that compromises the security, confidentiality, or integrity of the fingerprint data maintained by the Recorder. The notification shall be in writing and made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable security, confidentiality, and integrity of the Recorder’s data system.

(k) Subsections (a) through (i) shall not apply on and after July 1, 2018.

5 ILCS 312/3-103. Notice.

(a) Every notary public who is not an attorney or an accredited immigration representative who advertises the services of a notary public in a language other than English, whether by radio, television, signs, pamphlets, newspapers, or other written communication, with the exception of a single desk plaque, shall include in the document, advertisement, stationery, letterhead, business card, or other comparable written material the following: notice in English and the language in which the written communication appears. This notice shall be of a conspicuous size, if in writing, and shall state: “I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS

AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE”. If such advertisement is by radio or television, the statement may be modified but must include substantially the same message.

A notary public shall not, in any document, advertisement, stationery, letterhead, business card, or other comparable written material describing the role of the notary public, literally translate from English into another language terms or titles including, but not limited to, notary public, notary, licensed, attorney, lawyer, or any other term that implies the person is an attorney. To illustrate, the word “notario” is prohibited under this provision.

Failure to follow the procedures in this Section shall result in a fine of \$1,000 for each written violation. The second violation shall result in suspension of notary authorization. The third violation shall result in permanent revocation of the commission of notary public. Violations shall not preempt or preclude additional appropriate civil or criminal penalties.

(b) All notaries public required to comply with the provisions of subsection (a) shall prominently post at their place of business as recorded with the Secretary of State pursuant to Section 2-102 of this Act a schedule of fees established by law which a notary public may charge. The fee schedule shall be written in English and in the non-English language in which notary services were solicited and shall contain the disavowal of legal representation required above in subsection (a), unless such notice of disavowal is already prominently posted.

(c) No notary public, agency or any other person who is not an attorney shall represent, hold themselves out or advertise that they are experts on immigration matters or provide any other assistance that requires legal analysis, legal judgment, or interpretation of the law unless they are a designated entity as defined pursuant to Section 245a.1 of Part 245a of the Code of Federal Regulations (8 CFR 245a.1) or an entity accredited by the Board of Immigration Appeals.

(d) Any person who aids, abets or otherwise induces another person to give false information concerning immigration status shall be guilty of a Class A misdemeanor for a first offense and a Class 3 felony for a second or subsequent offense committed within 5 years of a previous conviction for the same offense.

Any notary public who violates the provisions of this Section shall be guilty of official misconduct and subject to fine or imprisonment.

Nothing in this Section shall preclude any consumer of notary public services from pursuing other civil remedies available under the law.

(e) No notary public who is not an attorney or an accredited representative shall accept payment in exchange for providing legal advice or any other assistance that requires legal analysis, legal judgment, or interpretation of the law.

(f) Violation of subsection (e) is a business offense punishable by a fine of 3 times the amount received for services, or \$1,001 minimum, and restitution of the amount paid to the consumer. Nothing in this Section shall be construed to preempt nor preclude additional appropriate civil remedies or criminal charges available under law.

(g) If a notary public of this State is convicted of 2 or more business offenses involving a violation of this Act within a 12-month period while commissioned, or of 3 or more business offenses involving a violation of this Act within a 5-year period regardless of being commissioned, the Secretary shall automatically revoke the notary public commission of that person on the date that the person’s most recent business offense conviction is entered as a final judgment.

5 ILCS 312/3-104. Maximum Fee.

(a) Except as provided in subsection (b) of this Section, the maximum fee in this State is \$1.00 for any notarial act performed and, until July 1, 2018, up to \$25 for any notarial act performed pursuant to Section 3-102.

(b) Fees for a notary public, agency, or any other person who is not an attorney or an accredited representative filling out immigration forms shall be limited to the following:

- (1) \$10 per form completion;
- (2) \$10 per page for the translation of a non-English language into English where such translation is required for immigration forms;
- (3) \$1 for notarizing;
- (4) \$3 to execute any procedures necessary to obtain a document required to complete immigration forms; and
- (5) A maximum of \$75 for one complete application.

Fees authorized under this subsection shall not include application fees required to be submitted with immigration applications.

Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor for a first offense and a Class 3 felony for a second or subsequent offense committed within 5 years of a previous conviction for the same offense.

(c) Upon his own information or upon complaint of any person, the Attorney General or any State's Attorney, or their designee, may maintain an action for injunctive relief in the court against any notary public or any other person who violates the provisions of subsection (b) of this Section. These remedies are in addition to, and not in substitution for, other available remedies.

If the Attorney General or any State's Attorney fails to bring an action as provided pursuant to this subsection within 90 days of receipt of a complaint, any person may file a civil action to enforce the provisions of this subsection and maintain an action for injunctive relief.

(d) All notaries public must provide receipts and keep records for fees accepted for services provided. Failure to provide receipts and keep records that can be presented as evidence of no wrongdoing shall be construed as a presumptive admission of allegations raised in complaints against the notary for violations related to accepting prohibited fees.

5 ILCS 312/3-105. Authority.

A notary public shall have authority to perform notarial acts throughout the State so long as the notary resides in the same county in which the notary was commissioned or, if the notary is a resident of a state bordering Illinois, so long as the notary's principal place of work or principal place of business is in the same county in Illinois in which the notary was commissioned.

5 ILCS 312/3-106. Certificate of Authority.

Upon the receipt of a written request, the notarized document, and a fee of \$2 payable to the Secretary of State or County Clerk, the Office of the Secretary of State or County Clerk shall provide a certificate of authority in substantially the following form:

I (Secretary of State or County Clerk) of the State of Illinois, which office is an office of record having a seal, certify that (notary's name), by whom the foregoing or annexed document was notarized, was, on (insert date), appointed and commissioned a notary public in and for the State of Illinois and that as such, full faith

and credit is and ought to be given to this notary's official attestations. In testimony whereof, I have affixed my signature and the seal of this office on (insert date). (Secretary of State or County Clerk).

ARTICLE IV
CHANGE OF NAME OR MOVE FROM COUNTY

5 ILCS 312/4-101. Change of Name or Move from County.

When any notary public legally changes his or her name, changes his or her business address without notifying the Index Department of the Secretary of State in writing within 30 days thereof, or, if the notary public is a resident of a state bordering Illinois, no longer maintains a principal place of work or principal place of business in the same county in Illinois in which he or she was commissioned, the commission of that notary ceases to be in effect. When the commission of a notary public ceases to be in effect, his or her notarial seal shall be surrendered to the Secretary of State, and his or her certificate of notarial commission shall be destroyed. These individuals who desire to again become a notary public must file a new application, bond, and oath with the Secretary of State.

ARTICLE V
REAPPOINTMENT AS A NOTARY PUBLIC

5 ILCS 312/5-101. Reappointment.

No person is automatically reappointed as a notary public. At least 60 days prior to the expiration of a commission the Secretary of State shall mail notice of the expiration date to the holder of a commission. Every notary public who is an applicant for reappointment shall comply with the provisions of Article II of this Act.

5 ILCS 312/5-102. Solicitation to Purchase Bond.

No person shall solicit any notary public and offer to provide a surety bond more than 60 days in advance of the expiration date of the notary public's commission. Nor shall any person solicit any applicant for a commission or reappointment thereof and offer to provide a surety bond for the notary commission unless any such solicitation specifically sets forth in bold face type not less than 1/4 inch in height the following: "WE ARE NOT ASSOCIATED WITH ANY STATE OR LOCAL GOVERNMENTAL AGENCY".

Whenever it shall appear to the Secretary of State that any person is engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this Section, the Secretary of State may, in his discretion, through the Attorney General, apply for an injunction, and, upon a proper showing, any circuit court shall have power to issue a permanent or temporary injunction or restraining order without bond to enforce the provisions of this Act, and either party to such suit shall have the right to prosecute an appeal from the order or judgment of the court.

Any person, association, corporation, or others who violate the provisions of this Section shall be guilty of a business offense and punishable by a fine of not less than \$500 for each offense.

ARTICLE VI
NOTARIAL ACTS AND FORMS

5 ILCS 312/6-101. Definitions.

(a) “Notarial act” means any act that a notary public of this State is authorized to perform and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, and witnessing or attesting a signature.

(b) “Acknowledgment” means a declaration by a person that the person has executed an instrument for the purposes stated therein and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.

(c) “Verification upon oath or affirmation” means a declaration that a statement is true made by a person upon oath or affirmation.

(d) “In a representative capacity” means:

(1) for and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(2) as a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(3) as an attorney in fact for a principal; or

(4) in any other capacity as an authorized representative of another.

5 ILCS 312/6-102. Notarial Acts.

(a) In taking an acknowledgment, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the acknowledgment is the person whose true signature is on the instrument.

(b) In taking a verification upon oath or affirmation, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the verification is the person whose true signature is on the statement verified.

(c) In witnessing or attesting a signature, the notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary and named therein.

(d) A notary public has satisfactory evidence that a person is the person whose true signature is on a document if that person:

(1) is personally known to the notary;

(2) is identified upon the oath or affirmation of a credible witness personally known to the notary; or

(3) is identified on the basis of identification documents. Identification documents are documents that are valid at the time of the notarial act, issued by a state agency, federal government agency, or consulate, and bearing the photographic image of the individual’s face and signature of the individual.

5 ILCS 312/6-103. Certificate of Notarial Acts.

(a) A notarial act must be evidenced by a certificate signed and dated by the notary public. The certificate must include identification of the jurisdiction in which the notarial act is performed and the official seal of office.

(b) A certificate of a notarial act is sufficient if it meets the requirements of subsection (a) and it:

(1) is in the short form set forth in Section 6-105;

- (2) is in a form otherwise prescribed by the law of this State; or
- (3) sets forth the actions of the notary public and those are sufficient to meet the requirements of the designated notarial act.

5 ILCS 312/6-104. Acts Prohibited.

- (a) A notary public shall not use any name or initial in signing certificates other than that by which the notary was commissioned.
- (b) A notary public shall not acknowledge any instrument in which the notary's name appears as a party to the transaction.
- (c) A notary public shall not affix his signature to a blank form of affidavit or certificate of acknowledgment and deliver that form to another person with intent that it be used as an affidavit or acknowledgment.
- (d) A notary public shall not take the acknowledgment of or administer an oath to any person whom the notary actually knows to have been adjudged mentally ill by a court of competent jurisdiction and who has not been restored to mental health as a matter of record.
- (e) A notary public shall not take the acknowledgment of any person who is blind until the notary has read the instrument to such person.
- (f) A notary public shall not take the acknowledgment of any person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does understand.
- (g) A notary public shall not change anything in a written instrument after it has been signed by anyone.
- (h) No notary public shall be authorized to prepare any legal instrument, or fill in the blanks of an instrument, other than a notary certificate; however, this prohibition shall not prohibit an attorney, who is also a notary public, from performing notarial acts for any document prepared by that attorney.
- (i) If a notary public accepts or receives any money from any one to whom an oath has been administered or on behalf of whom an acknowledgment has been taken for the purpose of transmitting or forwarding such money to another and willfully fails to transmit or forward such money promptly, the notary is personally liable for any loss sustained because of such failure. The person or persons damaged by such failure may bring an action to recover damages, together with interest and reasonable attorney fees, against such notary public or his bondsmen.
- (j) A notary public shall not perform any notarial act when his or her commission is suspended or revoked, nor shall he or she fail to comply with any term of suspension which may be imposed for violation of this Section.

5 ILCS 312/6-105. Short Forms.

The following short form certificates of notarial acts are sufficient for the purposes indicated.

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

State of _____
County of _____

This instrument was acknowledged before me on _____ (date) by
_____ (name/s of person/s).

(Seal) _____
(Signature of Notary Public)

(b) For an acknowledgment in a representative capacity:

State of _____
County of _____

This instrument was acknowledged before me on _____ (date) by _____ (name/s of person/s) as _____ (type of authority, e.g., officer, trustee, etc.) of _____ (name of party on behalf of whom instrument was executed).

(Seal) _____
(Signature of Notary Public)

(c) For a verification upon oath or affirmation:

State of _____
County of _____

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

(Seal) _____
(Signature of Notary Public)

(d) For witnessing or attesting a signature:

State of _____
County of _____

Signed or attested before me on _____ (date) by _____ (name/s of person/s).

(Seal) _____
(Signature of Notary Public)

ARTICLE VII
LIABILITY AND REVOCATION

5 ILCS 312/7-101. Liability of Notary and Surety.

A notary public and the surety on the notary's bond are liable to the persons involved for all damages caused by the notary's official misconduct. Upon the filing of any claim against a notary public, the entity that has issued the bond for the notary shall notify the Secretary of State of whether payment was made and the circumstances which led to the claim.

5 ILCS 312/7-102. Liability of Employer of Notary.

The employer of a notary public is also liable to the persons involved for all damages

caused by the notary's official misconduct, if:

- (a) the notary public was acting within the scope of the notary's employment at the time the notary engaged in the official misconduct; and
- (b) the employer consented to the notary public's official misconduct.

5 ILCS 312/7-103. Cause of Damages.

It is not essential to a recovery of damages that a notary's official misconduct be the only cause of the damages.

5 ILCS 312/7-104. Official Misconduct Defined.

The term "official misconduct" generally means the wrongful exercise of a power or the wrongful performance of a duty and is fully defined in Section 33-3 of the Criminal Code of 2012. The term "wrongful" as used in the definition of official misconduct means unauthorized, unlawful, abusive, negligent, reckless, or injurious. P.A. 85-293; 97-1150, §25.

5 ILCS 312/7-105. Official Misconduct.

- (a) A notary public who knowingly and willfully commits any official misconduct is guilty of a Class A misdemeanor.
- (b) A notary public who recklessly or negligently commits any official misconduct is guilty of a Class B misdemeanor.

5 ILCS 312/7-106. Willful Impersonation.

Any person who acts as, or otherwise willfully impersonates, a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of a Class A misdemeanor.

5 ILCS 312/7-107. Wrongful Possession.

Any person who unlawfully possesses a notary's official seal is guilty of a misdemeanor and punishable upon conviction by a fine not exceeding \$1,000.

5 ILCS 312/7-108. Reprimand, Suspension, and Revocation of Commission.

- (a) The Secretary of State may revoke the commission of any notary public who, during the current term of appointment:
 - (1) submits an application for commission and appointment as a notary public which contains substantial and material misstatement or omission of fact; or
 - (2) is convicted of any felony, misdemeanors, including those defined in Part C, Articles 16, 17, 18, 19, and 21, and Part E, Articles 31, 32, and 33 of the Criminal Code of 2012, or official misconduct under this Act.
- (b) Whenever the Secretary of State believes that a violation of this Article has occurred, he or she may investigate any such violation. The Secretary may also investigate possible violations of this Article upon a signed written complaint on a form designated by the Secretary.
- (c) A notary's failure to cooperate or respond to an investigation by the Secretary of State is a failure by the notary to fully and faithfully discharge the responsibilities and duties of a notary and shall result in suspension or revocation of the notary's commission.
- (d) All written complaints which on their face appear to establish facts which, if proven true, would constitute an act of misrepresentation or fraud in notarization or on

the part of the notary shall be investigated by the Secretary of State to determine whether cause exists to reprimand, suspend, or revoke the commission of the notary.

(e) The Secretary of State may deliver a written official warning and reprimand to a notary, or may revoke or suspend a notary's commission, for any of the following:

(1) a notary's official misconduct, as defined under Section 7-104;

(2) any ground for which an application for appointment as a notary may be denied for failure to complete application requirements as provided under Section 2-102;

(3) any prohibited act provided under Section 6-104; or

(4) a violation of any provision of the general statutes.

(f) After investigation and upon a determination by the Secretary of State that one or more prohibited acts has been performed in the notarization of a document, the Secretary shall, after considering the extent of the prohibited act and the degree of culpability of the notary, order one or more of the following courses of action:

(1) issue a letter of warning to the notary, including the Secretary's findings;

(2) order suspension of the commission of the notary for a period of time designated by the Secretary;

(3) order revocation of the commission of the notary;

(4) refer the allegations to the appropriate State's Attorney's Office or the Attorney General for criminal investigation; or

(5) refer the allegations to the Illinois Attorney Registration and Disciplinary Commission for disciplinary proceedings.

(g) After a notary receives notice from the Secretary of State that his or her commission has been revoked, that notary shall immediately deliver his or her official seal to the Secretary.

(h) A notary whose appointment has been revoked due to a violation of this Act shall not be eligible for a new commission as a notary public in this State for a period of at least 5 years from the date of the final revocation.

(i) A notary may voluntarily resign from appointment by notifying the Secretary of State in writing of his or her intention to do so, and by physically returning his or her stamp to the Secretary. A voluntary resignation shall not stop or preclude any investigation into a notary's conduct, or prevent further suspension or revocation by the Secretary, who may pursue any such investigation to a conclusion and issue any finding.

(j) Upon a determination by a sworn law enforcement officer that the allegations raised by the complaint are founded, and the notary has received notice of suspension or revocation from the Secretary of State, the notary is entitled to an administrative hearing.

(k) The Secretary of State shall adopt administrative hearing rules applicable to this Section that are consistent with the Illinois Administrative Procedure Act.

5 ILCS 312/7-109. Action for Injunction, Unauthorized Practice of Law.

Upon his own information or upon complaint of any person, the Attorney General or any State's Attorney, or their designee, may maintain an action for injunctive relief in the circuit court against any notary public who renders, offers to render, or holds himself or herself out as rendering any service constituting the unauthorized practice of the law. Any organized bar association in this State may intervene in the action, at any stage of the proceeding, for good cause shown. The action may also be maintained by an organized bar association in this State. These remedies are in addition to, and not in substitution for, other available remedies.

CHAPTER 765. PROPERTY
ACT 30. UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT

765 ILCS 30/1. Short title.

This Act may be cited as the Uniform Recognition of Acknowledgments Act.

765 ILCS 30/2. Recognition of notarial acts performed outside this State.

For the purposes of this Act, “notarial acts” means acts which the laws and regulations of this State authorize notaries public of this State to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this State for use in this State with the same effect as if performed by a notary public of this State by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this State:

- (1) a notary public authorized to perform notarial acts in the place in which the act is performed;
- (2) a judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;
- (3) an officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;
- (4) a commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the Armed Forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the Armed Forces of the United States, or any other person serving with or accompanying the Armed Forces of the United States; or
- (5) any other person authorized to perform notarial acts in the place in which the act is performed.

765 ILCS 30/3. Authentication of authority of officer.

(a) If the notarial act is performed by any of the persons described in paragraphs 1 to 4, inclusive of Section 2, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

(b) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

- (1) either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act;
- (2) the official seal of the person performing the notarial act is affixed to the document; or
- (3) the title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

(c) If the notarial act is performed by a person other than one described in subsections (a) and (b), there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

(d) The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

765 ILCS 30/4. Certificate of person taking acknowledgment.

The person taking an acknowledgment shall certify that:

(1) the person acknowledging appeared before him and acknowledged he executed the instrument; and

(2) the person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

765 ILCS 30/5. Recognition of certificate of acknowledgment.

The form of a certificate of acknowledgment used by a person whose authority is recognized under Section 2 shall be accepted in this State if:

(1) the certificate is in a form prescribed by the laws or regulations of this State;

(2) the certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

(3) the certificate contains the words “acknowledged before me” or their substantial equivalent.

765 ILCS 30/6. Certificate of acknowledgment.

The words “acknowledged before me” means

(1) that the person acknowledging appeared before the person taking the acknowledgment,

(2) that he acknowledged he executed the instrument,

(3) that, in the case of:

(i) a natural person, he executed the instrument for the purposes therein stated;

(ii) a corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated;

(iii) a partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated;

(iv) a person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated;

(v) a person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated; and

(4) that the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

765 ILCS 30/7. Short forms of acknowledgment.

(a) The forms of acknowledgment set forth in this Section may be used and are sufficient for their respective purposes under any law of this State, whether executed in this State or any other State. The forms shall be known as “Statutory Short Forms of Acknowledgment” and may be referred to by that name. The authorization of the forms in this Section does not preclude the use of other forms.

(1) For an individual acting in his own right:

State of
County of

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged.)

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(2) For a corporation:

State of
County of

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(3) For a partnership:

State of
County of

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(4) For an individual acting as principal by an attorney in fact:

State of
County of

The foregoing instrument was acknowledged before me this (date) by (name of

attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(5) By any public officer, trustee, or personal representative:

State of
County of

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(b) This amendatory Act of 1981 (P.A. 82-450) is to clarify that any uses of the short form of acknowledgment as herein provided within the State of Illinois prior to the effective date of this amendatory Act have been valid.

765 ILCS 30/8. Acknowledgments not affected by this Act.

A notarial act performed prior to the effective date of this Act is not affected by this Act. This Act provides an additional method of proving notarial acts. Nothing in this Act diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this State.

765 ILCS 30/9. Uniformity of interpretation.

This Act shall be so interpreted as to make uniform the laws of those states which enact it.

765 ILCS 30/10. Time of taking effect.

This Act shall take effect on January 1, 1970.

ACT 33. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.

765 ILCS 33/3. Validity of electronic documents.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this Act.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not

accompany an electronic signature.

**CHAPTER 815. BUSINESS TRANSACTIONS
ACT 505. CONSUMER FRAUD
AND DECEPTIVE BUSINESS PRACTICES ACT**

815 ILCS 505/2AA. Immigration services.

(a) “Immigration matter” means any proceeding, filing, or action affecting the nonimmigrant, immigrant or citizenship status of any person that arises under immigration and naturalization law, executive order or presidential proclamation of the United States or any foreign country, or that arises under action of the United States Citizenship and Immigration Services, the United States Department of Labor, or the United States Department of State.

“Immigration assistance service” means any information or action provided or offered to customers or prospective customers related to immigration matters, excluding legal advice, recommending a specific course of legal action, or providing any other assistance that requires legal analysis, legal judgment, or interpretation of the law.

“Compensation” means money, property, services, promise of payment, or anything else of value.

“Employed by” means that a person is on the payroll of the employer and the employer deducts from the employee’s paycheck social security and withholding taxes, or receives compensation from the employer on a commission basis or as an independent contractor.

“Reasonable costs” means actual costs or, if actual costs cannot be calculated, reasonably estimated costs of such things as photocopying, telephone calls, document requests, and filing fees for immigration forms, and other nominal costs incidental to assistance in an immigration matter.

(a-1) The General Assembly finds and declares that private individuals who assist persons with immigration matters have a significant impact on the ability of their clients to reside and work within the United States and to establish and maintain stable families and business relationships. The General Assembly further finds that that assistance and its impact also have a significant effect on the cultural, social, and economic life of the State of Illinois and thereby substantially affect the public interest. It is the intent of the General Assembly to establish rules of practice and conduct for those individuals to promote honesty and fair dealing with residents and to preserve public confidence.

(a-5) The following persons are exempt from this Section, provided they prove the exemption by a preponderance of the evidence:

(1) An attorney licensed to practice law in any state or territory of the United States, or of any foreign country when authorized by the Illinois Supreme Court, to the extent the attorney renders immigration assistance service in the course of his or her practice as an attorney.

(2) A legal intern, as described by the rules of the Illinois Supreme Court, employed by and under the direct supervision of a licensed attorney and rendering immigration assistance service in the course of the intern’s employment.

(3) A not-for-profit organization recognized by the Board of Immigration Appeals under 8 C.F.R. 292.2(a) and employees of those organizations accredited under 8 C.F.R. 292.2(d).

(4) Any organization employing or desiring to employ an alien or nonimmigrant

alien, where the organization, its employees or its agents provide advice or assistance in immigration matters to alien or nonimmigrant alien employees or potential employees without compensation from the individuals to whom such advice or assistance is provided.

Nothing in this Section shall regulate any business to the extent that such regulation is prohibited or preempted by State or federal law.

All other persons providing or offering to provide immigration assistance service shall be subject to this Section.

(b) Any person who provides or offers to provide immigration assistance service may perform only the following services:

(1) Completing a government agency form, requested by the customer and appropriate to the customer's needs, only if the completion of that form does not involve a legal judgment for that particular matter.

(2) Transcribing responses to a government agency form which is related to an immigration matter, but not advising a customer as to his or her answers on those forms.

(3) Translating information on forms to a customer and translating the customer's answers to questions posed on those forms.

(4) Securing for the customer supporting documents currently in existence, such as birth and marriage certificates, which may be needed to be submitted with government agency forms.

(5) Translating documents from a foreign language into English.

(6) Notarizing signatures on government agency forms, if the person performing the service is a notary public of the State of Illinois.

(7) Making referrals, without fee, to attorneys who could undertake legal representation for a person in an immigration matter.

(8) Preparing or arranging for the preparation of photographs and fingerprints.

(9) Arranging for the performance of medical testing (including X-rays and AIDS tests) and the obtaining of reports of such test results.

(10) Conducting English language and civics courses.

(11) Other services that the Attorney General determines by rule may be appropriately performed by such persons in light of the purposes of this Section.

Fees for a notary public, agency, or any other person who is not an attorney or an accredited representative filling out immigration forms shall be limited to the maximum fees set forth in subsections (a) and (b) of Section 3-104 of the Notary Public Act (5 ILCS 312/3-104). The maximum fee schedule set forth in subsections (a) and (b) of Section 3-104 of the Notary Public Act shall apply to any person that provides or offers to provide immigration assistance service performing the services described therein. The Attorney General may promulgate rules establishing maximum fees that may be charged for any services not described in that subsection. The maximum fees must be reasonable in light of the costs of providing those services and the degree of professional skill required to provide the services.

No person subject to this Act shall charge fees directly or indirectly for referring an individual to an attorney or for any immigration matter not authorized by this Article, provided that a person may charge a fee for notarizing documents as permitted by the Illinois Notary Public Act.

(c) Any person performing such services shall register with the Illinois Attorney General and submit verification of malpractice insurance or of a surety bond.

(d) Except as provided otherwise in this subsection, before providing any assistance

in an immigration matter a person shall provide the customer with a written contract that includes the following:

- (1) An explanation of the services to be performed.
- (2) Identification of all compensation and costs to be charged to the customer for the services to be performed.
- (3) A statement that documents submitted in support of an application for nonimmigrant, immigrant, or naturalization status may not be retained by the person for any purpose, including payment of compensation or costs.

This subsection does not apply to a not-for-profit organization that provides advice or assistance in immigration matters to clients without charge beyond a reasonable fee to reimburse the organization's or clinic's reasonable costs relating to providing immigration services to that client.

(e) Any person who provides or offers immigration assistance service and is not exempted from this Section, shall post signs at his or her place of business, setting forth information in English and in every other language in which the person provides or offers to provide immigration assistance service. Each language shall be on a separate sign. Signs shall be posted in a location where the signs will be visible to customers. Each sign shall be at least 11 inches by 17 inches, and shall contain the following:

(1) The statement "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

(2) The statement "I AM NOT ACCREDITED TO REPRESENT YOU BEFORE THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE AND THE IMMIGRATION BOARD OF APPEALS."

(3) The fee schedule.

(4) The statement that "You may cancel any contract within 3 working days and get your money back for services not performed."

(5) Additional information the Attorney General may require by rule.

Every person engaged in immigration assistance service who is not an attorney who advertises immigration assistance service in a language other than English, whether by radio, television, signs, pamphlets, newspapers, or other written communication, with the exception of a single desk plaque, shall include in the document, advertisement, stationery, letterhead, business card, or other comparable written material the following notice in English and the language in which the written communication appears. This notice shall be of a conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If such advertisement is by radio or television, the statement may be modified but must include substantially the same message.

Any person who provides or offers immigration assistance service and is not exempted from this Section shall not, in any document, advertisement, stationery, letterhead, business card, or other comparable written material, literally translate from English into another language terms or titles including, but not limited to, notary public, notary, licensed, attorney, lawyer, or any other term that implies the person is an attorney. To illustrate, the words "notario" and "poder notarial" are prohibited under this provision.

If not subject to penalties under subsection (a) of Section 3-103 of the Notary Public Act (5 ILCS 312/3-103), violations of this subsection shall result in a fine of \$1,000. Violations shall not preempt or preclude additional appropriate civil or criminal penalties.

(f) The written contract shall be in both English and in the language of the customer.

(g) A copy of the contract shall be provided to the customer upon the customer's execution of the contract.

(h) A customer has the right to rescind a contract within 72 hours after his or her signing of the contract.

(i) Any documents identified in paragraph (3) of subsection (c) shall be returned upon demand of the customer.

(j) No person engaged in providing immigration services who is not exempted under this Section shall do any of the following:

(1) Make any statement that the person can or will obtain special favors from or has special influence with the United States Immigration and Naturalization Service or any other government agency.

(2) Retain any compensation for service not performed.

(2.5) Accept payment in exchange for providing legal advice or any other assistance that requires legal analysis, legal judgment, or interpretation of the law.

(3) Refuse to return documents supplied by, prepared on behalf of, or paid for by the customer upon the request of the customer. These documents must be returned upon request even if there is a fee dispute between the immigration assistant and the customer.

(4) Represent or advertise, in connection with the provision assistance in immigration matters, other titles of credentials, including but not limited to "notary public" or "immigration consultant," that could cause a customer to believe that the person possesses special professional skills or is authorized to provide advice on an immigration matter; provided that a notary public appointed by the Illinois Secretary of State may use the term "notary public" if the use is accompanied by the statement that the person is not an attorney; the term "notary public" may not be translated to another language; for example "notario" is prohibited.

(5) Provide legal advice, recommend a specific course of legal action, or provide any other assistance that requires legal analysis, legal judgment, or interpretation of the law.

(6) Make any misrepresentation of false statement, directly or indirectly, to influence, persuade, or induce patronage.

(k) (Blank)

(l) (Blank)

(m) Any person who violates any provision of this Section, or the rules and regulations issued under this Section, shall be guilty of a Class A misdemeanor for a first offense and a Class 3 felony for a second or subsequent offense committed within 5 years of a previous conviction for the same offense.

Upon his own information or upon the complaint of any person, the Attorney General or any State's Attorney, or a municipality with a population of more than 1,000,000, may maintain an action for injunctive relief and also seek a civil penalty not exceeding \$50,000 in the circuit court against any person who violates any provision of this Section. These remedies are in addition to, and not in substitution for, other available remedies.

If the Attorney General or any State's Attorney or a municipality with a population of more than 1,000,000 fails to bring an action as provided under this Section any person may file a civil action to enforce the provisions of this Article and maintain an action for injunctive relief, for compensatory damages to recover prohibited fees, or for such additional relief as may be appropriate to deter, prevent, or compensate for the violation. In order to deter violations of this Section, courts shall not require a showing of the traditional elements for equitable relief. A prevailing plaintiff may be awarded 3 times the prohibited fees or a minimum of \$1,000 in punitive damages, attorney's fees, and

costs of bringing an action under this Section. It is the express intention of the General Assembly that remedies for violation of this Section be cumulative.

(n) No unit of local government, including any home rule unit, shall have the authority to regulate immigration assistance services unless such regulations are at least as stringent as those contained in this amendatory Act of 1992. It is declared to be the law of this State, pursuant to paragraph (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that this amendatory Act of 1992 is a limitation on the authority of a home rule unit to exercise powers concurrently with the State. The limitations of this Section do not apply to a home rule unit that has, prior to the effective date of this amendatory Act, adopted an ordinance regulating immigration assistance services.

(o) This Section is severable under Section 1.31 of the Statute on Statutes.

(p) The Attorney General shall issue rules not inconsistent with this Section for the implementation, administration, and enforcement of this Section. The rules may provide for the following:

(1) The content, print size, and print style of the signs required under subsection (e). Print sizes and styles may vary from language to language.

(2) Standard forms for use in the administration of this Section.

(3) Any additional requirements deemed necessary.